

# Report of Various Size – Fieldwork research (FRANET)

## Rights of crime victims to have access to justice – a comparative analysis

### Country Report United Kingdom 2017

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**DISCLAIMER:** This document was commissioned under contract as background material for a comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the report 'Rights of crime victims to have access to justice'. The information and views contained in the document do not necessarily reflect the views or the official position of FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

## Executive summary

This fieldwork aimed to provide evidence concerning victims' access to justice within the differing jurisdictions of the UK, from a legal and factual perspective. In order to do so, semi-structured face-to-face interviews were conducted with victims of violent crimes and professionals working with crime victims, including judges, prosecutors, prosecuting barristers, police officers and staff members of victim support organisations.

Overall, criminal justice professionals interviewed consistently agreed that the rights and concerns of victims are taken very seriously, but felt that both the structure of the criminal justice system in the UK and limited resources leave areas where more needs to be done in order to support victims. This view was mirrored by the experiences of the victims interviewed, with only one quarter having had an overall positive experience of the criminal justice system and just under half feeling that justice had not been done in their case. However, many victims' interviewed expressed positive views of at least one aspect of their experience. For example, just under half of the interviewees felt that they had been treated sensitively by the police.

### Research findings:

1. A change in **cultural attitudes towards victims** within the various limbs of the criminal justice system has led to an **increasing significance** being placed on the role of victims throughout proceedings.
  - Criminal justice professionals primarily view the role of **victims as witnesses** to proceedings and consider their evidence as highly important, central to the case and often vital for bringing a successful prosecution.
  - Despite the fact that victims are not a party to criminal proceedings in the UK and do not formally act as witnesses, responses relating to the victim's role in proceedings were surprisingly varied, signifying a more **expansive view**.
  - Commonly, in addition to the victim's role as a witness, an emphasis was placed on the **damage suffered** as a result of the victimisation.
2. A number of personal factors can impact a victim's **decision to report** their victimisation to the police.
  - Having a **personal relationship** with the alleged offender often causes reluctance to report, this is particularly prevalent in cases of domestic violence.
  - Reluctance to report can also be seen in victims who have **previously been offenders** themselves.
  - **Fear of the police** as well as perceived notions of **societal attitudes** towards victims, for example not being believed or being held responsible for the offence, affect the decision to report.
3. **Access to support services** plays a crucial role in victims' interactions with the criminal justice system, both for the victims themselves and for criminal justice professionals. Whilst some interviewees had observed improvements in the provision and delivery of victim support services in the UK, many felt that more could be done. In particular three key problems were identified:
  - **Funding** - Owing to recent changes to the way in which support services are funded, resources are often limited and the funding itself precarious with service providers having to regularly re-bid for funding.

- **Information** – Whilst the police have a routine system of informing victims of the support services available to them, the information does not always reach the victim or the victim is not able to process the information owing to the trauma they have suffered.
  - **A disjointed system** – As support is typically offered by different agencies at the various stages of proceedings, victims are often left confused. Both professionals and victims advocated for a single point of contact for victims to help them navigate their way through the process. Another product of the disjointed system is a duplication of services, which adds to the confusion experienced by victims and does not represent the best allocation of resources.
4. **Approaches and attitudes** towards dealing with **victims of rape and domestic violence** have **improved** in recent years, however some challenges remain.
- Victims of domestic violence interviewed felt that at least some of the police officers they encountered had **failed to understand the ongoing threat** of domestic violence and to act accordingly.
  - Some victims interviewed felt that some of the criminal justice professionals they had come into contact with had become **desensitised towards rape and domestic violence** owing to the high volume of cases that they have to deal with and accordingly did not treat them with adequate sensitivity.
  - One interviewee felt that the police had **not taken him seriously** as a victim of domestic violence owing to the fact that he is a man. He also revealed that he had been a victim of domestic violence in the past and the police had not taken it seriously then either. Conversely, however, another male victim of domestic violence interviewed felt he had been adequately supported the whole way, both by the police and the support organisations.
5. The opportunities for **victims to influence proceedings** in the UK are **necessarily limited** as a result of the fact they are not a party to the case, for example they are unable to request that certain questions are posed to witnesses during cross-examination.
- Typically, criminal justice professionals will seek victims' opinions, which to some degree influences their decision making. They commonly believed however that **final decisions should lie solely with the relevant professional**. As a result, victims commonly expressed the view that they had **not been listened to** by criminal justice professionals.
  - Victims are **most able to influence the police investigation stage** of proceedings via the degree to which they choose to cooperate. The decision whether to proceed with a prosecution is governed by a two part statutory test, which is applied by prosecutors and necessarily **limits the extent to which they can take account of the victim's views**.
  - Victims are, however, often given the opportunity to make a **Victim Personal Statement (VPS)**, which can be taken into account by the sentencing judge within the parameters of sentencing guidelines. For some victims this is an empowering tool, but for others it creates unrealistic expectations of the degree to which they can affect the quantum of sentence.

6. Protection for victims against **secondary victimisation** is largely provided via **Special Measures**. Criminal justice professionals demonstrated a **strong awareness** of Special Measures, the eligibility criteria and the processes by which they are accessed. Similarly, many victims displayed an awareness of the possibility of receiving Special Measures. In cases where victims were not familiar with the concept of Special Measures, it appeared that they had nonetheless been in receipt of them or had been offered them. Nonetheless, **victims commonly experienced some degree of secondary victimisation during proceedings**. Alarming, two interviewees stated that their experience of the criminal justice process was worse than the experience of the original offence committed against them. Similarly, criminal justice professionals acknowledged that, whilst attempts are made to limit the adverse impacts of proceedings, victims are still likely to experience some degree of trauma during the process. Two particularly problematic areas identified were:
- **Confrontation with the offender** – While measures are in place to keep victims and offenders separate in the court building itself, there are no routine practices for doing so in the area surrounding the court. Furthermore, both victims and professionals noted that the measures in place in the court room do not entirely prevent the possibility of a victim becoming confronted by the offender.
  - **Giving evidence at trial** – Professionals consistently acknowledged that giving evidence and being cross-examined can be traumatic for victims. Victims themselves had mixed experiences, some found the experience empowering whilst others found the process deeply traumatising.
7. There appears to be an **inconsistent approach** taken by the police and courts in relation to provisions to protect against **repeat victimisation**. Criminal justice professionals took the view that domestic violence cases were an exception and believed that the police prioritise ongoing protection for such victims. This was, however, not matched by the experiences of some of the domestic violence victims interviewed, who felt vulnerable to further threats.
8. Victims displayed a general **lack of awareness** of the possibility of obtaining **compensation**, both under the national Criminal Injuries Compensation Scheme and as part of the criminal proceedings.
- Some criminal justice professionals **purposefully withhold information** regarding compensation due to concerns that the defence counsel will use it as a method of discrediting the victim during cross-examination.
  - Victims commonly agreed that it is **more appropriate for compensation to be paid by the offender rather than the State**. Concerns were raised however about an offender's ability to finance the compensation and many advocated a system whereby the State initially makes the payment to the victim and then the offender reimburses the State in instalments.

This report details the findings of a project completed by the Human Rights Law Centre at the University of Nottingham on behalf of the European Union Fundamental Right Agency (hereafter FRA). The objective of the project is to provide information on the experiences of adult victims of violent crimes in accessing criminal justice in the UK. This report will contribute, together with the outputs of similar projects in other EU Member States, to a comparative overview of how, and to what extent, Article 47 of the Charter of Fundamental Rights (the right to an effective remedy and to a fair trial) together with the EU Victims' Rights Directive is applied across the European Union.

Given that this report is based on small-scale qualitative research, which is reflected in the small number of interviews for certain categories of respondents, the reader should bear in mind that the findings reported here are only representative of those persons who were interviewed.

## 1.1 Methodology

In the UK, the project comprised a small-scale, qualitative study of the views of criminal justice professionals and victims of violent crime. This report details the findings of that project and provides data on (i) the perspectives of professionals on the experiences and attitudes of victims of violent crime towards the criminal justice system and its processes and (ii) direct reports of victims of violent crime on their experiences of the criminal justice system. Specifically excluded from the scope of the project is any consideration of victims' experiences of their victimisation at the hands of alleged offenders. The primary research method used is semi-structured, face-to-face interviews to produce qualitative data regarding (i) the attitudes, practices and procedures of criminal justice professionals who contribute to facilitating victim participation in criminal justice proceedings, and (ii) the attitudes towards and experiences of the criminal justice system of victims of crime who have been involved to some degree in criminal justice proceedings.

The project commenced with an inception meeting for all participating EU States on 16 December 2016 and completed on 8 September 2017. Ethical approval from the University of Nottingham's School of Law Research Ethics Committee was given on 26 January 2017. The first research interviews took place on 31 January 2017 and the final interviews on 4 August 2017. As a result of problems encountered in recruiting participants (see below) the UK Country Report is to be delivered in two stages: the findings of the interviews with criminal justice professionals was submitted on 28 July 2017; the report including the additional findings of interviews with victims of violent crime is to be submitted on 25 August 2017.

In accordance with the FRA Guidelines, the project team sought 33 participants, 21 criminal justice (including victim support) professionals and 12 victims of violent crime, for individual interview.

On the basis of its population and the similarity of its legal and judicial system to that in England and Wales, no interviewees from Northern Ireland were included in the project. Scotland, however, has a distinct legal and judicial system and therefore the sample included four criminal justice professionals and four victims from Scotland.

### Recruitment of Criminal Justice Professionals

The distribution of interviews amongst criminal justice professionals was as follows:

Category of Criminal Justice Professional	Interview Category	Proposed Number	Actual Number
Staff members of organisations providing victim support services	S	4 - 5	6

Police officers or other staff members of law enforcement agencies	P	4 - 5	4
Prosecutors and criminal court judges	J	6 - 8	11
Lawyers representing or advising victims in proceedings	L	4 - 5	0

The UK project team was unable to comply with the FRA guidelines on the number of interviewees within each category of criminal justice professional because in the UK none of the criminal justice systems provide for the victim to receive legal advice. Thus, with the approval of the FRA, no interviews were carried out with L group professionals and these interviews were instead distributed amongst the remaining professional groups.

The project team used a number of approaches to the recruitment of participants. The majority of criminal justice professionals are employed by government agencies. Requests for academic research with government agencies in the UK are now sufficiently frequent that almost all have in place approval procedures that must be negotiated before access to individual participants is granted. To this end the project team submitted applications to the following agencies:

- The Judicial Office in England & Wales
- The Scottish Courts and Tribunals Service
- The Crown Prosecution Service (CPS)
- The Office of the Police and Crime Commissioner for Northumbria, Avon & Somerset and Nottinghamshire.

We received access approval from all organisations except the Judicial Office in England & Wales, who rejected our application on the ground that judges would be unable to provide responses to the significant number of questions in the interview schedule that related to the actions of perspectives of other criminal justice professional groups.

The time required to prepare and submit an application and receive approval from each organisation was approximately three months. Once approval at an agency level was obtained, a number of methods were used to secure the participation of individual professionals.

- The CPS provided the project team with lists of potential participants.
- The Office of the Police & Crime Commissioners provided a contact within each police force, who in turn identified potentially willing participants
- The Scottish Courts and Tribunals Service provided the names of willing judges and a procurator fiscal.

Once a list of potential participants had been compiled, an email invitation to take part in the project was sent to each one. All invitations were accepted by professionals employed by government agencies.

### Recruitment of Victims

The FRA criteria for the selection of victims (V group) was closely prescribed.

- all interviewees must have been age 18 years or older at the time of their victimisation;
- all interviews must concern cases where the offender was prosecuted for violent crime against the interviewee;

- all cases must have developed to the stage of a court trial and at least 7 but not more than 9 of the 12 interviews should concern cases that ended with the conviction of at least one offender;
- at least 4 but not more than 6 of the 12 interviews conducted with victims should concern cases of domestic violence (which could involve either female or male victims); at least half of these cases should have ended with the conviction of at least one offender and at least half of these cases should concern female victims;
- overall, at least 5 but not more than 6 of the 12 interviewed victims should be female.

All victims interviewed were aged over 18 at the time of their victimisation. The project team were able to identify four victims of domestic violence for interview, two men and two women. It was however particularly challenging to identify male victims, accordingly, we were unable to comply strictly with the required gender balance and interviews were conducted with seven female and five male victims. Regrettably we were only able to identify three cases which resulted in a conviction.

The FRA initially stipulated that the victim's involvement with the criminal justice process, as opposed to his/her victimisation, must have taken place between November 2015 and May 2017. However on 22 March 2017 and following difficulty in finding qualifying victims in several participating EU States, the FRA relaxed this criterion.

Ethical considerations concerning the potential for project involvement to cause secondary victimisation led the project team to seek the assistance of victim support organisations in recruiting suitable victims of violent crime for interview. A formal application was made to Victim Support, the UK's largest victim support service, who declined our request to facilitate the project centrally on the ground that recruiting participants for research, especially vulnerable ones, is challenging and time consuming and could not be justified to the funders of the organisation as an appropriate use of limited staff resources. Later, as a result of on-going problems recruiting victim participants, a further formal application was made to Citizen's Advice, which runs the in-court Witness Service in England & Wales to assist with the recruitment of victim participants, but after considerable delay they too declined to facilitate access to their service users.

As a result, recruitment of victims was wholly achieved through more informal, direct, approaches to local area victim support services, court based Witness Services and specialist victim support organisations. In total 63 victim support organisations were approached and 32 agreed to contact clients to distribute information about the project and ask for volunteers to take part. Staff from the relevant victim support organisation used their professional expertise to confirm the suitability of any volunteer before passing on contact details and email invitations to take part in the project. Despite such wide canvassing only 17 victims came forward. Of those, four did not respond to initial contact, one who had previously agreed changed his mind about participating, and two were ineligible as their victimisation had occurred more than 10 years previously. Consequently the project team proceeded with the 12 victims who accepted the invitation to participate in the project.

## **1.2 Problems Encountered in Recruiting Participants**

This approach to recruitment of both criminal justice professionals and victims was not entirely satisfactory. Firstly, the period available to the UK project team in which to secure participants' agreement was very short. The initial inception meeting for the project was held immediately before the University and the relevant gatekeeping government agencies closed for the 2016 Christmas holidays. As a result, work on recruiting participants was unable to commence until January 2017. The published deadline for the completion of fieldwork, 29 May 2017, therefore allowed only 5 months to both recruit participants and conduct and write up 31 field interviews. This proved too ambitious a schedule, particularly given the need, described above, to navigate gatekeeping organisations to recruit potential interviewees. In addition, securing the cooperation of victims was considerably

more problematic than the recruitment of criminal justice professionals. One victim support organisation who successfully referred victims to the project reported that they had contacted 147 clients yet received only two positive responses. Furthermore, the strategy of asking victim support organisations to recruit victim participants on our behalf proved highly time consuming. As all Police and Crime Commissioners in England, Wales and Scotland now commission their own local victim support services, the project team was forced to make contact with 63 different organisations in our efforts to find victim participants. These organisations have limited staff and, whilst most services were willing, their capacity to help was necessarily restricted. Furthermore, limited resources mean that most organisations do not have ongoing relationships with their service users and are not still in contact with victims by the time their case reaches trial (as required by the FRA for eligibility to participate). Accordingly on 6 March 2017, a formal application was submitted to Citizen's Advice, which runs the in-court Witness Service in England & Wales to request assistance in recruiting participants. Despite numerous attempts to follow up on our application we did not receive a response until 22 June 2017 and finally on 12 July 2017 Citizens Advice confirmed that they would be unable to facilitate access to their service users on the ground that it would be ethically inappropriate for the project team to approach victims during the period of the trial.

As a result, the recruitment of participants continued in parallel with the fieldwork interviews. The pressure to recruit participants quickly resulted in an interviewee population largely shaped by individuals' willingness to participate, albeit that attempts were made to conform to FRA criteria and achieve a good geographical spread of interviewees. Ideally the balance of interviewee gender, offence type and geographical location within the interview population would have been reviewed and adjusted prior to the commencement of interviews, but this proved not to be practical. In addition to these time pressures the rejection of our research application by the Judicial Office in England & Wales not only delayed the judicial interviews but also restricted our contact with judges to the Scottish judiciary.

Secondly, the methods of selection for criminal justice professionals used are likely to have skewed the interviewee population towards professionals who engage in or endorse best practice. Whilst this is beneficial in terms of identifying good practice and encouraging reflection upon how systems and procedures might be improved, it runs the risk of misrepresenting the routine level of support provided to adult victims of violence. Conversely, in canvassing widely for the cooperation of victims, there is a risk that the victim population is slanted towards those with particularly poor experiences of the criminal justice system who saw involvement as an opportunity to make their concerns known to a wider audience.

### **1.3 Problems encountered in the fieldwork:**

Criminal justice professionals experienced difficulties with the common interview schedule for all criminal justice roles. Few professionals were able to give an equal perspective on all issues raised in the schedule. Typical responses to questions concerning the actions and perspectives of different professional groups were:

"My training and my experience is in a different field, I don't think I can offer an informed view on that." **UK.J.09**

"I don't know if I can answer because that's obviously [a] police question... Probably it would be a bit unfair for me to answer how the police deal [with victims]." **UK.J.06** -

"It's hard for me to judge" **UK.J.07**

Accordingly, the interviewers felt that questions tailored to the individual's role would have been more efficient and have allowed more insight into each interviewee's area of expertise.

In addition, interviewers conducted interviews with victims who, to some degree, had agreed to participate to pursue a personal agenda. Interviewers observed a willingness to participate in the research which stemmed from a sense of injustice about their experience and a desire to tell their story. For example, one interviewee was

unhappy with the disparity of criminal injuries compensation awarded in rape versus sexual assault cases, and requested the support of the Human Rights Law Centre for her lobbying campaign. Another interviewee, asked for legal advice on receiving a not guilty verdict. In both cases, it was explained to the interviewee that offering lobbying support and legal advice was beyond the remit of the project and the Human Rights Law Centre but interviewers allowed interviewees some latitude to ensure continued cooperation with outstanding interview questions. It was also necessary, following interview, to exclude one participant from the professional sample, because the audio quality was too poor.

All interviews were transcribed and the transcript used to complete an FRA prescribed reporting template. However, the UK project team struggled to generate the reporting templates in parallel with the interviewing phase of the project, as the team was still engaged in seeking and securing the agreement of potential interviewees. The delayed availability of reporting templates also meant that it was necessary to commence data analysis and drafting of the final Country Report before all templates were complete, making the data analysis process – during which each reporting template was reviewed to identify both recurring themes and notable perspectives amongst the interviewees - more complex than it might have been.

## 1. Perceptions of the victim’s role in the criminal justice system

### 1.1. Views of practitioners

1.1.1. How do practitioners of various professional groups view the primary role of victims in criminal proceedings and its significance (please refer to Question Pr 1.1)?

	S	P	J	L
As a witness testifying and thus providing evidence;	4	2	5	NA
As a damaged party seeking restitution;	0	0	1	NA
As a party to the criminal proceedings entitled to have a say in the proceedings;	2	1	5	NA
Other, please specify below!	0	0	0	NA
Don't know	0	1	0	NA
TOTAL	6	4	11	NA

As well as completing the above table, please provide an analysis and your own interpretation of the results:

Apart from one judge (**UK.J.08**) who uniquely described the role as ‘a damaged party seeking restitution’, and one police officer (**UK.J.05**) who was categorised as a ‘don’t know’ answer, interviewees elected for only two of the four options open to them. Slightly more (11 = **UK.J.01, UK.J.02, UK.J.07, UK.J.10, UK.J.11, UK.P.01, UK.P.02, UK.S.01, UK.S.02, UK.S.03, UK.S.06**) selected the first option, ‘a witness testifying and thus providing evidence’, than the third, ‘a party to criminal proceedings entitled to have a say in proceedings’ (8 = **UK.J.03, UK.J.04, UK.J.05, UK.J.06, UK.J.09, UK.P.03, UK.S.04, UK.S.05**).

Around half of interviewees (12 of 21 = **UK.J.01, UK.J.05, UK.J.06, UK.J.07, UK.J.08, UK.J.09, UK.J.10, UK.P.03, UK.S.01, UK.S.03, UK.S.04, UK.S.05**) were able to quickly and clearly identify one primary role for the witness:

“I think their primary role, certainly in our proceedings, is as a witness. That’s certainly my experience of it... As far as restitution is concerned, restitution is more of a civil concept, not a criminal concept, [though] it’s open to the court to award compensation, in particular cases [but] I don’t know if any victim is actually coming looking for that.” **UK.J.10**

“Without a victim we don’t have a case. So the primary role of the victim is to give us the fullest... account from that victim through whatever method we have. That is the fundamental role.” **UK.P.01**

And to clearly discount other roles:

“It is about the victim but it’s not being prosecuted by the victim... [Victims] shouldn’t just be seen as an aggrieved party, because whatever crime has been committed is not just against the victim but it is against the public. And we’re there to protect the public, of which the victim is a member. So it’s not the victim’s case per se, it’s the Crown’s case.” **UK.J.05**

Yet the other half (10 of 21 = **UK.J.02, UK.J.03, UK.J.04, UK.J.11, UK.P.01, UK.P.02, UK.P.05, UK.S.02, UK.S.06**) felt that the victim’s role in proceedings could not be so easily categorised and were reluctant to select one primary role.

**UK.P.05** was unable to choose between roles and so was categorised as a ‘don’t know’ answer.

“I’d probably say 1 and 3 on there, because they have a say in the proceedings, although it might be limited. But they do, particularly in the work we do, they’re sort of a party to what goes on and they can have their say, definitely.” **UK.P.05**

Others ultimately selected one role but were clearly conflicted. “I would say that the victim is now more than just a witness. The victim is engaged in the sense that we’ll make contact and the views will be discussed, so this may be coming towards a consultative role. That might be taking it a bit far, but I would say more than the first option but not necessarily reaching the point of a party”. **UK.J.11**

Thus **UK.J.02** and **UK.S.06** both ultimately elected for ‘a witness testifying and thus providing evidence’ as the primary role, also acknowledged that the witness is a damaged party. **UK.P.02** who also finally selected a witness testifying and thus providing evidence’ first stated, ‘well it’s a mixture of all three’. **UK.J.03** opted for ‘a party to the criminal proceedings’ was also inclined towards ‘a witness testifying and thus providing evidence’. **UK.J.04** and **UK.P.01** felt all were relevant but if forced to choose elected for ‘a party to the criminal proceedings entitled to have a say in the proceedings’. **UK.S.02** changed her mind several times and although ultimately elected for ‘a witness testifying and thus providing evidence’, clearly felt that each has some relevance:

“My experience has always been that they are there to give evidence... If they have been a victim of particular crime then they are there to prove that the crime actually took place... [But] I would say to be honest, [also] a damaged party... [and] I think it’s a lot for me, about seeking restitution. About getting some form of justice.’ **UK.S.02**

This attitude looked not simply to the role the victim played in the criminal proceedings, but also to the consequential benefits that proceedings bring if a conviction is achieved: punishment for the offender and compensation for the victim, which provide the victim with a form of state recognised restitution or justice.

Given the structure of criminal proceedings across the UK, which formally comprises two parties – the state as prosecutor and the alleged offender as defendant - a surprising number of practitioners, and particularly prosecutors (5 out of 11), described the main role of the victim as ‘a party to criminal proceedings entitled to have a say in proceedings’. Three of these 5 (**UK.J.05, UK.J.06, UK.J.09**) made an unequivocal choice, whilst 2 (**UK.J.03, UK.J.04**) felt that other roles also applied.

That these 5 interviewees should consciously describe the primary role of the victim as a party to proceedings when formally that is not the position in the UK criminal justice systems, and therefore avoid categorising the victim as ‘merely’ a witness – and thus no more important in proceedings than any other witness - is very interesting and may reflect the increasing value that Criminal Justice System (CJS) practitioners place on the contribution of the victim to proceedings. One victim support professional described how attitudes had changed rapidly in recent times, but acknowledged that historically the needs of victims had been largely overlooked.

“The actual wellbeing of the person who had been victim of the crime wasn’t necessarily all that important to the authorities up until quite recently”. **UK.S.05**

A prosecutor also acknowledged this change in attitude.

“I’ve been prosecuting for over thirty years and when we started the victim just came and gave evidence, we didn’t really have much of a relationship with them. Now I think that our policies and our attitudes have changed... I’m thinking of maybe the cases where girls are trafficked, they’re taken from care homes and given drugs and drink, and they’re ‘bad witnesses’ if you like, because they’ll have previous convictions, run away from school, you know, they won’t be perfect. I think years ago we might not have prosecuted those kinds of cases whereas now [we do].” **UK.J.02**

#### 1.1.2. How significant do practitioners assess the role of victims in criminal proceedings, apart from victims testifying as witnesses? (Question Pr 1.2)

Without exception interviewees recognised the central role that the victim plays in any criminal prosecution:

“It’s your number one priority, it is all about them through the whole process and getting them what they want, what they need. And whether that is support or whether that is right at the end you are getting a conviction, getting the offender caught and punished. So it is all about the victim for me.” **UK.P.02**

“The victim is the most important person in the criminal justice process.” **UK.P.03.**

“They’re still the whole of why the criminal proceedings would be taking place” **UK.S.02.**

“Our victims are central, it starts with them and finishes with them. If they’re not there then it’s going to cause problems, so they are central to everything we do.” **UK.J.06.**

“[Victims are] crucial, you can sometimes prove cases without them, but in the majority of cases they’re needed to actually prove the case.” **UK.J.03**

“Well I would have thought of primary importance ... Well, there are no proceedings without the victim, the proceedings are convened in order to determine the case which the victim has complained about.” **UK.J.09**

“The victim is very important. The decision has to be taken in the public interest and the victim’s interests are part of that public interest – their views should therefore be taken into account.” **UK.J.11**

However, although interviewees were clearly asked about the importance of the victim in criminal proceedings over and above their role as a witness, some prosecutors and victim support professionals continued to focus on the fact that the victim is the key or most significant witness in the case. **UK.S.06**, for example, described the victim as being of primary importance, and said that the victim's primary role is to give evidence to facilitate the judicial process. **UK.P.05** stated that victims play an extremely important role in proceedings and without them, particularly in rape cases, the police do not have a case to put forward. In her 16 years of service the interviewee had not known a rape case to reach trial without a complainant. Other professionals answered similarly:

'Without a victim there's often not a case, so they are paramount in making sure that they are able to give their evidence in the best way they can.' **UK.J.02**

"They're crucial, you can sometimes prove cases without them, but in the majority of cases they're needed to actually prove the case." **UK.J.03**

"... in most cases of this nature, if we don't have a victim, more often than not we may not have a case. We may have other witnesses who support and who saw enough for us to be able to build our case, but more often than not the victim is there for better impact." **UK.J.05**

'Without the victim there is no witness, without the victim there is no defendant. It is about them, they are absolutely pivotal to the whole process.' **UK.S.05**

"Clearly, the victim is very important because the victim is the person whose evidence is central, whose evidence is essential, without whose evidence it's unlikely there would be any kind of conviction, and who has personal and private rights that need to be respected when that person is in court. So, the answer in as far as I can answer it in the abstract is very important." **UK.J.08**

As such the victim generally plays a crucial role in the case:

'We are trying to make the system as victim-centred as we can these days. Gone are the days where they were merely a component part of what we're doing... We certainly regard them as significant to the cause. No witness, no case!' **UK.J.01**

A common theme in interviews is that although CJS professionals make great efforts to ensure that the victim *feels* an important part of the proceedings with a valued contribution, structurally they do not occupy a significant role (see further Section 5 below). Nevertheless, as can be seen from the above quotes, a predominant view amongst the criminal justice professionals interviewed is that the increasing trend within the criminal justice system is to recognise the victim's essential contribution and therefore to facilitate the victim's involvement in the case wherever possible. Examples of the steps taken to better involve victims in the UK criminal justice systems are the introduction of Special Measures support in the early 1990s and the Speaking to Witnesses at Court ("STWAC") scheme, introduced in the last year (discussed further in the sections below). Specialist police units dealing with serious sexual offences against adult victims (in addition to offences against children) are also at the vanguard of this approach in more explicitly valuing the input of the victim and giving explicit recognition to the damage/harm that the victim has suffered.

**UK.S.01** described the general acknowledgement within the CJS that victims of sexual offences, in particular, have been let down in the past. Consequently there is now a consistent focus on striving to improve police response to their complaints.

“Well obviously [victims] are important because they are the main witness, but I think their experience [is that] the police officers are trying to make the victims feel more valued than they have in the past.”

**UK.S.01**

Other Victim Support professionals took the view that categorising the victim simply as one witness amongst others downplays the importance of the victim within criminal proceedings, and fails to properly acknowledge the damage that the victim has experienced.

“I know sometimes the victim does feel that they are not just a witness but the person that it happened to – and to call them a witness is something they can feel quite upset about, which I understand. Because they are not just the witness are they? They are the person that it happened to.” **UK.S.03**

This increased focus on the centrality of the victim in the prosecution case inevitably raises issues as to whose and which objectives the criminal justice process is attempting to satisfy. **UK.J.01** highlighted the distinction between their perception of the victim’s role and the victim’s own perception, demonstrating a subtle distinction in views as to what constitutes justice. Prosecutors (**UK.J.01, UK.J.04, UK.J.07**) describe themselves as acting on behalf of the State and representing the public interest, their objective being to achieve a just outcome for all parties. **UK.J.01** felt that, in contrast, victims see themselves at the heart of the process and as the person for whom justice is being sought. For many victims this means restitution in the form of a conviction. Some victim support professionals, however, felt that some victims have different expectations of the criminal justice process:

“Some people just want to be believed and want [to know that]... somebody out there has to speak to them, to gather all the evidence, to put it in front of the court, for them to then sit back... and think ‘they believed us’.” **UK.S.04**

“I think normally it is the feeling of safety afterwards, it is not even necessarily the punishment. It is more the fact that the person can’t come back and get them again or damage them again in another way. I think that is the most important thing to them, the fact that they can move on and get on with their life”. **UK.S.05**

## 1.2. Views of victims

### 1.2.1. How did the interviewed victims assess their role in the proceedings (Question V 1.1 – V 1.3)?

Many of the interviewee’s appeared to struggle to understand and provide answers for questions in relation their role in proceedings. In particular some interviewees appeared surprised to be asked what their motivation for becoming involved in proceedings was. Often interviewers found it necessary to ask follow up questions in order to get an answer.

Three interviewees (**UK.V.06** and **UK.V.09**) responded by describing their contribution, in both cases this was reporting to the police and giving evidence at trial, rather than providing their motivation. Two interviewee’s (**UK.V.08, UK.V.11**) became involved with proceedings out of a sense of injustice on their behalf:

*“I was assaulted. And my phone was smashed out of my hand as well, so, criminal damage too. I just wanted her to be arrested for what she had done, obviously it was against the law. Out of right and wrong.” - **UK.V.08***

*“I had somebody do something to me that I thought justified going to court ... Justice ... I obviously, with it being such a close personal friend for a long time before that, it wasn’t a simple matter.” - **UK.V.11***

Five of the interviewees (**UK.V.02**, **UK.V.03**, **UK.V.04**, **UK.V.05** and **UK.V.10**) described a fear for their safety as their motivation for becoming involved in proceedings.

*"I felt my life was in danger and it was a last resort that I needed the police to get this man away, so, safety was my most important."* - **UK.V.02**

*"Sheer terror that the man might come back and murder me. I had to have the police there to defend me basically, so, sheer terror."* - **UK.V.05**

**UK.V.01** was motivated by her desire to become a police officer and felt she should be able to report an offence committed against her if she was to expect others to report to her in the future. Additionally, **UK.V.01** wanted to prevent the offender from harming anyone else, this motivation was also shared by **UK.V.07** and **UK.V.12**.

Two thirds of the interviewees (**UK.V.02**, **UK.V.05**, **UK.V.06**, **UK.V.07**, **UK.V.08**, **UK.V.09**, **UK.V.11** and **UK.V.12**) thought that their role in proceedings was to report the offence to the police and/or give evidence at trial. Because **UK.V.04**'s case did not proceed to a prosecution her answer to this question was necessarily limited and she stated that she did not know what her role was. **UK.V.01** responded that she did not know what her role was in proceedings but felt that she was not treated like a victim by the police, rather they thought of her as someone whom they needed information from:

*"I wasn't even a victim in their eyes I was more of a "we need some information from you so just come on". I'd rather have been a victim than a witness or a complainant, because at least with a victim they might have seen that I have emotions and they can't do these certain things."*

**UK.V.03** and **UK.V.10** both responded that their role had been to make repeated reports until the police would take any action.

*"I've put in a lot of effort. I've put in nearly 5 and a half years' worth of effort. Hundreds of phone calls, literally hundreds of phone calls to the police, my local MP, when he was an MP, were involved, I've had Canterbury City Council involved, I've had my landlords, Southern Housing Group involved and was just ignored ... I was just constantly reporting it, trying to, reporting different incidents to try and to get things to stop but Kent police took absolutely no notice of me."* - **UK.V.10**

When, however, **UK.V.03** was asked what role she expected to play in the upcoming trial against her former partner, she explained that she would have to play a central role as no other person is involved in the case and that accordingly she felt responsible for the outcome:

*"There's only me and him, there's no other person involved. I feel as if it's down to me to say, you know, "this is how I felt, this is what he'd done"."* - **UK.V.03**

Six interviewees felt they would have liked to have more involvement in proceedings (**UK.V.02**, **UK.V.03**, **UK.V.04**, **UK.V.05**, **UK.V.06** and **UK.V.11**) and four (**UK.V.09**, **UK.V.07**, **UK.V.08** and **UK.V.12**) were satisfied with their level of involvement. **UK.V.10** would have liked less involvement in respect of the amount of reports he had to make in order for the police to take him seriously.

*"Well I wanted to be acknowledged, for a start, so, to get his behaviour to stop. But they didn't take any notice of me."* - **UK.V.10**

**UK.V.01** thought she had been too involved in respect of how much contact she had with the police but opined that, at the time she reported the offence, she had not expected that the case would go any further and thus had not expected to have to have been involved in proceedings:

*“It became a quite big case, so for me I wasn’t prepared for that and I thought I would be reporting it and I didn’t expect it to go any further, because it was a few months after it had happened, so for me I didn’t expect to be so involved in the case.” - UK.V.01*

## 2. Victims reporting their victimization to the police

### 2.1. Views of practitioners

2.1.1. How do practitioners assess the impact of victims’ reporting (or underreporting) on the criminal justice system’s effectiveness (question Pr 2.1)?

Some interviewees (UK.J.02, UK.J.05, UK.P.03, UK.S.02) took the view that it is difficult to generalise on victims’ attitudes to reporting their victimisation: individual victims’ personal motivations are highly varied as are the circumstances of the crime they have been subjected to.

“It’s case specific actually, it’s not one rule fits all!” **UK.J.05**

“I don’t think it is as straightforward as one issue. I think it is a number of issues.” **UK.S.02**

Furthermore, only the police and victim support staff are likely to come into contact with victims who have not reported; prosecutors and judges encounter victims only once criminal proceedings have commenced. Nevertheless, interviewees gave some broad indications of the factors that they felt influenced victims in their decision whether to report their victimisation to police.

In the main, interviewees spoke at greater length about the factors which deter victims from reporting than the factors which encourage them to do so. However, interviewees did offer some insights into what they felt encouraged victims to report:

#### Factors which encourage reporting:

Victims are much more likely to report ‘mainstream’ violent offences than sexually violent offences:

“I think if you’re just a member of the public who gets assaulted by somebody walking down the high street or you’re in a nightclub and you get assaulted or whatever, I think you’re very likely to report that.” **UK.J.06**

And both **UK.S.06** and **UK.P.01** felt that street crime is likely to be reported because of its visibility, though not necessarily by the victim:

“Because violent crime typically causes injury, the other emergency services - fire service or the ambulance service – report the offence. The reporter may also be a concerned neighbour or other witnesses in the street.” **UK.P.01**

UK.S.01 and UK.J.02 highlighted two reasons which may motivate otherwise reluctant victims of sexually violent offences to report their victimisation to the police. **UK.S.01**’s experience is that these victims do sometimes report through a strong desire to prevent the perpetrator from offending against others. Furthermore, widespread media coverage of successful prosecutions for certain types of offences or awareness of particular social problems has been seen to counteract victims’ fears of being believed.

“I think [previously] there has been huge reluctance to report rape and [historic] sexual offences but we’ve seen an increase in that. I think we might refer to it as the ‘Jimmy Saville’ factor. Outside things do influence people [to believe] that they are going to be listened to. Following Brexit we saw a spike in racial hate crime being reported.” **UK.J.02**

### Third party reporting

Interviewees from specialist or niche victims support organisations (**UK.S.01 & UK.S.02**) described how they are prepared to report on the victim’s behalf, and they may or may not identify the victim. **UK.S.01** explained that for the victim this limited act of allowing a report whilst refusing to assist a prosecution for his/her own complaint can be hugely empowering in that it brings the identity of an alleged perpetrator to the attention of the police. For many victims the mere act of speaking out ‘allows the person to feel they have done their duty in a way’.

### Factors which deter reporting

Firstly, a number of interviewees spoke of a group of factors related to the personal characteristics of the victim or the relationship between the victim and the alleged offender.

**UK.S.05** reported that the personal characteristics of the victim are a big influence on his/her willingness to report. Resilient and emotionally strong victims are the most likely to report, whilst those who are less robust, such as those with mental health difficulties or those who are simply shy or meek, are less likely to report through fear of repercussions.

Prosecutors saw a personal relationship with the victim as a barrier to reporting, which is often the case in allegations of sexual assault or domestic violence:

“If you are assaulted by someone you know, and especially if you’re in a personal relationship with that person, you might not be so keen to report that.” **UK.J.06**

“Domestic violence is a typical example where there is a tremendous reluctance to complain. Our common experience is, of course, that it is very rarely the first time that they complain. There are all sort of pressures within the relationship.” **UK.J.01**

“Most people who report crimes to us will quite happily provide a statement but domestic violence is very different. They might want us to help them but they might not necessarily want their partner prosecuted.” **UK.P.03**

But non-intimate relationships are also influential. Detectives who regularly investigate non-sexually violent crime felt that membership of the same social group as the offender is a deterrent to reporting: the fear of being labelled as an informer or a ‘grass’. **UK.P.01** asserted that there are significant numbers of victims who do not wish to report their experience of violent crime to the police:

“The least likely [person to report] would be the victim in these crimes, who, as I say, more often than not, too often for my liking anyway, doesn’t cooperate with the police.” **UK.P.01**

Prosecutors (**UK.J.01, UK.J.04, UK.J.05, UK.J.08**) confirmed that for some types of violent crime, that which tends to occur within ‘criminal gangs’, there is a reluctance to report.

“It very much depends on what social grouping they come from. Small communities, even within cities, have their own hierarchies, and if it’s one that has a criminal element to it, then there is the attendant fear and pressure from their social group about reporting crime.” **UK.J.01**

Often where there is a considerable overlap between offending and criminalisation, the prevailing culture is not to cooperate with the police in any way, no matter how serious the crime experienced. **UK.P.01** described this as 'a code of honour', the breach of which leads to the perception that the victim is not a trustworthy member of local society:

"I've seen some massively serious, vicious crime, which people have been subject to, loss of limbs, loss of an eye, and they've refused to put pen to paper and tell us who did it." **UK.P.01**

These victims feel that the police will be unable to protect them from future victimisation if they testify against the alleged offender.

"The follow-up exercise... testifying in court. Most of them are afraid of what's going to happen to them, how are they going to be protected... by the time I walk away from court is this going to stop, what protection am I going to have? So, I think yes they are afraid to come forward." **UK.J.05**

"If I tell the police something, will the police be able to protect me so that the person doesn't come back and harm me again... Am I better off running, you know, and going somewhere and starting a new life." **UK.S.02**

Assumptions and pre-conceptions about police and societal attitudes are a second significant factor which deters reporting, particularly in relation to sexual offences where victims are concerned about how criminal justice professionals will both perceive and treat them. **UK.S.01** asserted that the main factor that militates against reporting by victims of sexual offences is 'a huge fear of being believed', and other victim support professionals and prosecutors reinforced this sentiment:

"Victims are worried about how they will be perceived... particularly sexual cases... because there is all sorts of stigma attached to it [and also] concerns over how they're going to be treated by the system. Those from a criminal background, for example prostitutes reporting offences of violence, they didn't [previously] get a sympathetic hearing from the police officers. But those attitudes have fundamentally changed now." **UK.J.01**

Though **UK.J.05** highlighted that fears of rejection or prejudice may relate to members of the victim's community in addition to the police. **UK.S.05** also spoke of the stigma that may attach to victims of sexual offences, whatever the outcome of the trial:

"... in the age that we're living, with social media and all that, it is difficult to report serious crimes because you are almost damned if you do and damned if you don't... if a person gets sent down for a long time because of your report, you can get a lot of come-back from that. At the same time, if the person gets found not guilty or doesn't get arrested... you can get a certain amount of abuse for that as well... It's kind of an uncool thing to do, a non-tolerated thing to do to report crimes. No matter how damaged the person is, which seems really unfair". **UK.S.05**

However, a number of (non-police) interviewees (**UK. J.01**, **UK.J.02**, **UK.S.04**) praised the modern police approach to victims who hold such views and suggested that they are now somewhat outdated. **UK.S.04** gave an example of a young woman victim of a sexual offence who had been previously been a defendant in different criminal proceedings. She initially did not want to give evidence because she felt that the police would not find her evidence credible but a dedicated police officer had managed to bring her around.

"She's been locked up, she's been mouthy. But over the last two or three years, the officer involved in this case has really got to know this victim and really gone above and beyond, I think, to support this

young girl and bring her this far on. She's managed to bring her round. She is still cheeky but there is one exceptional officer who's made her give her evidence. **UK.S.04**

The third broad factor that interviewees (**UK.J.04**, **UK.P03**, **UK.S.05**) described as impacting upon a willingness to report is disengagement with the criminal justice system due to previous bad experiences with the police.

"There are some victims who are disengaged with the police and the court system for whatever reason, perhaps if they've had a bad experience in the past or they've had negative dealings with the police or with courts previously then that may affect their willingness to come forward on this occasion." (**UK.J.04**)

**UK.S.05**, additionally highlighted that victims of domestic violence are frequently willing to report an initial offence, but become increasingly less likely to report any subsequent victimisation if they perceive that 'nothing has happened' to the offender following the earlier reports.

#### Impact of refusal to report

A commonly held view of the professionals interviewed (**UK.J.03**, **UK.J.04**, **UK.J.06**, **UK.P.01**, **UK.P.03**, **UK.S.05**) is that where a victim refuses to report, a criminal case cannot proceed because of lack of evidence. The police and prosecutors were clear that the victim's evidence is usually the primary account of what happened during the incident and without that evidence the prosecution case is almost always fatally weakened. Sexual offences are particularly difficult to prosecute without victim cooperation:

"If a victim, from the outset, is refusing to make a statement to the police regarding to what happened to him or her then that prevents us from getting access to medical records, it prevents us from taking photographs from them, because we need permission, it prevents us from getting a full account as to how they came about the injuries and who is responsible for the injuries. Which makes it impossible for the police to present a case to the CPS." **UK.P.01**

Prosecutors (**UK.J.01**, **UK.J.04**, **UK.J.06**, **UK.J.07**) confirmed that the Crown Prosecution Service (CPS) in England and Wales is prepared, where possible, to proceed without the victim's cooperation but such prosecutions are still rare. **UK.J.01** described a minority of cases where there may be sufficient forensic or medical evidence to allow the case to proceed without victim involvement, provided the victim consents to police access to his/her medical records. Alternatively if the victim refuses to permit access to his/her medical records, it may be possible to prosecute for a lesser violent offence which does not require proof of injury, for example assault or assault occasioning actual bodily harm.

One type of case where the CPS is increasingly successful in victimless prosecutions, provided it is in the victim's best interests to proceed, is domestic violence.

"We really push our victimless prosecutions - obviously we won't do that if it's not going to be in the victim's interest - but quite a lot of the time it is in their interests because whilst they don't feel that they can come to court they still want something to be done." **UK.J.06**

#### Impact of later withdrawal of support

Prosecutors and victim support professionals (**UK.J.01**, **UK.J.04**, **UK.J.05**, **UK.J.07**, **UK.S.03**, **UK.S.04**) described a common pattern in domestic violence cases where a victim initially provides a police statement but later withdraws his/her co-operation with the prosecution. Many victims of domestic violence are prepared to provide a statement to the attending police officer, because of the trauma of the moment and

in an effort to have the offender removed from the scene as quickly as possible. However, in the following days, these victims frequently, and for a number of reasons, reconsider their decision to report:

“The problem is of course that they are now faced with all the attendant pressures that follow on... the social stigma... that [the offender is] the person who provides for them and looks after them and so on. If it is a female, which it most commonly is... he is often bringing more money in. It is the idea of losing all of that, which they only think about afterwards. And that’s why it is more common, because of those pressures, for us to end up with a witness who then says that they don’t want to go to court.” **UK.J.01**

**UK.S.03** and **UK.S.04** told of similar experiences with victims who initially report and later decide that they do not wish to go to court to give evidence. These prosecutors and victim support professionals described that in such circumstances they would engage with the victim to determine if they can offer additional support to enable the victim’s continued cooperation, particularly the use of special measures in court to overcome any fear of intimidation. Sometimes the victim can be persuaded to cooperate but often the prosecutor must judge whether, as a last resort, it is necessary and appropriate to compel the victim to give evidence at trial. Prosecutors (**UK.J.01**, **UK.J.04**, **UK.J.04**, **UK.J.07**) made clear that any decision to summons the victim will take place only after a full risk assessment has been completed which balances the safety of the victim against the risks of not prosecuting the defendant.

Scottish prosecutors, however, were not in favour of forcing a reluctant victim to give evidence in court.

“You wouldn’t want to contribute to victimisation or the trauma experienced by forcing [the victim] to engage with the prosecution, to repeatedly... ask them questions about [the experience], then go to court to be cross-examined about it, in a context where they’ve made an informed, clear decision [not to cooperate with the prosecution]”. **UK.J.11**

If a reluctant witness does ultimately take the stand, there may still be an impact on the proceedings. A judge, **UK.J.10**, explained how defence counsel sometimes uses the fact that a victim was reluctant to report an offence to the police as a tool to cast doubt on the credibility of their testimony, which may impact on how a jury views their evidence. The Crown often may call a psychologist as an expert witness to explain the reasons why victims are reluctant to report. In a bid to limit the effect of this on jury deliberations, the judiciary in Scotland will soon be giving standard directions to juries to tell them that, as a matter of fact, on occasion people do not come forward and report a crime for many years.

2.1.2. How do practitioners assess the potential of the following measures in terms of improving the situation of underreporting? Would the following measures make it significantly easier for victims to report (question Pr 2.2)?

<b>Professional groups</b>	<b>S – Agree or strongly agree</b>	<b>P - Agree or strongly agree</b>	<b>J - Agree or strongly agree</b>	<b>L - Agree or strongly agree</b>
2.1.2.1 More victim support services available to victims of violent crime	3/6	1/4	7/11	NA
2.1.2.2 Raising victims’ awareness of their rights and of support services available to them	6/6	1/4	8/11	NA

2.1.2.3 Better protection of victims against repeat victimisation and retaliation	6/6	3/4	8/11	NA
2.1.2.4 Setting up specialised police units or contact officers for victims of certain types of crime	5/6	2/4	10/11	NA
2.1.2.5 Measures aimed to enhance the trust of the public in the police	6/6	3/4	6/11	NA
2.1.2.6 Measures strengthening professional, respectful and non-discriminatory attitudes and conduct in the police	5/6	2/4	6/11	NA

As well as completing the above table, please provide an analysis and your own interpretation of the results:

### Statement 1

Around half of interviewees supported this as a measure which would likely increase victims' reporting of violent crime, though, as several interviewees pointed out, the causal link between availability of services and reporting is not entirely clear.

"If you've never reported anything and it's been the first time you're a victim of violent crime, you might not know what support is out there so I'm not sure that will make any difference." **UK.J.06**

"I don't think it's going to make it any more likely that they will report. But I think it would make it more likely that... you'll keep them in the system." **(UK.P.02)**

Others who did not support this statement explained that the issue is not that that are insufficient or inadequate victim support services, but rather that the overall provision is disjointed.

"There are so many people competing to support witnesses... but I think better focused and proper funding... I think for people out there it is bewildering... Who do they go to? Where do they get help from? I'm sure that they would want a one stop shop where they tell you and you look after the rest of it." **UK.J.02**

Uniquely, one police officer (**UK.P.03**) held a very strong opinion that more victims support services are not the appropriate response to ensuring victims are adequately supported and asserted that the correct response would be to better fund the police to allow officers sufficient time to establish and maintain contact with victims. In contrast, a specialist sexual offences and domestic violence officer, who presumably had very regular contact with victims who have considerable support needs, strongly supported an increase in support services:

"More, definitely, but it's the waiting lists and the access to those. If we had more, definitely, if the access time was then lowered." **(UK.P.05)**

### Statement 2 & 3

A higher number of interviewees, around 75%, supported these proposed measures though few expanded on their reasons for doing so.

Commenting on statement 2, **UK.P.02** felt that, like statement 1, though a valuable good in its own right, raising victims' awareness of rights and support services would likely have little impact on reporting:

“Again my comment would be that would be something great to have once they’ve reported it.” (UK.P.02)

UK.P.02 was also the only interviewee to further comment on statement 3, which, unlike statements 1 & 2, he agreed with.

“I agree with that. But you have to advertise it don’t you. You like we do now... in [UK.P.02’s police force area], people are aware that they get taken seriously and if they come in and report, particularly rapes and your violent crimes and your DV, that they are not going to get knocked back. They are going to come in and be taken seriously.” UK.P.02

#### Statement 4

Again, around 75% of interviewees felt that this would be a useful measure in increasing reporting rates, though most felt that this was more important for victims of sexually violent than non-sexually violent offences.

“Violent crime covers a whole spectrum of things. Sexual crime is one thing, which I can see would require specialised officers, but not necessarily just physical violence. I’m not sure why a specialised officer is in any better position to deal with that than a normal, bobby on the beat as it were.” UK.J.10

UK.S.06 pointed out that all properly trained police officers should be aware of the Victims Code and able to provide support to the victim during the initial report, though at least one prosecutor recognised that in practice support from non-specialist officers is variable.

“We need our police officers to be a lot more able and have time to deal with victims of crime in the way that is appropriate, especially with first reports, because for me that first report is probably hugely significant in whether or not they stay the distance in dealing with the criminal justice system.” UK.J.02

#### Statement 5 & 6

Only half of interviewees felt increasing public trust in the police would enhance reporting levels. As interviewees were not required to provide reasons for their answers, and few chose to do so, it is not clear whether this is because interviewees felt that there is already an adequate level of public trust in the police or whether they felt that there is no direct correlation between trust in the police and a willingness to report a specific offence. As one prosecutor pointed out, public confidence in the police is multi-faceted:

“I think the police do a lot of good work that doesn’t make it to the forefront... What I always think is fascinating is that if you were in desperate need most people would ring the police so there must be some level of [trust], but I think there is some sort of suspicion... I think that we want them to be all things don’t we?” UK.J.02

Again, around a half of interviewees agreed that measures strengthening professional, respectful and non-discriminatory attitudes and conduct in the police would have a direct impact on reporting. Unsurprisingly police officers found the suggestion that they do currently not have such attitudes offensive and a number of prosecutors also disagreed strongly with the statement.

“I think they are pretty well trained now!” UK.J.01

“I’m not clear on how that impacts on victims willingness or otherwise” UK.J.04

## 2.2. Views of victims

### 2.2.1. Did the interviewees report their victimisation to the police (Question V 2.1)?

All but three interviewees (**UK.V.04**, **UK.V.11** and **UK.V.12**) reported the offences committed against them. All three that did not report themselves did not because of the injuries they sustained in assaults against them.

### 2.2.2. What are the factors identified by victims, who reported to the police, facilitating this reporting (Question V 2.2)?

With regard to factors that facilitated reporting to the police only one common factor, fear of the offender, was identified. It was however only cited by two of the interviewees. Otherwise the factors identified were distinct and related specifically to the interviewee's own personal circumstances.

For **UK.V.05** and **UK.V.06** the fear they had of the offender made reporting to the police an easy decision. A sense of justice and being morally in the right made it easier for **UK.V.08** and **UK.V.10** felt he had no choice but to report as the harassment had been ongoing and escalating and he had serious fears for his safety.

### 2.2.3. What are the factors identified by victims, who reported to the police, hindering this reporting (Question V 2.2)?

Three of the interviewees who were all victims of gender-based violence (**UK.V.01**, **UK.V.02** and **UK.V.07**) all felt hindered from reporting either through a fear of being blamed or not being believed. Otherwise factors that hindered interviewees from reporting were all distinct and related specifically to their own personal circumstances.

#### Reasons why:

**UK.V.01** initially held back from reporting included a fear of being blamed, because she had been intoxicated, by her family and friends:

*"I was afraid that people would've blamed me. And I was also ashamed to come forward in case, because I knew, by coming forward I thought, you know, my friends and family might have found out, so I think that was for me was quite, you know, played an important role of, that's why it was quite a long debate." - UK.V.01*

She also had an awareness of the laws governing the offence that was committed against her and knew of a change in the law that would support her case. She also discussed the gradual realisation of her victim status and acceptance that the assault had actually occurred. The catalyst for this and for her subsequent reporting was receiving support from her university's student services.

The main obstacle **UK.V.07** was the fear that the police would not believe her. Similarly, **UK.V.02** had been hindered from reporting in the past owing to a fear of not being believed. However this was due to the fact her partner, the offender, was a retired police officer and had told her nobody that would believe her over him.

*"He told me for years if I reported him nobody would me, it would be his word against mine, he was a police officer and it would be his friends that would come round and question me and I would be the one that was arrested. So that's why I didn't report it for years." - UK.V.02*

**UK.V.03** had found it difficult to report the threats she was receiving from the offender after their relationship had ended as it required her to relive the previous abuse that she had managed to get away from and accept that it was happening again.

*“It was hard, you’ve really got to admit, but you’re scared. And after, after going through what I went through with him, and him making the threats, you’re right back to where you were. You know, you’ve moved on, you’ve put yourself back together again, you’ve seen to the kids, you’ve got your house and everything else, your job but, you think you’re happy, and it just takes one call, one text and that’s it, it’s gone. And you’re right back to where you were.” - UK.V.03*

Social factors came into play for two of the interviewees (**UN.V.12** and **UK.V.09**). **UK.V.12** had concerns about the social repercussions and **UK.V.09** was hindered by the stigma of being a male survivor of domestic violence perpetrated by a woman.

*“You know, being seen as a guy reporting domestic abuse from his wife, it looks like, well you know, man sort of thing. So I had to eat a lot of humble pie to say yes, I need to ring the police about this”. - UK.V.09*

2.2.4. What are the factors identified by victims, who did not report to the police, impeding this reporting (Question V 2.3)?

**UK.V.04**, **UK.V.11** and **UK.V.12** did not report themselves because of the injuries they sustained in assaults against them, accordingly no factors were identified.

2.2.5. Would the victims, if they were victimised again, report to the police? What are the reasons given by interviewed victims for their responses (Question V 2.4)?

Eight interviewees (**UK.V.02**, **UK.V.04**, **UK.V.05**, **UK.V.07**, **UK.V.08**, **UK.V.09**, **UK.V.10**, and **UK.V.11**) would report a future offence to the police. Based on her experience of the criminal justice system **UK.V.02** would not however make a statement and go ahead with proceedings:

*“Because of where it leads. My issue isn’t with the police my issue is with the criminal justice system so I would report it to the police if my life was in danger, yes, of course I would dial 999 but I wouldn’t be making statements and I wouldn’t be going down through the criminal justice process again.” - UK.V.02*

One interviewee (**UK.V.01**) would not report a future offences to the police owing to the excessive length of the proceedings in her cases.

*“The whole process was just so long, that that would be what puts me off. Like becoming another victim in the system ... thinking about it now and actually realising how painful the three years court procedure were, I would never do it again, so, yeah, it’s just, I’m doing the civil now, just to make a point that I need some justice, but like if this happened to me tomorrow I would, yeah, never, like, never go through another proceeding. And it’s crazy because I want to join the police. I want to try and make this difference rather than just join in this mess that it is”. - UK.V.01*

For two interviewees (**UK.V.03** and **UK.V.06**) their decision to report a future offence would depend on the circumstances.

However, like **UK.V.01**, **UK.V.03** would be discouraged from reporting future offences to the police owing to the excessive length of the proceedings and **UK.V.06** would be discouraged by the desire not to go through another trial.

### 3. Empowerment of victims (support, advice and information)

#### a) Support and advice

##### 3.1. Views of practitioners

3.1.1. How do practitioners assess the availability of victim support services to victims of crime (Question Pr 3.1)?

###### Victim support services available

There are broadly four different types of victim support service in England & Wales: first line victim support services which have differing funding models; specialist or niche victim support services which tend to be charities; Witness Care Units which form part of a national model of state funded joint police and CPS support for victims who are required to attend trial as witnesses; and the court based Witness Service which is a national charity that receives funding from the State and provides largely practical support and assistance for victims and witnesses on the day of trial. The provision of first line victim support services previously operated in England & Wales as a national service but services are now locally commissioned meaning that there is no nationally common model of provision. In Scotland there remains one national service front line support service, Victim Support Scotland, and the Victim and Witness Advice Service which performs a similar function to that of the Witness Care Units in England & Wales and which is part of the Procurator Fiscal's Office.

One prosecutor described the support for victims across the criminal justice process as fragmented with a lack of joined up thinking. Furthermore, although individual services offer great support, resources can be limited and funding haphazard. A consequence of local commissioning of many of these services is that service providers must re-apply every three years for funding which makes the provision insecure.

"I think there is great support when they get to the individuals, but then they're funded so differently. Some are employed by Councils, some are employed by PCCs. So it's a hit and miss picture across [England & Wales]... I just think, are they able to be as effective as they can be because they are applying for funding every three years?" **UK.J.02**

###### Adequacy of general victim support services:

Victim support professionals were the best placed of all the professionals interviewed to comment directly on the adequacy of victim support services and, though they felt that the sector does a good job with the resources available, most took the view that the services which can be provided are compromised by a lack of funding (**UK.S.01, UK.S.02, UK.S.03, UK.S.04, UK.S.06**).

"I think they are very stretched, as everybody is. They could do with more funds and more money."  
**UK.S.03**

Other professionals endorsed that view. **UK.P.05**, for example, did not think current first-line victim support service are adequate for victims' needs because they are inadequately resourced and heavily reliant on volunteers who, in practice, are the main providers of support for victims of low level violent offences.

Similarly, **UK.J.06** whilst believing that victim support staff are fully committed, recognised the limits that funding cut-backs impose:

“I think the witness care units in police forces are very stretched, and they don’t have enough resources to do as much as they would like to do, but they’re all dedicated to it.” **UK.J.06**

However, it is the fragmentation in the provision of service which victim support professionals saw as the most significant issue and one police officer and one senior prosecutor echoed the same concern:

“When people have a single point of contact, you kind of find out everything that is going on rather than talking to 3 different people at the same time and things might not get picked up.” **UK.S.05**

“It’s so fragmented... all the PCCs, the Witness Service, the SARCs; the funding is so haphazard. If anything should happen it should be joined up thinking.” **UK.J.02**

“Victims looking in, it can look disjointed to them. It can affect their trust can’t it? Because at the end of the day they want everything to go smoothly ... all the more people that get involved, the more disjointed it can become and confusing to victims.” **UK.P.02**

Furthermore, because of the proliferation of victim support services available, the pattern of their provision and their adequacy is inconsistent. **UK.S.06**, for example, felt the need for a coordinated ‘end to end process that doesn’t have duplication and overlap’ so that everyone involved knows their own and other’s roles throughout the criminal justice process. **UK.P.02** similarly felt that victim support services have very much been “bolted on” to already existing systems and procedures, with the consequence that there is poor co-ordination between criminal justice professionals and insufficient knowledge of the role of other professionals and organisations.

Prosecutors and police officers have little personal contact with Victim Support organisations and were able to comment on the extent of and quality of services provided only through the level of understanding of the criminal justice process that victims of violent crime demonstrate to them. Nevertheless, the general tenor of responses regarding the quality of the victim support services that exist was in the main positive (**UK.P.01**, **UK.J.02**, **UK.J.05**, **UK.J.06**). Some prosecutors, however, offered the opinion that the victims and witnesses they meet at court are frequently ill-informed, which they felt suggests that the support provided at the beginning of the process is somewhat lacking.

“Victims still come along to court with a huge number of misconceptions... They are getting information, but nobody seems to be explaining to them the step-by-step approach. When you speak to a witness at the Crown Court [there are] huge gaps of information... They don’t understand our role [CPS], they understand even less the role of the prosecutor who is going to ask them questions in court.” **UK.J.01**

However, some prosecutors voiced the clear benefits of support services to both the prosecution and victims. Practically speaking, **UK.J.03** pointed out that victims who have engaged with support services are more likely to attend court, particularly when the support service has offered to attend court with them. Taking a more rounded view, **UK.J.02** would like to see the support offered to victims extended to the point where one person advocates for the victim throughout the process, rather like IDVAs advocate for victims of serious sexual offences (see 3.1.3 below). Such advocates could alleviate victims’ feelings of intimidation when dealing with criminal justice professionals, such as prosecutors, and ensure that information is being presented in a way that is understood by that individual.

**UK.P.02** pointed out the benefits of putting the responsibility for victim support into the hands of those who are solely focused on that job:

“Support services just took a load of pressure off us and as well [victims] are speaking to the right people. Someone could ring me upset, wanting a little bit of support and I’m not sort of expert at it you know other than my police experience but now they know who to ring and where to get that support ... I think it is mutually beneficial and I think it is actually crucial now. I think it’s one of the best things we’ve done. It’s been one of the big failings of the past.” **UK.P.02**

However, one police officer (**UK.P.03**, stood out in expressing the view that police officers – if they are adequately funded - are better placed to support victims than ‘these civilians’. He referred to the situation some decades previously when specialist victim support organisations did not exist and the police took primary responsibility for supporting victims through the criminal justice process.

“We never used to have all these civilian staff doing it... Do we need them? No. Give us more police officers and we can look after our own victims because that is what we used to do. And they used to get very good service.” **UK.P.03**

This attitude was very much against the trend of all other criminal justice professionals who endorsed the use of dedicated victim support services rather than giving responsibility for victim support to police officers with multiple, often competing, responsibilities and objectives.

Judges were the most remote of all the criminal justice professionals and none felt able to comment on the adequacy of victim support services.

3.1.2. In the view of the interviewed practitioners, are victims provided with information about the general support services available to them in an effective and timely way (Question Pr 3.2)?

Procedure for informing victims about support services:

Although some first-line victim support organisations advertise their services to the general public through leaflets, community events, presentations at schools, etc. (**UK.S.05**), the standard procedure is that police officers provide information about the support services available to victims of crime, including victims of violent crime, when the victim makes contact to report an offence or, if it is not taken immediately, when the victim gives a police statement.

Most police force areas covered in this project make on-line referrals to the first-line victim support service, a facility introduced following the move to local commissioning of those services. **UK.P.01** described how every victim is asked, with the assistance of a police officer, to complete a survey form which aims to obtain as much information as possible about the victim and his/her circumstances, experience of victimisation and support needs. A hard copy form is left with the victim, and that form contains contact details for the first-line victim support service plus a wide range of local, often more specialised, victim support services. All victims are asked if they consent to being contacted by the victim support organisation in the area and if they agree the needs assessment details are input to the police computer system. The computer system does not allow for the form to be left incomplete. The victim support organisation receives an automatic referral for all victims who have given permission to be contacted. The organisation has access to the police computer system to enable them to view the victims’ needs assessments before they contact the victim, generally by phone. **UK.P.01** conformed that this needs assessment is routinely conducted, and in line with the Victims Code of Practice. **UK.P.05** described a similar assessment procedure and **UK.P.02** described the referral process as a ‘*number one priority*’ for officers and confirmed that system compliance is

monitored daily by superior officers. **UK.P.03**, operating in a different police force area, confirmed the same on-line needs assessment process but suggested that in addition to the victim he would have some input to the decision as to whether a referral is made.

First-line victim support professionals and those employed in the Witness Care Units gave the same descriptions of the process. **UK.S.05** explained that contact with consenting victims occurs within 48 hours. Knowledge amongst prosecutors as to how victims are informed about the available support services was more sketchy. Those who were able to comment mentioned that information about the local support services is given out in standard form and that the same information is available on the police force website. **UK.J.02** felt that the police should follow up with the victim on these matters but could not say whether that happened in practice.

All interviewees were clear that any victim support service referral must have the victim's consent. **UK.P.01** spoke of certain categories of victim of violent crime who are very resistant to the idea of any victim support service and this tends to be bound up with a more general reluctance to engage with the police in any way.

"If, for example, you are at somebody's bedside who had been victim of a horrendous assault, and they tell you to leave, you got to balance carefully the need to be as supportive as you can for that person... to explain what you can do, make them realise just how bad an incident [they've been] subject to, to forget this nonsense of code,<sup>1</sup> [and] to try and get them to make an honest statement, whilst remaining impartial... If that person turns round and says "leave", you got to [take into account] their medical needs at the time and respect their wishes that they don't wish to cooperate with the police." **UK.P.01**

Some victims refuse support at the beginning of the process but change their minds when they get to the trial stage. **UK.S.04** explained that Witness Care therefore includes a paragraph in their letters informing victims that they work alongside first-line support organisations and that victims may at any time elect for support.

Equally, however, many victims do wish to access support services immediately and are grateful for the assistance that those services provide. **UK.P.01** gave an example of a victim whose home was fire-bombed, allegedly by suspects with links to organised crime. The victim was very anxious about attending court but was reassured by something as simple as a pre-trial visit conducted by the Witness Service at the request of the first line victim support organisation.

#### Assessments as to timeliness and effectiveness

The main issues raised regarding timeliness and effectiveness of this information provision related to how well tailored the victim's needs assessment is and whether victims are in a position to process the information they have been given at the point of delivery.

Some victim support professionals raised concerns that the police are unable to sufficiently target the support provided. **UK.S.04** for instance suggested that the police give victims information about all of the available services, even those that are not relevant to the victim. **UK.S.05** complained that quite often the needs assessment form is not completed properly by the police officer because police officers often consider the forms 'to be a hassle'. He shared his experience of a terminally ill victim who had been a repeat

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<sup>1</sup> A moral code which informally regulates behaviour within certain social groups and, in the context of criminal behaviour, operates to discourage the reporting of crime committed by contemporaries (known colloquially as 'grassing') even by the victim.

victim of hate crime and whose house was in a deprived state but the police officer had not identified any needs.

“They think “I get in, do what I need to do, catch the bad guy and tick this and send it in, whatever”. In my opinion that should be the whole point of why they are attending that person’s house in the first place, whereas it seems to be something that they just scribble down just before they walk out the door.”

**UK.S.05**

**UK.S.06** complained that officer’s attitudes towards the victim can also affect their willingness to provide information on support services. In particular the interviewee mentioned cases where the victim was known to the police as an offender or thought of as “not of particularly good character”:

“I have had one of these victims to support and I found that the police attitude toward them isn’t what one would expect as the attitude towards a victim. It’s more of an attitude towards a criminal.” **UK.S.06**

As was to be expected, police officers did not raise any concerns about their ability to deliver targeted information and one officer clearly felt that this is an integral part of a police officer’s job. **UK.P.03** revealed that police officers do not get formal training on how to speak to victims, but they learn through experience. He gave an example of an interview with a victim with learning disabilities.

“He lived on his own in the community but he needed help shopping and paying his bills and things like that. I spent 20 minutes just talking to him about football and what his interests were and that was purely just to gauge where his autism lay – so I knew how to speak with him.” **UK.P.03**

**UK.J.02**, however, expressed particular concern at how police officers and other criminal justice professionals can reach vulnerable victims and those who lead “chaotic” lives to provide the support that is essential for them to properly access justice.

“I have huge concern about how people with a chaotic lifestyle keep on accessing justice... If all you’ve got is a mobile phone number or you know that they sleep in [well know retail store’s] doorway... what more can we do? The question that moves on from there is, are police social workers too?... I think that what happens is a real effort, but if you’re asking me could we do more? Then yes, we should do more.”

**UK.J.02**

Police officers did acknowledge, however, that judgement must be exercised in the timing of the information as many victims at the point of reporting are not emotionally receptive to information about victim support services. **UK.P.01** recognised that giving victim support information at the very first contact with the police can be over-whelming for the victim, which may prevent the victim properly processing the information provided. **UK.P.01** was confident that, in such situations, the officer in the case would maintain contact with the victim throughout the investigation, providing further information and support as required. He felt that in most cases the officer would be able to discern a struggling victim in need of additional support, as did other officers:

“If you’ve just been a victim, you’ve had a little bit to drink, you’re not going to be listening to what I’m saying. I might take some words off you and then a very short statement form so they can hold the person in custody, but at some point I’m going to come back to you and get a proper [statement]. And then I’ll find out what your needs are. I think the majority of us do so.” **UK.P.03**.

**UK.P.02** also felt that the best time to provide information about victim support services varies between individuals and that in some circumstances it is better give information later in the process:

“I mean you do have to give [the information] fairly early on but sometimes you’ve just got to think, is it appropriate now? You’ve gone to the house they’re upset, they’re kicking off.” **UK.P.02**

Some prosecutors and victim support professionals also had concerns with providing information so early in the process when, in the aftermath of the trauma suffered, victims may be unable to fully grasp detailed information and may not be in a position to formulate their exact support needs.

“If they’ve been a victim, obviously a lot is going on in their life. They’re probably quite shocked so they don’t take it on.” **UK.S.04**

**UK.S.05** recognised, however, that it is difficult to identify an alternative, and illustrated this with his personal experience as a former victim of crime.

“You go through a process from really frightened to really angry and then it starts to settle and then you gather your thoughts a bit better... It wouldn’t have been the point for me to be giving in-depth answers to whether I had problems with housing or felt like I was a victim of hate crime or anything like that. My personal opinion would be maybe leave a couple of days until the dust has settled and then ask those questions. But the flip side of that is, if someone does for example have a dire housing need – they live in an insecure property or whatever – then that does need to be addressed in the first instance. It is a little bit of an imbalance really.” **UK.S.05**

And **UK.P.05** doubted whether ‘response officers’ – that is uniformed officers who respond to initial reports of crime – have the time to maintain the on-going personal contact necessary to provide support information later in the process:

“... generally they’ll maybe only have that one bit of contact with [the victim] and then it’s moved on and all the contact is then maybe by phone. They don’t go out and see them again, because there’s just not the time anymore.” **UK.P.05**

A prosecutor made a similar point about the limited opportunities to pass on information. **UK.J.02** described how the CPS has ‘mapped’ victims’ journeys to determine best practices which has shown that the police’s first encounter with a victim is the ‘one chance’ to ensure that victims receive information about support services. The first encounter is the most appropriate time to provide information as all victims are then able to access support information, whether or not they continue to interact with the criminal justice process.

### 3.1.3. How do practitioners assess the availability of specialist victim support services to victims of sexual or gender-based (including domestic) violence (Question Pr 3.3)?

Victims of sexually violent crime in all police force areas in England & Wales included in the project had access to specialist victim support services such as rape crisis centres, women in need organisations, domestic violence support organisations and the NSPCC. Referral to such services may come from the first-line, generalised, victim support organisation in the area but referrals may also be made directly from the police or from Witness Care and Witness Service staff. In Scotland judges and procurator fiscals referred only to specifically trained staff from the Victim Information and Advice Service who deal with domestic and sexual violence victims. In both jurisdictions, specialist victim support agencies and some local authorities offer the services of a limited number of independent domestic violence advocates/advisers (IDVAs) and independent sexual violence advocates/advisers (ISVAs).

Specialist sexual offence and domestic violence officers (**UK.P.02** & **UK.P.05**) described how in both of their police force areas victims of serious sexual and domestic violence offences are dealt with at specialist centres where IDVAs and ISVAs are available to work with victims from the initial point of contact with

police. Both officers heavily endorsed the provision of these services to victims of sexual and gender-based offences and felt that victims 'at that first point of contact are getting a really good service' (**UK.P.02**).

"It's supposed to be like a one-stop area, we can do video interviews in there, couple of forensic suites, they go there for their aftercare, they can talk and they can signpost them on if they need further help. It's just been refurbished but we're wanting to get better." **UK.P.05**

Victim support professionals and specialist sexual offence and domestic violence police officers were the most knowledgeable about extent of and quality of the specialist support services available. .

Although there were some very positive comments about the service that specialist services were able to provide:

"They're involved in the multi-agency meetings that we hold, they're involved with local councils, health centres. They're involved in so much more and can see the broader picture, they can offer them much more and know a bit more about what's going on." **UK.P.05**

All (**UK.S.01**, **UK.S.02**, **UK.P.02** & **UK.P.05**) were firmly of the view that the independent specialist support services are under-funded and insufficiently resourced. Firstly there are not enough organisations providing support services and, secondly, they are almost exclusively charities who have to work very hard to find funding, particularly in this current time of austerity and budget cuts within the CJS and within public services generally.

"We definitely need more of us. Definitely need more staff. And we need more exposure so that people know that we're here." **UK.S.02**

"[Domestic violence support services] are busy, they're very busy." **UK.P.05**

"[A local Women in Need organisation] is a charity, it was on the tele last night, they've got a funding crisis. So if that goes, massive impact. But the government don't seem to put money into things like that do they? You know they've got these different things for offenders and stuff but there is nothing for victims. [Local general victim support organisation] is a charity, [local Women in Need organisation] is a charity isn't it? So it needs money and that is the one thing you cannot get anymore isn't it?" **UK.P.02**

Victim support professionals employed by general rather than specialist victim support services voiced the same concern, that it is the specialist services who are particularly struggling for sufficient funding.

"There are some very good workers but they're so stretched and their caseload can be so big!" **UK.S.03**

"I can without a problem find you a service but whether or not they are sufficiently manned and sufficiently funded to be able to provide an efficient service...?" **UK.S.05**

**UK.S.05** reported that the only local rape charity had a six-month waiting list for counselling, which is far too long for such vulnerable victims. **UK.S.04** speculated that the increased workload may be a result of cultural changes which made victims more comfortable coming forward to report serious sexual and domestic violence offences.

. **UK.S.06** felt that there is an issue with an over-duplication of these independently run, specialist, services. This victim support professional, whilst recognising that the provision of specialist services is extremely important, suggested that there are too many organisations 'trying to get in on the act' and the duplication of work is confusing for victims rather than helpful (see also 3.1.1 above in relation to victim support services generally).

Most prosecutors and judges (**UK.J.01, UK.J.02, UK.J.04, UK.J.06, UK.J.07, UK.J.08, UK.J.09, UK.J.11**) were aware that specialist support services were available and tended to speak positively about the quality of service that such organisations provide. For example, **UK.J.02** described how IDVAs and IVSAs are accredited and have a good knowledge of the criminal justice system. Moreover, there is a strong career path which results in them becoming more 'professionalised', which means that victims appointed with an IDVA are provided with appropriate support. **UK.J.07** declared that though resources are an issue, the organisations provide an excellent service

In addition to the comments about the quality of specialist victim support services to victims of sexual or gender-based violence, two interviewees commented on the appropriateness of targeting support in this way. **UK.S.05** felt that more support services are available to victims of serious sexual crime (e.g. rape and domestic violence) than to victims of lower level violent crimes, even though there are far more victims of this type of violent crime.

"The needs of [these] victims are often quite different in terms of, somebody might not feel safe in their own house because they've been burgled, somebody might not feel safe walking down the street because they've been assaulted, someone's having flashbacks who has been a victim of an armed robbery and we're putting all those people to the same service – it doesn't quite seem right." **UK.S.05**

And one, non-specialist, police officer (**UK.P.03**), rarely, was highly critical of the overall trend towards specialist support services.

"I don't see that 'genderizing' you, putting you under some religious hat, what ethnicity you are, what god you pray to, I don't see whether it is really relevant. We've got a thing in this force called hate crime, which is you're disabled, you're picked on because of your ethnicity, because of your religious views or your gender-persuasion. Well, all crimes are hateful if you're a victim. I don't think we should have it, but that's my opinion." **UK.P.03**

3.1.4. In the view of the interviewed practitioners, how effectively and timely are victims of sexual or gender-based violence provided information about the specialist support services available to them (Question Pr 3.4)?

Police officers and Witness Care staff (**UK.P.01; UK.P.02, UK.P.03; UK.S.04; UK.S.05**) confirmed that information about specialist support services is given to victims of sexual or gender based violence at the same time as information about first line victim support services, that is, at the first contact with police when reporting the offence. The victim may make contact with a specialist service directly, but more normally either officers at the local specialist police investigation centre or the first line victim support organisation refers the victim on to an appropriate specialist support organisation.

However, victim support professionals reported that referrals to specialist victim support agencies are made from a number of sources, only one of which is the police. Indeed **UK.S.01** explained that the majority of clients make contact with the support service prior to reporting to the police, and many contact the organisation directly using a directory of support services which lists the services available in the UK and Ireland. In **UK.S.02's** experience the majority of referrals come from other support organisations, including those that work with perpetrators, again because at the point of referral frequently the victim has not reported the offence to the police.

"They might have been in alcohol and drug abuse services, they might have been through the NHS, they might have been in mental health. And then at some point... they might have mentioned some sort

of abuse and trauma... [and then] someone might say, 'Oh we'll try and find someone who deals with that.'" **UK.S.02'**

Victims are also referred by first line victim support agencies. **UK.S.01** felt that it is acceptable for the police to refer to the first line agency who could then, if necessary, refer on to the specialist service. Certainly, she felt, non-specialist officers do not have the training to make referrals to specialist organisations. **UK.S.03's** sense was also that the first line victim support service, rather than the police, make any subsequent referrals to specialist victim support organisations. Police officers' awareness of the availability of specialist support organisations depends very much on the extent of officers' training in how to deal with vulnerable victims. Thus the specialist sexual offence unit police officers are much better placed to refer to specialist or niche victim support services than non-specialist officers.

**UK.S.06** pointed out that if early referrals are missed, the Witness Service is required to check, as a matter of course, whether all witnesses (including victims) need any advice or support regarding domestic violence. If a witness indicates that he/she would like information or support the volunteer informs his/her supervisor who would then make the appropriate referral.

#### Effectiveness and timeliness of information

**UK.S.01** acknowledged that the police have few options in terms of the timing of the provision of information about specialist services. As discussed in s.3.1.2 above in relation to information about general victim support services, the only practical option is to provide it at the beginning of the process but there then exists the potential that victims cannot properly absorb and understand the support options available to them.

Whether the victim is able to make effective use of that information depends not only on the timing but also on how it is delivered, which is a function of how well trained the officer is in dealing with victims. **UK.S.01** asserted that a poorly trained officer 'can really put their foot in it!' as sometimes happens with uniformed officers who are willing but lack experience of sexually violent crime, or officers who simply lack empathy with sexual offence victims. In her view, specialist officers are much more skilled at ensuring that the victim understands the support services available and how to access them.

**UK.S.02** felt strongly that the police should take responsibility for providing information on support services.

"The best place to have that exposure is a place like the police. You know where they have gone and they have reported something. And then the police can say, go here. So it's like the one stop place where I think that really needs to have all the information and doesn't sometimes." **UK.S.02**

Employees of niche support services had generally good experience with the specialist sexual crimes units, though attributed that to the training that officers receive and the culture that senior leaders foster. **UK.S.01** felt this relatively recent culture change within the police reflects a wider culture change within society, where reports of sexual offending are treated with greater credibility than in the past.

#### 3.1.5. How do practitioners assess victims' possibilities of being accompanied by a support person of their trust when they are interviewed by the police (Question Pr 3.5)?

Police officers (**UK.P.01**, **UK.P.02**, **UK.P.03**, **UK.P.05**) suggested that a victim could be accompanied by a trusted supporter during an interview at the police station to give a written statement, though accepted that it is not an option that officers would actively promote. **UK.P.02** explained that an [officer would assess whether the victim would benefit from being accompanied by a supporter](#):

“I think it depends on the level of the assault and the victim. How vulnerable are they? You know are they vulnerable because of age? Isolation? Have they got some disability? You know some people can just take it on the chin can't they and just walk in and they don't need any help. So it's an individual thing.” **UK.P.02**

**UK.P.05** stated that the police officer ultimately decides whether a supporter may be present taking into account not only the victim's wishes but also whether the supporter is obstructive during the interview or intervenes in the victim's account. However, **UK.P.01** pointed out that most victims are interviewed at home rather than at a police station and other people are therefore frequently present. Again, **UK.P.01** accepted that if the victim is alone when the police arrive, unless he/she is clearly vulnerable or upset, an officer would not normally volunteer that he/she is entitled to be accompanied. **UK.P.01** & **UK.P.05** also stated that a supporter could definitely not remain with the victim if that person was also a witness to the reported crime.

**UK.S.01** and **UK.S.02**, who frequently deal with victims who have yet to report to the police, confirmed that it is they, rather than the police, who inform the victim of the entitlement to be accompanied by a supporter. Furthermore, the initial written statement is often taken at the support organisation's office rather than at a police station, which reinforces the victim's sense of support. This is important because:

“It's always a stressful moment... for a client to speak to the police.” **UK.S.01**

**UK.S.01** told us that though victims can usually be accompanied by a supporter when they are being interviewed to give a written witness statement, this is not allowed when victims are being interviewed for an Achieving Best Evidence (ABE) video statement. If this is correct it may be the result of a local practice, as the Achieving Best Evidence Guidelines do allow a supporter to be present, although the role is very restricted. **UK.P.05** stated that in his police force area the supporter for an ABE interview sits in an adjoining room. The supporter may provide emotional support if the victim becomes distressed but otherwise they cannot intervene at all.

Prosecutors (**UK.J.02**, **UK.J.04**, **UK.J.07**) were of the opinion that there is no absolute right to have a supporter present during the police interview but that it does happen, particularly for victims with specific vulnerabilities or disabilities. **UK.J.04** said that he had seen supporters accompanying victims in recorded ABE interviews.

“It's not a blanket rule. I think it's in the discretion of the interviewer, but I've seen [supporters in ABE interviews] with increasing frequency and it does seem to assist sometimes.” **UK.J.04**

Similarly in Scotland (**UK.J.08**), the practice appears to be to allow a supporter if the victim requests one, particularly for victims of sexual offences, though it is not a specific right. One Scottish judge, **UK.J.10**, thought [incorrectly] that the right to a supporter during police interview was enshrined in the new Victims and Witnesses (Scotland) Act 2014.

### 3.1.6. How do practitioners assess victims' possibilities of being accompanied by a support person of their trust during court trial (Question Pr 3.6)

Prosecutors (**UK.J.01**, **UK.J.02**, **UK.J.03**, **UK.J.05**, **UK.J.06**, **UK.J.07**) spoke of supporters in terms of (i) support in the court building and (ii) support in the courtroom whilst giving evidence.

All victims can be accompanied by a supporter in both the Magistrates and Crown Court buildings, which assists them in navigating their way around the court building and provides emotional support during the period of their attendance at court:

“Court is a pretty grim place to be. Just someone to hold your hand and tell you ‘that’s where the toilets are, that’s where you can get a cup of tea, don’t worry when the defendant comes out, I’ll be here and look after you, we’ll go through the side door’ etc. Without that I don’t think they would attend in the first place.” **UK.S.05**

Additionally as courts are public buildings, anyone can attend a trial and so a supporter can always sit in the public gallery and police officers (**UK.P.02, UK.P.05**) confirmed that they encourage this practice.

Most prosecutors (**UK.J.01, UK.J.02, UK.J.05, UK.J.06, UK.J.07, UK.J.10**) thought the trial judge is able to give permission for the victim to be accompanied by a supporter whilst giving evidence in court. **UK.J.02** described how previously there was some reluctance on the part of the judiciary to allow a supporter in order to prevent the victim being coached as to how to give their evidence, but this attitude has changed in recent years. Although the supporter is unable to interact with the victim whilst he/she gives evidence, and cannot join the victim in the witness box, he/she is nevertheless in close proximity to the witness box and the supporter’s mere presence lends moral support. Some prosecutors (**UK.J.01, UK.J.02**) said that judges rarely object to this practice and are generally very supportive of it. Others suggested that judges are more likely to allow supporters in sexual and domestic violence cases (**UK.J.07, UK.J.10**).

The court-based Witness Service staff were also in a good position to comment on the use of supporters in the court-room. In **UK.S.03**’s police force area the judiciary allow victims to be accompanied by a Witness Service volunteer whilst they give evidence. The Witness Service tell the victim that this is an option before he/she is called to give evidence, where possible at the pre-trial visit but if not on the day of the trial. Very few victims take up this offer; less than one a week. Those that do tend to be female and vulnerable in some way, particularly victims of sexually violent offences. The volunteer sits beside or behind the victim but has no contact or interaction with the victim whilst he/she testifies.

There were mixed reports about whether a supporter may accompany a victim giving evidence via a live TV link. Although most courts allowed this, **UK.S.03** reported that the judiciary in her area do not, despite allowing it in the court-room. Only the court usher, who operates the CCTV equipment, is allowed into the room with the witness. **UK.S.03** did not agree with this rule and felt that it set her area apart from other court centres.

In Scotland, judges (**UK.J.08, UK.J.09, UK.J.10**) confirmed that allowing supporters into the court-room with the victim is now a special measure available to vulnerable victims, though previously it was allowed under the common law. **UK.J.09** was confident that the courts would grant the request of even a non-vulnerable victim who informed the court that he/she would like a supporter and provided an explanation as to why:

“Witnesses have always been permitted by the court in appropriate circumstances to have a supporter in the court as well if that’s asked for. The court in the past wouldn’t have been proactive about that but I think that whilst that common law opportunity still exists, it’s really been overtaken by the vulnerable witness provisions.” **UK.J.09**

“I’m not entirely sure what the supporter does, because the supporter can’t influence the evidence at all... but it may be having just the sense they’ve got their back, it might just be a wee bit of moral support for them. I don’t know to what extent it helps, but obviously if they want it then there’s no problem having it.” **UK.J.10**

**UK.S.02** also saw the practice as a great step forward:

“I think that would be amazing... I think for a lot of people standing in the court, whether you are a witness or whether you are a victim... it can be quite a daunting and scary experience... When people feel safe they open up and I think that they can direct their evidence a lot more calmly and better... I think if you are anxious you are more likely to forget something, you are more likely to make a mistake in what you are doing and saying and sometimes get things back to front... You need your witness to be as calm and as cooperative as possible... Even just sitting beside them would be good enough. Even holding their hand if they wanted to. Anything.” **UK.S.02**

But interestingly, although **UK.S.01** also saw supporters in the court room as a positive step, she would rule it out if it were shown to have a negative impact on the jury’s perception of the witness:

“The conviction rates [in sexual offences] are low enough so anything that could possibly go against them, then it’s probably not worth risking.” **UK.S.01**

### 3.1.7. How do practitioners assess victims’ possibilities of being legally advised when they are interviewed by the police (Question Pr 3.7)?

As the victim is not a party to criminal proceedings in England & Wales, there is not thought to be a need for him/her to be legally advised and indeed in general this does not occur, though interviewees identified two very specific situations when legal advice may be required or provided.

**UK.J.03** described how in England and Wales victims who are likely to incriminate themselves whilst giving evidence are entitled to free legal advice and the police should inform victims of this entitlement.

**UK.S.03** observed that the only situation in which a victim might need to take legal advice is if the CPS decides not to prosecute and the victim wishes to challenge that or take a private prosecution instead.

Otherwise, legal advice is not routinely provided to victims and most interviewees who commented (**UK.J.03**, **UK.J.07**, **UK.J.10**, **UK.P.02**, **UK.P.03**, **UK.P.05**, **UK.S.01**, **UK.S.03**) did not see the need to introduce legal advice for victims within the UK criminal justice systems.

“I can’t really see how it would fit with our criminal justice system.” **UK.J.07**

“If the person is informed of the process, I don’t know what other legal advice they need... It’s adding another layer of cost and I don’t think we need that in our system as long they’ve got well informed victim support, which is sort of similar... It’s a legal process and it’s going to be explained but that person doesn’t need a solicitor or anything.” **UK.S.01**

“Why would you need to take legal advice when you’re a victim of a crime? I don’t think it’s needed. It just complicates issues. They’ll start talking about things that are not relevant for us to investigate.” **UK.P.03**

“I personally don’t see why a victim would need legal advice... the CPS has taken their case and it’s not the victim that is actually bringing it to court.” **UK.S.03**

In Scotland, like in England & Wales, the victim is not a formal party to proceedings. However, victims in Scotland do now have a right to be accompanied by a legal representative during a police interview. **UK.J.09** described how, the Victim’s Rights Scotland Regulations inserts a new Section 9a into the Victims and Witnesses (Scotland) Act 2014 which deals with victim’s rights to protection during criminal investigations.

It states that, during a criminal investigation, the chief constable must ensure, amongst other things, that a person who is or appears to be a victim is permitted to be accompanied by their chosen legal representative. This is a very new right, which came into force on 23 December 2015, and none of the Scottish interviewees included in the project had experience of how that right is respected in practice. However, **UK.J.11**, a Procurator Fiscal, took the view that if it is accepted that the victim has certain legally enforceable rights, as Scottish law now does, then it is helpful for the victim to have some kind of “one stop shop” for support and advice about their case. He made no comment on how such legal advice would be funded.

“The other wider issue I suppose with legal representation is, one of the main criticisms of the way victims are dealt with is that... it’s quite bitty, there’s different people telling them information, not sure where to go, which is why I think it’s important to make contact with the victim saying ‘this is the person dealing with your case’ and if there were, I suppose... [a] sort of one stop shop place where they can get all the information,” **UK.J.11**

### 3.1.8. How do practitioners assess victims’ possibilities of being legally advised during court trial (Question Pr 3.8)?

The criminal justice systems in England & Wales and in Scotland do not allow for a victim to be given legal advice prior to or during the court trial though, again, interviewees identified two very specific situations when legal advice may be required or provided.

**UK.J.01** said that the victim may need legal advice where there are applications for the admission of third party materials relating to the victim such as medical or social services.

**UK.J.03** explained that if victims are likely to incriminate themselves whilst giving evidence they are entitled to free legal advice, which they can access via the duty solicitors in court or by approaching legal aid contractors themselves. If a victim decides to retract his/her statement at court and the prosecution is considering a summons to compel him/her to give evidence, a duty solicitor is ordinarily informed and will speak with the victim.

Those situations apart almost no criminal justice professional could see the need for a victim to be legally represented in court.

‘I think that the legal system, as it is, is pretty good at protecting the victim. I don’t think there is a need to expand on what exists now.’ **UK.J.01**

“Well they do, they receive it from the judge if necessary.” **UK.J.09**

Although **UK.P.02** who agreed that independent legal advice for victims is unnecessary during criminal proceedings did think that it would be beneficial for victims to have more interaction with the CPS throughout the process:

“That never really happens until the court day. And in rape cases, the victim can meet the barrister prior to the trial but it’s not, it tends to be quite a brief sort of meeting. And the barrister will sit down and explain what is going to happen and stuff and it is good. But I sometimes think there should be a little bit more, from the CPS ... But again the problem there is, CPS haven’t got the time or resources to do that at the moment.” **UK.P.02**

However, some interviewees reported that victims do sometimes expect that they will need legal advice:

“[It’s] that thing, he’s got a solicitor, do I need one?” **UK.S.01**

“Often... victims don't understand quite who we are when we turn up and say we're prosecuting, and we often...find [ourselves] being asked for advice on family law, divorce, or whatever else.” **UK.J.07**

**UK.S.01** felt that victims are relieved when they discover that they do not need to be legally represented. Such knowledge seems to relieve them of the feeling that they might somehow be culpable themselves and this removes another barrier to reporting their experiences to the police.

### 3.1.9. How do practitioners assess victims' possibilities of being legally advised free of charge (Question Pr 3.9)?

Victims in England & Wales are not entitled to legal representation as they are not a party to the case and therefore funding issues do not arise.

Victims in Scotland are entitled to receive legal advice during police interview but the statute makes no mention of funding. One judge felt that this issue has not yet been fully explored:

“I think that the starting point is that in terms of the new legislation, a victim has a right to have a legal representative with them at interview... given that they have that right, then there's the question of how they can access it and enforce it... If somebody is given a right by statute to the presence of a legal advisor at interview then the obvious question is how they are going to exercise that right if they cannot afford to pay for a lawyer, and that's why we have a legal aid fund. So it seems to me that this opens up the question, which is for politicians, as to the extent to which legal aid is to be made available to victims of crime.” **UK.J.09**

## 3.2. Views of victims

### 3.2.1. Were the interviewees in contact with an organisation providing victim support services (Question V 3.1)?

All the interviewees were, at some point throughout proceedings, in touch with an organisation providing victim support services. It should be noted however that this is not necessarily a representative picture owing to the fact that victim support organisations were used to identify participants and therefore the research team would never have come across an individual that had not had access to a support service.

Interviewees were in touch with the following organisations:

- **UK.V.01** - The interviewee first received support from student services at her university who provided her with emotional and practical support. Initially they helped her move out of her accommodation, where the offence occurred; encouraged her to report the offence to the police; arranged a space at the University for the police interviews; and accompanied her whilst she gave her statement. They also recommended she see a doctor regarding the psychological impact the assault was having on her.

The interviewee met with the doctor weekly who provided the interviewee with support alongside her medical care: pregnancy and STI tests and ongoing assessments for the need for anti-depressant medication.

She received support from the university throughout the entire process and from the Fife Rape and Sexual Assault Centre (FRASAC), a local specialist support service, prior to and during the police investigation. She also received support from a Victims Information Advice (VIA) officer, based within the Procurator Fiscal's office, once the offender had been charged. She also had two meetings with

Victim Support, one where she was given information about the court process and provided with a DVD and another where she filed out forms for compensation.

- **UK.V.02** - Prior to reporting the interviewee had been in contact with Women's Aid. The first organisation that the victim was in contact with after reporting was ASSIST, a specialist domestic violence support service funded by the Strathclyde police. She then later terminated her support with ASSIST and was in contact with Victim Support.

The interviewee suffered from post-traumatic stress disorder and after the conclusion of the trial had to pay for private therapy as it was not available from the National Health Service for victims of domestic violence. She voiced concerns about this lack of provision for women who cannot afford to pay for private therapy:

*"Three years I've had PTSD, I'm having to pay privately for my therapist because it's not available on the NHS, for the type of domestic violence and stuff I've suffered, my GP said that, you can't get that on the NHS. I'm lucky that I can afford it. What happens to women that can't afford that kind of treatment? 30 of them a day kill themselves, or attempt to kill themselves, that's what happens."*

She thought that all victims should be entitled to therapy after the proceedings and that compensation orders should be made as part of the criminal proceedings in order to pay for it:

*"I definitely think after everybody who has been through this as a victim should have the offer of some kind of counselling. And that can be paid out the victim's fund as well if there's, get the guy to pay for it, if he's paying £20 a week or whatever, or get the Sheriff to award an extra £500 for 10 sessions or whatever."*

- **UK.V.03** - The interviewee had received support from Victim Support Scotland throughout the proceedings.
- **UK.V.04** - The interviewee was in contact with Victim Support Scotland and a Rape Crisis centre.
- **UK.V.05** - The interviewee received support from Victim Support and physical and mental healthcare treatment from a sexual health clinic.
- **UK.V.06** - The interviewee was in contact with Ending Violence and Abuse (EVA) [However, these services are now discontinued], through Victim Support Scotland.
- **UK.V.07** - was in contact with Victim Support Scotland and Women's Aid.

*"I was in contact with victim support throughout, they were like phoning me a lot and that to see how I was doing and stuff like that. But I was kind of, I would just keep phone contact with them and that, because I kind of, at the same time I'm one of those people that would just like to get on with it, I don't like to dwell on it too much, just get on with it, block it out and move on. But that's kind of, that's kind of come back to bite me, so. But pretty much, if it wasn't for my family and that then I wouldn't have bothered"*

- **UK.V.08** - During the proceedings the interviewee was in touch with Safer Wales, a specialist domestic violence and sexual exploitation support service.
- **UK.V.09** - During the proceedings the interviewee was in touch with Safer Wales and child services.
- **UK.V.10** - The interviewee received support from Victim Support. However he was not put in touch with the organisation until five years after he first reported an incident to the police.
- **UK.V.11** - The interviewee received support from the Victim Advice and Information Service (VCAS).

- **UK.V.12** - The interviewee received support from the Victim Advice and Information Service (VCAS).

### 3.2.2. Those who were, how did they know about the service (Question V 3.2)?

There appeared to be a general lack of discussion with interviewees about the availability of support services with many professional groups making automatic referrals.

#### The Police

Two thirds of interviewees (**UK.V.02, UK.V.04, UK.V.05, UK.V.06, UK.V.07, UK.V.09, UK.V.10** and **UK.V.11**) were given information about, or were referred to, support service agencies by the police.

Automatic referrals to support agencies by the police seemed to be common with interviewees often hearing about the service for the first time when they are contacted by the agencies. Interviewees mostly did not seem to mind having their details passed onto support services with the exception of **UK.V.02** who strongly objected to the fact. This may however in part be due to the fact that she had an extremely negative experience with the organisation the police referred her to.

*“ASSIST, they’re called, who initially contacted me, I didn’t give them my number, the police gave them my number, which I object to, because what’s happened to data protection?” - UK.V.02*

**UK.V.02** further commented that, owing to the trauma she was suffering from the offences committed against her, the interviewee found it difficult to understand who all the various different support agencies were that she was receiving information from.

The police had also made an automatic referral on behalf of **UK.V.05** to Victim Support. Victim Support, however, have a policy that they will not leave answerphone messages in case it is a domestic violence case and that they will only call five times. As the police had the interviewee’s phone, Victim Support were unable to reach her and the interviewee had to contact them herself. She could not remember who had told her to contact them but she thought it had been the police.

*“Victim Support don’t leave a message because it could be a domestic dispute which could make it worse for the victim, so they make 5 phone calls and if the person doesn’t respond then they just put it on hold. So she did make the 5 phone calls and nobody answered, because literally the police had got my phone.” - UK.V.05*

As **UK.V.10** was a victim of a homophobic hate crime he also received a phone call from a specialist police officer who deals with LGBT issues. However the interviewee did not find this interaction helpful:

*“There was an officer which phoned me who deals with LGBT issues, he phoned me and said, “Can I help you?” And I told him about the situation what was going on and he said, “Well why don’t you contact Stonewall?” I went, “I don’t have any issues about my sexuality,” I went, “What would I want to contact Stonewall about it?” I was like, “I am what I am, I don’t flaunt it or anything like that, it’s nothing to do with my sexuality, it’s to do with the case that I’m going through which is harassment, fear of my life, and homophobic crime, like hate crime.” I was like, “I haven’t got any problems with my sexuality”, so he was like, “Oh well, I just thought I’d let you know sort of thing” that was it. Which I thought was really bizarre.”*

#### Medical Professionals

**UK.V.01** was given information about FRASAC by her doctor and **UK.V.12** thought the NHS had made a referral on his behalf but could not be sure owing to the severity of his injuries at the time. Similarly, **UK.V.02** was aware of Women's Aid's services having seen their poster at her doctor's surgery.

*"I was in the doctors' surgery and there was a poster up on the wall and it said, "Are you frightened to go home? Are you frightened of your partner? Do you walk on eggshells?" and I looked at this poster and I thought, "How do they know, how do they know that's me?" I was absolutely shocked and that stuck in the back of my mind and I couldn't go to the police because of what he was and I just kept remembering this, when the assaults were getting worse, I just kept remembering this poster. How do these people know what's going on in my life? I was ashamed and I was completely gobsmacked, so Women's Aid kind of stuck up here, so I phoned the doctors' surgery and I said, "Can you give me the number?" and she said, "No, come in and see a doctor". I said, "No, I've been seeing a doctor for years and they just kept putting me on antidepressants". They never treated the cause or, it wasn't like Women's Aid, Women's Aid said "he's a rapist, he's an abuser, he's going to hurt you or worse", whereas the doctor just said "here's some tablets"."* - **UK.V.02**

### Prosecutors

**UK.V.08** was referred to Safer Wales when he informed the Crown Prosecution Service (CPS) that he was unable to cover the costs of getting from his home town to Cardiff, where the trial was taking place, in order to give evidence. Safer Wales then contacted the interviewee directly by telephone.

3.2.3. Those interviewees who were in contact with an organisation providing support services, how did they assess the services provided (Question V 3.3)?

All the interviewee had positive views of at least one of the support services that they accessed, with the exception of **UK.V.12** who expressed indifference towards the support he received.

*"I wish to God that I found Victim Support from day one, they've been going for years, I found them after the trial, once the trial had finished there was even more issues and I got back in touch with them, that's when Victim Support and I worked together and they were absolutely brilliant."* – **UK.V.02**

*"He's [Victim Support Scotland Caseworker] been a great help in the court, through the kids, and this was with their dad. The staff I've met both here [Victim Support Scotland] and at the court have been lovely ... The advice and the support that we've got was from Tom here, and at the court, it has been amazing. Especially with the kids."* – **UK.V.03**

*"They understand what you've been through. And just trying to get everything round in my head. What had gone on really. Because some of it was quite hard to take in."* – **UK.V.04**

*"[My Victim Support caseworker] was just great, she was taking me through the process, she was talking with me about it, you know, what happens, she came with me to court and when we were sitting in the, you know, the anterooms and we knew he was pleading guilty, but I mean I was shaking like mad and people were watching me because they'd all deduced that I was the victim. [She] was great, she sat there with me and you know, "Are you alright?", "Yes I'm ok", so I think she was holding my hand at one point, so I felt supported all the way and then she was telling me what happens and where we would sit in the court. She'd already sussed out, because she said "I know you need to see him, not just hear him you need to see his face", I said "yes I do", you know, for this is to try and teach my brain that it's not that monster that I see in the nightmare."* - **UK.V.05**

*“Smashing. They [Carmarthen sexual health clinic] did, it’s a kind of like multi-agency, there’s doctors there, there’s nurses there, there’s counsellors there and they were doing blood tests on me for gonorrhoea, syphilis, chlamydia, and I had to have a series of tests then I had to have HIV tests, so they said, “We’ll be looking after you for a good 3 or 4 months to make sure you’re clear of everything”. But I’m still seeing the counsellor.” - UK.V.05*

*“Great, fantastic ... She always came to see me and kept in touch with me and would talk to me, very supportive. And I still talk to her still [...] she was absolutely fantastic.” – UK.V.06*

*“Fantastic. Can’t praise them enough, they’ve literally thrown me a lifeline and helped me realise that, you know, it wasn’t my fault what happened and I can do things, I can get through things, and it was a massive life change for both me and my daughter” . - UK.V.09*

*“It’s been brilliant. She’s helped me try to sort of, work out things and try and get things in motion ... [My support worker has] given me help and support and been there, sort of, pick up the phone anytime and speak to Lucy and she’s been very supportive. I mean obviously, because this case has just been all up in the air, she’s as baffled as what I am to what the hell’s going on, like how everything’s gone, to use the phrase, tits up.” - UK.V.10*

*“I don’t like to act like a victim, I don’t like to be seen as a victim ... [My support worker] knows I’m like that, she got to know me well enough so it’s not a case of having someone to put their arm around me and say it’s ok, she’s actually been like, like even just to ring up for a chat just to make sure things are alright, because she knows I’ve had highs and lows and she’s supported me and things where she hasn’t really needed to support me .... [My support worker] the only person that I’ve trusted from all the services.”*

**UK.V.11**

A number of issues were however identified by some of the interviewees.

### Timing

**UK.V.07** thought that the support organisations were very helpful to her but the support was a bit too much too soon for her.

*“Yeah, they were very, very helpful. But it’s just I wasn’t really, I just wasn’t ready for the help, basically”. - UK.V.07*

**UK.V.02** and **UK.V.05** both stated that they had struggled to take in information at the early stages of proceedings owing to the trauma they were suffering from the offences committed against them. Accordingly they both experienced a delay in accessing their preferred victim support organisations.

### Resourcing of Specialist Services

One third of interviewees (**UK.V.01**, **UK.V.02**, **UK.V.05** and **UK.V.09**) all mentioned that they thought the organisations they had been in touch with had resourcing issues. All four interviewees were victims of gender-based violence and were referring specifically to the under resourcing of specialist services.

As a result of inadequate resources to meet the demand on the organisations service **UK.V.05** and **UK.V.09** were both left waiting for long periods before they could access counselling through them.

*“I think this was a bit disappointing because back then I could’ve done with counselling because everything was fresh. So I’ve had to deal with everything myself and try and counsel myself as it were, as well as, you know, talking to Safer Wales”. - UK.V.09*

*“They said there’s about a 6 month waiting list normally. I said how ridiculous that was because you need counselling immediately not in 6 months’ time. And there seemed to be an issue about pre-trial counselling, because you know the victim’s being coached to say something and that’s absolutely totally ridiculous because if you’re supposed to be having a system which is victim focused, that clearly isn’t, that’s evidence focused. And people, you know, the victim of crime you really need counselling immediately.” - UK.V.05*

Due to the high demand on their services **UK.V.01** was not able to receive support from FRASAC in the period directly before, or during, the trial stage of the proceedings. This came about because she declined their offer of ongoing support when she thought that the trial date set for her case was April 2016 thinking she would not need it for such a long period of time. Accordingly, she was taken off FRASAC’s list of service users. Her trial was then brought forward, with only three weeks’ notice, to November 2015 and the interviewee was no longer able to access FRASAC’s services. She was however, still receiving support from the university, without which she would not have been able to cope:

*“The university were the ones who always supported me and still are. I don’t know what I would’ve done if I wasn’t a student, like if I worked in the library or supermarket in my home town. To think ... the whole reason I think I’m still at university, just finished my degree and I’m still here ... the amount of times that I’ve not been able to cope, it was all because of the university really. And I don’t know what I would’ve done if I wasn’t a student getting the support.” - UK.V.01*

Similarly, **UK.V.02**, had an extremely positive impression of Women’s Aid but owing to inadequate resources for the demand on their services she could also only access their services for a limited period of time.

*“I’d been with Women’s Aid before I reported the assault, it was Women’s Aid who got me through this who said, “It’s only going to get worse, you know, you’ve got to report this”. Women’s Aid and my GP, so Women’s Aid were fantastic, they had my back, but my worker had 26 cases so as soon as I was kind of on my feet or what I thought was on my feet she took me off her books, because she’s so busy. She’s just dealing with basically, you know, the initial stage where you’re in danger and it’s, you know, you want a safety plan in place. They do that kind of thing, and they ran programmes to teach you about domestic violence and how they try and Hoover you back up and all this kind of thing. So I had good emotional support from Women’s Aid and I don’t know if I would have got through it without them.” - UK.V.02*

## Treatment

**UK.V.05** felt as though the Sexual Assault Referral Centre (SARC) had mainly been concerned with gathering evidence from her and failed to adequately address her physical and mental health needs. She has since highlighted her poor experience to SARC and believes that a number of changes have been made to ensure future service users do not have the same experience.

*“What they’ve since said to SARC or New Pathways is that the victim is going to be centre-stage and their needs taken first. The evidence comes second. With me it was very much the evidence, you know, I provided the evidence but I wasn’t looked after ... When I got to SARC they were very, very poor in their response, and that has since been addressed totally. I felt that all that they wanted was to get the evidence out of me, which they did, but I wasn’t looked after at all ... I went to a conference at the police headquarters on the 2<sup>nd</sup> of May and they have reported to me that it has been completely changed. They are going to, their caseworkers are going to remind the doctor that the sexual health clinic needs to be referred to, and they’re going to remind the doctor if the victim is complaining of injuries to refer them straight to A&E. And they are trying to shorten their time on waiting lists for counselling, which is absolutely essential right at the start ... that they’re going to hold the anti-viral drugs on the premises so that they can give it straight to people, rather than, you know, this process where you have to go and make appointments.” - UK.V.05*

3.2.4. Those interviewees who were in contact with an organisation providing support services, did they feel that the services provided encouraged and helped them to participate in the proceedings (V 3.4)?

Ten interviewees (**UK.V.01, UK.V.02, UK.V.03, UK.V.04, UK.V.05, UK.V.06, UK.V.07, UK.V.08, UK.V.09** and **UK.V.10**) stated that at least one of the support services they were in contact with helped them participate in proceedings. Four of whom (**UK.V.01, UK.V.06, UK.V.07** and **UK.V.10**), one quarter of all interviewees, specifically stated that they thought they would not have been able to participate in proceedings without the support of the organisation.

*“If I didn’t have [the university and FRASAC], especially the university, if I didn’t have them supporting me, I would have had no one to be my voice when I wasn’t strong enough.” - **UK.V.01***

*“He’s [Victim Support Scotland Caseworker] been a great help in the court, through the kids, and this was with their dad. The staff I’ve met both here [Victim Support Scotland] and at the court have been lovely ... The advice and the support that we’ve got was from Tom here, and at the court, it has been amazing. Especially with the kids.” - **UK.V.03***

*“I don’t know if I would’ve got through it without the support, you know. I wouldn’t have done it actually”. - **UK.V.06***

*“I would say that they kind of helped me and supported me through the process, yes. So I did feel kind of, I did feel supported because if I didn’t feel supported I would’ve just went ‘pfft, I’m done’”. - **UK.V.07***

*“They supported me, yeah. To try, because I’ve got so many problems with anxiety and depression, I’ve got PTSD I’ve got alopecia and everything, [My support worker has] been behind me all the way. Because at one point, well, I did say that I was going to give up ... It’s been good, been good. [My support worker is] the only person which I can sort of rely, she’s the only person I’ve got left to support me, to help me through. But apart from that if I didn’t have Lucy I wouldn’t have anybody because I haven’t got anybody.” - **UK.V.10***

Only one interviewee (**UK.V.02**) thought that the support service (Women’s Aid) they were accessing encouraged their involvement in proceedings.

*“They encouraged me to report him to the police because they knew I was going to get badly hurt. But after that they kind of took a back step. Once they know you’re safe, he’s got bail, there’s a safety plan in place, they kind of back off a bit.” - **UK.V.02***

Only two interviewees (**UK.V.11** and **UK.V.12**) thought that the service they were in contact with did not have any influence over their involvement in the proceedings. They both stated that despite this they had a support worker available to them should they have needed one.

3.2.5. In cases of domestic violence (‘D’), were the interviewees supported in overcoming the risk of repeat victimisation (Question V 3.5)?

Two thirds (**UK.V.02, UK.V.03, UK.V.06** and **UK.V.09**) of the interviewees under the D category felt at risk of suffering further abuse and were supported in overcoming that risk.

*“They [Women’s Aid] go through a safety plan with you. So it’s your locks, always park your car facing out so you can get away quickly, have treble 9 on speed dial. Definitely Women’s Aid were looking out for me,*

looking after my safety. They actually had, I've still got a police marker on the house at home they helped me get that so if I had to phone 999 from my house phone the police would come to me first if you like, prioritise the treble 9 call, so they were brilliant." - **UK.V.02**

"T [Victim Support Casework] noticed that the police had been involved on a few occasions and nothing's been done about it, they said they were going to have words and nothing changed. T's encouragement, you know, "Just keep going, report him, they have to do something, they have to stop this man". Normally I would sit and think away things because I've got, well, you know the kids, he's their dad and the police at the house again. But that last time I never hesitated. Because I thought T's right, they have to start listening, they have to start doing something. He can't keep getting away with it. For my own sake I had to. You start to think, you know, nothing's ever going to stick to him, he's going to get away with things time and time again." - **UK.V.03**

Despite the safety plan Women's Aid helped **UK.V.02** put in place, her interactions with ASSIST, an organisation charged with being her link with the Procurator Fiscal, made her feel worse and more at risk as they incorrectly told her that her partner, the offender, had been released on bail and consequently made her feel unsafe:

"ASSIST, forget it. I don't know, they made the whole thing worse. They made me anxious. I was already on high alert and anxious and you get somebody phoning up saying his bail's been lifted. The third time she actually made an excuse, "Well this has been going on for long, you know, they can't just keep bail indefinitely". She must've just plucked that out of the sky and made that up, and she's persuading me and I'm thinking, "Oh my god maybe they have lifted it because this has been going on so long". I don't know, I'm not a lawyer. I'm taking the word of this woman because this is how the system works. So they made it worse, they made me feel unsafe, yes. They should have just employed more people at the procurator fiscals office with experience who could say, "Well wait a minute, the clerk updated the computer wrongly the last time which said his bail had been lifted, this has happened again 8 weeks later, maybe nobody's corrected that initial error". Instead of phoning me and saying, "His bail's been lifted, his bail's been lifted". I'm sitting there with my bag packed waiting and I'm driving out the drive, phoning round the fiscal saying "what's going on?", "Oh the fiscal shuts at 4 o'clock, she won't be in until tomorrow, she won't be back to the office". Do I stay in my house? Do I go to my mums? I'm really stressed it's awful, why do they employ people that would do that? I don't know and that's why I complained to the head because she employs these people and she has to understand the effects that saying that to somebody has." - **UK.V.02**

**UK.V.07** felt at risk of further abuse while the perpetrator was out of custody for two weeks but did not want to get support from the support organisation and she just shut herself off.

**UK.V.08** responded that he did not feel as though he was at risk of suffering more physical abuse. However at an earlier point in the interview he stated that he thought one of the purposes of Safer Wales to make him feel safer. When asked if his interactions with them had done so, he responded that they had not and that the only thing that would have made him feel safer was the arrest of the offender:

"Knowing that she'd been arrested, because I knew there was a warrant out for her arrest, but obviously this was Cardiff and that's Gloucester, but still warrant out for her arrest, that she should've been, somebody should've gone round to her house and I should've been notified. Because I was notified that she had a warrant out for her arrest straight away, but it just seemed that nothing had been done since. There's enough police in Gloucester just to pop round and knock on the door and arrest her."

3.2.6. When being interviewed by the police, were the interviewed victims accompanied by a support person of their trust? Were the interviewees informed beforehand that they would be entitled to such assistance (Question V 3.6)?

Only one interviewee (**UK.V.01**) stated that they were informed that they could be accompanied by a supporter during police interview. Seven interviewees (**UK.V.02, UK.V.03, UK.V.04, UK.V.05, UK.V.06, UK.V.08** and **UK.V.10**) specifically stated that they were not informed by the police of this possibility.

Five interviewees (**UK.V.01, UK.V.02, UK.V.05, UK.V.09** and **UK.V.12**) were accompanied by supporters whilst being interviewed.

**UK.V.01** did not have a supporter in the room whilst she was being interviewed; however a supporter from the university was in the adjacent room. The interviewee felt that she would not have wanted a supporter present during her interview as she had preferred as few people to hear about the offence as possible.

**UK.V.02** was accompanied by her sister and a supporter from Women's Aid when she was interviewed at different stages by the police.

**UK.V.05** requested to call her friend to come and be with her, initially the police told her that they needed to get some information from her before she could be joined by her friend, mainly so as to preserve the forensic evidence. At later stages the interviewee was however accompanied by her friend:

*"I can't remember that but I said I wanted to ring my friend up and they said, "Look, we just need to get some evidence out of you, we need to get the information without anybody else around, then you can phone your friend". They wanted to talk to me to find out exactly from my perspective what had happened, they wanted to get first evidence out of me and they said, "If your friend puts her arms around you, she's putting her DNA onto you." So within two and a half hours [my friend] was there. I don't think I even asked can she accompany me, I just said, "She's coming with me"."* - **UK.V.05**

Five interviewees (**UK.V.03, UK.V.04, UK.V.06, UK.V.08, UK.V.10** and **UK.V.11**) were not accompanied by a supporter, one of whom (**UK.V.04**) expressed that she would have however liked to have had a supporter with her.

*"I spent a lot of time at the police station having tests and things done and it would've helped to have had somebody there. Because I didn't really know what was going on because I had my daughter being questioned as well, so, we were both sort of separated and it would've been nice to have somebody sort of let me know what was going on and things."* - **UK.V.04**

3.2.7. At the court trial, were the interviewees accompanied by a support person of their trust? Were the interviewees informed beforehand that they would be entitled to such assistance (Question V 3.7)?

As **UK.V.04**'s case did not proceed to trial this question was not posed to her. and The offender pleaded guilty **UK.V.05**'s case so she was not required to attend the trial. **UK.V.05** explained however that she had decided herself to attend the sentencing as she thought seeing the offender in a setting where he could not harm her would help her overcome her fear of him. Accordingly her support worker from Victim Support accompanied her to the court and sat with her during the sentencing. On the day she was also provided support from the Witness Service at the court. At the time of the interview, **UK.V.03**'s trial was pending, so she could not answer whether or not she had been accompanied by a supporter but she had been informed of the possibility of doing so.

Seven interviewees (**UK.V.01, UK.V.02, UK.V.03, UK.V.06, UK.V.09, UK.V.10** and **UK.V.11**) were informed that they could be accompanied by a supporter during the trial. **UK.V.01** however had to contact her VIA Officer herself in order to find out this information.

Seven interviewees (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.07**, **UK.V.08**, **UK.V.10** and **UK.V.11**) were accompanied by a supporter during the trial.

During the trial **UK.V.01** was accompanied by a supporter from the Witness Service. Owing to a change in court venue the Friday before the trial was due to start the following Monday the interviewee was told there was not a female supporter available to accompany her at the new venue, this caused her great distress.

*“They said there wasn’t anybody female in Livingstone. And I said, “Well I can’t go in, I need a female to bring in with me then, it’ll have to be someone from the university.” And they said, “Well you can’t have that, you can’t have someone, you know, it has to be someone that’s trained, like, works with us, to go in with you”. I was so worried that it would be someone my age, I was just too embarrassed to have that. It took them so long to find someone, but I said “I’m not going to court unless I have someone that’s like, my mum’s age or older”, I don’t want someone that’s young that’s, you know, going to judge me. So eventually they managed to find someone but that was a lot of stress ... It was the biggest thing I’d ever done in my life” - **UK.V.01***

The interviewee explained that she would have rather had no support than have to go in with a male supporter.

**UK.V.02** was accompanied by a support from the Witness Service.

*“He was great. He stood next to me whilst I gave evidence in the witness box. He waited with me during the brief adjournments.” - **UK.V.02***

During the trial the interviewee was told however that she could not interact with her son in the court building as they were both witnesses in the case and she had given part evidence. However they then shut the building at lunch time and she went off site to eat with him. Accordingly, she did not understand why she had to be kept separately from him in the court building.

*“The wee victim liaison man goes in to get my son and says “you can’t come in here because you’ve given part evidence”, leaves me on my own in the corridor and my husband’s standing staring at me ... So, and then I had to go, then they said “the court building’s shutting”, they shut the whole building for an hour at lunch. And so then I had to go outside, knowing that he’d be out there, so, that’s why friend and my son and I, and the thing is, I wasn’t allowed in the witness room because my son was a witness as well, right, we went for lunch together. So, you left me standing out there on my own, went in to get my son because, “oh, you can’t come in to the witness room because you’ve given part evidence” and then my son and I went for lunch. Obviously we didn’t talk about the assault, but what, I don’t know, it just doesn’t make sense to me at all.” - **UK.V.02***

Interviewees that were accompanied found it reassuring with the exception of **UK.V.06** who did not find it helpful because the supporter was a stranger. Additionally, whilst **UK.V.10** found it helpful and comforting to have been accompanied by a Witness Service volunteer whilst he gave his evidence via video-link from the Victim Support premises, he was frustrated by the fact she was not able to play a strong supportive role particularly in respect of helping him understand the proceedings which he struggled with owing to his mental health problems:

*“She wasn’t allowed to contribute, anything like that. So if you were asked a really awkward question, and because I’ve got PTSD and anxiety, I have a problem with concentrating and digesting what people say, it would’ve been nice if I could’ve had a bit of, sort of put in easier terms of some of the talk they were coming out with in court, because it’s a bit, weird isn’t it? The sort of jargon what they use in there, it’s sort of, “Well why don’t you just ask me in plain English instead of trying to catch me out or twist me”? just say, “What’s this?” sort of thing.” - **UK.V.10***

- 3.2.8. When being interviewed by the police, were the victims accompanied or advised beforehand by a lawyer? Were the interviewees informed beforehand that they would be entitled to such assistance or advice (Question V 3.8)?

The CJS in the UK does not allow for a victim to be given legal advice prior to or during a police interview, accordingly this question was not posed to interviewees.

- 3.2.9. During the court trial, were the interviewees accompanied or advised by a lawyer? Were the interviewees informed beforehand that they would be entitled to such assistance or advice (Question V 3.9)?

The CJS in the UK does not allow for a victim to be given legal advice before or during a trial, accordingly this question was not posed to interviewees.

**UK.V.02** spontaneously touched on this topic and stated that she would have liked to have had the opportunity to be assisted by a lawyer.

*"You're not allowed your own solicitor in Scots law. I couldn't employ my own solicitor to represent, you know, to come along and represent me and look after my rights, you just don't get your, it's the fiscal, she's supposed to be, well no, I thought she was supposed to be looking after me and my rights and she didn't so, but from what I've gathered that's not her role ... It was very much, no I'm not saying they were on his side, but it was very much, they weren't on my side if you know what I mean they weren't saying, "Do you know what I will grab that Sheriff and scream in his face until you get your screen or video link" or, "If I was you I'd take a video link and nothing less". There was nobody there fighting that corner, that's why once again if I had my own solicitor she would know, she would represent me and say, "This is what you're entitled to, take that screen, take that video link, and I'll ask for a non-harassment order and I'll make sure you get it, I'll stand up and fight". You know, you're on your own."*

**UK.V.02**

## b) Information

### 3.3. Views of practitioners.

- 3.3.1. In the view of the interviewed practitioners, how reliably, comprehensively and effectively are victims provided information about their potential role and their rights in proceedings, when they are first in contact with an authority, such as, in particular, the police (Question Pr 3.10)?

Like information about victim support services, the police take initial responsibility for explaining the victim's potential role in proceedings and any rights and expectations they may have about their support and treatment during the criminal justice process. As is to be expected, police officers (**UK.P.01**, **UK.P.02**, **UK.P.03**), feel that they fulfil this role effectively, though **UK.P.05** was frank in his admission that victims are not 'as a matter of course' provided with information about their rights in proceedings when they first come into contact with the police:

“I wouldn’t say it’s a matter of course, “these are your rights, this is what you can do”, that would probably come maybe a little later, if a case hasn’t gone particularly well or CPS have decided not to take a case forward, we’ll then say “you’ve got a right to have that reviewed”. But probably not as a general consensus right at the beginning.” **UK.P.05**

Nevertheless, **UK.P.01** described a comprehensive process in which officers first explain that the police need the victim to provide as much information as possible about the crime he/she has experienced and then give honest testimony in any resulting court trial. Secondly, the officer must explain the support that the police and other criminal justice agencies can provide to help the victim navigate criminal proceedings.

“What we can do [is] assist the witness, ease the witness in terms of providing that evidence to the police, and help them relieve any fears they might have about the Criminal Justice System and the court system in general which, to an outsider, can be quite daunting... What we can offer [is] special measures, reassurance, a nice attitude with the victim. That is absolutely number one – whilst you’ve got to maintain impartiality and professionalism – it is nice to be nice and it costs you nothing to be nice... At the same time, you have to be honest. You have to explain that if you make a statement, you will be required to go to court and this is what we are going to do to help you at court. These are the services which we hope to be able to get through special measures, whatever that might be, transport to court. So we are explicit in explaining anything you need to do to get to court. There is not really that much to it, I suppose it is how you deliver it.” **UK.P.01**

**UK.P.01**, **UK.P.02** and **UK.P.03** all made explicit reference to the Victim’s Code and the significant number of rights it contains for victims, **UK.P.01** suggested around 35. **UK.P.01** and **UK.P.05** explained that though police officers do not go through the Victims’ Code itself, they do go through a ‘Victims’ Contract’, which is a summary of those rights, in order not to overwhelm the victim with too much information early in the process. **UK.P.05** referred to [booklets containing information about a victim’s rights which the police ‘occasionally’ have to give to victims, but, because of funding issues, they are not always available:](#)

“Occasionally we might see... a nice little book about giving evidence or being a witness or their rights and things, and then as fast as you’ve seen them, because they’re like gold dust, they’re grabbed hold of and you hand them out because it’s lovely, it gives them something to look at.” **UK.P.05**

**UK.P.02** felt that [the rights contained within the Victims Code could be better highlighted to victims. He felt that a lack of training within the police on the scope of the Victims Code was preventing officers from providing adequate information to victims.](#)

It is interesting that **UK.P.01** was very clear that the police officer is under an obligation to be completely frank about the victim’s likelihood of being required to give evidence in court, a responsibility which in the experience of many victim support professionals is not adequately and properly fulfilled (see further below).

Clearly, and as **UK.J.05** pointed out, the quality of the information provided very much depends upon the abilities and approach of the individual police officer. **UK.P.05**, an experienced specialist sexual offences officer, described how she would stagger the provision of information about rights and roles in order not to overwhelm or raise expectations:

“We do sort of short-term, long-term goals... Short-term goals as in obtaining the evidence from them, gathering everything else and interviewing, long-term is to get it to court, and what we try and say is ‘there is stuff to tell you if we... reach that first point, but there’s no point telling you how court works, where you’ll stand, where you’ll sit until we’ve hit that point. But if you’ve got specific questions in mind then I’ll answer it’. Because otherwise you could be sat there for 30-40 minutes telling them absolutely everything and it never even reaches that far and I think it gets their hopes up, ‘oh, they’re talking about

court so therefore it's definitely going to go [there]' ... We break it down into bitesize pieces. That, I think, works really well." **UK.P.05**

**UK.P.03**, an officer in a different police force area, explained that in his experience officers are not always explicit about the victim's role in the criminal justice process, but that written information is provided to the witness on the Witness Statement form, MG11. **UK.P.05** also confirmed that this written information is given to the victim. Two pages of the MG11 form, which are given to the victim to take home, give a full and thorough outline of what the victim can expect to happen after giving a statement to police. This details:

- contact details for the officer dealing with the case
- the continuing responsibilities of the victim towards the criminal prosecution, including that the victim may be required to attend court as a witness, if necessary through a witness summons
- who will see the victim's witness statement, including that the victim's address will not be disclosed to the defendant
- what to do if the victim is intimidated in any way
- how the victim is to be updated about the case and the points in the process that those updates will be provided
- details of the Witness Care unit and its role in relation to the victim
- details of the Witness Service and its role in relation to the victim

**UK.S.06** was of the opinion that the police do not issue this written information as a matter of course, which may be due to resourcing issues or a lack of an awareness of individual officers. Other victim support professionals confirmed that the police do provide information on the victim's rights and roles, but felt that the police do not go as far as discussing the Victims' Code, which is mentioned on the MG11 form only to the extent that it states that the Code contains rights for victims of crime.

"They definitely wouldn't have been given information about the Victims Code or things like that!"  
**UK.S.03**

Some victim support professionals doubted the competence of the police to fulfil this function empathetically. **UK.S.02**, for example, felt that many officers lack the training necessary to understand the needs of some victims, particularly those with complex needs.

"I've heard some horrible stories about how police have spoken to survivors of sexual abuse and trauma... even sort of people with mental health issues. How they are treated in the police station can be absolutely awful." **UK.S.02**

A number of victim support professionals also felt that the police mislead victims about their future obligations in order to secure an initial statement.

"Some police don't seem to explain to [the victims] that by giving a police statement they might have to go to court. Sometimes the witnesses come to court and then they say 'I've told the police that I didn't want to go to court'." **UK.S.03**

"We get numerous witnesses who'll say 'I told the officer I'll make a statement but I'm not coming to court'. So obviously [the officer] hasn't told [the victim] the full picture. He or she has probably said 'just make a statement, we've got all the evidence, we're going to be fine'." **S.UK.04**

**UK.S.06** offered the view that the police consciously mislead victims to secure the information needed to progress the investigation. He acknowledged the information and declaration on the statement which states that the victim may be required to give evidence at trial, but said that not all victims realise the implication of signing the statement.

**UK.S.05** was unconvinced that police officers received any formal training on the Victims Code or victim's entitlements.

"I did a presentation for some new cops who would be in training for 6 weeks and I explained them about the criminal injuries compensation and things like that and they'd never heard of it. Nobody had even approached it in their training. In a nutshell that would probably be it – they teach them how to catch the bad guys and nothing on what the victim is entitled to." **UK.S.05**

**UK.S.03** also complained that the police fail to volunteer information about how victims may be supported during their testimony, despite the requirement for police officers to assess special measures support need and complete the MG2 special measures assessment form (see Section 6 below). **UK.S.03's** experience is that victims have not been told that they can give evidence from behind a screen or using remote CCTV. They may also have been told, incorrectly, that no-one in the court room will be able to see them if they give evidence via CCTV. Although this can be corrected by the Witness Service, who can ask the CPS to make a late application for the witness to give evidence from behind a screen, such misinformation impacts upon both the Witness Service volunteers and the victims.

"...my poor volunteers [will] be dealing with [the victim's] frustrations or anger because they've been told the wrong information and then obviously when they come here on the day we tell them what will happen and that can be quite upsetting for them." **UK.S.03**

Prosecutors were able to comment on the extent of and quality of information provided only through the level of understanding of the criminal justice process that victims of violent crime demonstrate to them. They reported that the police do appear to inform victims about their role in proceedings, but the information they receive may be limited due to a lack of knowledge within the police of what happens in court. Certainly prosecutors felt that victims frequently do not understand the prosecutor's role.

"Something that has been said quite frequently, that they find it very difficult to understand that the prosecution isn't for them, the prosecution is for the public and that we are not their lawyers as such. And that I think is quite difficult for many witnesses to understand, because they understand that the defendant has a lawyer, a legal team, yet they don't... And even if they understand it, they still think it's bizarre, you might often hear, well, you know, 'but he's got a lawyer so why haven't I got a lawyer' and it's really, well, you know, understandable". **UK.J.04**

"[Victims] generally think that you are acting for them and that you are their counsel, their solicitor, whatever." **UK.J.07**

**UK.J.03** felt that victims appeared to have an awareness of their rights in criminal proceedings in respect of their entitlement to give their views on the case. He also thought that victims understand their role in proceedings and this is likely to be because the police have provided victims with appropriate information. In contrast, **UK.J.02** told us that it is not uncommon for victims to be unclear about the need to give evidence at trial and that victims' understanding of their Victims Code rights is piecemeal.

Just as professionals questioned the most effective time to communicate information about victim support services, they too questioned the victim's ability to appropriately process and understand information about his/her rights and roles in the criminal justice process so close to the point of victimisation.

“... when victims are being interviewed a lot of it goes over their head and possibly police have said something but people don't actually take that in... If you've just been through a rape or something like that you're not going to be concentrating on what [the police] are saying. Sometimes, like even you and me, we'll just take in what we want to hear and not listen to the rest of it.” **UK.S.03**

“... to expect somebody off the back of a telephone call to fully appreciate the difference between a pre-petition investigation or indictment and a petition and what they mean, [that's difficult].” **UK.J.11**

**UK.J.06**, too recognised that victims' levels of understanding of their rights and roles in the criminal justice process is determined not just by the level of information they have been given, but also their motivation and ability to read and process it.

“... Because they are members of the public and really have no idea about the criminal justice system, nor do they particularly care until they become a victim of crime. All they want to do is report it, be safe and mostly make sure that the person who assaulted them is convicted at the end of the day. They probably realise they're going to have to come to court to give evidence at some point but that's probably about as far as it goes to be honest.” **UK.J.06**

**UK.S.06** – felt that as victims may struggle to absorb information given to them by the police in the immediate aftermath of an offence, it is beneficial for the information to be in written form as it allows victims to return to it at a point during their recovery when they are better able to comprehend it. Interviewees from the Witness Service reinforced this and described pocket sized leaflets which they give to victims when they come to court for their pre-trial familiarisation visit, which appears to be a highly effective way of communicating the rights offered under the Victims Code of Practice.

**UK.J.05** and **UK.J.06** explained that the limited understanding some victims of their rights and role in the criminal justice system by the time they arrive at court to give evidence is problematic. Although the CPS has a 'speaking to witnesses at court' (hereafter SWAC) policy, meaning that counsel will introduce themselves to the victim and explain some basic issues, the prosecutor at court rarely has the time to speak in detail with the victim.

‘... there are times when there's really no time to go into adequate detail and that's just because of the way cases are listed... if you're in the Magistrates court you'll have three or four trials all listed for the morning all at the same time, all the witnesses turn up at the same time, the defence want to speak with you, the court is calling you. So sometimes you don't have enough quality time although we do ask [the judge] for it.” **UK.J.05**

Although counsel are now required to introduce themselves to the victim and explain some basic issues, which.

“...we weren't able to do until recently, so [the victim] would have no idea why there was a not guilty plea. At least now we are able to tell them it's because mistaken identity, or they're saying that it's in self-defence, so at least they have a clue as to why they're here giving evidence. And they will obviously [have an explanation] about the court procedure.” **UK.J.06**

**UK.S.03** applauded the SWAC scheme and said that victims generally respond positively to the contact and find it reassuring.

3.3.2. Are victims later informed about any significant progress of the proceedings and their potential role in various phases of the proceedings? If yes, on which occasions (Question Pr 3.11)?

Police officers play a key role, in conjunction with the Witness Care Units, in keeping victims updated about the progress of a case. In **UK.P.01** and **UK.P.02**'s police force, officers agree a Victims' Contract which details how the victim is to be updated about the progress of the case, how often the updates should occur and the particular milestones the victim wishes to be advised of, such as arrest, charge and bail decisions and conditions. **UK.P.01** was unsure whether the Victim Contract is a national rather than a local initiative and it appears to be in addition to the commitment in the Witness Charter to update victims in crimes of a 'very serious nature' at least once a month.

Police officers and some victim support professionals expressed the view that updating victims according to a timetable is rarely appropriate as cases do not progress in a uniform manner. It is far better to update victims on certain specified events, with intermediate contact where there are long delays to reassure the victim as to what is happening. **UK.P.01** asserted that officers are generally willing to give personal contact details, which victims find reassuring and makes clear that victims may contact the officer at any time. **UK.P.02** stated that there are some situations, where for example the officer is concerned at the external influences being brought to bear on the victim, which motivate an officer to make more frequent contact than the Witness Charter or Victim Contract requires. However, **UK.P.05** also stressed the importance of not raising a victims expectations of frequency of contact as police resources are finite: "Making sure they understand we [are] not promising them things, and unfortunately officers do that, they promise you'll have phone calls tomorrow, it doesn't happen because we're so busy, and straight away then they're like 'oh, obviously they're not interested' and that makes it very hard." **UK.P.05**

Some police force areas use an on-line system to allow victims to monitor the progress of a case. **UK.P.03** described the system in his police force area, 'Track my Crime', which victim may choose to use in place of updates by a police officer. Currently most victims continue to opt for the latter.

"The primary question is "Do you want to use Track my crime?" and then we give them an explanation as to what it is and then the majority say "no, I'd rather be updated by a police officer". **UK.P.03**

**UK.S.01** described how, in long term cases, police officers may build a relationship of trust with the victim:

"...there can be some really, almost, not friendship, but a quite caring relationship where the police really ... want to do their best and that translates into the victim trusting and being able to contact that person, the officer, at any time." **UK.S.01**

Once a case is listed for trial, the Witness Care units in England & Wales and the Victim Information and Advice Service in Scotland take over responsibility for updating the victim on the progress of the case. Witness Care officers update victims for every subsequent court hearing, unless the victim stipulates that they do wish to receive updates, and also inform the victim as to date of the trial and the outcome of the case. In cases where the defendant is sent to prison, the Witness Care Unit puts the victim in touch with the Probation Service who then arrange for the victim to be kept informed about the plans for the defendant's sentence and eventual release.

**UK.J.02** described that in the most serious cases, murder, manslaughter or road traffic fatalities, the CPS has direct contact with the victim. The CPS writes to the family of the victim to inform them about the charges and advise them about the "victim focus scheme", which is a national scheme designed to ensure that bereaved families of victims are involved in the proceedings and requires the CPS to contact them at the

beginning of the case and invite them to a meeting if they wish to have one. At these meetings general information about the charges, court proceedings and timescales are discussed and the family is informed about what is likely to happen and they can ask any questions they have. The family is also assigned a (police) family liaison officer to update them about the case.

Prosecutors also become involved in providing updates to any victim whenever there is a material change in the case such as the acceptance of a plea to a reduced charge or the discontinuance of a case. **UK.J.03** explained that a letter is sent to the victim within five days of the material change occurring. In cases concerning domestic violence or if the victim is otherwise vulnerable, updates are sent within 24 hours.

There were mixed views on the effectiveness of updates from the police and Witness Care/VIA services. **UK.J.02** felt that the division of responsibility between the police and the Witness Service is confusing for victims. **UK.S.01** observed that the Witness Care Units do not provide much 'care' for the witness. She described them as a faceless, bureaucratic organisation as their communication is written and Witness Care staff never actually meet the victim.

"The client wouldn't get to know anyone at Witness Care... It would be a faceless person... more bureaucratic." **UK.S.01**

This runs counter to the views of staff within these units (**UK.S.04**) who described establishing good relationships with victims, albeit now because of resource constraints, almost exclusively over the telephone. Employees of first line victim support agencies also described how victims frequently contact them for information in the absence of contact from the police. Judges and prosecutors were more remote.

**UK.J.02** expressed understanding of the complaints of victims who, as lay people, have no concept of timescales within the CJS and fail to understand that there may be no additional information to impart between key stages in the process. **UK.J.02** acknowledged that as prosecutors know what to expect, they do not necessarily acknowledge this and are not "nuanced enough to give the right reassurance" to victims. Many victims might reasonably believe that the process of updating victims is designed to suit criminal justice professionals and does not fulfil the victims' need:

"I think if I was a consumer of the criminal justice system, I wouldn't know what was going on. We have dates where they've got to be [informed]... but I think that it would be wholly inadequate if I was on the other side." **UK.J.02**

However, **UK.J.10** pointed out that proposals to improve the information provided to victims must be practical and not over-burden already busy staff. He described recent suggestions by the Court Service Standards in Scotland that victims should receive hourly updates about trials from a Court Officer:

"It's just completely unrealistic. The Court Officer is the person who is handling witness productions, who's looking after the judge, making sure the court is keeping quiet, that kind of thing. He can't go running in and out in order to tell the witness what's happening. He will have to ask "excuse me, what's happening now?" He'll have to ask the question, "How much longer you're going to be?" every hour and [we] can't have that." **UK.J.10**

### 3.3.3. How do the interviewed practitioners assess victims' possibilities of having access to the case file either personally or through a legal representative (Question Pr 3.12)?

The CJS in both England & Wales and Scotland does not allow for a victim to have access to the prosecution's case file. Prosecutors (**UK.J.01**, **UK.J.03**, **UK.J.04**, **UK.J.05**, **UK.J.06**) and judges (**UK.J.08**,

**UK.J.10**) were against allowing this within the adversarial criminal justice systems that exists in this country as were police officers (**UK.P.01**, **UK.P.02**, **UK.P.03**, **UK.P.05**). There was particular concern about the victim having access to the witness statements of other witnesses which runs the risk that the victim would then 'tailor' his/her evidence in an attempt to 'strengthen' the case. Not only does this open the victim to allegations of perjury, it impacts on the defendant's ability to receive a fair trial and also gives the defence the opportunity to allege that any, including innocent, victims have tailored their evidence

"... that's the whole point of witnesses, they come and give evidence and it should be untainted evidence... [With] our speaking to witnesses at court policy we've managed to push it as far as we can in letting the victims and witnesses know what the issues for trial are, so they know what the questioning of them is going to be about. But that's as far as we go and we've got some very strong rules and case law with regards to coaching and otherwise." **UK.J.06**

Furthermore, seeing the evidence of other witnesses may not be in either the victim's or the other witnesses' best interests and could cause considerable distress.

"I would not be happy with that at all. The prosecution is an independent prosecutor. The prosecutor will be interviewing witnesses to find out what they had to say and so on, and it may be that witnesses would be saying things which they'd rather the victim didn't hear and [the witnesses] would be subject to reprisals at the hands of the victim, if they found out that they weren't being supportive, that kind of thing. I don't think it's a good idea at all." **UK.J10**

**UK.J.08** was concerned about the idea of sharing information from the case file that is not linked to the individual victim. This would be a particular problem in Scotland, which has an evidential rule requiring corroboration, and consequently case files contain a lot of private material relating to other victims.

Victim support professionals were alone in seeing some benefit to allowing victim access to the prosecution case file. They focused on the potential restorative aspect of allowing this. **UK.S.02** felt that access to the case file could provide a greater understanding of the perpetrator's background and circumstances, which could in turn allow the victim to better recover from the harm he/she has experienced.

"If you knew that someone committed a crime against you because they had mental health issues or they committed a crime against you, they stole from you, because they were brought up in a family that were always stealing and thieving, you know they didn't know any other way of living. Or, you know, sometimes that can make you think, well actually it wasn't targeted at me because I am a certain person or because.... it was because of their way of being and actually it wasn't a personal attack on me... In that respect I think sometimes it can give an individual a better understanding and also a way of recovering and thriving from whatever incident has taken place." **UK.S.02**

**UK.S.04** - thought access to the case file would assist in bridging the gaps in information that the victim has about the case.

"At the end of the day we wouldn't be in this situation if it wasn't for them. For them to get the full picture of what is going on or what can go on, it can only be a step in the right direction." **UK.S.04**

### **3.4. Views of victims**

- 3.4.1. When the interviewees first came into contact with the police, were they informed about
  - a. their potential role and their rights in proceedings and

No interviewee responded positively that they had been informed about their potential role and their rights in proceedings when they first came into contact with the police. Three interviewees (**UK.V.05**, **UK.V.07** and **UK.V.11**) could not remember whether they were given this information. **UK.V.05** explained that it was difficult for her to take in information owing to the state of trauma that she was in after the assault.

*"I can't remember. In the early days, you are on complete automatic, you don't take information in, you need to be given very simple, short words because literally I couldn't take information in. I mean I'm an intelligent woman, but I was like a zombie. So that is as much of an answer I can give to that." - UK.V.05*

Two interviewees (**UK.V.01** and **UK.V.09**) gave a general response that they had not been informed about their potential role and their rights in proceedings but mentioned that they had been told that they might be required to give evidence at trial.

Nine interviewees (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.04**, **UK.V.06**, **UK.V.08**, **UK.V.09**, **UK.V.10** and **UK.V.12**) responded that they had not been informed about their potential role and their rights in proceedings. **UK.V.10** had to ask the police himself about making a victim impact statement.

*"I had to even question the police about one thing, I said "apparently I've got to do a victim personal statement?" I had to ask them, they went "oh yes we do need that off you". But that was done again at the last minute." - UK.V.10*

Of that nine, two interviewees (**UK.V.01** and **UK.V.09**) gave a general negative response to the question but mentioned that they had been told that they might be required to give evidence at trial.

In particular, **UK.V.01** felt that her role in proceedings was never properly explained to her and found that the changing of terminology used to describe her role throughout the process caused her confusion and distress.

*"I became a victim to then become a witness to then become a complainant and I never understood why those three things changed. No one ever explained that to me. I hated the fact that I was being called a witness, the same as my counsellor would be called, she was a witness also in my case. I was the person most involved, to be called a witness, like I witnessed it and you're just one part of the cooperation they need to take it to court. Why on earth did they call us a witness? I suppose complainant's better, but it makes us feel like we're not coming forward, or like were coming forward but we're just complaining, because were called the complainant. So it's just stupid terminology that was never explained to me. Victim makes you feel like you're a victim and that the other person has taken something from you, witness makes you feel that you're a piece in the puzzle which you are, but it's not good to be thought of as a piece in the puzzle. And complainant makes you feel like you've done something wrong. Like, you know, your mum says you're complaining about something. There needs to be a different word and someone needs to think of something that sticks, rather than chopping and changing because, you know, it's just stupid. I've had a lot of time to think about those three words and they get to you." - UK.V.01*

The police did not inform the interviewee about her rights and at the time of interview she still did not know what her rights were. She was not provided with a victim care card no was the Victims Code ever mentioned to her.

There seemed to be a distinct lack of awareness among interviewees of the fact that they even had rights throughout the process. Seven interviewees (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.04**, **UK.V.05**, **UK.V.08** and **UK.V.10**) said that they were specifically asked about their awareness of the Victims' Code. Six interviewees (**UK.V.01**, **UK.V.03**, **UK.V.04**, **UK.V.05**, **UK.V.08** and **UK.V.10**) had no awareness of the Code at all and one (**UK.V.02**) had only been made aware of it by Victim Support Scotland after the conclusion of the trial.

b. how they can access an appropriate support service (Question V 3.10)?

One quarter of interviewees (**UK.V.05, UK.V.07 and UK.V.09**) responded that they had been informed by the police of how they could access support services. The remaining nine interviewees (**UK.V.01, UK.V.02, UK.V.03, UK.V.04, UK.V.06, UK.V.08, UK.V.10, UK.V.11 and UK.V.12**) stated that the police had not informed them how to do so. Of that nine however, the police made automatic referral for five interviewees (**UK.V.03, UK.V.04, UK.V.06, UK.V.10 and UK.V.11**) and one interviewee (**UK.V.01**) thought that the police had not informed her because they knew she was being supported by the university and in particular because her designated SOLO (Sexual Offences Liaison Officer) was also the university liaison officer.

3.4.2. Were interviewees continuously updated on how the case developed and on their potential role and relevant rights over the course of the proceedings (Question V 3.11)?

Six interviewees (**UK.V.02, UK.V.05, UK.V.07, UK.V.08, UK.V.09 and UK.V.12**) stated that they were updated as the case progressed, four (**UK.V.07, UK.V.08, UK.V.09 and UK.V.12**) of whom appeared to be pleased with the updates that they received.

Whilst **UK.V.05** was generally pleased with the manner in which she was updated she explained that she was assigned a male Family Liaison Officer to provide her with updates and, although he was very good, as a female victim of rape, she would have rather had a female officer taking that role.

*“He’s been absolutely lovely, but I don’t think personally a man should be dealing with a woman who’s been seriously sexually assaulted because you’re talking about things which are extremely graphic and it’s easy to talk to a woman about it. Even though he’s such a nice person.” - UK.V.05*

Conversely, **UK.V.02** had an extremely negative experience of the professionals keeping her updated on how her case was progressing and had been, much to her distress, repeatedly updated with incorrect information. The police had referred her to ASSIST, a specialist domestic violence support service, who acted as her liaison point with the Crown Office once a charge had been brought against the offender and who were responsible for keeping her updated on how the case was progressing.

*“They won’t come and see you but they’ll liaise between you and the Crown Office to make sure that you still want to pursue the case and they’ll phone you up and say, like, you know, “he’s still pleading not guilty, there’s another intermediate diet on such-and-such a date”, but I would also get that in writing from the crown office as well so you’ve got all this paperwork coming.” - UK.V.02*

The interviewee was deeply unhappy with the organisation as they repeatedly provided her with incorrect information that caused her a lot of anxiety and stress. In particular they misinformed her on three occasions that the offender, her partner, had his bail conditions lifted.

*These people on the end of the phone were dreadful and I don’t even know why the crown office just couldn’t have told me what was going on anyway, because these people were useless. They gave me the wrong information 3 times, they wrongly told me his bail had been lifted and I’m sitting waiting on him coming in the front door ... Every time they phoned you’ve got your bag packed, and I’m phoning the police, I’m phoning the Crown Office saying, “What’s happening here? He hasn’t even been to trial, how can they lift his bail?” and the police are telling me, “Look, it’s never happened before, if it’s not even been to trial we don’t know what’s”. So that was a nightmare ... it was people, young people that had absolutely no idea of the repercussions of telling someone that their husband’s bail’s been lifted when you’re still in the marital home, you’re relying on those bail conditions to stay, every time he had*

*an intermediate diet I had my bag packed because if he'd plead guilty and I'd been denied a harassment order he could of just driven straight back in that front door." - UK.V.02*

The interviewee was so distressed by the misinformation provided to her by ASSIST that she contacted the Head of Service to make a complaint:

*"I actually phoned the head of ASSIST, she's a victim of domestic violence and I said to her that "that's an absolute nightmare, you of all people should know, why would you tell a woman that her husband's bail's been lifted?" She apologised and said that she'd never had such a catalogue of errors happening and she couldn't of been nicer and she did say "you can make an official complaint" and I said to her, "I've got too much on my plate, I don't want to make an official complaint, can I trust you to sort this out?" and she said "yes". And then they did it again, and that's when I said, "Don't ever contact me again, you're making me ill and I need people who have got my back, and you don't". So after that they never contacted me again and I just dealt with the crown office myself." - UK.V.02*

Additionally, when the interviewee was informed that the offender had been found guilty and was awaiting sentence by the Procurator Fiscal she was also informed, incorrectly, that his bail conditions had been lifted. This caused the interviewee great distress and fear as she was not able to apply for a civil interdict until the offender had been sentenced and she therefore felt that she had no protection against him.

Four interviewees (**UK.V.01**, **UK.V.04**, **UK.V.03**, **UK.V.06** and **UK.V.10**) responded that they had, at least for some period of time, not been updated on how their case was progressing.

**UK.V.04** was informed by the police that they would keep her updated but then they did not.

*"I had to do the chasing, I was always on the phone finding out what was going on ... It wasn't a good experience at all. I felt like I was the one that was being under questioning."- UK.V.04*

During the police investigation, **UK.V.10** was kept updated by an officer when the offender was arrested, interviewed and charged. However once a charge had been brought, the interviewee was not kept updated on the progress of the case other than to be told that the offender had pleaded not guilty.

The interviewee also mentioned a previous case that he had been involved with against the same offender where he had been given misinformation about proceedings which resulted in the case getting thrown out. He was called by the CPS and told that the offender was going to plead guilty the following day and accordingly the interviewee did not need to attend court. On the day of trial however the offender changed his plea and the interviewee was not given enough notice to get to the court to give evidence so the case was thrown out:

*"I had a case 2 years ago with the same guy. We were due to go to court in Margate, the day before we had somebody from the CPS phone us to say, "You don't need to come to court tomorrow because he's going to plead guilty" obviously we were relieved. Anyway, me, my mum and my sister were in Ashford, the court case was in Margate which is miles away. We had somebody from the CPS phone us up and say, "He's refused to put a plea in, we need you here within half an hour" and we said, "Well that's absolutely impossible, we're talking like 35 miles, can't get there" and the case got thrown out ... Thrown out, straight away. And of course he was still living below me then and no protection, so it all started immediately. He came back home, started with the music, slamming, screaming, shouting, all sorts, and it's never stopped. And it still hasn't stopped." - UK.V.10*

Of the five, three (**UK.V.01**, **UK.V.03** and **UK.V.06**) explained how they personally had to take responsibility for receiving updates.

**UK.V.06** was not kept informed about anything other than the date of the trial and only found out the court's decision and that the perpetrator had been released from prison because she phoned the police herself.

**UK.V.01** also had to regularly contact the police herself to find out what was happening. The police investigation was lengthy and spanned over approximately two years which was burdensome on the interviewee. Whilst the interviewee was in regular contact with the police throughout this time, it would mostly be when the police needed something from her, rather than them providing her with information and they would turn up without any prior notice.

*"They just said "We'll be in touch" and then they were in touch to get another statement and then they said "We'll be in touch". Then once I wasn't in touch for a very long time so then I rang them and said, "Where's my phone?" What's happening? Have you dropped it? Can I have my phone back? Or is it going forward?" And they were like "We just need some more information ... actually, can we meet with you again?" - UK.V.01*

In particular however, **UK.V.01** explained that she had a very poor experience of being kept updated by the Procurator Fiscal. Once the case was referred to the Procurator Fiscal, she received no update for six months. She was told by the police that she could not contact the Procurator Fiscal until her case had been assigned to a specific prosecutor for a decision. Once a charge had been brought the interviewee was assigned a Victim Information and Advice (VIA) officer who, amongst other things, was responsible for giving her updates on how the case was progressing. The interviewee had a poor relationship with her VIA officer and explained that at one point the VIA officer had decided to give her weekly updates, which she did over one summer even if it was just to say there was no update, but then at some point stopped getting in touch each week.

*"We didn't get on at all, and she like made me feel worse whenever she spoke to me ... I had no one else to talk to about the case so if I was stressed by it the only contact I had was with the VIA officer. If anything went wrong I would blame the VIA officer but there's no one else for me to talk to if something was wrong." - UK.V.01*

In this connection, the interviewee specifically mentioned an incident where she was called in to the Procurator Fiscal's office following an email she sent to her VIA officer. She had emailed her VIA officer after a police officer had asked a witness in the case, who had been harassing the interviewee, where other witnesses lived and therefore letting him know that these other witnesses were involved in the case. As a result the interviewee became concerned for the safety of those witnesses who were friends of hers. After emailing the VIA officer to complain about the officers conduct the interviewee was called in for a meeting and told that she could not speak to the VIA officer as she had done in her email:

*"They just basically told me I couldn't speak to them like that and how dare I, she'd been supporting me for so long and how could I of spoke, of sent her an email like that, she was so upset that she burst into tears when she read that email. So I, I was a victim in over a two year long police case that was so stressed by a situation, a week into my date being changed from April to November. I think she'd just been having a bad day because she took that out on me, but she should have been the professional in this situation ... Yeah I was an upset victim that had no one else to talk to and no one else to contact with. It's not like I could ask my parents because they've never been through anything like this. So being a 21 year old at the time, I was 18 when it happened, a good two and a half years into the case, being told that it was now being changed from April to November and then the procurator fiscal wasn't, she was not approachable at all" - UK.V.01*

Having been told that the trial date was set for April 2016, the interviewee was informed in October 2015 that the case was going to be heard in three weeks' time. This was distressing for her as she did not have enough time to prepare herself for the trial and it was in the middle of the academic term.

*"I only had three weeks' notice. Which was, crazy, at the time, to be told. And no one understood, no one believed that it was the trial happening, no one could actually believe that it was the trial ... So yeah, it's a bit unsettling when no one can really imagine that it would be brought back so quickly. Then, you know, kind of justifies how you feel, when everyone's like, "No it can't be" and I was like, "No, it is". So yeah, and*

*then you know I had exams and you know, it was just a mess. I didn't have notice or anything, to organise myself, to not have my university life affected.” - UK.V.01*

Similarly, **UK.V.03** had a poor experience of being kept updated by the Procurator Fiscal and was left to repeatedly make contact herself in order to find out what was happening.

*“You don't really get to be that involved, you just get told what you're doing on the day. You don't get that much information. The current case that's going on, I've never spoke to the Procurator Fiscal. And then the times I've been to court, from, sorry tell a lie, it took me that long to find out actually it was still going to court. And that was through speaking to the Procurator Fiscal about adding charges. On behalf of my daughter, and she'd asked if there was a history for my ex-partner and I said yeah and explained that he was charged for threatening me and I got told the Procurator Fiscal Service had dealt with this and I never heard a word after that ... And she says “oh no, he's going to court in October”. I knew nothing about it at all. And that was him going up to put his plea in. ... You don't get phone calls from the procurator fiscal discussing the case or asking you questions, that happens on the day ... You get very little information as to what's going on.” - UK.V.03*

In relation to one incident, the interviewee was even denied information about the outcome of proceedings by the court, the police and the Procurator Fiscal:

*“I phoned the court in the morning and said that I'd been told this case was going to court today ... And I got told, “Yeah, the procurator fiscal has dealt with it” so I said, “What was the outcome?” “We can't tell you that because of the nature of the case ... have you tried contacting the police?” I phoned the police, “Well, we've not got anything here. It's with the procurator fiscal. It's them that need to tell you what's going on. We don't get the outcome, unless we go to court that's the only way we know.” So I contacted the Procurator Fiscal, “Yeah there's no information we can give you”. “But I'm involved in this, I'm the one who reported this.” “Yeah data protection, we can't, you can apply for a form to be sent out and you fill in the relevant information and we'll look at it and see if we can let you know.” “How long does that take?”, “That could take a few weeks.” “That's news to me, he's being charged with threatening me I need to know what's going on”. Nothing, heard absolutely nothing.” - UK.V.03*

- 3.4.3. Did interviewees, either personally or through a legal representative, have access to the case file? If yes, at which stages of the proceedings (Question V 3.12)?

The CJS in the UK does not allow for a victim to have access to the prosecution's case file, accordingly this question was not posed to interviewees.

## c) General assessment

### 3.5. Views of practitioners

- 3.5.1. To what extent have the interviewed practitioners, divided by professional groups, agreed with the following statements (Question Pr 3.13)?

3.3.4.1. More needs to be done to ensure that all victims have access to appropriate support services.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
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<b>S</b>	4	2	0	0	0	6
<b>P</b>	2	0	2	0	0	4
<b>J</b>	4	6	0	0	1	11
<b>L</b>	NA	NA	NA	NA	NA	NA
3.3.4.2. Considering that victims, in criminal proceedings, mainly perform the role of witnesses, already too much is done to strengthen their position in criminal proceedings.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	0	0	1	5	0	6
<b>P</b>	0	1	1	2	0	4
<b>J</b>	0	0	7	4	0	11
<b>L</b>	NA	NA	NA	NA	NA	NA
3.3.4.3. More needs to be done to ensure that victims are informed in an effective manner about the proceedings and their potential role in them.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	5	1	0	0	0	6
<b>P</b>	2	0	2	0	0	4
<b>J</b>	2	6	0	0	3	11
<b>L</b>	NA	NA	NA	NA	NA	NA
3.3.4.4. Not much further action needs to be taken to improve the standing of victims in criminal justice proceedings as a lot has already been done in recent years.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	0	0	3	3	0	6
<b>P</b>	0	1	1	2	0	4
<b>J</b>	0	0	8	1	2	11
<b>L</b>	NA	NA	NA	NA	NA	NA

Please provide an analysis and your own interpretation of the results:

Statement 1:

There was general support for this suggestion apart from amongst police officers, where only specialist sexual offence and domestic violence officers agreed. One prosecutor (**UK.J.09**) who agreed with the statement on

the basis that there's always room for improvement was uncomfortable to the extent that there seems to be an invalid assumption behind the question that the service available are inadequate.

#### Statement 2:

Almost all interviewees disagreed or strongly disagreed with this statement, possibly reflecting the current move within the criminal justice system to enhance the attitudes of professionals towards victims of crime. The one police officer who agreed offered no further comment on his choice. Common explanatory comments to this question were:

"I don't think enough can be done ... whether they are a witness or complainant or a victim or whoever it may be, I think not enough can be done to help them." **UK.J.03**

"Too much is done? I don't think that's the case, no." **UK.J.10**

"Already too much is done? No I'd strongly disagree with that, that's just not accurate at all." **UK.J.09**

"I don't think you can do enough for people, particularly around violent crime and stuff. Because it has such a massive impact on peoples psyche. Their lives. You cannot do enough." **UK.P.02**

#### Statement 3:

Apart from non-specialist police officers, and judges who did not feel close enough to comment, most interviewees agreed with this statement. Prosecutors agreed; victim support professionals strongly agreed. Again, most felt that good work is done in this respect but that there is always more that can be done.

"Lots has been done, there's been really good improvements in terms of ... providing information, but there always can be improvements in practice". **UK.J.11**

#### Statement 4:

Most interviewees disagreed or strongly disagreed with the suggestion that not much more needs to be done to improve the standing of victims in criminal justice. There was general agreement that further action to enhance the standing of victims in criminal proceedings would be a good thing, however, a number felt that the question downplayed the extent of the progress that has already been made.

"Well I agree that a lot has been done in recent years but I don't agree with the not much further action". **UK.J.11**

"A lot has been done in recent years, that's certainly true... I can gauge what happens at the moment by reference to what happened when I was a young practitioner, and the circumstances are very different." **UK.J.09**

Some felt that improvements could be made in respect of the range and quality of victim support services:

'It is getting better but nowhere near where it should be. This service has only been around for less than 2 years. Before this... with regard to linking in with counselling services and practical support services, I'm not quite sure what they did. It seems to be a lot more in depth now that the police commissioner has got her own service.' **UK.S.05**

Others felt that further improvements to the experience of giving evidence are required.

“I think things need to be dealt with much more quickly... taking of their evidence. I think what we’re hoping to move forward to is a situation where the evidence of a witness, and the cross-examination for that matter, can be dealt with in advance of trial, so that, that’s what I’d like to see, so it is all recorded, in advance so they don’t actually have to turn up... If the evidence is taken at an earlier stage and recorded then they don’t have to be here at all and the evidence can simply be played, they know how long it’s going to take and the evidence can be played in front of the jury without anybody having to hang around at all. I’d like to see that done, so I think there is more to be done.” **UK.J.10**

“We’re looking at ways of trying to minimise the in-court experience of other victims, adult victims of sexual offences, with a view to having their evidence captured by video recorded interviews, at early stages. Having the cross-examination captured in a similar way, and you know, limiting as much as possible the actual in-court time and also trying to bring forward a lot of the timings of these events because sometimes the victim doesn’t give evidence until quite a considerable period after the incident and so that can’t be in their interest, it’s not in the interest of justice either.” **UK.J.08**

UK.J.09 who ‘both agreed and disagreed’ (and so was categorised as don’t know answer) insightfully commented that it is not possible to say how much more needs to be done before the effectiveness of the changes that have been made over the last 5-10 years has been properly measured.

“I don’t think one could say that not much more needs to be done until there’s an opportunity to gauge the effectiveness of the changes that have been made over the last 5-10 years. Even more recently, within the last 2 or 3 years, quite significant changes have been introduced, so I think one would need to measure the effectiveness of those before you could say whether anything else needed to be done.” **UK.J.09**

### 3.6. Views of victims

3.6.1. To what extent did the interviewed victims agree with the following statements (Question V 3.13)?

	Strongly agree	Rather agree	Rather disagree	Strongly disagree	Don't know	TOTAL
3.6.1.1 Throughout the proceedings I had the <b>support</b> I needed.	1 (UK.V.04)	2 (UK.V.07, UK.V.09)	2 (UK.V.03, UK.V.12)	5 (UK.V.01, UK.V.02, UK.V.06, UK.V.10, UK.V.11)	2 (UK.V.05, UK.V.08)	12
3.6.1.2 Overall, I wish I had more <b>legal advice</b> .	6 (UK.V.02, UK.V.04, UK.V.05, UK.V.06, UK.V.10, UK.V.11)	0	5 (UK.V.01, UK.V.07, UK.V.08, UK.V.09, UK.V.12)	0	1 (UK.V.03)	12
3.6.1.3 Throughout the proceedings I received sufficient <b>information</b> about the <b>progress of the case</b> .	2 (UK.V.05, UK.V.06)	2 (UK.V.02, UK.V.08)	3 (UK.V.07, UK.V.09, UK.V.12)	4 (UK.V.01, UK.V.03, UK.V.04, UK.V.10)	1 (UK.V.11)	12

3.6.1.4 At times, I would have wished for more <b>information</b> about my potential <b>role</b> in the proceedings.	3 (UK.V.01, UK.V.03, UK.V.06)	4 (UK.V.02, UK.V.04, UK.V.05, UK.V.10)	4 (UK.V.09, UK.V.07, UK.V.11, UK.V.12)		1 (UK.V.08)	12
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Comments added by interviewees.

**Statement 1:**

**UK.V.01 - Interviewee:** I suppose in my head I've got emotional support for the police case, no practical support. And then it comes to the court case and I have little emotional support, because I didn't have FRASAC at that point and I was still on the waiting list and I had no practical support. I mean I'd sometimes try and get support but they wouldn't, you know... Having one person to have support for the police case wasn't enough because that person has a life, have a holiday and stuff, but you know I'm still left not knowing what's happening. So I would've liked a bit more practical support throughout it as well.

**Interviewer:** Do you then think there is enough specialised support for victims of sexual offences?

**Interviewee:** No, there's definitely not enough support. Because I'm on the waiting list again because I'm going through a civil case now and I'm on the waiting list still to have support.

**UK.V.03 -** I think you could get more information about what's going on, part of, you're going through enough if you've been threatened and then the not knowing doesn't help. The wondering, "What's happening next, what's the next step".

**UK.V.04 -** I was quite well supported afterwards with the Victim Support and Rape Crisis and my doctor, they were brilliant, so, in that way that was good. Strongly agree, it was good that I was supported.

**UK.V.05 -** I think I've been quite well supported... Alright put it in the middle, and that's only because of the phone issue. Once I got hold of [Victim Support], and [the psycho-sexual counsellor], I've been strongly supported.

**UK.V.08 -** I think the service that I got was pretty good. Well, not from the police but from the prosecution service and Safer Wales. I'm kind of in the middle of it if you know what I mean. Prosecution, Safer Wales, absolutely brilliant, whereas the police wasn't so brilliant. Well, it was just like they wanted to get it over and done with, just in and out.

**UK.V.10 -** People to listen, Kent police to listen and take things seriously. Instead of just ignoring it and to go, "It's him again", because that's what he's known as, [the offender] is just [the offender], that's what they used to say to me. And I even had a comment off one of the officers what said to me, "You do realise the only way this is ever going to stop is when he drops down dead" ... Which is no comfort to me. He even said it to my mum. The only time this is ever going to stop is when he dies, and then you'll be left alone.

**UK.V.12 -**

Well to be honest it feels like I'm still going through it. So I'd say no [...]. I mean yeah, but, it's not good I don't think really. I mean, I tried because obviously I've been down so I've been going to the doctors, they referred me to Mind, I don't know if you've heard of those? [...] But like, I went to go for a meeting with them the other day and my next scheduled meeting's about mid-August, so.

**Statement 2:**

**UK.V.01 -** I suppose I don't know what I don't know. Some of the things you've mentioned before I have no idea what those are. So I don't know my rights as a victim, I don't know the victim code and I still am confused by some things that happened in the court case so I suppose there's a few things I don't know, but there's probably a lot I don't know. But at the time I think not, I'd rather have had the practical and the emotional support. Because I was just bumbling along, I was just trying to get through it rather than understanding it, so I

suppose I'd say agree to that. Because I'd rather have more support on the practical things and emotionally and stuff, than actually knowing what was happening. In a strange way, I suppose everyone thinks ... like I think back now and think, I don't actually know what I went through, in my head I don't actually know what all that meant and I don't know what my rights were but at the time it didn't matter, I had to do it. So, especially when you're told you can't come out of a criminal case because it's, you know they know about it now and all this kind of stuff, so I didn't know my rights of being able to pull out at all. I would've, I suppose now I wish, I should've, you know, younger me I wish I'd, I'm a bit wiser now I suppose and I would've, you know if it was one of my kids going through something I would've wanted to have understood it. But I would have never understood it enough to be able to explain it to my parents.

**UK.V.02 - Interviewee:** Strongly agree, if I could of got my own solicitor I would of.

**Interviewer:** Did you ever ask for one?

**Interviewee:** No because you're not, I did ask, you're not allowed your own solicitor in Scots law. I couldn't employ my own solicitor to represent, you know, to come along and represent me and look after my rights, you just don't get your, it's the fiscal, she's supposed to be, well no, I thought she was supposed to be looking after me and my rights and she didn't so, but from what I've gathered that's not her role.

**Interviewer:** Did you ever get to meet with the procurator fiscal?

**Interviewee:** For about 2 minutes before I was about to give evidence.

**Interviewer:** And did she explain what her role was in relation to you?

**Interviewee:** No she said, "He grabbed you and pinned you to the couch and he locked you in a room". That was her advice before I'm about to go in a court room.

**UK.V.03 -** From a lawyer, no. From the Procurator Fiscal, yes strongly agree with that. But even if you get a letter saying that they will be in touch or they will speak to you in the morning you go to court, and then you're not sitting thinking, waiting, "Is somebody going to be in touch? What's going to happen?". If you know the next time you're going to contact or speak to somebody about this is the day you go to court, you can breathe a bit in between, rather than the what ifs and not knowing.

**UK.V.04 -** Yeah I do wish I had more legal advice. Just how to have dealt with like, how the police were handling the situation and where to go next and what to do really.

**UK.V.05 -** I strongly agree I should've had more legal advice, yeah ... The CPS lawyer I think, I think it would've been helpful for me to have had a half hour session with them to understand the court process.

**UK.V.08 -** I disagree with that one because I think I got all the advice I needed.

**UK.V.10 -** I would've known what to do, I would've known what appropriate steps to take or I would've found some way of combatting, to get this guy to stop, instead of as I say, being ignored.

### **Statement 3:**

**UK.V.02 -** I suppose agree. Correct information would of been good. But there's only so much they can tell you, he's just pleading not guilty and every 8 weeks he goes back and says I'm not guilty, so, what more information can they give you?

**UK.V.05 -** I think I was informed quite well, apart from the phone issue right at the beginning. So, you know, I was well informed.

**UK.V.08 -** Simon did update me as soon as the warrant went out for her arrest. So he done pretty good with that.

**UK.V.10 -** I've been banging my head against a brick wall with Kent police because they've ignored me.

**UK.V.11** - Because I remember when I did want to know things being able to phone up and get the information I needed, but I also remember giving up on 101, going through the system to try and phone different police and sometimes I just stopped. But it wasn't that persons fault so... I received case results and et cetera from Tulip, I've emailed A.P. as well and got some information through him by email. It was never a case of not being able to get in touch, it was just I didn't know what I was, I didn't know what position I was in at the time.

**Statement 4:**

**UK.V.01 - Interviewee:** Strongly agree. I still don't know what my role was.

**Interviewer:** Who do you think would be the most helpful person to deliver that information?

**Interviewee:** The SOLO. But most of the time she didn't know what was happening, she was just asked by her boss, I didn't know whether there was, she had a few bosses, in my head, because one was the detective inspector but another one was from her station so I never really knew who the boss was, but sometimes she didn't know because the boss just wanted this done, so, whoever that, he or she was, they wanted more information and I just was the one that had it. But she, you know, she was the one I had the most contact with so she was the one that I was asking all the questions to, to begin with, and then it was the VIA so I suppose I had a VIA, the lady that wasn't very good, and then my SOLO, would've been the two people.

**UK.V.02** - Well, I thought they might have said, "Here's a CD, have a look at this and it'll tell you what you're gonna be on the day, where you're gonna go, it'll give you some pointers about giving evidence, you know, who you're gonna, how to address somebody". You know, "here's a video of a lady who's been through it before", and she'll say "look it's alright" ... It doesn't have to be a serious video, just something that says "this is what's going to happen to you on the day", you know, "the fiscal won't give a \_ about you, so don't rely on her" ... I think it could be along with, you know, like, if ASSIST had done their job or the witness people had been more involved then, or even the fiscal, they could of taken a role and given me that CD and said "look, I can't talk to you, I can't tell you how to give evidence because that's not my role" you know, "you're just another piece of evidence as far as I'm concerned so I can't get involved with you, but do you know what, look at this DVD, this'll tell you what to expect on the day, what my role is, what your role is, and your safety" and when I got to court it wasn't until after court that I realised that there was a Victim and Witness Act ... But then as a victim you're so traumatised, there's so much paperwork coming anyway, you know, would you look at it? So yes, something like I think a DVD that you can just sit back at night, put your feet up, and do you know it can be a, it doesn't have to be one of these horrible serious things, it can be, you can make it light-hearted, or, you know, they could have one for each court where it's a wee person going around saying "this is where you're going to be sitting and this is what the court is going to look like", just, I don't know, how many people go to court, I've never been to court before in my life, so.

**UK.V.04** - Just the overall, just like getting information on how things were going with the case and what would happen next and really to do with like why they sent him away rather than deal with it, the matter in hand.

**UK.V.05** - Yes I suppose so because I wasn't told about this victim's role or anything like that, so yeah.

**UK.V.07** - Because I think that last one, I think that's down to the individual themselves as to how much they want to be involved in it and I already knew the role and they were updating me anyway, so. But if I didn't want that then I could just say, "look, just tell me when he's been sentenced" basically, so".

**UK.V.08** - I kind of knew it was just giving evidence against her, so, I don't really know what

Please provide an analysis and your own interpretation of the results:

Interviewees' responses to Statement 1 vary and there appears to be no common thread. It is however interesting to observe that over half of the interviewees either disagreed to some extent with the statement that had been adequately supported despite the fact all the interviewees expressed positive views of at least one of the support

services that they were in contact with (with the exception of **UK.V.12** who expressed indifference in this regard). This discrepancy is likely down to the fact that most interviewees had at least one negative interaction, or relationship, with a criminal justice professional which would have effected their view of the experience overall.

Again it is difficult to identify any common threads from responses to Statements 2, 3 and 4. In relation to Statement 2 however it is interesting to note that whilst there is a nearly even half and half split between agreeing and disagreeing, those that agreed they would have benefited from more legal advice did so in stronger terms than those that disagreed.

## 4. Effective remedy

### 4.1. Views of practitioners

4.1.1. According to the interviewed practitioners, do the police view themselves as obliged to investigate whenever there is substantive suspicion that a crime has been committed or do they see themselves as enjoying a margin of discretion whether to investigate or not (Question Pr 4.1)?

There is no statutory test to determine the circumstances in which the police are obliged to investigate the report of a crime. Although 'reasonable suspicion' is a common standard in UK law relating to the exercise of police powers (Police and Criminal Evidence Act 1984) it operates only in relation to powers exercised against suspects. For example there must be reasonable suspicion that a person has committed an offence to render an arrest lawful. The concept of reasonable suspicion has no legal role to play in police decisions on whether to investigate a reported crime

Police officers clearly have first-hand knowledge of the circumstances which prompt a police investigation and all police officers interviewed (**UK.P.01**, **UK.P.02**, **UK.P.03** & **UK.P.05**) asserted strongly that the police always investigate allegations of violent conduct wherever this is some evidence to indicate that a crime has taken place; allegations which are not fully investigated are those where there is no evidence that can be followed. **UK.P.01**, a detective, explained that as a Criminal Investigation Department (CID) officer he becomes involved only in crimes of a certain seriousness. He acknowledged, however, that uniformed colleagues may have to make decisions to prioritise resources and therefore not fully investigate very minor crimes. Violent crime, even at the lower end of the scale of seriousness, would be unlikely to be categorised as 'minor'. **UK.P.02** also acknowledged that there is a level of operational discretion in relation to low level offences, but was confident that this would apply only to non-violent crime:

"Discretion is kind of at the street level. You know, particularly front line officers are meeting people... or talking to them or you know if someone's parked on double yellow lines, I know this isn't violent crime, but you know if someone's parked on double yellow lines and nipping in a shop, you know that's what the level of discretion I would say is in the police now." **UK.P.02**

Prosecutors endorsed this police account and described the decision on whether to investigate as entirely evidential, though there is inevitably some degree of subjectivity in assessing the strength of the evidence.

"[The police] work on exactly the same basis as us. Is there evidence from which they can conclude that there may be an offence committed?" **UK.J.01**

**UK.P.02** also spoke of an evidential threshold:

“You cannot put every file into the CPS because they would be overwhelmed... You can look at something yourself, whether the evidence is there. There is no point giving them it. But you’ve got to be able to justify it. You’re not just going, I can’t be bothered with that, don’t give that to the CPS. You’ve got to do a report that goes to your supervisor, that goes to the Detective Inspector, so it can come back at any of those points and say you need to do this, you need to do that.” **UK.P.02**

**UK.S.05** occasionally sees comments on the police computer system that the police decide to close a case on the day it is reported because there are no witnesses or no CCTV footage, or because the victim was under the influence of alcohol and cannot give an account of the incident. In those circumstances the investigation does not progress further as there is no evidence. Other victim support professionals agreed that decisions as to the allocation of police investigative resources are completely evidence based:

“[It’s about] resources... there is only so much investigative work that they can do in a certain amount of time, you know, with a certain amount of bodies... If there is sufficient evidence, there is a lot of evidence, then they’re more likely to go, you know, because they know they are going to get a really good outcome.’ **UK.S.02**

**UK.S.05** explained that victims often complain to the victim support organisation that the police have not investigated, but frequently he is able to determine that the police’s actions have simply not been visible to the victim or they did not have the outcome that the victim was seeking.

Judges placed considerable confidence in police officer’s abilities to exercise their discretion appropriately:

“I suppose there is a discretion in the police, yes, borne out of experience they will know whether they can do anything, I suppose, apart from anything else. And whether it’s going to be worth investigating depending on the nature of what is complained about. A serious crime I’m sure they will; something that’s trivial, like somebody parking his bike outside somebody’s gate, they’re probably not going to bother about that, you know, so it depends on the nature of the case.” **UK.J.10**

4.1.2. According to the interviewed practitioners, do public prosecutors view themselves as obliged to prosecute in any case where there are significant indications that a crime has been committed or do they see themselves as enjoying a margin of discretion in this regard (Question 4.2)?

Every prosecutor and 2 of the 3 judges interviewed described a structured statutory test to be followed in deciding whether or not to prosecute a case. In England & Wales the test is laid down in the Code for Crown Prosecutors and in Scotland it is laid down in the Crown Office and Procurator Fiscal Prosecution Code. The tests are phrased in similar terms and comprise an evidential stage and a public interest stage.

In England & Wales the prosecutor must judge whether there is sufficient reliable evidence, on which he/she can conclude that the jury is more likely than not to convict the suspect of the relevant offence (sufficient evidence to provide a realistic prospect of conviction). Secondly, in cases where there is sufficient evidence, the prosecutor must then go on to consider whether the prosecution is in the public interest.

In Scotland the evidential sufficiency test additionally contains a corroboration requirement, which requires evidence from at least two separate sources to establish the essential facts of the case, i.e. that the crime was committed; and that the accused was the perpetrator.

Both stages of the test engage the prosecutor’s discretion.

“I believe that in applying [the test prosecutors] are given a certain professional leeway if you like... they’re expected to use their own professional discretion and understanding of the information that they have to apply the test, subject always to the Lord Advocate’s guidance.” **UK.J.08**

Prosecutors (**UK.J.01, UK.J.04, UK.J.05, UK.J.06, UK.J.07, UK.J.11**) felt that their primary concern was the evidential test and the two judges who commented (**UK.J.08, UK.J.10**) endorsed that position. Although a number (**UK.J.01, UK.J.02, UK.J.06, UK.J.07, UK.J.8, UK.J.10**) acknowledged that an individual prosecutor has a margin of appreciation in applying the evidential stage of the test, they all stressed that the discretion is a structured one.

“[We have] lots of discretion, but you do it with the backdrop of your code. So you can’t just think ‘Oh, I can’t be bothered to prosecute this today, I’ll just drop it’, you have to have good reason and you have to follow the code... [We have to justify our decision] absolutely... We can be jailed!” **UK.J.06**

**UK.J.02** explained the checks and balances within the CPS to try and ensure a consistent approach to prosecution decisions. There are grades of prosecutor and decisions are reviewed by senior staff, particularly decisions on domestic violence and homophobic hate crime cases. Prosecutors must also comply with CPS charging standards. Nevertheless, discretionary decisions can quite reasonably vary.

“The code is the code and you have to follow the code as your bible, as far as making a decision is concerned, but... where cases are very close to the edge of being prosecuted or not then individual prosecutors inevitably may have a difference of opinion as to whether something is likely to result in conviction or not ... In clear cut cases I think everybody agrees but in other cases there may be shades of opinion, [and] that’s the nature of the beast.” **UK.J.04**

**UK.J.01** described the public interest test is ‘an amorphous beast that is not capable of definition’ but the general view (**UK.J.01, UK.J.03, UK.J.04, UK.J.07, UK.J.10**) was that it is rare that it is engaged. The public interest test weighs up factors such as the seriousness of the offence, the harm caused, whether it was a repeat offence and whether there are mitigating factors against prosecution. On the whole, the more serious the offence, the more likely it is to be prosecuted and there must be very strong reasons for a decision to prosecute to fall at this stage.

“Generally if there’s evidence that a crime’s been committed, you’re going to go through and prosecute it, unless there are strong factors tending against prosecution - somebody who’s particularly ill or there are particularly powerful circumstances around the reasons for its commission which would affect the public interest. Generally, as I say, it’s very rare to stop something in the public interest in my view, but you have to assess every case as it comes before you.” **UK.J.07**

4.1.3. As assessed by the interviewed practitioners, divided by professional groups, how often does it happen in cases concerning violent crimes that prosecution becomes time-barred because of a statute of limitation?

This occurs	S	P	J	L
Often or very often	1	0	0	NA
Occasionally	0	1	2	NA
Only in exceptional cases or not at all	2	2	9	NA

Don't know	3	1	0	NA
TOTAL	6	4	11	NA

Please provide an analysis and your own interpretation of the results:

There is no statute of limitations in criminal proceedings for serious offences (i.e. heard in the Crown Court) in England & Wales. Summary cases in the Magistrates' Court must be commenced within 6 months of the defendant's committal at court (s.127 of the Magistrates' Courts Act 1980). **UK.J.01** explained that additionally, but very rarely, a delayed prosecution for a serious offence can be challenged as an abuse of process.

Accordingly serious cases cannot become time-barred because of a statute of limitations. **UK.S.04**, who felt that prosecutions in violent cases often became time barred, when asked could not quantify any time limit or describe how it arose. Some interviews responded to this question in the context of other time limits, for example custody time limits. It is therefore clear that it is not simply statutory time limits which pressure prosecutors to bring cases to court quickly. **UK.J.06** also mentioned that delayed charges are not in the public interest and political pressure to ensure suspects are not left on police bail for extended periods.

In Scotland there are time limits for solemn (serious) crimes. Under s.65 of the Criminal Procedure (Scotland) Act 1995, the trial of an accused remanded in custody to await trial, must start within 110 days of full committal for trial and, where the accused is at liberty, the trial must start within 12 months of the indictment. However, s.65 provides that a High Court judge or a Sheriff can extend both periods on 'cause shown'. **UK.J.08** reported that time limits are rarely breached because the courts are generally willing to extend them. When deciding whether it would be in the overall interests of justice to extend the time limit the court takes into consideration factors such as: whether it would affect the likelihood of a fair trial; a weighing up of whether the prosecution would be in the public interest in prosecuting the case against the possible prejudice there might be to an accused person for the case being delayed further; and whether the accused is in custody or not.

4.1.4. According to the interviewed practitioners, if the police fail to carry out a thorough and effective investigation, does the victim have an effective means of challenging this failure (Question Pr 4.4)?

Almost all non-police interviewees (**UK.S.01, UK.S.02, UK.S.03, UK.S.04, UK.S.05, UK.J.01, UK.J.02, UK.J.03, UK.J.04, UK.J.05, UK.J.09, UK.J.10, UK.J.11**) felt that review mechanisms were available but that there was nothing on the same formal footing as the CPS Right to Review scheme (see 4.1.5 below).

Three of the 4 police officers interviewed (**UK.P.01, UK.P.02, UK.P.05**) gave detailed descriptions of the mechanism that victims can formally use to challenge a police decision not to investigate a crime. **UK.P.01** explained that whenever a crime is reported it is registered and the victim given a Force Wide Incidence Number (FIN) which allows the officer's full details to be identified. Quoting this FIN a victim can ask the officer's supervisor to review the decision not to investigate further. **UK.P.02** and **UK.P.05** also described an internal complaints mechanism which, in the first instance, allows a victim to make a complaint to an independent officer within the force. **UK.P.02** felt that frequently this is a sufficient response:

"They might be able to resolve it there and then and just explain it to them. Sometimes it's all it takes isn't it? 'I don't know if the officer has said exactly what happened but this is why we couldn't proceed

with the complaint'. And people walk out of the police station happy and they know that you've tried your best but you couldn't do it." **UK.P.02**

Interestingly, although **UK.P.03** stated that complaints are possible, he could offer no details about the procedure to be used.

**UK.P.01** felt that even prior to a formal intervention, most officers would respond positively to a victim who questioned a decision to not investigate further, particularly if the victim highlighted a possible avenue of investigation that had not been explored.. None of the police officers interviewed had any practical experience of a victim complaint about a reluctance to investigate and so were unable to speak to the effectiveness of the internal complaints mechanism though **UK.P.02** was willing to speculate about officers' reaction to complaints.

"Nobody likes [complaints]. From my point of view there isn't anything good about it but that's just me being selfish so it probably is alright. But I have no experience of it. And the problem is you get some people who will never ever ever be happy with what you do. And again its individuals isn't it? There are people out there that really really hate the police and will just complain and complain. And you can never resolve some **people's issues.**" **UK.P.02**

**UK.P.02** and **UK.P.05** also spoke of external complaints mechanisms if the victim is not satisfied with the outcome of an internal review. The decision not to investigate can be referred to (i) the Office of the local Police and Crime Commissioner (OPCC); (ii) the Independent Police Complaints Commission (IPCC); or (iii) the police's Professional Standards Department (PSD). **UK.P.05** favoured an IPCC referral as this organisation is completely independent and therefore offers a more effective reviewing mechanism but, again, none of the officers interviewed had any personal experience of these external complaints mechanisms.

Prosecutors and judges endorsed this description of an internal complaints mechanism (**UK.J.02, UK.J.05, UK.J.09, UK.J.10,**) and also suggested that victims can challenge decisions not to investigate through the complaints mechanisms of the Independent Police Complaints Commission (IPCC) in England & Wales and the Independent Police Complaints Commissioner (now the Police Investigations and Review Commissioner) in Scotland (**UK.J.02, UK.J.03, UK.J.10**). **UK.J.10** added that in Scotland, under the Police and Fire Reform Act 2012, the Chief Constable has a legal liability for the failure of any officer who fails to fulfil his/her duties as a police officer which would give victims a legal remedy if officers did not investigate a reported crime.

One victim support professional, as a result of personal experience, felt that the internal police complaint mechanisms, where a different police officer reviews another officer's decision, are not very effective. **UK.S.01** gave an example of an on-going complaint she is assisting with which involves a victim who displays some difficult behaviours. The reviewing officer – a Chief Inspector – decided to uphold the decision on the ground that the investigation was 'not in the public interest'. **UK.S.01** felt that this was not a decision that the police should make (as it is part of the prosecutor's statutory test) and moreover she felt that this was not, in fact, the genuine reason for the reviewing officer's decision:

"... he was so patronising... he is focusing on how difficult this [victim] can be. That is beside the point if there is an offence committed, that the [alleged perpetrator] has actually admitted, but it's almost like, they're making a judgment on worth. Do you know what I mean? So I was really shocked at that one, quite irate." **UK.S.01**

4.1.5. According to the interviewed practitioners, if the public prosecutor decides to discontinue prosecution, does the victim have an effective means of challenging this decision (Question Pr 4.5)?

The most significant check on a prosecutor's use of discretion is that the victim can ask for a decision to discontinue to be reviewed.

"You can still write a case off if you so desire but... you have got to bear in mind that a victim can ask for that decision to be reviewed." **UK.J.01**

In both England & Wales and Scotland there exist formal right to review schemes. However, prosecutors in England & Wales (**UK.J.02**, **UK.J.03**) indicated that victims may also use informal methods of objecting to a CPS decision before accessing the formal scheme. A victim may contact the police officer in the case who could discuss the matter with the CPS. Additionally, prosecutors are prepared to offer victims face-to-face meetings to explain a decision not to prosecute a violent crime. One victim support professional, however, felt that the CPS is not very accessible.

"They are very elusive the CPS, it is very hard to get hold of some of them. They usually leave the explanations to the police... They are just very uncontactable..., unless you can get the details from the police, you can't [get in touch]." **UK.S.01**

The formal Right to Review scheme is available:

"... when we've decided not to charge, we've decided to discontinue, or withdraw in the Magistrates' Court all charges by ending all proceedings, to offer no evidence in all proceedings, [or] to leave all charges in the proceedings to lie on file." **UK.J.06**

Additionally, the CPS has the right to ask the Attorney-General to appeal what it regards as an unduly lenient sentence in any case, and that CPS decisions on whether to request an appeal can also be reviewed as part of the Right to Review Scheme.

Victims are informed of their right to review, and how to access it, in the initial letter informing them that the case has been discontinued, though in some sensitive cases, the CPS asks the police officer in the case to convey the letter. Victims can request a review by letter, email or a telephone call. Once a victim has requested it, the prosecutor's manager conducts a local review and, if the issue cannot be resolved locally, the central review unit in London conducts a further review.

**UK.J.01** acknowledged the benefits to the victim of access to a formal 'Right to Review' scheme. Although the CPS lawyers inevitably dislike having their decisions called into question, prosecutors recognise the benefits of a transparent process for public confidence in the system.

"Of course the people should have a right to see, we're transparent and open in our decision-making. There is nothing to hide. If I've made a bad decision, then it should be reviewed." **UK.J.01**

However, whilst the general view of prosecutors (**UK.J.01**, **UK.J.02**, **UK.J.03**, **UK.J.05**, **UK.J.11**) is that the review system is an effective complaints mechanism, at least one suggested that it is rarely taken up.

"I've seen three, four plus cases that have been reinstated, I think the right is taken up very rarely even though it is notified in the letter. I'm not convinced that everyone reads the letter. The information is there, for them to use the process, there's no doubt that the information is available, but it doesn't seem to be used." **UK.J.03**

And this concern echoes those made in previous sections regarding the capacity of victims to take in information at a time of trauma in their lives.

4.1.6. To what extent did the interviewed practitioners, divided by professional groups, agree to the following statement (Question Pr 4.6)?

When people fall victim to violent crime they can legitimately expect that the police conduct a thorough investigation with a view to identifying offenders.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	5	1	0	0	0	6
<b>P</b>	1	3	0	0	0	4
<b>J</b>	5	5	0	0	1	11
<b>L</b>	NA	NA	NA	NA	NA	NA

Please provide an analysis and your own interpretation of the results:

Unsurprisingly, none of the criminal justice professionals in the project disagreed that when people fall victim to violent crime they can legitimately expect that the police conduct a thorough investigation with a view to identifying offenders. Such an expectation in a democratic society seems unremarkable. Only one interviewee offered a 'don't know' response and offered no explanation as to why.

## 4.2. Views of victims

4.2.1. According to the interviewed victims, what was the outcome of criminal proceedings in terms of offenders being convicted, of sanctions imposed and of compensation being awarded (Question V 4.1)?

Convictions were secured in the cases of seven of the interviewees (**UK.V.02, UK.V.05, UK.V.06, UK.V.07, UK.V.09, UK.V.11** and **UK.V.12**). Of the remaining five the offender was found not guilty in one case (**UK.V.10**), a not proven verdict was delivered in one (**UK.V.01**), two (**UK.V.03** and **UK.V.08**) were awaiting trial; and one (**UK.V.04**) did not proceed to a prosecution.

Of those cases where a conviction was secured: four custodial sentences were handed down (**UK.V.05, UK.V.06, UK.V.07** and **UK.V.12**), three of which were served (**UK.V.05, UK.V.07** and **UK.V.12**) and the remaining was not as time in pre-trial detention covered the sentence (**UK.V.06**). One suspended sentence was issued (**UK.V.11**). Community service and/or compensation orders were issued in the remaining two (**UK.V.02**, and **UK.V.09**).

Specifically, the following sanctions were handed down:

- **UK.V.02** - The offender was not given a custodial sentence and was instead instructed to pay the interviewee £2,000.

- **UK.V.05** - The offender was sentenced to a 10 years custodial sentence with a seven year extension, meaning that he would not automatically go up for parole half way through his sentence as is ordinary practice.
- **UK.V.06** - The offender was sentenced to a 24 month custodial sentence but, as he had been in pre-trial detention for 14 months, he was let out on remand.
- **UK.V.07** - The offender was sentenced to life imprisonment, of which he needed to serve a minimum of six years.
- **UK.V.09** - The offender was sentenced to 12 months community service and was ordered to attend an anger management programme and pay the court £250.
- **UK.V.11** - The offender was sentenced to a two year suspended sentence and community service.
- **UK.V.12** - The offender was sentenced to a 10 year custodial sentence.

Compensation orders were issued in two cases (**UK.V.02** and **UK.V.11**), interviewee's received £2,000 and £5,000 respectively.

4.2.2. Do interviewees assess the outcome of the proceedings as appropriate and satisfactory? What were their observations and the reasons they gave to support their assessments (Question V 4.2)?

Four interviewee's indicated that they were satisfied with the outcome of proceedings **UK.V.05**, **UK.V.07**, **UK.V.09**, and **UK.V.12**). Convictions were secured in all four cases where interviewee's indicated such a satisfaction.

**UK.V.05** thought that an appropriate sentence was given:

*"I think it was an appropriate sentence. Particularly when they explained what the extension meant, that it's not automatic parole. He will probably do the full 10 years. And then I've also talked to somebody from, a probation officer, who's been to see me and she said she'll come every year, she said that everything will damp down and quiet now but all the fear will come back when he's released, so we've already discussed kind of exclusion zones and I've said so long as he's not in Tenby I can deal with that. She said that's reasonable."* - **UK.V.05**

**UK.V.09** thought the decision struck a fair balance and was pleased that the perpetrator was not sentenced to imprisonment, as he thought it would badly impact on the mental health of his 5-year old daughter to visit her mother in prison.

*"I think the verdict was enough to make her realise that she can't do, it was just enough for her to know that she was in the wrong and not to do it again. I think it was enough. It wasn't too lenient, it wasn't too harsh"* - **UK.V.09**

Despite being satisfied overall with the outcome of proceedings, **UK.V.05** did however mention that she was unhappy with the fact that the CPS had only proceeded on a charge of sexual assault when she felt the offender had committed further offences against her. She acknowledged however that the CPS had probably made the right decision and ultimately trusted their professional opinion. This is potentially an indicator of one recurring theme raised by a number of interviewees within the "V" group throughout interviews regarding the lack of contact between victims and the CPS. It is possible that **UK.V.05** felt this way resulting from a lack of communication with the CPS as there are a number of policy and procedural reasons why a prosecutor would take a decision to proceed with a single charge. For example, lack of evidence, accepting a plea bargain to prevent a trial or because prosecutors are under a duty not to overburden the courts with additional charges that would not result in a heavier sentence for the offender.

Five interviewees (**UK.V.01**, **UK.V.02**, **UK.V.06**, **UK.V.10** and **UK.V.11**) responded that they were not satisfied with the outcome of proceedings.

**UK.V.01** and **UK.V.10** were both deeply unhappy with the fact the offender was not found guilty in their case and felt they had not received any justice for the offences committed against them

*“Who’s pleased with a not proven? You know, when everyone’s telling you it should have been a guilty and it wouldn’t have been a not guilty, it doesn’t help me at all. But that’s it, that’s the end of the case, he just gets to walk home and go back to his job and it was just, I don’t know.” - **UK.V.01***

*“I wanted a conviction, I want to be left alone. I have a right as a human being to be left alone from this guy, and he’s untouchable. He can do what he wants, when he wants, whatever he likes to anybody and it just goes on, and on, and on. But he’s left alone.” – **UK.V.10***

Despite the offender being convicted, **UK.V.02** was unhappy with the outcome of proceedings in relation to the sentence he received and due to the fact that she was left with no protection from the offender after the conclusion of the trial.

*“For some reason, I don’t know if it was just because it was such a lengthy process, I just feel hard done to and I just thought the system is not right, it’s broken, how can they do that to somebody? Put me through 17 months, give me my own money back and then he walks out with that, I mean he’s 57 now, a retired policeman, it doesn’t matter him if he’s got a conviction for assault, it just doesn’t mean a thing to him, he’s still going on about his daily business. And he gave me my own money back!” - **UK.V.02***

She felt that the guilty verdict coupled with the fact the only sanction given was a compensation order, had in essence, allowed her partner to pay to assault her.

*“I’m thinking 2016, you can batter your wife and pay? That’s all he got, was just to give me money and I think, what the hell. So that’s what she told me, “It’s a compensation order, he’s to give you £2000” and that’s it. And I’m sitting thinking, that’s it? And she said, “Well yeah, that’s a lot of money”. She didn’t know he’d stolen £56,000 off me before that, so I basically got my own money back for 17 months of hell... I felt are we still in Victorian times here?” - **UK.V.02***

**UK.V.02** was, in particular, not satisfied with the fact that she had not been granted a non-harassment order.

*“All I wanted through all of this was a non-harassment order so that man could not come near me, that’s all I wanted. At the time I wasn’t really caring if they put him in jail if they fined him, but they didn’t give me a non-harassment order, so that meant he could leave that court building, get in his car, drive back and come straight up the driveway and in the front door, and there’s nothing the law can do to stop that. That’s why every time, every intermediate diet, I asked for a non-harassment order, and the Sheriff denied it to me. And that’s when I went down this route of the Victims and Witness Act and I asked her months later why she denied it to me and she said, “because he promised not to come near you again”. This is a man she’s just convicted, 17 months he’s lied under oath. He actually took the witness stand which people never do in his position, but because he’s such an arrogant man he stood up and said, “I swear by almighty God” and then he just lied. The Sheriff said, “You’re a liar, I don’t believe what you’re saying” and then she fined him, gave him a compensation order and denied me a non-harassment order which she had in her power to give it to me.” - **UK.V.02***

**UK.V.06** was also displeased with the sanctions imposed on the offender as the perpetrator was let out of prison. Additionally she was unhappy with the fact that the court did not take into account the perpetrator’s history of domestic abuse.

*“Oh, no, no. And I wasn’t satisfied by the law anyway in Scotland. That you can’t look into his history, because he did have a history of being a woman-beater”. - **UK.V.06***

Interestingly, **UK.V.11** has a distinct take on the issue of sentencing that contradicts the views of **UK.V.02** and **UK.V.06**. His main issue with proceedings was largely down to the fact that statements of the good character of the offender were produced during the sentence hearing and reported in the newspaper. This was a larger issue to the interviewee than the punishment given:

*"It's not about punishment, I just think it reflects what you've done, and I don't think his outcome reflects what he's done ... This might sound stupid, but a newspaper article that doesn't talk about his good character. Even if he'd have walked away, it was the truth, I would've been happy with that ... I'm saying all this knowing fine well that as the victim, if somebody wants somebody punished, I'm the one rooting for the worst punishment and all that, but hindsight, in the real terms, it wouldn't matter to me what punishment he was given, because it's not about the punishment as such, it's about "look what you did". - **UK.V.11***

The remaining three interviewees cases were either pending trial (**UK.V.03** and **UK.V.08**) or a prosecution had not been brought (**UK.V.04**). Accordingly their ability to answer this question was necessarily limited.

Two interviewees (**UK.V.01** and **UK.V.03**) spoke about the unsatisfactory nature of the Scottish "not proven" verdict. This verdict, distinct to Scots law, has the same effect as a not guilty verdict.

*"I had a conversation with the Advocate Depute on the case. He actually mentioned, you know, prepare myself for a not guilty or a not proven because it was the most common response they get from juries ... and then he just said regardless of the outcome I'd done everything I could do and this kind of thing ... No one understands what not proven is, so what's the point of a not proven. Like it doesn't mean anything, it doesn't mean that his names on a register, it just means, Google says: it's enough evidence but not to convict. Something like that, some bullsh\*t answer is not proven. What's the point? I don't know." - **UK.V.01***

*"It's horrendous ... There's no closure, there's no nothing. It's horrible and I'm dreading getting it because I still have the messages he sent, I know how it made me feel, I'm at the stage where somebody has to say to him, "You can't do this, it's wrong". Until that happens he's going to keep on doing this, I know he's going to keep on doing this." - **UK.V.03***

Naturally **UK.V.04** was unsatisfied with the fact a prosecution had not been brought in her case and she felt as though the police were more concerned about the fact the offender was an irregular migrant than they were with about the offence committed against her.

*"[I feel] good that he's gone, not good that I didn't get justice for what he'd done ... It never went to trial. I never knew really what happened and I'll never understand. I don't know, anything about the whole situation, it was just like it just got swept under the carpet so I'll never know ... He [the police officer] just came round to the house and said, "You've no need to worry because he won't be walking the streets again" like round here, basically that was it, kind of left it there. I just felt they wanted him out the country rather than deal with the case in hand." - **UK.V.04***

The case of the remaining interviewee (**UK.V.08**), was pending at the time of the interview as the offender had not turned up to court on the day of the trial. Accordingly the outcome of proceedings was yet to be decided.

- 4.2.3. As concerns interviewees who found the outcome of proceedings at the court of first instance not satisfactory, were they informed of any means to challenge the decision taken by the court of first instance (Question V 4.3)?

Victims are not a party to criminal proceedings in the UK and therefore do not have a mechanism to challenge the decision of a court of first instance. Additionally, the ability for prosecutors to appeal decisions of such courts is

limited to doing so only on the basis of substantive points of law and as such appeals of this nature are rare. In light of this fact, during two interviews (**UK.V.02** and **UK.V.10**), the interviewer made a judgement not to pose this question to interviewees as they had become distressed and the interviewer did not want to mislead them that it might have been a possibility in their case.

Of the remaining three interviewees that were dissatisfied with the outcome of proceedings, one (**UK.V.01**) was not informed whether or not she could have challenged the decision, but stated that she would have liked to, and two (**UK.V.06** and **UK.V.10**) were informed by the prosecution that the only further action they could take would be through the civil courts.

#### 4.2.4. How did the interviewees assess their own influence on the outcome of the proceedings (Question V 4.4)?

Five of the interviewees (**UK.V.02**, **UK.V.05**, **UK.V.07**, **UK.V.09** and **UK.V.12**) felt that they had been able to influence the outcome of proceedings. All five interviewees who expressed this view received a guilty verdict in their case, suggesting a strong correlation between having a conviction secured and feeling influential over proceedings. Three of those (**UK.V.02**, **UK.V.07** and **UK.V.12**) thought their main mechanism for influencing proceedings was by giving evidence at trial.

*“Yes if I hadn’t turned up and given evidence I think he’d have wheedled his way out of it. I think it was all, and I’m not blowing my own trumpet, it was down to me. It was hours and hours on that witness stand, the ridiculous questions that his lawyer asked. The tenacity for me to keep going, 17 months, because they keep going, “Are you still wanting to proceed with this?” and I’m like, “Yes”. I’m sure a lot of women have just said, “You know what, forget it”. If I’d known what the outcome was I’d have just said after day one, “Do you know what, forget it, I’m withdrawing my...” I know you can’t withdraw your statement but I probably would have tried and wheedled out of it myself.” - **UK.V.02***

*“Yeah, it made a, I feel as if it [my evidence] made a huge difference.” - **UK.V.07***

*“Well obviously I influenced the outcome of proceedings because if I didn’t them what happened and stuff then they wouldn’t have known.” - **UK.V.12***

**UK.V.05** did not have to give evidence at trial as the offender in her case pleaded guilty. She felt however that she was able to influence the outcome of proceedings through her victim impact statement. She did not know the full extent to which her statement impacted the sentencing as she was aware of the existence of statutory sentencing limits however it made her feel involved and thought that the judge had it in mind when deciding the sentence and that it would have some way in countering the good character statements produced by the defence.

*“I thought no, because no barrister’s going to be able to express what happened better than I can, so I timed my speech, it lasted 5 minutes in total and I said what had happened and then I said “I’ve told you this because I want you to understand the full horror, terror and fear that I went through at that stage”. I said, “Now I’m going to talk to you about the impact it has had on me.”... We watched it on video as well ... The judge was reading from my victim impact statement, everybody in the court was watching me speak for my 5 minutes. [The Family Liaison Officer] said to me he’d heard it before and he said, “It’s very impactful” Literally the judge was quoting, and he was quoting from words in the beginning and words in the middle of it, so he obviously read it and to the fact if he was reading the victim impact in making his decision the obviously he was taking into account.” - **UK.V.05***

Only one interviewee (**UK.V.09**) mentioned feeling as though they were able to influence the outcome of proceedings in relation to the sanctions handed down to the offender. He felt that his concerns were taken into account at the trial in respect of not giving the offender, his partner, a custodial sentence as he had not wanted their child to be adversely affected by the proceedings.

Four interviewee's (**UK.V.01**, **UK.V.04**, **UK.V.10** and **UK.V.11**) felt as though they were not able to influence the outcome of proceedings.

*"I don't even know if it would've made a difference if I was there or not. You know, people were crying in the jury when I was giving evidence. Like, I don't know, I couldn't have answered the questions any better, I couldn't of been more honest in what I was saying and you know, even when my brother gave evidence, two different people were crying. It was just, you know, they obviously, at least those two people believed what had happened but no one had the guts to actually, you know, it's so stupid I wish a judge had made the decision, not the jury." - UK.V.01*

*"Naff all. Absolute waste of time. As I say I was grilled for 2 hours by his solicitor, firing all sorts of questions at me which had no connection to the case whatsoever, can't see the point. It's had no benefits, no nothing, as I say he was found not guilty." - UK.V.10*

*"It didn't change anything. All it was was look how, I felt a bit daft in a way. It was like, just me saying "look how worse off I am now". But then it was, because I'd let everyone in that room know how worse off I am, and then he walks out, so it's all negative, it isn't positive. It's bad feelings and the whole day was just walking away, it's daft how it ended up but I ended up seeing them all walking out of court jumping up and down, do you know what I mean?" - UK.V.11*

Despite feeling as though she had been able to influence the outcome of the proceedings in respect of the verdict **UK.V.02** did not feel as though she had been able to influence the sentence received by the offender and in particular referenced the denial of her requests for a non-harassment order.

*"I wrote to that Sheriff after she found him guilty and said, "Could you please, please give me a non-harassment order because there's not a day goes by that I look over that man's shoulder and he will come back, if you allow it, he will come back" and she never gave me it." - UK.V.02*

The trials in the remaining two interviewees cases (**UK.V.03** and **UK.V.08**) were pending at the time of the interviewee, accordingly the interviewees were not able to answer the question.

- 4.2.5. How did the interviewees assess the manner in which the police investigation was carried out; was it
- a) thorough and effective?
  - b) timely and efficient?
  - c) Any other observations (Question V 4.5)?

Seven interviewees (**UK.V.01**, **UK.V.02**, **UK.V.05**, **UK.V.06**, **UK.V.07**, **UK.V.09** and **UK.V.12**) thought that the police had conducted a thorough, effective and efficient investigation.

*"I was impressed, a young guy who came out just did his job, arrested Paul, charged him, put the evidence in front, tried to get bail [conditions], he got me bail [conditions] for the caravan because I was living out a caravan to get away from that man, the bail [conditions] included the caravan and the house, apart from the back garden, so he was really good." - UK.V.02*

*"I was telling the officers what had happened to me and then all of a sudden I said "oh God, I need to go for a wee", and I knew, because I've watch CSI Miami or whatever, I knew that I couldn't go to the loo until you know they get the first evidence, so at that stage, they were very good, they went and broke into the police station which was closed for the night and got an evidence kit and came round and gave me the gloves and the sterile thing and I could go and have a wee." - UK.V.06=5*

**UK.V.07, UK.V.09** and **UK.V.12** expressed only positives views of the police investigation. The remaining four interviewees (**UK.V.01, UK.V.02, UK.V.05** and **UK.V.06**) agreed that overall police had conducted a thorough, effective and efficient investigation but expressed some misgivings about certain aspects of their conduct.

**UK.V.01** thought that, from her perspective at the time, there were points where the police were too thorough and the level of interaction she had with them put her under a lot of stress.

*“I’d say they were thorough, very thorough, too thorough at some points that I was annoyed, but looking back they were doing their job. And yeah I was annoyed that they wanted this evidence and they wanted this and you know they wanted a VIPER parade and all this kind of thing so they had to do it. And I suppose they collected such a great case that I didn’t think it would have a, I didn’t think there would be any chance of it going forward but they did, so they did interviews with different people and, yeah, they were very thorough. I just would’ve wanted more support through it but they did a great job really.” - UK.V.01*

**UK.V.02** thought that there is inconsistency between officers in how thorough, effective and efficient of an approach they will take to their investigation and that a victim’s experience will ultimately depend on whoever gets assigned to their case. She also felt that some officers are desensitised to cases of domestic violence and that leads to a feeling that they do not care about the victims.

*“I think the police see so many of these things they become desensitised and I don’t even think they listen to what you’re saying I think they’re just, “Well you’re another one, you know, another domestic, right off to the police station, we’ll investigate this one”. I get the impression some of the police are just, I don’t know what the word is, like desensitised or, they just minimise it and it’s just another day at the office for them, whereas for people going through it it’s horrific, absolutely horrific.” - UK.V.02*

Similarly, **UK.V.05** explained that she had generally been dealt with very well by the police with one exception of an officer who asked her, much to her distress, if she had dreamt the assault happened.

*“Apart from one officer who asked me if I’d dreamed it. The first detective. She said a lot of women do dream, you know, because it was such a violent crime and I said, “I spent fifteen minutes talking to the b\*stard, I didn’t dream it”. And the other physical evidence showed that I didn’t dream it either, because I was extremely cut up inside.” - UK.V.05*

One quarter of interviewees (**UK.V.04, UK.V.08** and **UK.V.10**) thought that the police did not carry out a thorough, effective and efficient investigation in their case.

**UK.V.04** explained that the police had made errors with the forensic evidence in her case and thought that the police were more concerned with the offender’s irregular immigration status than they were with the offence he committed against her.

**UK.V.08** and **UK.V.10** both felt like they had not been taken seriously by the police. Both interviewees are male victims of crimes that are notoriously under reported in the UK: domestic violence and homophobic hate crime respectively.

**UK.V.08** thought that the police had not taken the investigation very seriously and had the impression they wanted to get it over and done with quickly. He thought this was largely down to the fact that he was a man reporting a domestic incident committed against him by a woman. Additionally, when the offender failed to turn up to the trial the police issued an arrest warrant but the interviewee felt they did not make efforts to actually arrest her.

*"I didn't think they were going to take it too serious. It's normally the other way around, it's a woman ringing up being assaulted, but a bloke being assaulted, I just thought they might think it was a joke or something. That's why I thought they were done pretty quick." - UK.V.08*

He felt unhappy with the police and believed that if it was a domestic incident where the offender was a man and the victim was a woman then the police would have made efforts to arrest the offender:

*"Pretty annoyed with the police. If it was a man hitting a woman he would've been arrested on the spot. Taken on the spot, but just because it was the other way round, they think it's a joke."*

**UK.V.10** described the manner in which the police conducted their investigation as "horrendous" and "shocking". It took the interviewee five years of reporting numerous incidents for the police to take any serious action against the offender, prior to that the interviewee felt that they had not properly investigated his claims.

*"Complete balls up. Does that sum it up? Complete balls up. All of it. Not taken seriously, not collecting vital evidence, not investigating anything properly, not seeing it through, being ignored ... If you call their version of investigating knocking on his door saying "we've had a report that you've superglued his door locks, did you?", "no", he said obviously no and that was it. That was fully investigating." - UK.V.10*

As the incidents and the interviewee's reports to the police increased, he felt as though the police did not take him seriously and thought of him as nuisance.

*"They thought I was a nuisance. Well I was treated like a nuisance, when it came to it." - UK.V.10*

The police then started to inform the interviewee that the incidents he was reporting were not a matter for the police and that he should take it up with the housing authority:

*"Then it got the point where it was getting really serious, where I was pleading and pleading for help and they were actually saying to me, on the 101 number which I was calling, "We've told you before, this is a housing issue, not a police issue" and they would refuse to take my calls ... They just didn't want to take any responsibility for his actions. They were just brushing it aside ... My housing association was saying to me and to my local MP, "These are police issues, they're not housing issues". If somebody's breaking windows, smashing up cars, calling you a faggot, supergluing the locks and stuff like that, these are all police issues which should be fully investigated and Kent police wouldn't acknowledge it, saying "we have fully investigated it" ... And also having a useless PCSO which was dealing with it, I was phoning her for help and she kept on saying to me that she had a mortgage to pay. In other words being treat as a nuisance. When things are clearly going on, house getting smashed up, outside, mud thrown against my windows, as I said, car smashed up, my mum being threatened by this particular guy, it's just gone on, and on, and on. Constant slamming of his front door, blasting loud music 24 hours, banging on interior walls, setting fire to my wheelie bins, stuff like that. Didn't care. These are all housing issues apparently."*

After five years of harassment and numerous reports the offender was finally charged however the interviewee still felt the police did not conduct a thorough and effective investigation. In particular, he mentioned the fact that the police had been slow to gather evidence and failed to arrest the offender when he breached his bail conditions on a number of occasions:

*"And things have not been taken seriously, again. It's like it took them two months to come and collect this footage. I sent an email to the arresting officer saying, "Can you please come and collect this footage". He hasn't come to collect it and the court case is on Monday, this was on the Friday and the guy said, "This is a matter of urgency, I'll come out and get it now". Why couldn't he have done that? It's*

*been sat there for two months waiting for him to come and collect it. It took them weeks to come and get a statement from my sister when this same guy was threatening my sister saying he was going to slit her throat, slit my throat and slit my mum's throat. Nothing was done about it. These were clearly breaches of bail conditions. There were six of them in the seven months and Kent police said "we can't find him", I said "you know where he is, he's down the other side of the village. Made no attempt, nothing." - UK.V.10*

The interviewee had the impression that the police expected this type of behaviour from the offender and therefore allowed him to continue because they felt as though there was nothing they could do about it. One officer even told the interviewee that the only way for the harassment to stop would be for the offender to die:

*"Just ignoring it and to go, "It's him again", because that's what he's known as, "[the offender] is just [the offender]" That's what they used to say to me. And I even had a comment off one of the officers what said to me, "You do realise the only way this is ever going to stop is when he drops down dead" ... Which is no comfort to me. He even said it to my mum. The only time this is ever going to stop is when he dies, and then you'll be left alone." - UK.V.10*

Overall, the interviewee was deeply unhappy with the way in which the police conducted their investigation. He noted however that there was one officer who was the exception and had taken him seriously:

*"I had to actually say to PC L. "I wish I'd met you 5 years ago because you're the only officer that's actually done anything" ... I've emailed him, "I wish I met you 5 years ago because this wouldn't have gone on for so long" ... He's been brilliant and he's always been respectful and treat me as a human being which is nice, and he's dealt with the problem." UK.V.10*

The interviewee explained how another officer had apologised to him for letting him down and explained that he had been too busy to deal with the interviewee's case in the way he would have liked:

*"He even told me that he failed me before the court case went, he apologised for it, he said, "I apologise to you", he said, "I've let you down massively". Not thinking that this evidence and stuff wasn't going to appear at the court case, so it turned out that he's been a massive failure because the case has gone tits up and this man's got off with it when all the information was there ... He said he was too busy. He said he was run off his feet." UK.V.10*

Despite agreeing that over all the police carried out a thorough, effective and efficient investigation in respect of the assault that she reported, **UK.V.02** spoke of an additional investigation that was undertaken by the National Rape Task Force, into her allegations of historical rape which she did not feel was dealt with adequately:

*"The national rape task force investigated the historical abuse going back 30 years. So they interviewed my sister, and one of them fell asleep. The person who's supposed to sit there and corroborate, the other policeman fell asleep while she was interviewing my sister. And then they phoned me up and said, "We're going to have to drop your investigation at the moment because somebody's been raped in Glasgow and it's a live, you know, event sort of thing, so, all hands on deck". That made me feel crap and that man falling asleep made me feel crap, so the police with regards to that, forget it." - UK.V.02*

Similarly, **UK.V.03**, also a victim of domestic violence, felt that the police had listened to her in relation to the offence that had been prosecuted and was awaiting trial but that they had previously not taken any action following her reporting a number of times.

*"This time, the one that's going on just now? I feel they listened. Before, I don't know. Part of me felt as if they were just showing up because they had to." - UK.V.03*

She thought perhaps the police were taking the current case more seriously because the incident involved the offender issuing threats to hospital staff as well as the interviewee:

*“There was other people, because as I say he’d been on the phone to the hospital, threatening staff there as well, and they put security measures in place at the hospital. Whether that helped them say, “Yeah, there’s a bigger picture here” or what, I don’t know.” - UK.V.03*

On one occasion, after reporting threatening phone calls and text messages, she was advised by the attending officer to change her phone number:

*“We separated, I’d had enough ... He started abusive texts, phone calls, I got the police involved. I had to fill out the forms with police, I don’t know if it’s the same all over Britain but because you’ve been married you’ve got to fill in forms because they then class it as domestic abuse and it goes through if you’ve been the victim of abuse, physical, mental, anything like that. Done all that and the police’s advice was, “Change your phone number”. I couldn’t answer the phone, put answer machine on, so the messages were there, the threats were there, “You’re going to pay for this, you don’t want me to come to the house because you know what’s going to happen”. And the police never done anything. But they told me to change my phone number.” - UK.V.03*

The interviewee also stated that, in the past, she had felt as though the police had a negative shift in attitude on hearing that she had not reported the abuse earlier:

*“When you fill out the domestic, you’re told that it’s classed as domestic abuse because you were married, and you start filling in the forms and you get asked, “Did you report him for any of these before?” and you say, “No”. You feel as if there’s a shift, there’s a change.” - UK.V.03*

Owing to the fact that **UK.V.11** was unconscious following the assault and the brain injury he sustained caused him to lose his memory, he did not know how the police had conducted their investigation.

4.2.6. To what extent did the interviewed victims agree to the following statements (Question V 4.6)?

	Strongly agree	Rather agree	Rather disagree	Strongly disagree	Don't know	TOTAL
4.2.6.1 Overall, I would have expected to be given a more important role in the proceedings.	2 (UK.V.04, UK.V.06)	4 (UK.V.01, UK.V.02, UK.V.10, UK.V.11)	4 (UK.V.07, UK.V.08, UK.V.09, UK.V.12,)	1 (UK.V.05)	1 (UK.V.03)	12
4.2.6.2 The police appeared to be committed to an effective investigation.	6 (UK.V.01, UK.V.05, UK.V.06, UK.V.07, UK.V.09, UK.V.12)	2 (UK.V.02, UK.V.11)	1 (UK.V.08)	2 (UK.V.04, UK.V.10)	1 (UK.V.03)	12
Comments added by interviewees.						
<b>Statement 1:</b>						

**UK.V.01**

You know, especially when you're called a witness you don't really feel like, I know it's not my case, it was: the case better for the public that he was sent down or however they explained it to me. But you know, being a witness in something you spent so long doing, it's just insulting really. So I'd say agree. But I wouldn't say strongly agree because there's more important things I suppose, you know getting support and things that I would've found more helpful.

**UK.V.02**

Again like what we said before, maybe meeting the procurator fiscal, going over how your evidence is, how you give your evidence. She wouldn't know you from Adam, I could've just turned up on the day and been some kind of, I don't know, anybody. I could've just made all this stuff up. They just take a big risk that you are a genuine person. I suppose the police would've raised any flags or whatever. I'm not saying it wasn't taken seriously, maybe they don't have the resources, but 17 months of delays and you know ... I can't complain because she got a conviction so I just probably think it would of been nice to meet the fiscal, I did ask if I could come in and read my statement because it's 17 months so I asked them if I could come in and read over my statement that I gave to the police and they made this, "Oh, well, it's in another building and...", they just made it as if I was being a pain so I never got to read my statement. So things like that you could have somebody saying, "Of course you can" or like, "We'll bring it round to you" or, "Come in and we'll sit with you, we'll send you a copy". I don't know if you're allowed that but just, they just didn't seem to bother. At least the option should be there, I'm sure a lot of people don't want to have a bigger role, but if you want to you should of at least had a meeting with the procurator fiscals department or something.

**UK.V.03**

Neither agree or disagree because I wasn't sure, I was, when I went to the court with the kids I was told "you go in, you answer the questions", you get told to keep the answers short and sweet, and that was fine. I stayed in court because my daughter wanted to hear the outcome of the trial, and the only way she could do that was sitting in the court after she'd given evidence, and the kids all gave their evidence first and I was last, and then it was him to give his evidence. And he was telling great big stories, instead of kind of, you know, we were told to keep it short and sweet. And it's frustrating.

**UK.V.04**

To, you know, have my say in the matter and then throughout the whole case. I don't know, just felt like they just kind of questioned me and pushed me to the side while they were doing all their investigations and things. Then the investigation ended up about him being something else rather than dealing with the case in hand. And I wasn't the only one that he'd done it to either.

**UK.V.05**

No I think I was given a quite important role.

**UK.V.08**

No, I disagree, because giving evidence is just giving evidence, as far as I'm concerned.

**UK.V.10**

I agree. Because I wanted a conviction, I want to be left alone. I have a right as a human being to be left alone from this guy, and he's untouchable. He can do what he wants, when he wants, whatever he likes to anybody and it just goes on, and on, and on. But he's left alone.

**UK.V.11**

So I'm the victim thinking "this is my life, that court case is what happened to me in my head", but I'm just stood in the public gallery ... I think if you sat down with the police for an hour and just got your questions off your chest that would be a good thing. It's a massive deal, I don't see why a phone call every other day is such a big thing on such a big deal. It's not about support, it's not about getting treated, it's just about staying in the loop.

**Statement 2:****UK.V.02**

I suppose, I would have to say I agree overall, there was a couple of rotten eggs but I agree. Especially with the assault, in fact I was quite excited I think because Paul was like a senior officer and the police were quite, oh, you know, I don't want to say like a notch in the belt's not the right way of putting it but I think they were, "Oh fab, I'm getting a senior officer arrested and charged, that'll look good for my career" sort of thing. There was a wee bit of excitement going on so I think possibly it worked in my favour, whereas I thought it would've worked the other way I thought they would have been "oh I'm not touching him, he's one of us" but it wasn't like that.

**UK.V.03**

**Interviewee:** I don't really have one opinion or other, well they went and done their job, they arrested him, they charged him, and it's going through the court process, so, they've done their job.

**Interviewer:** Do you think they were committed to doing that?

**Interviewee:** That time yeah, previous occasions, no.

**UK.V.07**

Because I was, because when they came out to, when I gave them the second statement I kind of got the impression that they'd been after him for a while. It kind of put me a wee bit more at ease hearing them about everything, so. And that's how I was like, I need to do this, so. I only need to tell it twice, and that's it. That was the way I seen it at the same I wanted to talk about the fact of what happened twice to get my justice, rather than, I don't want to talk about all the constant, so, and that's it, it's done.

**UK.V.08**

I just think because it was so early in the morning and drink had been involved they thought it was stupid, they would just get it over and done with. They probably thought I wouldn't even take it to court.

**UK.V.10**

As I say, took 5 years to even listen to me.

**UK.V.11**

I agree, because if that person was the person he was, with that good character, even if I wasn't, even if I was the victim it wouldn't be the end of the world if he walked away from that if it was a one off thing, and if that's what the judge has been told and that's what the judge has in front of him I can't argue with that. But when you know something different and you are the victim.

Please provide an analysis and your own interpretation of the results:

All seven interviewees (UK.V.02, UK.V.05, UK.V.06, UK.V.07, UK.V.09, UK.V.11 and UK.V.12) whose cases resulted in a conviction thought that the police had been committed to an effective investigation and five of them *strongly* agreed with the statement. Throughout the interviews it was apparent that the police are the group of criminal justice professionals that the victims have the greatest exposure to and hence their view of proceedings is largely seen through the police lens with little information about how prosecutors are putting cases together. Additionally, either because they were a witness during the trial; because the offender pleaded guilty; or because they would find the trial traumatic, none of the interviewees were actually present throughout the whole trial. It could therefore be inferred that the seven interviewees thought that an effective police investigation was the main contribution to the offender being found guilty in their cases. In addition to that seven, UK.V.01, also strongly agreed that the police had been committed. This is in line with the fact that she had expressed that the police had conducted a thorough, at points almost too thorough, investigation and had earlier on in the interview blamed the jury for not finding the offender guilty.

## 5. Victims' active participation

### 5.1. Views of practitioners

5.1.1. According to the interviewed practitioners, are victims heard during the proceedings at important stages or before decisions are taken (Question Pr 5.1)?

#### Victim Input to Charging or Prosecution Decisions

Police officers (UK.P.01, UK.P.02, UK.P.03, UK.P.05) described respecting victims' views not to pursue criminal prosecutions but made little or no mention of considering victims views on the shape or direction of charge/prosecution. UK.P.01 and UK.P.05, for example, described the investigative policy adopted by their police forces as being 'entirely victim-led'. This means that the police do not pursue an investigation where a victim has initially reported but subsequently makes a retraction statement, or a where a victim has been uncooperative from the outset, even where there is other evidence to indicate that a crime has taken place. Similarly, UK.P.03 said that the police do take the victim's views into account after they have given a statement in that, if victims retract their statements, officers do not pursue the investigation. UK.P.02 expressed the view that though the statutory test for prosecution limits victims' abilities to influence proceedings, the police nevertheless take account of a victim's views at every stage of the process. However, the example he gave to illustrate this again related to a victim's decision not to cooperate with criminal proceedings:

"I think we talk about victims now, it has changed a lot. A victim, when you're coming forward, you would go straight through the statement, straight into the system. Whereas now you make more of a judgment on it, you would find out what has happened to them but also what they want. Now it is also about looking after them and safeguarding. And that's your initial outlook on it. Making sure they are all right and finding out exactly what they want, because some people at that point don't want to go in the criminal justice system." UK.P.02

UK.P.05 also spoke of victim involvement in decisions only in terms of a reluctance or refusal to cooperate with criminal proceedings and the impact that may have on the speed of the investigation.

Few professionals other than prosecutors were able to give any other examples of situations where the victim is able to shape the progress of a case in any significant way. UK.S.01 felt that decisions on whether

and how to progress are largely governed by the evidence that the police have been able to gather rather than the victim's views. Furthermore, the only situation in which a victim may be influential is if the police investigation has been lacking in some way. In those situations, a victim may exercise 'pester power' to ensure that matters are looked at anew, but in general victims are not sufficiently robust to be able to exert any influence. **UK.S.03** offered the view that victims are heard only when they have someone familiar with the system, such as a victim support professional, to advocate on their behalf.

Prosecutors were best placed to offer opinions on whether structurally there is scope for victim input in charging and prosecution decisions. Some prosecutors suggested that there are some, albeit limited, opportunities to take the victim's views into account as one factor amongst a number which influences the direction of criminal proceedings. **UK.J.02**, for example, said that the victim's views may be an important but not conclusive factor at the public interest stage of the statutory test, and other prosecutors expanded on why this may be appropriate. **UK.J.03** felt that a prosecutor deciding whether a prosecution is in the public interest may seek the views of the victim if, for example, the offender has mental health problems. Similarly **UK.J.05** said that he may consult the victim at the second stage of the statutory test, as it might not be in the public interest to prosecute a minor assault if the victim does not wish to pursue a prosecution. **UK.J.11** explained that as part of the victim strategy in serious sexual offences the procurator fiscal is obliged to canvas the views of the victims during the decision making process which must be assessed under the public interest test.

"Particularly if a decision is made not to go ahead, at least then the victim knows their views were considered and taken into account... I would hope that's an important part in increasing confidence in the system". **UK.J.11**

**UK.J.05** also gave an example of where a prosecutor might consult the victim (through the officer) to better understand the evidence and the damage that has been done to the victim before deciding on the charge to be laid.

"For example, you could have a [domestic violence] assault... I'd want to know what... injuries did the person suffer, what's the prognosis, is it something that would result in permanent scarring, what kind of work does the person do? For example, if the person is a model, and you now have a gash down the side of your face that's obviously going to impact on you more than somebody whose work doesn't really involve facial contact. So I would want to know the... extent of the damage that has been done to the victim, and that may to a large extent determine the level of the actual offence." **UK.J.05**

But generally, the decision at the evidential stage of the test, and the selection of charge, are not decisions which make allowance for victims' views to be sought as they are legal issues that require legal knowledge.

"The offence charge is a legal point rather than a discussion point, a complainant may want someone to be charged with a GBH, serious assault, but if it's common assault it's common assault. There's no movement on it so I would say that that wouldn't be consulted." **UK.J.03**

Thus in all situations it was clear that though there is scope to canvas and listen to victims' views, the prosecutor retains the decision making power. In Scotland there is even less scope for considering a victim's views:

"I would have thought that their views would only be of marginal relevance compared to the question of whether there is a sufficiency of evidence. In a system where you require corroboration, then you either have a sufficiency of evidence or you don't have a sufficiency of evidence. If you don't have a sufficiency of evidence then you can't proceed with the case, whatever the victim thinks." **UK.J.08**

Thus, prosecutors and judges seem to confirm the views of police officers and prosecutors that the only significant decision of the victim to be acted upon is a refusal to participate in criminal proceedings, and even then that view is not always respected.

### Domestic Violence

A refusal to participate in criminal proceedings most frequently happens in domestic violence cases, and a common pattern of behaviour is for the victim to initially report but then decide to withdraw his/her co-operation with the prosecution. **UK.J.06** explained that prosecutors are able to take victim's reluctance to cooperate with the prosecution into account under the public interest test.

"[If] we get retraction statements... we have a look and [even though] we may have the evidence, we might decide it's not in the public interest to proceed, because the victim is at risk if we do, or she, or he, has put a pretty strong case forward as to why we shouldn't proceed." **UK.J.06**

There are varying views amongst judges and prosecutors as to whether the view of a victim of domestic violence on whether or not to prosecute should be respected. On the one hand there is the argument that the public interest in prosecuting should take precedence over the wishes of the victim.

"In domestic cases for example, I think they would not take that into account, I would hope that they would not take it into account, because... pressure's been put on the victim... and the crown has to stand behind, away from that." **UK.J.10**

"I think that that will be the case from time to time, because the interests of society at large and the suppression of violent crime have to sometimes outweigh the wishes of the victim not to go to court." **UK.J.08**

On the other, there is the view that proceeding with a prosecution in the face of victim opposition may put the victim or any children in danger:

"That is where we balance out the public interest: is it in the public interest to proceed with the case, despite her reluctance, because there are safeguarding issues for her and her children." **UK.J.01**

The CPS has the option to compel the victim to attend court via a summons but will do so only after an individualised risk assessment, based on a report from the police and which takes account of factors such as escalating violence, pregnancy and whether the violence was committed in front of children. The decision as to the best course of action, to summons the victim and compel him/her to appear at court or discontinue the case, is a difficult and complex one which, as **UK.J.02** highlighted, is easier in cases where the defendant is a repeat offender.

Prosecutors (**UK.J.01**, **UK.J.02**, **UK.J.06**) seemed acutely aware that that proceeding with a domestic violence prosecution against the wishes of the victim by issuing a summons is a sensitive matter. **UK.J.02** was alert to the danger that victims already feeling disempowered through the offence may then also view the summons as a second disempowering act by the State. However, some victim support services have reported to prosecutors that the use of a summons can in fact be a positive mechanism for victims who know the perpetrator. Compelling the victim to give evidence takes the decision away from him/her and removes any personal responsibility for testifying from the victim. **UK.J.01** nevertheless made clear that issuing a summons is not a guarantee of securing a reluctant victim's evidence. Once in the witness box the victim may be highly reluctant to answer questions and the court's only available response is to initiate contempt proceedings, which they are reluctant to do.

Post the decision to prosecute, there are two further opportunities to take victim's views into account. **UK.J.09**, a judge, would expect the police or prosecution to establish the victims' views on whether the defendant should be released on bail and if so whether any conditions should apply and place those views before the court. Secondly prosecutors may – and some feel duty bound to - seek the victim's views when considering the acceptance of a guilty plea to a reduced charge, though they may not always accommodate those views.

“... if there is a compromise with the police and we're taking a lesser plea, sometimes we try to deal with it to the advantage of the victim but sometimes we don't, because there may be features of public interest criteria. That is hard, when you have to say to them “your view is important to me, but it is my decision at the end of the day.” **UK.J.01**

That the victim's views are not determinative is not always properly explained to the victim. **UK.S.06** took the view that it is not in the best interests of victims to consult them if prosecutors are not going act on their views:

“Of course having taken the view of the victim, it's going to be very difficult if that view is then ignored. And I don't think from the discussion that I've heard that that is made clear... It's just going to cause the victim upset, ‘Well why did they ask us if they chose to ignore us?’ So it's going to be worse for the victim having had their views sought and then [ignored].” **UK.S.06**

### Victim Personal Statements

The one significant point in criminal proceedings in which structural allowance is made for victim input is the Victim Personal Statement. **UK.P.01** described how victims are given the opportunity to make a Victim Personal Statement, which is read out in court following conviction but prior to sentence and offers the victim's perspective on the impact of the crime. The statement sets out the extent to which a victim has been affected by the crime, including the emotional, physical, psychological and financial effects on them. The victim is asked to write this statement after he/she has given his/her witness statement, though it can be completed or updated later in the process as the scale of the impact on the victim becomes clearer. **UK.S.03** explained that if the defendant is acquitted the victim may be frustrated at being denied an official opportunity to air his/her full sense of grievance but accepted that such a statement cannot be incorporated into the prosecution case as it would inappropriately influence the jury's consideration of the evidence before it.

**UK.J.10**, a judge, explained how the Victim Personal Statement is very much to ensure that the judge is fully informed about the harm caused to the victim as a result of the crime, but the victim's views on appropriate sentence are not considered. It is for the judge to decide on the appropriate sentence, taking sentencing guidelines into account in order to ensure that justice is equally distributed.

**UK.S.06** seemed to recognise that Victim Personal Statements have limited, if any, impact on the quantum of sentence imposed and thought that victims had unrealistic expectations of the extent of their influence as a result of the way in which the statements are explained to them by the police.

5.1.2. During the investigation, are victims entitled to ask that relevant evidence is secured (Question Pr 5.2)?

In England, Wales and Scotland victims have no right to ask that evidence is secured, though the content of their complaint may play a role in informing police decisions on what may or may not be relevant to the investigation.

**UK.P.01** commented that though he did not see it as the victim's job to decide what evidence might or might not be relevant, he did see a role for the victim in assisting the police to uncover all matters that are relevant to the investigation.

5.1.3. Are victims entitled, during court trial, to call for any evidence they view as relevant (Question Pr 5.3)?

Victims have no formal role in criminal proceedings in England, Wales and Scotland and do not have the right to call evidence at trial

**UK.P.02** and **UK.P.05** asserted that, despite this not being a formal right, they would secure any evidence suggested by the victim and assess whether it was relevant. If it was not relevant, police officers would explain why it was not to the victim. **UK.P.02** went further and spoke specifically of third-party material such as medical or social services records, which officers would secure even if it would undermine the investigation:

"If somebody says there's that piece of evidence there go and get it, I would do it. And if something undermines [your case]... I would put that in the schedule [of evidence], saying look we've been to social services, got these records and this person made three claims of rape which were proved to be false five years ago. You've got to disclose it... It's a double edged sword, but that's the way you've got to be now, open and honest." **UK.P.02**

**UK.J.01** mentioned, in this regard, the option of holding a pre-trial witness interview with the victim (or indeed any witness). However, the interview is arranged at the behest of the prosecutor rather than the victim and resource constraints mean that these interviews are rarely held and take place only for serious offences. The evidence of other witnesses cannot be discussed at this meeting as it may influence the victim's testimony, though the prosecutor can outline the defendant's declared defence. Consequently it is not an opportunity for the victim to influence the evidential content of the prosecution case.

5.1.4. According to the interviewed practitioners, are victims entitled, during court trial, to ask questions or have questions being put to witnesses (Question Pr 5.4)?

Victims have no formal role in criminal proceedings in England & Wales and do not have the right to ask for specified questions to be put to other witnesses at trial.

**UK.J.01** did not feel that it would be appropriate to allow victims to suggest pre-trial questions that the prosecuting advocate might ask at trial. His concern was that few victims understand the adversarial trial process and as a consequence would be likely to ask for irrelevant questions to be posed. It would thus consume significant amounts of prosecutors' time in explaining why the victim's questions would be unlikely to be allowed by the judge, but would also risk intensifying the victim's dissatisfaction with the trial process.

"[In] the system we have, which is an adversarial one, the advocate has a hard enough job in court without somebody poking them in the back, or handing them written questions." **UK.J.01**

"The court is not going to allow us to ask what would be potentially irrelevant to the case... [and] a victim might feel let down that a specific question can't be asked." **UK.J.03**

“Well the obvious drawback is that, I suppose, many people that haven’t got experience of the legal system perhaps don’t have an understanding as to what is a relevant question that would assist a court in helping it come to a decision and what might be just prejudicial material, or material that is just counterproductive and just harms the case.” **UK.J.04**

Judicial support for the idea was similarly lacking:

“I think it would be a distraction from the purpose of the trial, which is to ascertain whether the individual is guilty or not of the crime charged... They might have a different interest, they might not be fully conversant with what the issues in the trial which are actually of relevance and importance are, and they might even undermine the prospect of getting a conviction by the nature of the question which is put **UK.J.08**

“Under no circumstances ... Because the crown know what all the witnesses are saying, they know for example what the accused’s previous convictions are if they have any, they know what’s relevant in the trial and if a victim was to ask questions it might infringe all sorts of rules of evidence.” **UK.J.10**

Neither did all victim support professionals feel this would be a good idea:

“I think we’ve got barristers in place to support the victims. And really, the knowledge and the experience that they have – why would a witness want to do that?” **UK.S.04**

But some took a more open minded view of the idea and suggested that it would bring another dynamic to the trial.

“Interesting, I’d never really thought of it from that perspective, but in a way, why ever not... If you were defending you wouldn’t dream of cross-examining someone without having some input from your client....” **UK.J.07**

And some victim support professionals were also instinctively attracted to the idea:

“I do think they should have that right. Because you do find that people come out and think “why wasn’t this asked” or “I wish I could have asked this” or I’ve had families “Why did the prosecutor not ask this or that when it was clear that this”. I think they should have that right... obviously the prosecutors are more experienced in the legal system. But sometimes prosecutors can miss something important – we’re all human. So it might be something that is relevant or irrelevant but it could make the victims experience better if they felt that they were being heard.” **UK.S.03**

Though **UK.S.01**, who also supported the idea, also recognised that such a reform would need to be very carefully considered in the context of the adversarial system of criminal justice.

#### 5.1.5. Which safeguards are implemented, if any, ensuring that victims’ participation in proceedings is not impeded or rendered impossible by the victim’s irregular status of residence (Question Pr 5.5)?

Few interviewees had any experience of an irregular migrant as a victim of crime who had also reported the offence to police. Prosecutors seemed the most knowledgeable as to whether an irregular migrant would be allowed to remain in the country pending criminal proceedings and felt that the CPS or the police would liaise with the Home Office to ensure that victims are allowed to remain in the UK until the proceedings have been completed. **UK.J.10** questioned the continued necessity for them to remain in the country, however, given the increasing use of CCTV links for witnesses to give evidence from overseas:

“... their evidence can be taken anyway, via CCTV links and the like. So, the fact that they’re a migrant is, I don’t think, itself of any relevance.” **UK.J.10**

A prosecutor and a judge (**UK.J.02, UK.J.10**) questioned the likelihood of an irregular migrant coming forward to report a crime for fear of drawing attention to their migration status. Thus reports of crimes against irregular migrants tend to come from a third party or the emergency services.

5.1.6. To what extent did the interviewed practitioners, divided by professional groups, agree to the following statement (Question Pr 5.6)?

Victims should be offered more opportunities to actively participate in the proceedings.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	0	2	2	0	2	6
<b>P</b>	2	0	1	1	0	4
<b>J</b>	0	5	6	0	0	11
<b>L</b>	NA	NA	NA	NA	NA	NA

Please provide an analysis and your own interpretation of the results:

Those interviewees who seemed to recognise the significance of the question tended to disagree with the statement, some because they could not conceive structurally how greater involvement could be accommodated:

“I can’t see how much more they can participate in proceedings.” **UK.S.01**

“The prosecution is in the public interest, by the state. We don’t have a system of private prosecutions in this country, any inroads into the public prosecution I think would be a retrograde step... In court [victims] are witnesses and that’s it... There’s nothing more they could do in court as far as I can see.” **UK.J.10**

“I would say it’s about right where we are... Physically what else they could do to be more involved? I don’t think it’s appropriate for them to have access to the file, I don’t think it would be appropriate for them to be involved in asking questions, I think the balance is about right.” **UK.J.03**

“You would have emotions running high, you would have disruption to the smooth flow of the case, you could confuse the jury as to what is going on.” **UK.S.06** “I agree and I don’t agree. I agree because it is all about them and they have the right to know what is happening with their case... But I disagree because we have legal representatives that... know the court system, they know what they need and what they don’t need. Having somebody wanting to speak with them – because some people would want to be there every day 24/7 – that would take their eye of putting the case together.” **UK.S.04**

And others were seemingly conscious of the detrimental impact involvement with the criminal justice system can have on victims.

“I don’t see any scope, any real need, to involve the victim in any more... I think there are enough stresses and pressures on the victim as it is without over involving them in things that perhaps they don’t need to be involved in” **UK.P.01**

Professionals who agreed with the statement seemed to interpret the question as asking whether victims should be made to feel that they are an important and integral part of the process rather than that they have any substantive influence over the shape and direction of the process. Two specialist sexual offence officers strongly agreed with the statement. Both came from police forces where they described decisions on whether to progress investigations as ‘entirely victim-led’ but neither made any further comment on how greater participation could be achieved, either in response to this statement or within their answers to the preceding Section 5 questions.

One interviewee perhaps summed up the confusion which resulted from asking an abstract question:

“There’s so much complexity about what participate means and everyone means different things when they talk about it.” **UK.J.11**

## 5.2. Views of victims

5.2.1. According to the victims interviewed, were they heard during the proceedings at important stages or before decisions were taken (Question V 5.1)?

A quarter of interviewees (**UK.V.07**, **UK.V.09** and **UK.V.12**) felt that they had been heard at important stages throughout the proceedings. **UK.V.07** felt that the police took her seriously and arrested the perpetrator because of her statement. Similarly **UK.V.09** felt that he was listened to by the police and given a choice in relation to his participation in proceedings.

*“Yeah, yeah, even though I withdrew my statement they were very, very mindful and respectful of my choice. Even though they advised that I didn’t, they still took my choice into account”.*

**UK.V.12**, like **UK.V.09**, did not testify at court but nonetheless felt he was heard throughout the proceedings but did not want to be involved more than necessary.

Two thirds of the interviewees (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.04**, **UK.V.05**, **UK.V.06**, **UK.V.08** and **UK.V.10**) however responded that their views had not been sought throughout proceedings. Despite responding that her views had not been sought, other than when she was asked to provide a victim impact statement, **UK.V.05** thought that there would not have been any other times where it would have been appropriate for her to comment.

Within this group three interviewees (**UK.V.01**, **UK.V.02** and **UK.V.04**), all victims of gender-based violence, felt they had to take it upon themselves to communicate their views to criminal justice professionals. However when they did they all felt as though their views were ignored.

*“I had no, my voice was never heard. I gave them, basically I was just giving everything they wanted and, yeah, I had no opinion in the matter. Most of the time I didn’t know, I either didn’t know what was happening or they didn’t care what I thought about different things, because they couldn’t change it anyway ... I had to put my foot down with some things or else I’d just get walked over by everybody.” - **UK.V.01***

*“They [ASSIST] were so bad, they didn’t phone me before one of his, his very first intermediate diet they didn’t get in touch so if he’d plead guilty, I wouldn’t of been able to put my, “I’m not reconciling, I don’t want him back, I want the bail continued”. My main priority was to get a non-harassment order, so it was their job to pass that information over and the very first intermediate diet they didn’t get in touch, they hadn’t even spoken to me so if he’d plead guilty he could of just driven straight back and in the front door, because they hadn’t even got there in time to ask for a non-harassment order ... “I took it upon myself 5 days before his intermediate diets to phone and say “I’m not reconciling, I want my divorce and I want a non-harassment order, if he pleads not guilty or guilty, I want a non-harassment order” so that was my main concern and I did that myself until the trial.” - UK.V.02*

Both interviewees (**UK.V.01** and **UK.V.02**) described how they thought some criminal justice professionals they have come into contact with did not understand the effect the proceedings were having on them. Particularly in respect of the fact that had not been mindful of the state of trauma that they were in as a result of the offences committed against them. At one point in the police investigation **UK.V.01** felt that she was being so ignored and so greatly let down by the police that she threatened to remotely wipe her iPhone, which was being held as evidence, in order to be heard. **UK.V.02** thought that, owing to the large volumes of domestic violence cases they deal with, some criminal justice professionals she had dealt with had become desensitised and therefore did not deal with her with the sensitivity required for a victim of domestic violence.

*“I felt as though they were just desensitised. I just felt as though when they deal with such horrible things day in, day out, “Right ok here’s someone else, she wants a non-harassment order, right ok, I’ve noted it down” that’s it. That’s as far as they went ... I told them I wanted a non-harassment order and they went “Aye, alright”. It wasn’t like, “do you know what, I will do my damndest to make sure you get that because you’ve been putting yourself through hell and I know it’s really important to you”. it was just like, “Well, we’ll ask”.” - UK.V.02*

Accordingly, both interviewees (**UK.V.01** and **UK.V.02**) felt compelled to take out civil proceedings against their offenders in order to have their voice heard and to secure the outcome that they had wanted.

*“I would go civil rather than criminal, because civil you have, your voice is heard, your decisions, you have the control ... There’s nothing that can happen without my say. She [the interviewee’s solicitor] could advise me but she can’t tell me, I can tell her to pull out tomorrow and it would be my decision. She can advise me not to do that but she can’t tell me, which is the whole difference between the criminal. It’s so crazy.” - UK.V.01*

Drawing on her experience of her civil case **UK.V.01** felt that there is scope for victim’s views to be take more often or given more weight in criminal proceedings. She thought ideally this would be done through a single point of contact from the beginning to the end of the process:

*“Letting me have a say in the whole journey then making me feel that I have not done something wrong. Like, every person that I’ve spoken to throughout the civil process makes me think they believe me 100% ... I think one point of contact through throughout the whole thing would’ve been better. Someone that’s been with you from knowing how you’ve coped from step 1 to step 10.” - UK.V.01*

Owing to the brain injury sustained in the assault committed against him **UK.V.11** responded that he did not know whether his views were not sought at important stages of the proceedings.

- 5.2.2. During the investigation, were the interviewees informed that they could ask for the evidence they considered relevant to be secured (Question V 5.2)?

In the UK victims do not have the right to ask that evidence is secured, accordingly this question was not posed to interviewees.

5.2.3. During court trial, were the interviewees informed that they could call for any evidence that they considered relevant (Question V 5.3)?

Victims have no formal role in criminal proceedings in the UK and do not have the right to call evidence at trial, accordingly this question was not posed to interviewees.

5.2.4. During court trial, were the interviewees informed that they could ask questions or have questions being put to witnesses (Question V 5.4)?

Victims have no formal role in criminal proceedings in the UK and do not have the right ask for specified questions to be put to other witnesses at trial, accordingly this question was not posed to interviewees.

5.2.5. To what extent did the interviewed victims agree to the following statement (Question V 5.5)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
Overall, I would have liked to have more opportunities to be involved in the proceedings.	2 (UK.V.01, UK.V.04)	6 (UK.V.02, UK.V.03, UK.V.05, UK.V.06, UK.V.10, UK.V.11,)	4 (UK.V.07, UK.V.08, UK.V.09, UK.V.12)	0	0	12

Please provide an analysis and your own interpretation of the results:

The responses broadly reflected the interviewees earlier responses, with the exception of **UK.V.08**, to whether or not their views had been sought throughout proceedings. **UK.V.08** had responded earlier that he had not had his views sought but disagreed with wanting to be more involved. He explained this was because his expectation before proceedings that his involvement in them would only be giving evidence at trial.

## 6. Protection against secondary victimization

### 6.1. Views of practitioners

6.1.1. According to the practitioners interviewed, do the police on an individual basis assess whether measures need to be adopted in order to protect a victim of violent crime against secondary victimisation (Question Pr 6.1)?

Police officers (**UK.P.01**, **UK.P.02**, **UK.P.05**) reported that they and their colleagues take seriously the need to protect victims against harm caused through involvement in the criminal justice process.

'We're talking about serious violent crime... They need as much support as they can possibly get. The assessment will be done at the stage of the statement and constantly assessed throughout. I'm satisfied... that we do all we can.' **UK.P.01**

'[The welfare of the victim] is probably your number one concern now!' **UK.P.02**

**UK.P.01** felt that a significant contribution to avoiding secondary victimisation is to be open and honest with the victim about what he/she can expect during the criminal process and ensure that the victim is not misled in any way. However, for most victims, the most effective way of minimising harm caused by the criminal justice process is to deliver what they perceive as the best outcome.

'I think finding someone and charging somebody with the crime is a huge thing, and realising that sufficient evidence is taken to court and that, if there is, a conviction secured – it's just massive.' **UK.P.01**

Special Measures therefore exist to assist victims to give their best evidence in furtherance of that objective and it is the police, who have the first and most direct contact with the victim, who make the initial assessment of Special Measures need. In England & Wales standard procedure is for the officer in the case to make the assessment at the same time as he/she takes the victim's witness statement. A box on the MG11 (witness statement) is ticked if Special Measures are required and a Special Measures request form (MG2) should also be completed. This is the police assessment of how the victim or witness qualifies for Special Measures and which measures they would like at trial. All of this information is also recorded on the police computer system to ensure that other agencies have access to the needs assessment. The most commonly used measures are screens, video-recorded interviews, and a TV link though there are additional measures to support those with communication difficulties, such as intermediaries or communication aids. Both the MG11 and the MG2 forms are included in the file that is passed to the CPS, which drafts and submits the Special Measures application to the court. There are police checks to ensure the box on the MG11 is completed for each victim which should alert the CPS to the need for a Special Measures application, even if the MG2 form is missing. Procedures also exist in Scotland to ensure that the police conduct an individual assessment of Special Measures need, but Scottish participants in this project were unable to provide any details of that procedure.

There are eligibility criteria for the availability of Special Measures but one of the four police officers interviewed was unable to recite them. Specialist sexual offence officers (**UK.P.02**, **UK.P.05**) demonstrated much more secure knowledge. Prosecutors, who are required to justify the Special Measures need on the application to the court were also far more able to explain those criteria. Special Measures are available only to witnesses who can be classified as vulnerable or intimidated. Section 17 of the Youth Justice & Criminal Evidence Act 1999 defines a vulnerable witness as a child or an adult who suffers from a mental disorder; has a significant impairment of intelligence and social functioning; or has a physical disability or is suffering from a physical disorder. The same Act defines an intimidated witness as one whose quality of evidence is likely to be diminished by reason of his/her fear or distress in connection with testifying in the proceedings. Victims of sexual offences are automatically regarded as intimidated unless they indicate that they do not wish to access Special Measures support. Almost identical provisions apply in Scotland. Thus, unless a victim of non-sexual violent crime has an innate vulnerability as defined under s.17, prosecutors

must persuade the court that the victim falls within the Act's definition of an intimidated witness. The general sense amongst prosecutors is that, though they must comply with the formalities of the application process, this threshold is not difficult to meet.

Prosecutors felt that the police are very pro-active in offering to apply for Special Measures for victims who are in fear of giving evidence and judges are very receptive to applications, indeed **UK.J.04** described their routine use for victims of violent offences.

'We see Special Measures very frequently now. There are very few cases where Special Measures aren't applied for.' **UK.J.04**

Furthermore, **UK.J.03** said that it is rare for information regarding Special Measures not to be received and when it is missing it is generally because of technical failings rather than that the police had not conducted the assessment.

"I'd say in 99% of the cases, they're pretty good at dealing with that point. Yet, there are times when it's not there, but some of the times it's because they haven't hit the right button on the computer **UK.J.03**

**UK.J.04** explained that in some circumstances, the police additionally include a statement by the victim.

"Some judges like to see that, because it's the victim's own words rather than an officer's perception". **UK.J.04**

As before, most accounts of non-compliance with procedures were provided by victim support professionals. One victim support professional who worked with victims of sexual offences, **UK.S.01**, felt that the police are simply following standard procedures – these victims are assumed to wish to give a video-recorded interview – and that the needs assessment is not 'individualised' in any meaningful way. In fact, she felt that video-recorded statements are so routine that generally the police do not inform the victim that they have a choice as to whether they give a video-recorded or written statement. It is generally the support organisation who informs a victim that he/she may give a written statement instead.

**UK.S.05** felt that in practice the responsibility for asking to use Special Measures lies with the victim and that the police do not proactively identify this need. Often victims appear not to be aware that Special Measures are available. Despite prosecutors' confidence in police procedures, it was clear that the Witness Care Units and the Victim Information and Advice Service are also involved in discussing Special Measures options with the victim, typically when a victim expresses reluctance to attend court to testify. **UK.S.04** described how she regularly contacts the police to ask them to complete a Special Measures assessment following her own contact with the victim, suggesting that the police have failed to complete the assessment at the beginning of the criminal justice process as procedures require. It very much depends on the police officer in charge of the case.

"There are officers out there who will bend over backwards for people and will support them in everything that can possibly support them, and there are police officers out there that wouldn't. It is the same in any organisation and any work. There are people who will do above and beyond." **UK.S.04**

These criticisms are borne out by the experience of **UK.J.01** who referred to a 'surprising number' of victims and witnesses who ask on the morning of the trial if they can use Special Measures, when the CPS can and does submit a last-minute application to the trial judge.

Victim support professionals also doubted the quality of police explanations of how Special Measures work. **UK.S. 04** described what she felt was the most common misconception amongst victims, that if the victim

gives evidence using remote CCTV he/she will not be seen by anyone in the courtroom. The interviewee felt that officers tell victims this to secure their participation with the prosecution. It is upsetting for a victim arriving at court to be told by Witness Care that their image will in fact be seen by all of those present in the court room.

Lastly, although not formally a 'Special Measure', it is common practice for the Witness Service to offer the victim a pre-trial tour of the court and **UK.P.02** indicated that he also offers to accompany victims on such visits. They will be shown the waiting area, court room and where they will be giving evidence. They will also be told who will be meeting them. A surprising number of victims do not take up the offer of a pre-trial familiarisation visit to the court, and victim support professionals speculated that victims may wish to avoid thinking about the trial. **UK.P.02** also suggested that mundane issues may frustrate visits:

[I'll ring and say] I need to go to court today, I need to show a victim round... and they go "Ah there's three rapes in". [So I think] 'Ah I better ring [the victim] and cancel it'. It comes down to staff and being able to get the court visit done. You know everybody is entitled to all these things, but the system isn't very good." **UK.P.02**

6.1.2. According to interviewees, are measures adopted routinely in order to avoid that the victim is confronted with the offender

a) in the court building during the trial

#### Confrontation with the offender outside of the courtroom but within the court building

Generally speaking, keeping the victim and offender apart is for the comfort of the victim. Judges doubted whether there is an actual likelihood of violence:

"I've never come across a case where the accused has had a go at the victim's, it doesn't do you any good, you don't know who's watching. It's not worth their while doing that because there may be a juror who's passing and sees the accused doing it, so it wouldn't be very clever. So generally we don't see an awful lot of that." **UK.J.10**

But it is generally accepted that victims should be protected from unnecessary contact with or intimidation by the offender or his/her supporters. This is achieved through the use of alternative entrances and dedicated witness suites. Most court buildings have a side entrance for victims and a secure witness suite where victims wait to give evidence, though as **UK.P.02** and **UK.P.05** pointed out separate entrances are ineffective if they are in close proximity to each other. There are toilets facilities on the secure corridor and the Witness Service is able to offer coffee, tea and water. If victims wish to eat whilst in the secure suite they must either bring food with them or leave the court to purchase it, though some Witness Service volunteers are willing to go out to purchase food on the victims' behalf.

In some, older, courts where adjustments to the building have not been possible victims may have to cross the public areas of the court to reach the secure suite. The Witness Service makes victims aware that if they venture into the public areas they run the risk of seeing the defendant and his/her friends and family, and court staff try to make arrangements for the victim to arrive early to avoid seeing the defendant and escort him/her to the witness suite.

"Everything in my experience, everything possible is being done to ensure that there isn't any accidental or distressing confrontations. Obviously you can't guarantee 100% but in the court environment, that is hopefully avoided." **UK.J.04**

One simple but striking example of a prosecutor giving this issue serious consideration and taking locally appropriate measures was revealed by **UK.J.06** who, when she became manager of her area, changed the time for victims to arrive at court to 9 am to avoid running into the defendant who is generally bailed until 9:30 am.

Although professionals felt that strenuous efforts are made to protect the victim from a confrontation with the defendant in the court building, some interviewees identified shortcomings. **UK.J.02** pointed out that it is more difficult to keep victims separated from the defendant's supporters, particularly in courts where the Witness Service also offers support to defence witnesses, which may result in contact in the witness suite. **UK.J.07** and **UK.P.02** also commented that dedicated witness suites are not as effective for the victim as we might think:

"It's often struck me as an irony that you end up with a victim who is imprisoned in a room, sitting there for many hours. We try not to keep them waiting, but it happens, and they're left waiting to give their evidence stuck in a room which they can't really get out of, and you've got a defendant who's on bail and who's walking about the court building free to go to lunch and whatever. So there's more work I think that needs to be done to enable victims to be more comfortable at court." **UK.J.07**

"[If] you've got a victim in court for two weeks, they don't want to sit in [the witness suite] for the two weeks. They want to have a dinner break and stuff. So you've just got to make sure you go out with them and liaise with security - just say, 'look I'm going at 1 o'clock, I'll be back at 2, can you make sure that idiot is out the room?' and things like that." **UK.P.02**

#### Confrontation with the offender inside the courtroom:

Special measures can be used in the courtroom by victims of violent crime who qualify as vulnerable or intimidated witnesses (see 6.1.1 above) to avoid a direct confrontation with the defendant. Such witnesses may apply to the court to give their testimony remotely via a video link, so that they do not have to confront the defendant in court, or alternatively they may enter the court but be shielded from the defendant by a screen.

"I had one [case] recently... [a suspect] arrested for arson intending to endanger life and there were 6 children in the house at the time. [The victim] was petrified to say the least. She didn't want any form of Special Measures, she was a very brave lady. We came to court without an application for Special Measures and she decided on the day that she couldn't cope without some form of protection against the defendant... The barrister dealt with it – screens, a quick application, screens were put up." **UK.P.01**

A more recent facility, only available in limited court areas, is the ability to give evidence over a TV link from a remote location. **UK.S.04** explained:

"We have two sites... where victims go along to and give their evidence from there. It's set out like a little house. I'd be there, I'd coordinate everything, link in to the court. I operate the equipment but I also support the victim. I'll go through everything that will be expected. There will be a court usher there as well." **UK.S.04**

This has been a very popular option judges in the area have been very supportive of its use, particularly as it minimises travel for victims who do reside close to the courts. **UK.S.04** described her perception of the benefits of keeping victims away from the court building.

“If you want to go and have a cigarette at the Crown Court for example, they have to plead to go and get one because... the Witness Service don't always have enough staff. [At the remote location] there is a nice little courtyard they can go sit in, there is a table and chairs. They are miles away from the court, nobody knows the locations except the people that are involved in it. There is a kitchen there and I would make them tea/coffee. The beauty as well is that they can go for a walk. Because cases never go off as they are meant to. They'll say they have to be there for 10:30 and then the next phone call we get is that they're not going to be giving their evidence until 12. Because it is in a nice little area I'll say to them 'look there are shops down there. If you have a mobile, you can go for a walk. If you want to stay here, watch TV... you can do that as well'. There are TVs, gaming machines for kids.' **UK.S.04**

- b) at other occasions (e.g. an identity parade or the recording of the victim's statement; Question Pr 6.2)?

The general view amongst police officer interviewees was that it is highly unlikely that the victim would attend the police station at the same time as the suspect, and that police officers would always take steps to ensure that the two did not see each other. **UK.P.02** and **UK.P.05** spoke of instances where the offender's family, or other people involved in the case, are in the reception area of a police station and will not leave. But again, in such circumstances both officers would ensure that the victim enters the station through a different entrance. A confrontation at an identity parade is also unlikely to happen as these events are no longer conducted live. The victim is now presented with a series of digital images and so there is no need for the offender and victim to be present at the same time.

- 6.1.3. According to interviewees, do victims have a right to ask to be interviewed by or through a professional trained for that purpose (Question Pr 6.3)?

Police officer interviewees (**UK.P.01**, **UK.P.02**, **UK.P.05**) pointed out that all officers are 'trained' to interview victims. Some officers specialise in dealing with specific offences, such as serious sexual offences or offences against children and other vulnerable adults, and these officers are additionally trained to carry out 'Achieving Best Evidence' interviews which are video-recorded and may later be shown in court in place of the victim's evidence-in-chief. Although an ABE interview is regarded as best practice it is not a right as such and furthermore the judge retains discretion not to admit the video-recorded evidence at trial if its admission would not be in the 'best interests of justice'

Thus, all interviewees who felt able to comment (**UK.J.01**, **UK.J.02**, **UK.J.03**, **UK.J.04**, **UK.J.06**, **UK.J.10**, **UK.P.01**, **UK.P.02**) agreed that victims do not have a 'right' to be interviewed by a specially trained interviewer, but that in practice officers who interview victims of domestic violence, sexual offences and hate crime have some additional training in dealing with victims of those specific offences

Victims of non-sexually violent crime would generally be interviewed by a CID officer or, if the crime was a minor one, a uniformed officer. Some victims of violent crime may be eligible for an ABE interview (if they qualify as a vulnerable or intimidated victim) and, though again not a right, the police may feel that an ABE interview is the best course of action.

- 6.1.4. Can victims ask to be interviewed before the court trial and to have their statement audio-video recorded and played during the court trial (Question Pr 6.4)?

## Video-Recorded Interviews

Victims of certain offences may give an Achieving Best Evidence (ABE) interview. It is not a freestanding right for but a special measure that can be applied for. There is a presumption that children and victims of sexual offences will give evidence in this way and police may decide to conduct ABE interviews with other vulnerable or intimidated victims, but the judge in the trial retains the discretion as to whether these interviews are to be used in court. Judges are, on the whole, very willing to grant permission for the video-recorded evidence to be used in place of the victim's evidence-in-chief, and the presumption then is that the victim will be cross-examined using remote CCTV or from behind a screen. The Scottish judges interviewed (**UK.J.08, UK.J.09, UK.J.10**) were highly supportive of wider use of video-recorded evidence (or evidence taken on commission as it is termed in Scotland).

Some interviewees spoke of disadvantages of using video-recorded evidence. **UK.J.02** felt that the use of this type of interview can be disconcerting for victims when, at trial, they see themselves in their original state of trauma rather than in the emotional place they have moved on to.

However, most of the concerns about video-recorded evidence (and similarly evidence given over a live TV link) related to its 'deadened' impact on the fact finder. Both prosecutors and judges (**UK.J.01, UK.J.04, UK.J.07, UK.J.10**) said that for this reason the advocates and judges in court prefer the use of screens.

"Screens are great for the prosecutor because you have everything you want there: you have the witness in court giving evidence, the defendant doesn't need to see them but the jury do, and that's great... because it is more impactful." **UK.J.01**

**UK.J.01** and **UK.J.10** stated that prosecutors and judges understand that some vulnerable witnesses need the greater support that video-recorded evidence and remote CCTV offers and will strive to facilitate it. However, **UK.J.01, UK.J.04, UK.J.07, UK.J.10** all felt that the common feeling amongst criminal justice practitioners is that jurors find that the technology creates an artificial distance between them and the witness. The concern is that jurors find such testimony less persuasive.

"Sometimes, particularly with adult victims... a television link can have the effect, I think, of distancing them from the court process... The emotional impact of the evidence is less, which as I say in some ways is good, but [for] the jury who are trying the case... they're not making that personal connection by being able to see [the victim]." **UK.J.07**

And one specialist police officer offered the same opinion:

"I find, if you go to court, and you've got a video link, I think it reduces the impact. So I will always encourage my victims to stand in court behind a curtain ... If they don't want to do it, I wouldn't force them. But I would sit down and say, look you can do a video link, that is absolutely great, it's fine. But when you do a video link it can reduce the impact to the jury because you are not in the court room ... I think if you explain it right and you've got an appropriate relationship with them, they'll listen to you. But I'm not bullying them because I wouldn't want to do that, but they'll listen to you if they trust you." **UK.P.02**

However, **UK.J.10** recognised that though screens may be the most effective special measure in terms of the quality of the victim's evidence, they may not limit the victim's anxiety at being in the court room.

"[Victims] don't want to be in the room because then they know fine that the accused is behind a screen... that this monster is on the other side of it. And that can be a problem. Some people aren't comfortable being in a room with a judge, counsel, 15 jurors and so on, answering questions about

things which might be very intimate. So, it suits others to be in the CCTV room, but the actual quality of the evidence I think is diminished when it comes from these rooms.” **UK.J.10**

### Testimony During the Trial

A police officer, a victim support professional and a judge gave detailed descriptions of the harm that aspects of the requirement to give at least some live evidence at court during the period of the trial causes to victims.

Firstly, both interviewees spoke about the harm caused by robust questioning and challenge to veracity during cross-examination. In the UK cross-examination takes place during the trial, albeit over a live CCTV link, even if a video-recorded statement is played in-lieu of the victim’s evidence-in-chief. **UK.S.06** felt that victims’ greatest concern is their fear of giving evidence and being cross examined. Victims report considerable distress at their treatment by defence counsel during cross-examination and complain of ‘being made to feel like the guilty party’. Victims of serious sexual offences are particularly distressed at being asked questions about their sexual history. A judge elaborated on why victims may struggle to understand and accept the need for challenge during cross-examination.

“A victim of crime will be spoken to by the police I think, probably reasonably sympathetically. And then if they get support services, they’ll be spoken to by them sympathetically, but when they come to court the problem is that the defence counsel... is going challenge what they have to say and I don’t think they’re geared up for that. I think if someone says “that’s not true” to them that may be the first time that’s ever been said. So the whole process isn’t nice. And since it’s all done in a strange surrounding it adds to the problem.” **UK.J.10**

**UK.S.06** acknowledged, however, that victims cannot be completely protected from these challenges as cross-examination is a central and important aspect of the adversarial trial process which exists to ensure a fair trial for the defendant:

“If you stop defence barristers asking leading questions well you’re impacting on the defendant’s right to prove his innocence. So it’s a very difficult one, but... I think there is a big big issue there of how witnesses have been a secondary victim after they have been in court.” **UK.S.06**

**UK.P.02** felt that even though cross-examination is an essential part of the UK criminal justice system, victims could be better prepared if they received “coaching” from the CPS prior to giving their evidence at trial.:

“If they did that a month before the court case, and just experienced a little bit of it, for me when they went to court they might just be a bit more relaxed. And if the barrister is kind of going through the evidence with them, they know what to expect. Because when I say coaching, we’re not going to sit there and put words into people’s mouths and stuff but there’s got to be something hasn’t there?” **UK.P.02**

Secondly, these interviewees picked out the distress caused to victims through excessive waiting at court. **UK.S.06** explained that though the CPS has a Code of Practice which states that victims (and witnesses) should not wait in court for more than 2 hours, in practice victims wait in court for extended periods before they give evidence during which time they inevitably focus on what happened to them:

“It doesn’t help the individual... [The victims] are sitting in the witness suite just mulling over what’s going to happen... [often] for a whole day and then they are told to come back tomorrow. [It’s] not good. We could be treating victims and witnesses so so much better!” **UK.S.06**

However, again, **UK.S.06** accepted that there are structural reasons for such delays which are not simply the result of indifferent behaviour on the part of criminal justice officials and professionals. As an employee of a court based Witness Service **UK.S.06** was aware that the smooth flow of the courts requires all witnesses present in court so as not to delay proceedings. A positive recent innovation, to have witnesses (including victims) on standby, made possible through improvements in technology and the fact that most people now own a mobile phone, has the potential to ease this problem.

Lastly **UK.S.06** spoke of the stress that victims experience post-trial because of concern at the quality of the victim's contribution to the prosecution. The criminal justice system pays insufficient attention to victims' welfare once criminal proceedings have concluded. He described how many victims feel a sense of guilt that they have not given their best evidence yet there is no mechanism to bring victims back to the witness suite after they have given evidence to allow the Witness Service to provide further emotional support or signpost the victim to other appropriate support services.

6.1.5. According to the interviewed practitioners, do victims have a right to ask, during the court trial, to be heard without the presence of the public (Question Pr 6.5)

There is no right to exclude the public from a trial. Although prosecutors may apply to have the public gallery cleared judges are highly reluctant to allow it because there is a strong tradition of public justice in the UK.

'Generally speaking the principle is it's a public court, it's public justice, and there would have to be very compelling reasons for the public gallery to be cleared.' **UK.J.04**

A judge is most likely to order that the public gallery be cleared if there was an indication was that members of the public connected to the defendant were going to be in court to try to intimidate or put pressure on the victim.

In Scotland the courts are under an obligation to consider removing the public in cases concerning sexual offences and in practice do so as a matter of routine. Additionally, as in England, the court has a discretion as to how it controls proceedings. However, the general view in both jurisdictions was that courtrooms are rarely cleared in cases concerning adult victims of a physically violent offence and only in cases where the victim was being intimidated:

"I've done it in the past for example, because there's a threat that people in the court are obviously making threatening gestures that kind of thing, I'd throw them out ... In a normal case, an adult victim of physical violence, very rarely would it [happen]. It's really only in [situations] of intimidation or something like with a case that they would close the court. Because the default position is the public actually see what's going on." **UK.J.10**

6.1.6. According to the interviewees, do victims of sexual or gender-based violence have a right to ask that they are interviewed by a person of their sex (Question Pr 6.6)?

In England & Wales again there is no right as such to an interviewer of the same sex, either at the police station or in court. However, many interviewees (**UK.P.01, UK.P.02, UK.P.05, UK.J.01, UK.J.05, UK.J.10, UK.S.01, UK.S.06**) felt that the request would be accommodated during police interview if it were practically possible.

“I don’t know whether they have the absolute right. For me it would be absolute common sense that we would always, always, strive to do that.” **UK.P.01**

**UK.P.02** pointed out that victims may not always wish to be interviewed by someone of the same sex and that an assessment would need to be made in each case:

“It’s not just a woman being interviewed by a woman. I think it would be embarrassing for a man to talk to a man. You know, around male rape. It might easier for a man to talk to a woman. It might be, sometimes it’s easier for a woman to talk to a man. Again its individuals isn’t it. Speaking to that person and asking them, because people are going to tell you stuff that is really embarrassing.” **UK.P.02** In Scotland there is now a right enshrined in the Victim and Witness (Scotland) Act 2014 for the victim to request a police interviewer of the same sex when the offence is a sexual offence or relates to domestic violence, stalking or trafficking. Interestingly none of the Scottish interviewees (**UK.J.08, UK.J.09, UK.J.10**) seemed aware of this recent change but shared their English & Welsh colleagues’ views that where possible the police would strive to accede to the request.

It would be much harder to comply with that request at trial as the victim has no influence over the sex of the cross-examining defence advocate as it is a principle of the criminal justice systems in UK that the defendant chooses his/her own legal representative.

‘I don’t think you could turn around say I don’t like the defence barrister because he’s a man.’ **UK.S.01**

6.1.7. From their practical experience, did the interviewed practitioners believe that restraint is exercised ensuring that victims are not asked questions about their private or family life unless necessary (Question Pr 6.7)?

**UK.P.01** felt that both police and prosecutors are sensitive to the need to avoid asking unnecessarily personal or intimate questions.

‘If it isn’t relevant to the investigation, absolutely... I can’t honestly say that I’ve ever been present when a prosecutor has asked something which I would think to be sort of rude or unnecessary.’ **UK.P.01**

However, sometimes it is necessary to ask such questions and then the issue is how those questions are put to the victim.

‘... how you word it, how you extract the information, and your approach with the individual, [that] is another matter.’ **UK.P.01**

**UK.P.03** also said that personally he would exercise restraint. **UK.P.02**, a specialist sexual offences officer, acknowledged that personal, seemingly intrusive, questions may have to be put to the victim if they are relevant to an issue which will raised at trial:

“There is going to come a point in the investigation where the mudslinging starts, they are going to start casting doubt on the credibility of your witness etc... You might have to go back and say, I’ve got the defence statement back and these four blokes have come along and said they have been previous partners with you and you did this on a night out [etc.] It’s not nice but sometimes you do have them questions. But I personally wouldn’t push that... 24 hours after someone has been raped I wouldn’t be going well, you’ve told us about this but how many boyfriends have you had?” **UK.P.02**

**UK.J.01** also accepted that the police do sometimes ask questions that victims believe to be unnecessary, but explained this on the ground that the police are not specialist statement takers and furthermore they are interviewing the victim in the early stages of the investigation when it is not yet possible to be entirely clear about what is and is not relevant to the ultimate charge.

One of the judges interviewed stressed that they are responsible for ensuring that only relevant questions are asked during a trial.

“The presiding judge has an obligation to ensure that the witness is given a level of protection whilst giving evidence in court, the presiding judge has a duty to preserve all witnesses’ dignity whilst giving evidence in court, to protect them from insulting questions to protect them from unnecessarily upsetting questions, and that protection has been a function of the judge throughout, but has been brought into sharper focus in recent years in a variety of different ways.” **UK.J.09**

**UK.J.08** felt that there is reluctance amongst Scottish judges to intervene to stop questions, but judicial management of inappropriate questioning has improved. Additionally the appeal courts have recently stressed the obligation of the judge to control inappropriate questioning

“... that’s an obligation that the trial judge must keep at the forefront of his mind and must review on a regular basis as the evidence of that witness unfolds. So that’s an obligation to provide a protective element against secondary victimisation.” **UK.J.09**

**UK.J.08** revealed that there has also been judicial training to assist judges to identify when questioning is inappropriate and to intervene to prevent it. The Scottish courts are also about to introduce a system similar to that in England & Wales about ground rules for video-recorded interviews which would limit the kind and number of questions asked.

English prosecutors also showed confidence in their judiciary.

“Yes. I think in fairness to the court that is something they are very good at, keeping points to the issue. So I would say yes, I think it’s very rare that that actually happens. Yes, maybe 10 years ago it was different but now it’s, the courts are very much more controlling about what is asked and why is something relevant, and if it’s not relevant the questioning is stopped.” **UK.J.03**

“It’s more balanced, and I think, again probably more work could be done, but certainly in recent years there’s been much more of a focus on just putting questions that are to do with the issues and not some trawl over background issues.” **UK.J.07**

More specifically, in England, Wales and Scotland, in trials concerning sexual offences, questions about a victim’s sexual history are strictly controlled by law. The defence must make and the court must approve applications to ask any questions about the victim’s sexual history.

“Any question in a rape case which goes into sexual history for example, has to be cleared in advance ... It’s ok to ask about what happened on the occasion, but things which happened before that or after that are generally not allowed.” **UK.J.10**

**UK.J.10** acknowledged that such questions are asked on occasion, but felt that the culture towards asking questions about sexual history was changing:

6.1.8. According to interviewees, can victims be subjected to a medical examination without their free consent (Question Pr 6.8)?

No. This would constitute criminal assault.

6.1.9. Did the interviewees agree to the following statements (Question Pr 6.9)?

6.1.9.1 The police attach great importance to treating victims in a respectful and sympathetic manner.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	0	5	1	0	0	6
<b>P</b>	3	1	0	0	0	4
<b>J</b>	0	9	0	0	2	11
<b>L</b>	NA	NA	NA	NA	NA	NA
6.1.9.2. The police perceive the victim primarily as a witness and hence as a means to the end of a successful investigation.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	3	2	1	0	0	6
<b>P</b>	0	3	1	0	0	4
<b>J</b>	0	3	2	0	6	11
<b>L</b>	NA	NA	NA	NA	NA	NA
6.1.9.3. Public prosecutors and judges attach great importance to treating victims in a respectful and sympathetic manner.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	1	4	0	0	1	6
<b>P</b>	2	2	0	0	0	2
<b>J</b>	6	5	0	0	0	11
<b>L</b>	NA	NA	NA	NA	NA	NA
6.1.9.4. Public prosecutors and judges don't see the victim as playing a central role in criminal proceedings.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	0	0	2	3	1	6
<b>P</b>	0	1	1	2	0	4
<b>J</b>	0	1	3	6	1	11
<b>L</b>	NA	NA	NA	NA	NA	NA

Please provide an analysis and your own interpretation of the results:

One interviewee agreed and disagreed to statement 4 and so was allocated to the 'don't know category.

#### Statement 1:

Interviewees almost exclusively agreed that the police attach great importance to treating victims in a respectful and sympathetic manner, with only 1 disagreeing and 2 who felt unable to answer. Police officers obviously were able to present a first-hand perspective, and the responses of other professionals presumably were based upon their personal interactions with police officers or – at one step -removed – on the views expressed to them by victims. However, one interviewee admitted that his selection was not evidence based:

“I think I agree, but it's a perception only.” **UK.J.04**

Another made a distinction between policy and practice:

“Does every police officer do that? Probably not. Do the police have policies designed to achieve that? I believe they do, and my own experience of police officers, because police have been on board with our Evidence and Procedure Review, my own experience has been that they are very alive to these issues and concerned about them.” **UK.J.08**

The interviewee who disagreed substantiated his view with examples of what he perceived as a lack of sympathy and respect.

“Disagree. It's kind of more looking at facts to help the criminal investigation rather than the fact that there is a human being in the middle of it all. You get domestic violence reports that come in, you read 'John has punched Susan in the face – but they are just as bad as each other/they wind each other up'. That's just not right. For starters, that is opinion rather than fact. Secondly, it doesn't mean you can just punch someone because they wind you up. And that is something we read on a daily basis, that is not a break from the norm.” **UK.S.05**

#### Statement 2:

Almost all victim support professionals agreed that the police perceive the victim primarily as a witness and hence as a means to the end of a successful investigation, including 3 out of the 4 police officers interviewed. Those judges and prosecutors who were prepared to express a view were equally divided, however the majority of judges and prosecutors were either unable or unprepared to give an answer. A significant number of interviewees saw this as a value laden statement which implied a criticism of police for prioritising the evidential contribution of the victim:

“Not always no. They don't always see them as a witness or a piece of evidence.” **UK.S.03**

“They shouldn't, but they sometimes do. Sometimes they do I must confess.” **UK.J.05**

“It's hard for me to judge, I would disagree. I'd like to think that they're better than that.” **UK.J.07**

“I would agree but that's only part of it. Because they are a witness... [The statement is] harshly worded” **UK.P.01** “I don't like how that is worded. Yes they're a witness, but they are the key witness and without them we have nothing... 'means to an end' makes it seem less significant, but yes, we need them for the court case.” **UK.P.05**

“I think that’s an outdated characterisation and attitude”. **UK.J.11**

Perhaps in response to the implicit criticism within the statement, only three professional interviewees were prepared to assert that securing the evidential contribution of the victim is a significant aspect of police operational objective.

“Without that victim and that evidence you’re not going to get a prosecution are you?... I agree with it but not as ruthlessly as that... Do you understand what I am saying? Because that is an important part of the criminal justice process. You can do all these other things [for victims] but fundamentally I am here to fight crime.” **UK.P.02**

“Police officers are hunters, they want the result. That is their professional objective.” **UK.J.01**

“I don’t know whether the word ‘primarily’ is correct. They certainly perceive them as a witness and a means to that end, but I think that they do recognise the individual, not just as a witness but as a victim with all that entails.” **UK.J.08**

### Statement 3:

Professionals almost exclusively agreed that public prosecutors and judges attach great importance to treating victims in a respectful and sympathetic manner, with only one victim support professional electing for a ‘don’t know’ answer.

“In the role that I’ve started to do [with] remote [evidence], the judges and barristers come and speak to the victims prior to the case starting. The judge and the barristers get in a taxi, come up to the remote site and some of the judges are absolutely fantastic with the victims. I don’t know who is paying for these taxis [laughter] but they do, they come up and introduce themselves. Especially for children.” **UK.S.04**

“I think everybody in the process has a similar view in making sure that victims are treated with respect, I wouldn’t say the court or the CPS do it any differently to the police.” **UK.J.03**

The responses to this statement echo previous comments in this section describing a criminal justice system culture which displays empathy towards victims’ experiences and highly values victims’ contributions.

### Statement 4:

The clear majority of interviewees disagreed that public prosecutors and judges don’t see the victim as playing a central role in criminal proceedings with the exception of one police officer who was highly critical of the distance that both prosecutors and judges have from the victim in the case.

“The case isn’t led by the complainant, it’s led by a prosecution service... [victims] are just seen as, something’s happened to them, they’re a witness, bring them into the box and off they go. They have no duty to them, they have no feedback to them, they are completely and so far removed from them... That’s the feedback from many, many people that have gone to court.” **UK.P.05**

Of those who disagreed with the statement, several interviewees interpreted it as containing an implied criticism of any position that did not put the victim at the centre of proceedings. A number commented that this was too simplistic an analysis:

“No, I’d like to think that, despite saying we regard ourselves as bringing the case... I do think that we regard them as central.” **UK.J.07**

“I strongly disagree with that because I think they know how important it is.” **UK.S.02**

“If by that you mean they don’t see them having a role akin to a party that’s correct. If you mean they don’t attach importance to their role as a witness who has rights that are required to be protected, then I don’t agree.” **UK.J.08**

“Again it depends what you mean by a central role... they’re not a party to the case... I mean they have a central role in terms of the investigative process, engaging with them and providing information, but in terms of the extent to which they actively participate, no, they don’t have a central role.” **UK.J.11**

## 6.2. Views of victims

- 6.2.1. According to the victims interviewed, did the police assess the need to protect them against secondary victimisation, in particular as concerns the risk of them being confronted with offenders in an unprotected manner or the risk of interviewees having to testify within a setting that is not sufficiently protective and sympathetic (Question V 6.1)?

Only two interviewees (**UK.V.07** and **UK.V.09**) responded positively that the police had assessed their need to be protected from secondary victimisation throughout proceedings. **UK.V.07** stated that the police had informed her about the availability of special measures such as the use of a screen in the court room, giving evidence via video link and the possibility of being accompanied by a support worker. Similarly, **UK.V.09** stated that the police had informed him about the options available.

Although **UK.V.10** stated that the police did not ask him about his needs during proceedings he mentioned at another point in the interview that the police had informed him that he would be eligible for special measures because the offences committed against him were hate crimes. Specifically the officer informed him he would be able to give his evidence via video link. Initially however his application was rejected but after obtaining a letter from his doctor outlining his mental health problems, the application was granted:

*“Kent police. They said it would be guaranteed because it’s a hate crime, I remember that bit. And obviously when he gives his plea hearing, they said, “No, you can’t have the video link”. So I had to go to my doctors and get a doctor’s report sent to Kent police to say that the overwhelming anxiety and problems what I’ve got, it would affect the quality of evidence. And then it got presented by the people upstairs from here, Witness Care. And then there was a fuff on for ages and then it came back on the day before the court case, I was told that it had been granted.” - **UK.V.10***

The period of uncertainty around this issues did however cause the interviewee additional stress:

*“It would’ve been a massive bloody relief if I was told earlier. Because I was told that I would be given special measures, and then to find out, “No, you can’t have special measures” was like, another blow in the catastrophe of everything that has happened with this case and the way that I’ve been treated and having to go through all the anxiety again, trying to reapply and then getting doctor’s letters and stuff like that and then to find out the day before the court case I think was a bit of a piss-take and a bit beyond a joke, really. It was just all unnecessary anxiety.” - **UK.V.10***

The interviewee was also informed about the possibility of giving his evidence behind a screen but he preferred to do so via video-link:

*"I made it crystal clear video link. Because of my anxiety problems and a screen just wouldn't be enough." - UK.V.10*

Eight interviewees (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.04**, **UK.V.06**, **UK.V.08**, **UK.V.11** and **UK.V.12**) all responded that they thought the police had not assessed their need for protection during proceedings.

This lack of protection against secondary victimisation was deeply affecting for **UK.V.01** and **UK.V.02**, both victims of gender-based violence. **UK.V.01** spoke of how she had only wanted to speak with a female officer. Accordingly, the police had assigned her a female SOLO (sexual offences liaison officer) who the interviewee thought had tried her best but noted that there were heavy demands on her with regard to the investigation and she therefore did not have enough time to help the interviewee with her needs. At one point in proceedings however, prior to the trial, the SOLO retired and the interviewee was left not knowing what was happening with the case and was forced to speak to a male officer.

*"I would only speak to a female to begin with and then it was more stress waiting to speak to a female than it was to speak to the detective inspector, so that changed, I had to give in and eventually speak to the male officer. Which I really didn't want to, to be honest." - UK.V.01*

During the trial, whilst giving her evidence, **UK.V.02** suffered stress and trauma from having certain pieces of evidence presented in front of her, such a recording of the assault and photographs of her injuries.

*"They had a recording of the assault, and nobody told me they were going to play that. So the fiscal then says, I'm standing in witness bit, "Right, we're just going to play back the recording" and I said, "Do you have to?" and she said, "Yes". I had to listen to this and I went in to, I suffered post-traumatic stress, so I just curled up on the stand in the defensive position, went to my happy place. The recording had stopped and I don't know how long I was gone and then I stood up again and the Sheriff said, "Do you want a break" and I said, "No, I'd just like to get this over with". Why would I have to stand there and listen to that again? Do you know what I mean? Also, then the machine didn't work, they were bringing up images of my injuries and the machine wasn't working. So I'm standing there looking at this screen, everyone else is looking at this screen, waiting on the whole place seeing pictures of my injuries and then they said, "Oh, we'll have to take a break here", because it wasn't working. So then I had to go and sit in another room for 15 minutes, while I'm standing there waiting to go back in and then they bring up the pictures. Simple, I don't know, technical issues. What's wrong with a photograph and could someone not have tried the machine before I went in. Just simple, I hope to God I was a one off but I doubt it very much. I just think it's horrific." – UK.V.02*

Both interviewees (**UK.V.01** and **UK.V.02**) expressed that they had found the proceedings so traumatic they would rather experience the crimes(s) committed against them again than go through the criminal justice system again.

*"I think, for me, the actual process of this whole criminal police and court procedure was worse than the actual incident itself. So, you know, for me being sexually assaulted for an hour, this whole procedure was worse than that. So, and I have no justice at the end of it. I got not proven and my phone back, and three years of a waste of time that I ended up having extra, and it wasn't the incident itself that I had to have an extra year at university, it was not being able to cope with the whole court procedures, that was what costed me an extra year of my life, doing university, the same course I'd just done for a year, and spending more fees and more accommodation in an expensive apartment for Scotland, and that was worse. And I look back and I could probably get over the incident that happened, but I don't think I'll ever get over this, the whole sh\*tty court procedure where you're left in a situation with no control, and I had the control taken off me to begin with, that's why my head was so messed up from it. But I feel I could've got over that, but having your control taken from you by professionals that you think are trying to help you was worse than the actual assault itself." - UK.V.01*

*"I'll tell you one thing, I would rather be assaulted again than go through that system as it stands."* – **UK.V.02**

When asked this question, the remaining interviewee (**UK.V.05**) did not provide a clear answer. She spoke about how the police had asked her if she had any holidays planned so that they could arrange the trial around them and how at sentencing she had spoken with the Family Liaison Officer because she was feeling intimidated by some of the offender's supporters. This is likely due to the fact that the police investigation progressed very quickly and the police had compiled such overwhelming evidence against the offender that he offered a guilty plea within weeks of the assault taking place. It is therefore likely that the police knew from the early stages that the interviewee would not have to give evidence at trial and hence did not make such an assessment.

Prior to the sentencing hearing, **UK.V.05** was concerned about seeing the offender and the police reassured her that the judge would deal with him if he did anything untoward.

*"They said to me if he does anything untoward the judge will see it and will slap him down immediately."* – **UK.V.05**

Four of the interviewees (**UK.V.02**, **UK.V.03**, **UK.V.04** and **UK.V.08**) that responded negatively as to whether the police had assessed their need for protection against secondary victimisation mentioned that these needs were however discussed with them by other organisations. Three (**UK.V.02**, **UK.V.03** and **UK.V.04**) were spoken to by victim support organisations and one (**UK.V.08**) could not remember whether it had been the CPS of the support organisation he had been in touch with.

*"He was trying to get, because I obviously didn't feel comfortable because she might be on the train, he did try asking if he could do a video conference from Gloucester, so I didn't have to leave. So I didn't have to get on the train rather. But they couldn't do it. He did ask for me."* – **UK.V.08**

Victim Support Scotland discuss special measures with **UK.V.03** but she chose not to receive any because she thought it would affect when she is able to find out the outcome of proceedings:

*"If you use special measures you can't stay in court. The only way you find out the outcome of the trial is if you either hang about and wait to be told or you go away and you get a phone call. And I've waited so long, I want to know."* – **UK.V.03**

The organisation ASSIST initially tried to arrange for measures to be adopted in the court room to prevent **UK.V.02** having to see the offender as she gave her evidence, however it was badly handled and caused her distress.

*"I got a screen, now that was done initially through ASSIST because they asked what measures I wanted and I said "I want a screen, I don't want to see that man" and at the time she said, "Well it's up to the Sheriff on the day". So you're still having this, "I can't go in, I'm telling you I'm not going in that court room if I've got to face him, I'm not doing that", so she says, "Well we'll request it but remember he's innocent until proven guilty" and that's what they kept saying as well, which is shocking, absolutely shocking."* – **UK.V.02**

**UK.V.02** however had a better experience of the Witness Service who made the necessary arrangements to prevent her from becoming confronted by the offender.

*"They showed me round the court building, well they couldn't show me the witness room, they showed me the, they said "that's where the witness room is" and they showed me, and where I would actually be giving evidence, but they couldn't tell me where he was going to be, so it was all a bit bizarre. And then we ended up in a different court room anyway, but at least I got a feel for it."* – **UK.V.02**

6.2.2. Did the interviewed victims feel, at any time, exposed to a confrontation with the offender in a situation that the interviewee experienced as intimidating or stressful (Question V 6.2)?

Seven interviewees (**UK.V.01**, **UK.V.02**, **UK.V.05**, **UK.V.09**, **UK.V.10**, **UK.V.11** and **UK.V.12**) were, at some time throughout proceedings, confronted by the offender.

**UK.V.10** was confronted by the offender on numerous occasions prior to, and after, the trial which the interviewee found terrifying. He explained how the offender had repeatedly breached his bail conditions to continue to harass him and how the police had failed, on six occasions, to arrest him for breach of bail.

*“Everywhere I go, still getting it now. I’m getting chased around Canterbury where he’s tailgating my car and stuff like that. Or if I go, I had another incident at McDonald’s when he was there, again, stood in front of my car ... Terrifying. Because he’s so unpredictable. And I’m still getting stalked now by him.” - UK.V.10*

Similarly, **UK.V.01** was confronted by the offender during the police investigation as was not under any bail conditions, other than not being able to contact the interviewee, and came back to St Andrews on the first anniversary of the night the offence had taken place. The interviewee had gone out with friends and was confronted with the offender and his friend, a witness in the case who had been harassing her throughout the police investigation which she found deeply distressing. Accordingly, the interviewee’s university arranged for her to stay in emergency accommodation for the night.

Additionally, during the trial **UK.V.01** was confronted with the offender on a number of occasions; in the cafeteria and outside the court building. On the first day of the trial the CPS Victim Advice and Information (VIA) Officer met with the interviewee and escorted her into the building. For the rest of the trial however she was left to make her own way in:

*“There was a VIA officer who came down and met with me, then, that’s just the first day because I didn’t know where I was going, and then after that I just wandered in with my parents. So it wasn’t very good, because they were so worried that we’d walk in the same door, and at some points we’d have to walk past him having a cigarette outside, so it was just, crazy ... Outside, there was someone taking a picture of the building that happened to get us both in the same photo, so I freaked out and said I didn’t want any photos of us together. So they managed to get the person to delete the photo, because we were both together, walking past each other.” - UK.V.01*

Despite describing being confronted by the offender as “crazy” and having become distressed by the fact someone had taken a photo of them together, **UK.V.01** felt that she had not wanted to be scared by him in those moments.

*“I just wanted to try and, I didn’t want to be scared of someone that I’d done nothing wrong, so I think, you know I just, I think being asked questions about what had happened was worse than him being there.” - UK.V.01*

This view was also shared by **UK.V.05** and **UK.V.06**, both also victims of a sexual assaults, who also wanted to see the offender in the court room as described it to be part of their process of coming to terms with the violence that they suffered.

Like **UK.V.01**, **UK.V.06** did not want to “hide” from the offender in the court room.

*“I didn’t feel comfortable, but, no matter which way I’d done it. But I thought “I’m not going to hide behind a screen”, you know?” - UK.V.06*

She stated that seeing the perpetrator was terrible but it did not impact on her ability to give evidence.

"No. no, because I felt rage and anger, oh and I cried. And there were a part of me that wanted to go up and kill him." - **UK.V.06**

**UK.V.05** specifically wanted to see the offender at the sentencing hearing as she had a lasting image of him during the assault in her mind that she wanted to move on from. She thought that seeing him there would make her realise that he was not the monster that she had in her mind and would help her come to terms with what had happened to her:

*"But I've got this vision in my head of this man by the side of the bed all dressed in black with a big knife glinting and that's the vision I had. I knew I had to get a vision of this man as a normal human being because, you know, to tell my brain, this is, that's not the only vision of him this is another vision, so I went to court and I actually saw him and yes, he looked a pathetic human being."*

**UK.V.02** was also confronted with the offender on numerous occasions in the court building, she had not been given any prior warning that this could be a possibility. Unlike **UK.V.01**, **UK.V.05** and **UK.V.02** found no healing aspect in being confronted by the offender.

*"The physical aspect of the court was a nightmare as well, where to go, there was only one café that he could of bumped into, once I'd given my evidence he come up from behind the screen and just followed me out the door into the corridor, who does that? So all that should of been explained to me and what they should of said is "there's every chance that you will meet the man who abused you in court on the day, you're using the same entrance, the same exit, there's one toilet, well if it was a female there's every chance you would of been in the same toilet, there's one café and we're going to shut the court at lunch time at 1 o'clock and through you out, that's what they did to me, he was out there! So, why they couldn't of given you a disc to say "this is what you're going to have to deal with and we cannot guarantee your safety, so make sure you arrive early, bring somebody with you." It was just all horrific on the day, absolutely horrific.*

...

*The last thing you want to see when you're about to give evidence against somebody, a violent man like that, is him staring you down. That's the whole point of a screen, and yet they allow him to wander around the court building ... What's the point in that? So, the whole thing needs tying down. And I think they should just give you a different building, see there's no reason why I had to physically be there." - **UK.V.02***

She was deeply distressed by the confrontations with the offender and felt as though the court should have realised and prioritised her need to be kept away from the offender.

*"The first time it was shocking, he was waiting for me outside. Absolutely shocking, I had my son with me and my best friend with me ... we're the ones who had to climb across a wall, and go across a carpark, to get to the car. He was the one who was allowed to stand there on his phone. He was told to leave the building forty minutes before we were to leave, now, basic common sense says let the victim leave first. Why the hell they would let that man leave first. That could of saved a whole lot of grief. Then you're on the phone saying "I've got to go back to court, you let him wait for me outside", "next time we'll get a police officer to walk you to your car", they make it out as though it was all me. He should be having a police officer, and be locked in a cell down below and brought up to give his evidence and brought back down there. Why is it, why am I climbing across a car park wall? You know, sneaking around trying to get to a toilet to avoid seeing him, I'm the victim here! You're like, what the hell?! So it's just, the whole system is just not set up for victims. And they make you feel guilty, I'm the victim and I'm the one that's scurrying around like I've done something wrong. And for simple steps, with people just*

*being aware that, just, don't let him leave until she leaves, how hard is that? I don't think they care, they don't.*

*Then the next time, that was a belter the next time. I gave 10 minutes of evidence and then we break for lunch. I walk out the witness stand, out that door, he comes round the screen, past a police officer, past a court officer, past the procurator fiscal, follows me out, I go to the witness room where my son's waiting. The wee victim liaison man goes in to get my son and says, "You can't come in here because you've given part evidence", leaves me on my own in the corridor and my husband's standing staring at me. Now, the whole point in domestic abuse is, see that stare, that stare comes before you get a right doing, that's that stare that says, "You dare, I dare you". That's the whole point of a screen! So, my sister and my son come out the witness room, he disappeared and I was in a state of shock and that's when she said to some police officer, "Her husband's just approached her" and he said "well if he does it again, let me know". They just don't get it." - UK.V.02*

After the conclusion of the trial, the interviewee was in contact with Victim Support Scotland who highlighted to her the right to avoid contact between with the offender under the Victim and Witness (Scotland) Act 2014.

*"It wasn't until after court that I realised that there was a Victim and Witness Act, [that] says that I have a right to be kept away from my abuser. Well how's he allowed to follow me, stalk me around the court building? And they let him out first. The first time I went he was waiting for me outside, how are they adhering to the Victim and Witness Act which says I have a right to be kept apart from that man?" - UK.V.02*

Accordingly she made a complaint to the court manager, who apologised and stated that he had not thought about this situation before. He informed the interviewee that he would put in place measures to prevent such situations in the future but the interviewee was not aware whether or not he had done so.

*"I did complain about it and the man who runs the courts came out along with somebody from the Crown Office, the Policy Officer, to discuss what had happened. The man who runs the courts basically says, "I never thought of that". He never thought it would be a problem for somebody to be confronted by an abuser in a hallway! It's just, that's his job day in, day out and it never occurred to him that, because we as victims and witnesses put up with it, because it's usually only once, you go through a horrible experience and then it never happens to you again, you don't want to make a fuss, you don't want to complain, so people don't say to him, "why did you allow that man to stalk me round the building? Why didn't you tell me I could've given evidence in another building?" So, he says he would put measures in place, but I don't think he has, there's still one entrance and exit at Hamilton Sheriff Court, there's still one café at Hamilton Sheriff Court, they now give you refreshments, which they're supposed to do, but it's a jug of water in the witness room, so, I get the impression they don't care." - UK.V.02*

**UK.V.11** and **UK.V.12** were both confronted by the offender but neither were particularly affected by the encounter. **UK.V.11** expected and had prepared for it and **UK.V.12** experienced feelings of anger over feelings of fear.

Neither **UK.V.03** or **UK.V.04** had been confronted by the offender during proceedings. **UK.V.03**, whose trial had been postponed at the time of interview, mentioned however that support staff at the court had been cognizant of the fact she had not wanted to see the offender on the two occasions she went to court only for the trial to be postponed. On the second occasion, support staff told the interviewee the trial had been postponed prior to telling the offender so that she could leave the building before him:

*"The Victim Support staff at the court, yeah. They knew that I didn't want to see him. The staff that told us the trial was getting delayed, the first time they told him first and then they came and told me, so as he was leaving they were telling me that I could leave, I don't want to leave the building at the same time as him. But*

*the second time they came in and said to me first and I said, "Can you give it 10 minutes to let me get out", "Oh yeah not a problem". That week they were jolly good.*" - **UK.V.03**

The offender in **UK.V.04**'s case was an irregular migrant and had been returned to his country of origin before a prosecution could be sought, accordingly the interviewee never saw the offender again.

6.2.3. When the police took the statement of the interviewees, did the latter experience the setting as safe and comfortable? How did the interviewees describe the situation (Question V 6.3)?

Only three interviewee (**UK.V.04**, **UK.V.07** and **UK.V.05**) had their statements taken at a police station and they had mixed experiences. **UK.V.04** did not feel comfortable at the station but this was partly down to the fact that she had been separated from her daughter who was also present at the police station. **UK.V.05** however had her statement taken in a witness suite in a separate house style building at the back of the police station and she found the environment calming:

*"It's this nice little house at the back of the police station and you sit in nice comfy chairs and the video screens are there but it's discreet you don't see them. So it's supposed to be a calming environment and of course Bev had organised me countless cups of tea."* - **UK.V.05**

The remaining nine interviewees (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.06**, **UK.V.08**, **UK.V.09**, **UK.V.10**, **UK.V.11** and **UK.V.12**) were interviewed by the police at a location other than the police station. Six (**UK.V.02**, **UK.V.03**, **UK.V.06**, **UK.V.09**, **UK.V.10** and **UK.V.11**) were interviewed in their own, or a relatives', home.

**UK.V.01** had her statement taken in a private flat in her university's residencies. This was at the suggestion of the university and not the police. The interviewee thought having this kind of private location for her interview was beneficial for her:

*"It was much more comfortable and, you know, it was private, there was no police officers running around or outside and stuff."*

**UK.V.08** thought that he had not been interviewed by the police in a police station. He described the location as a small house and did not know why that location had been used but he interpreted it as being because the police did not care about the offence committed against him:

*"I just thought they weren't taking it seriously. Obviously you go to a big police station, normally. But it just seemed like it didn't mean nothing to them."* - **UK.V.08**

After the police had interviewed him they let the interviewee leave without a phone or a place to go in the early hours of the morning making him feel annoyed and scared and thinking that he may have to sleep on the street. He also did not know where he was and had to ask a passer-by to give him directions to the train station:

*"I was just taken into like a little room at the back, they took photos of me on their phone, asked for my statement, let me go out the front door. But I didn't know where I was going, I had to ask someone on the street to show me where the train station was. And some young girl walked me all the way there so I didn't get lost."* - **UK.V.08**

6.2.4. When the interviewees were heard during court trial, did this happen in a setting that they experienced as safe and comfortable? How did the interviewees describe the situation (Question V 6.4)?

Six interviewees (**UK.V.03**, **UK.V.04**, **UK.V.05**, **UK.V.09**, **UK.V.11** and **UK.V.12**) had not experienced giving evidence during the trial.

At the time of interview, **UK.V.03**'s trial has been postponed however she had previous experience of giving evidence at trial and explained that courts are not a comfortable environment and that discomfort is exacerbated by the amount of time you are left waiting to give your evidence. She thought however that because the upcoming trial was predominately based on the evidence from herself and the offender that it will not be too drawn out:

*"There's nothing about it that makes you feel at ease from the minute you walk in the door, because you know you're going to be sitting there waiting for how long. The last time I was there I was sat there wondering, you know, is it going to go ahead? You look online you see there's like 8 cases going through that day and you think, "Oh great". You know, it's me against him, that's it, it's not going to drag on for hours, it's going to be over by evening anyway, you know, just get it over and done with." - UK.V.03*

The remaining six interviewees (**UK.V.01**, **UK.V.02**, **UK.V.06**, **UK.V.07**, **UK.V.08** and **UK.V.10**) gave evidence at trial.

**UK.V.01** was given the option of which special measures she would like whilst giving evidence at trial and she choose to be accompanied by a supporter and not to give her evidence behind a screen. She choose not to use a screen as she felt seeing the offender in the court room would help her overcome her fear of him. She now however regrets that decision and believes that it had an impact on the jury's decision to hand down a "not proven" verdict:

*"I didn't want the screen so I opted not for that. I don't think it looked very good in front of the jury, like in my own head I wanted to be able to get over seeing him in public I suppose. But I feel that, now I think about it, I would've gone for the screen just because I think I was trying to be really strong and overcome that in my head, but I don't think that was the right time, when people were assessing us together, for me to seem like I could. It's so difficult to stand in front of him without a screen, I wanted to do that for my own mentality, I don't think it's the right time when the jury is making a decision about the case. I wish I'd gone for the screen, because it would've shown how I was really, you know it would of shown I was scared of him but I suppose having the screen, I was trying to overcome that. I suppose looking back 8 to 7, there's one person who just thought "oh, if she's standing in front of him then she's fine" you know, in my head that's what I think. I never thought that at the time, but looking back, thinking what if?" - UK.V.01*

The public gallery was cleared whilst the interviewee gave her evidence but the press were allowed to remain present.

Conversely, **UK.V.02** and **UK.V.07**, chose to give their evidence in the courtroom from behind a screen. **UK.V.02** felt however that the type of screen provided her did not adequately separate her from the offender.

*"Do you know what the screens were? You've probably heard of this before. It was like office partitions going down like that, right, so I'm in the gallery behind it but there was gaps! So I'm walking along to the witness stand and he's through these gaps and then there's a pair of feet sticking out the bottom and all I could look at was it, I was just traumatised ... What the hell has office partitions got to do with a screen? Do you know, it's just, I don't know. The whole thing was just bizarre, absolutely bizarre." - UK.V.02*

**UK.V.10** gave his evidence at trial by video-link from a room in the Victim Centre at Kent Police. Victim Support, the Witness Service and the Witness Care Unit (CPS) are both based within the Victim Centre. The interviewee

thought that he would not have been able to go into the courtroom so giving his evidence via video-link was a huge relief for him and helped relieve some anxiety:

*“It was a relief not to have to go into the courtroom, that was a massive relief. And it did ease my anxiety, a bit, not a massive amount, but it was easier by video link than what it would’ve been in court, because I don’t even think I would’ve been able to go into the courtroom, to be honest, because just being overwhelmed with anxiety.” - UK.V.10*

6.2.5. Were the interviewees asked questions about their private or family life that they considered inappropriate or unnecessary (Question V 6.5)?

Nine interviewees (**UK.V.03, UK.V.04, UK.V.05, UK.V.06, UK.V.07, UK.V.08, UK.V.09, UK.V.11** and **UK.V.12**) were not asked, or could not recall being asked, questions about their private or family life that they felt were inappropriate or unnecessary.

**UK.V.07** explained that, at the time, there were certain questions that she thought were odd but, looking back, she now understood why those questions were necessary.

*“Like, they were asking me questions about my past, that, to me it’s normal, but to other people it’s like ‘oh my god’, do you know what I mean? Him hitting me and stuff like that, it’s normal to me, because my dad hit me when I was younger – I can now understand why they were asking me them. But at the time I was a wee bit like ‘what’s this got to do with it?’. But obviously I can understand now that it’s just all to go against him, basically. Although they were trying to twist it around – obviously it’s their job to do, unfortunately – but it backfired on him and it went against him, so. When my brother-in-law said ‘uh-huh, she’s easily led’, I was like ‘well, thanks for saying that’, but aye, seriously, thanks for saying that, because it is, it is true as well”. - UK.V.07*

**UK.V.01** and **UK.V.02**, both victims of gender-based violence, thought that they had been asked inappropriate questions about their sexual history and relationship with the offender respectively.

*“It was quite triggering for me so I didn’t really see why they [the police] would have to ask that. And they could see how upset I was with answering it first time, so why’d they ask again?” - UK.V.01*

*“They have a tick-list for domestic violence and it says, ‘Have you ever been strangled? Does he make you do sexual things that you don’t want to do? Does he ever hurt pets?’ Now, that I think is a list that they ask you to assess how bad the perpetrator is, because I’d never heard that list before but most of that stuff on the list was what P did. And once again I had that, ‘Oh my God, how does he know? How does he know?’, but they asked if I would elaborate and I said no. I didn’t want to talk about the sexual stuff or anything like that I just wanted them to deal with P. So they asked, I don’t think it’s a bad thing that they asked and they respected when I said I don’t want to talk about it.” - UK.V.02*

**UK.V.02** acknowledged however that those questions were necessary for assessing how dangerous her partner was and stated that the police respected her decision not to elaborate on certain issues.

Additionally **UK.V.01, UK.V.02**, and **UK.V.10**, thought that questions had been asked at trial that were irrelevant to the case. **UK.V.01**’s medical records had also been obtained which she thought was unnecessary and irrelevant to the case. Similarly, **UK.V.02** thought it had been irrelevant and inappropriate to question her about her mental health.

*“They brought up my mental health. What the hell’s that got to do with P [the offender] assaulting me, locking me in a room? I didn’t think that was appropriate at all ... Apart from my mental health, why I didn’t work, ‘does your caravan have central heating?’. The questions were just bizarre, absolutely bizarre and I*

don't know why they do that. A log book, about 10 minutes his lawyer went on and on about this log book. When I moved out I grabbed all the paperwork because Women's Aid said, "Make sure you've got your passport and stuff, if you've got to go and rent somewhere else get all of your important documents". So in these documents was his log book for his car, this lawyer went on and on and on about this log book, "what did you do with it? Why did you take it? You stole his log book." Eventually I said, "You can tax your car online you don't need the physical log book" and his lawyer was looking a bit lost and said, "Oh, that's by the by". So it was ridiculous questions, absolutely ridiculous questions, what on earth that's got to do with me being pinned and locked in a room and assaulted. You know, your mental health and why you don't work and what's the name of P's business, just completely bizarre." - **UK.V.02**

**UK.V.02** was also asked by the defence counsel where she was staying and was forced to answer so as not to perjure herself and thus was forced to disclose her address in front of her abuser.

"My husband's lawyer asked where I was staying when I wasn't at the house, and I answered, so now he knows where I'm going to be if he wanted to come back and finish me off, she [the prosecutor] never objected and said, "Excuse me, don't ask that question" and you've given an oath to tell the truth so your bit comes out. " - **UK.V.02**

#### 6.2.6. To what extent did the interviewed victims agree to the following statements (Question V 6.6)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
6.2.6.1 Overall, it was difficult to understand and follow the course of the proceedings.	6 (UK.V.01, UK.V.02, UK.V.03, UK.V.04, UK.V.05, UK.V.06)	1 (UK.V.1, 0)	4 (UK.V.08, UK.V.09, UK.V.11, UK.V.12)	1 (UK.V.07)	0	12
6.2.6.2 The police treated me in a respectful and sympathetic manner.	2 (UK.V.05, UK.V.07)	6 (UK.V.02, UK.V.03, UK.V.06, UK.V.09, UK.V.11, UK.V.12)	4 (UK.V.01, UK.V.04, UK.V.08, UK.V.10)	0	0	12
6.2.6.3 During the court trial I was treated in a respectful and sympathetic manner.	2 (UK.V.05, UK.V.07)	4 (UK.V.01, UK.V.03, UK.V.08,	2 (UK.V.02, UK.V.06)	1 (UK.V.11)	3 (UK.V.04 N/A., UK.V.09 N/A,	12

		UK.V.10 )			UK.V.12 N/A)	
6.2.6.4 If I look back at the proceedings, there were moments when I experienced the presence of the offender as intimidating.	2 (UK.V.0 2, UK.V.10 )	2 (UK.V.0 7, UK.V.09 )	4 (UK.V.0 3, UK.V.06, UK.V11, UK.V12)	3 (UK.V.0 1, UK.V.05, UK.V.08 )	1 (UK.V.0 4 N/A)	12

Comments added by interviewees

**Statement 1:**

**UK.V.02**

That simple DVD, with somebody sitting there saying "look...", say there was like an intermediate diet or something, trial, a precognition, that's another thing ASSIST phoned me and said, P was going to send an officer round to precognosce me, which is an old fashioned thing they don't do anymore and that was complete nonsense, I don't know where she got that from. So I was waiting on some strange man, "oh and if he turns up just say it's not convenient and wait until you've got someone there with you". That never happened, I don't know where she got that information from, so. Yes, so it was just full of nonsense so if you had a video that you could just sit down, even one Victim Support made, just saying "look, this is what's going to happen", you know, "an intermediate diet is this...don't worry about it, you won't be asked to attend it, that's when the offender gets a chance to go to court with his solicitor and put his point across" and even a wee clip of people doing it. That you can sit in your own home and watch it when you're in that frame of mind. There's nothing that, you know, and even speaking to someone with Victim Support or Women's Aid that haven't been through it, they just, and there's so much going on as well you know. If somebody says to you "arrive early because there's every chance that you'll see him at the court", you don't think there's every chance you'll see him at court, you just think "arrive early, arrive early, arrive early" so you get there early, and then it begins to dawn on you, "right, she said there's every chance I'll see him, but surely she doesn't mean I'll see him when he follows me, stalks me around the court building". It just all doesn't make sense if you've not been through it before. You think "why would they allow him?" he's on bail for a violent crime, he's not allowed anywhere near me outside of the building, why would they let him wander round inside? So, there needs to be something that's kind of light hearted but not, kind of goes through the points and you can sit and watch it when you're ready to watch it, it covers these things, the intermediate diets, all the information that you need in a positive way, and then at the end they can put these organisations, Women's Aid helpline, Victim Support helpline, if you need to phone these numbers, I can't understand why nobody's done that ... You could even have just a domestic violence one, there's enough, 60,000 reports a year in Scotland of domestic violence, that's 60,000 CDs, why not just have a domestic violence one? And then when you're with Assist or whatever, they can give you it, or the police give you it, instead of sending a letter saying you know, you know, they all could get together, I don't think it would be hard to do, and just say "right, you know..." if they can run a charity called Assist, why can't they just have a DVD that they send out?

**UK.V.03**

It's difficult only because it's not went through yet and it keeps being delayed, it's difficult. I would strongly agree, with the length of time it's taken it's horrendous.

**UK.V.05**

Yes I would say it was difficult to understand because I didn't understand about this category A, category B crime and I was just totally bemused how you can go from a low B to a high A in the space of minutes, and then it was explained to me that she was just doing her job. But I didn't know anything about categories of crime, and that would've been beneficial to have understood that ... To have had a meeting with the CPS beforehand to have understood exactly what was going on in the trial, to have been told about categories of crime, to have been told about sentencing, what, you know, what sentencing guidelines were for the crime, that you get a third off for pleading guilty, that what this extended sentence meant. So it would've been helpful to have understood all of those things ... Having a court visit, so that would've been helpful as well, but I think they do those for basically the young kids, sex attack and things like that, just to familiarise them with what's going to go on in the court.

#### **UK.V.10**

Yeah, I would say agree. Because I've never had to face anything like this anyway, so, yeah. It was added stress on top of everything else which had been gone on anyway. It was like more caseload on top of everything which was gone on.

#### **Statement 2:**

#### **UK.V.01**

Strongly disagree. No, I'd say disagree, not strongly disagree. Because the SOLO was quite good, she was pretty good the SOLO. I'd say strongly disagree, without the SOLO there, she was the only one that was keeping me sane with the police, but, you know, strongly disagree for the rest.

#### **UK.V.02**

On the whole, yes, there was a couple of flippant remarks. But on the whole yes ... Well, just that one of them, when they drove me back from the police station when I'd been in that cell for 5 hours, I was ready to go back, this was before we knew my husband had bail conditions, I was so traumatised I was just ready to go back into the house, that I just didn't understand the danger I was in. They wouldn't let me, and then he said "I don't know what you're still doing with him anyway, it's obvious your marriage is over", now I was in the back of a police car, I was trying to end a relationship which is the most dangerous time for a woman and this policeman says I don't know what you're still doing with him. So, comments like that, the young police officer that arrested P, he was professional, he didn't put his tuppence-worth in, you know, he did his job. And another police officer, when I, P sent in total 9 times he sent people round to the house to collect belongings right, so after about the sixth or seventh time his dad and his brother just walked into my house so I've phoned the police 101 and I've said "look, what can I do here, he just keeps sending people round", so the policeman came out and he said "right, what's going on?" I said "he's got bail conditions, it's been arranged through solicitors that he was going to come on the 6th May and take everything with him, and he just keeps sending people round". Now, I don't know what to do here, I want his stuff gone but they weren't taking it all, they were, so, anyway, I said "this man's been abusing me for 20 years" the policeman says "well, if I go and speak to him he'll say that you've been abusing him for 20 years" you know, it was that kind of thing and I said well "could you just tell him that the..." it's in, I showed him the lawyers letter, "he's supposed to come on this day and collect it all", "right, ok, have you got his phone number?" and I was like "right, ok, but it's his dad because he'd sent his dad and his brother round who just walked into my house at this time" so, basically this policeman was so lazy he didn't go and warn P's brother and his dad, he just phoned P up and said "leave her alone", P basically said "I'm not doing anything wrong, buggar off", oh no, get the monkey, cause P, for the civil interdict, affidavits went back and forward and so and P's affidavit said this police officer phoned him and said, accused him of harassing him, tell him to, I told him to get the organ grinder to ring on the monkey, it was something, because P doesn't give, why would you phone P and give him the op... and this policeman just didn't care. So, right enough after that they stopped coming until this year, so, it worked for a while but, so, that's what I mean about police officers. Yes, to a certain extent they treated me with respect but the ones

that don't get domestic violence and coercive control, they just don't get it, they just see you as a pain in the backside, you know, "what you still doing with him?", well, "I'm still with him because he would kill me if I left him, and this is what happens when I try to leave him", you know, they just don't get it they just think, it's obvious your marriage is over, it's been obvious to me for years but you try leaving a man like that, you know, safely. So, definitely more training, specifically for domestic violence with police officers, you'd of thought that's the busiest, that's the most call outs they get, you'd think that would be the most training that goes into, but it's not.

#### **UK.V.04**

Just no compassion, just kind of dealt with it like it was an everyday thing. To them maybe it is.

#### **UK.V.08**

They wasn't horrible to me, but it just felt like it was a joke to them. Disagree. It just felt like it was a joke to them really.

#### **UK.V.10**

I disagree, but there's a catch 22, RL which was one of the officers, he's been brilliant and he's always been respectful and treat me as a human being which is nice, and he's dealt with the problem. PC P's been the same, but he's been a failure, and he even told me that he failed me before the court case went, he apologised for it, he said "I apologise to you", he said, "I've let you down massively", not thinking that this evidence and stuff wasn't going to appear at the court case, so it turned out that he's been a massive failure because the case has gone tits up and this man's got off with it when all the information was there ... He said he was too busy. He said he was run off his feet.

### **Statement 3:**

#### **UK.V.01**

I'd say agree. You know they gave me a vulnerable witness box, they gave me someone in court and they managed to accommodate me with my particular female that was over a certain age, they managed to find someone so they made it as smooth I suppose as they could have done. It was just everything before that that was the mess. And everything after.

#### **UK.V.02**

No. No, they, that policeman when I said, my sister said, "just tell me if he does it again", that's not very sympathetic. Putting that recording of, I don't know how many, 10 minutes or something you've got to listen to yourself being assaulted without any warning, that's not respectful. I don't even know why they couldn't let me walk out for that bit. Allowing that man to ask me where I was staying, putting me in danger, that's not respectful or safe and that Fiscal should've stood up for me and said "don't answer that", I was just answering these questions thinking I'd given an oath to, and that's another thing they never said, when you give evidence, it's only on that particular incident night, so, when I went on to the stand the first time I just lost it, because his feet were sticking out and I just, so, they asked me my name and my date of birth and all that and I just started rambling a bit, how he did this and he did that, and the Sheriff said "Mrs X, you cannot speak about anything other than the incident that you're here for", right, so then the Procurator Fiscal spoke about the incident, we went through it all, broke for lunch, carried on and then his lawyer got the chance, and his lawyer said "I'll take you back to something, 20th July 2014..." or whatever it was, and I'm sitting thinking "but I've been told I can't talk about..." so apparently his lawyer can ask me any questions he wants but the Fiscal can only talk about that thing on the day, so that threw me as well. Why did all that, that kind of stuff should've been on that DVD, and said "look, this is how it works, the fiscal will only ask you about the statements and the incidents, but however, his lawyer can ask you about your

caravan central heating, or your mental health, or a log book...” do you know, there’s no, and what annoys me is that his lawyer has no, nobody can say to his lawyer “what you did was wrong”, well I could’ve written and complained about him to his company and to his ombudsmen but who does that? I had enough on my plate at the moment without having to say to him “why did you put me in danger? Now he knows where I’m going to be staying”. Do they care? Are they allowed to do that? There’s no, there’s no comeuppance for him, he did his job, got his money and off he goes. And that’s what I mean, so if I had my solicitor representing me like I kind of did in the divorce, he’s looking out for my best interests and he would of said don’t answer that. I don’t know what the Fiscal was doing.

#### **UK.V.10**

I wasn’t treat with anything. Because they didn’t take any notice of me ... They spoke to me politely, but I may as well been, I may as well have not bothered being there because they’ve taken no notice of anything what I had to say. It seems like they had their mind made up even before I was there, it was pointless me even giving the evidence.

#### **Statement 4:**

#### **UK.V.01**

No, strongly disagree. Well I don’t know, it was his friend that was harassing me, to try and stop the case. It was never the offender, he was just too clever, his friend was stupid, to be hoaxed into doing it instead of the offender ... the person that I got the interdict against, I’ve not got one against the offender, but I’ve got one against the guy that harassed me where I lived for the two years of the case, and still comes up ... No one could do anything. Because he was such an important part of the whole case, that they couldn’t do anything. The PF, didn’t explain to me but explained to the university who explained after the case to me that they couldn’t do anything with this guy because he was such an important part of the case that he had changed his statements and perjured himself, like he was one of the main pieces of evidence, along with my statement, that they had to be careful how much they did and how far he would go if we annoyed him and stuff so ... I just knew the more I complained the more stuff he did, so I backed off talking to the police all the time, because the police would then go speak to him and that would just rile him up even more and they he had friends that got involved in that that weren’t involved in that originally and I was more afraid of you know, the police didn’t do anything with him so I was more afraid telling the police about him than, you know, so I suppose he got what he wanted in the end.

#### **UK.V.03**

(\*the statement was adapted to, when you’ve been to court, in expectation of the trial proceeding, did you ever experience moments when the presence of the offender was intimidating?)

No I’ve never seen him, so disagree

**UK.**

#### **UK.V.10**

I find him intimidating every day.

#### **UK.V.11**

Disagree. Obviously it wasn't a nice situation but it wasn't intimidating.

Please provide an analysis and your own interpretation of the results:

Whilst responses to Statement 1 from interviewees whose cases ended with a conviction were evenly spread between agreeing and disagreeing that proceedings were difficult to understand, all but one interviewee (**UK.V.08**, trial yet to be concluded) whose case did not lead to a conviction either agreed or strongly agreed with the statement. Additionally, six (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.04**, **UK.V.05** and **UK.V.06**) of the seven interviewees who found proceedings difficult to follow expressed their responses in stronger terms. A link can be seen here with the level of information provided as five (**UK.V.01**, **UK.V.02**, **UK.V.03**, **UK.V.04** and **UK.V.06**) of those six indicated at other points during the interview that they had not been given adequate information throughout proceedings.

Two thirds (**UK.V.02**, **UK.V.03**, **UK.V.05**, **UK.V.06**, **UK.V.07**, **UK.V.09**, **UK.V.11** and **UK.V.12**) of interviewees thought the police had treated them in a respectful and sympathetic manner. Of the four (**UK.V.01**, **UK.V.04**, **UK.V.08** and **UK.V.10**) that disagreed, none did so in stronger terms. Two (**UK.V.01** and **UK.V.10**) explained that their experience of the police was swayed either from positive to negative or negative to positive based on the conduct of one or two individual officers. The remaining two (**UK.V.04** and **UK.V.08**) felt they had been treated with no compassion and as if they were "a joke" respectively.

As one case (**UK.V.04**) did not result in a trial and two interviewees (**UK.V.09** and **UK.V.12**) did not give evidence only nine interviewees provided responses to Statement 3. Of those nine two thirds (**UK.V.01**, **UK.V.03**, **UK.V.05**, **UK.V.07**, **UK.V.08** and **UK.V.10**) agreed that the court had treated them respectfully, with the two (**UK.V.05** and **UK.V.07**) of the six whose cases ended with a conviction strongly agreeing and all four whose cases did not end in conviction only rather agreeing.

## 7. Protection against repeat victimization

### 7a) Cases not involving domestic violence

#### 7.1. Views of practitioners

7.1.1. According to the practitioners interviewed, do the police on a regular basis assess whether measures need to be adopted in order to protect the victim against repeat victimisation (Question Pr 7.1)?

Most, but not all, professionals felt that the police do regularly carry out such assessments.

Three of the 4 police officers interviewed felt that the police do routinely conduct these assessments. **UK.P.01**, who investigates allegations of violent crime on a daily basis, felt that the risk of further harm at the hands of the alleged perpetrator is at the forefront of the minds of both the officer dealing with the crime and the first line victim support organisation. **UK.P.02** and **UK.P.05** also stressed the focus on assessing potential future threats to the victim:

“The big thing now is looking at vulnerability. How vulnerable is that person? How likely are they to be a repeat victim?.. You look at someone and say like, what’s the threat to them? Is there any significant harm? And what’s the risk? And I think if any of them three things are there, you’ve got to do more.”

#### **UK.P.02**

Though **UK.P.05** felt that routine assessments are not conducted for the victims of every type of violent crime, and gave as an example of an offence where no assessment was likely ‘an assault in a town centre on a Saturday night’. **UK.P.03**, in contrast to his 3 colleagues, stated that the police do not regularly assess whether measures should be taken to protect the victim from repeat victimisation.

Prosecutors displayed some awareness of police procedures in this respect and clearly supported police claims that risk assessments relating to repeat victimisation are a routine part of police practice when responding to reports of violent crime. **UK.J.01**, picked out domestic violence cases to illustrate that police recognise such protection is all too often required.

“In domestic violence, I’m afraid you do see victims who are almost professional victims!” **UK.J.01**

**UK.P.01** and **UK.P.02** highlighted that the primary means of protecting the victim against repeat victimisation is to apprehend the suspect and to use either remand or bail conditions to prevent the suspect from coming into further contact with the victim. **UK.P.01** also stated that the investigating officer may take immediate steps, for example, to improve security of the home, if someone has been attacked at home or has been the victim of a burglary or a serious domestic violence incident. The installation of personal protection alarms and cameras, increased police patrols or direct telephone contact with the police are also remedies which police officer interviewees highlighted. **UK.J.02** described “target hardening” measures such as buzzers, changing the locks, reinforcing windows or putting a police TAU marker (‘Treat as Urgent’) on the house (also referred to by **UK.P.05** as a ‘place of interest’ marker) so that calls from that property are known to be a priority. **UK.J.03** confirmed that a risk assessment as to future victimisation forms part of the police case file which another prosecutor described in more detail:

“... have there been constant phone calls, have there been previous convictions against this victim, is this victim particularly vulnerable, how close do they live? They’ll look into the history of the defendant, is he a violent person? Is he known to breach court orders, is he known to be particularly violent, does he have an alcohol issue? These are the kind of things they would look into.’ **UK.J.05**

Although **UK.P.02** expressed the wish for greater funding he felt that the police ‘assess their vulnerability and their needs... and it’s kind of monitored now ... I think we do it good’. But some victims support professionals took a more sceptical approach. **UK.S.02** felt that the police were not sufficiently proactive in assessing whether the victim was likely to be subject to repeat victimisation and relied on the victim to raise the issue and ask for assistance. The police’s primary concern is to investigate and attempt to prosecute the instant offence.

“I think unless the person, the witness actually says, I am worried, I don’t really wanna give evidence because I’m worried, I fear for my life. Then I don’t think it’s taken into consideration, I don’t think that’s the first thing the police think about... I think the idea is to just, you know, solve this crime... get this done. And that’s it.” **UK.S.02**

**UK.S.03** suggested that police action amounts to little more than police officers advising victims that the police can take further action if the victim is subjected to any harassment by the defendant or his/her associates.

Judges could not comment on police officers' actions, but did verify that the courts are able to impose bail conditions or substantive court orders aimed at preventing repeat victimisation. **UK.J.10** said that courts can and do impose bail conditions to protect a victim from repeat victimisation prior to the trial, though acknowledged their temporary nature.

"A summary case will only result in a sentence of about twelve months if that, so the accused will be back out on the streets within a few months to commit mayhem again, [and] there won't be any bail conditions then." **UK.J.10**

The courts have greater powers to safeguard against repeat victimisation in solemn (serious) cases where, upon conviction, the court can issue post-release orders:

"It's really only in solemn cases where we can impose a supervised release order for example and extend the sentence or an order for life-long restriction with conditions which will be long standing and which may involve the accused having to tell a supervising officer of any relationship that he's entered into and so on. It might involve him keeping away from the people who [he offended against]. There's non-harassment orders as well which can be granted for a period... up to 5 years... but these are court measures, I'm not sure what the police do themselves." **UK.J.10**

7.1.2. Apart from domestic violence, are there other areas of crime where the police routinely focus on protecting the victim against repeat victimisation (Question Pr 7.2)?

Police officers and one prosecutor (**UK.P.01**, **UK.P.02**, **UK.P.03**, **UK.P.05**, **UK.J.02**) commented on the types of crime which are more likely than others to lead to repeat victimisation. They gave as examples, in addition to domestic violence, rape, homophobic or race related attacks, disability hate crime, burglary and criminal damage and some forms of anti-social behaviour. Seriousness of offence is not necessarily the driver. **UK.P.02** referred to a notorious case in which a family who had suffered continuous harassment committed suicide. **UK.P.02** felt that officers are now mindful of how smaller offences can escalate and will make the necessary assessments to protect victims from further offences.

Local priorities would also appear to be key. Of the two specialist sexual offence officers, one felt that rape was a priority offence whilst the other felt that it was not. **UK.P.02** said that his police force routinely focuses on preventing repeat victimisation in rape cases as rape is a priority crime within the force:

"It's kind of easier for me because if I ring up the Community Inspector and use the "R" word they drop everything. So I can generally get what I want. But you know if I was in uniform and I had an old lady getting her window put out a couple of times... But you've got to do it because at the end of the day no one should live in fear." **UK.P.02**

But in contrast, **UK.P.05** commented that victims of anti-social behaviour, criminal damage and burglary are prioritised in his police force area because of the high volume of reports of such offences at the expense of the victims of over rape and domestic violence:

The other police officer interviewed expressed a rather distasteful view, suggesting that the police do not take victims of repeat criminalisation seriously, but this stood completely apart from the views expressed by all other professionals.

"The majority of our repeat victims of crime are nutters, they are attention seekers. They fill their days with telling the police that something has happened." **UK.P.03**

Social professionals discussed local campaigns and schemes aimed at assisting people to avoid situations in which they may be exposed to criminally violent conduct. **UK.S.05** gave an example of a scheme called “pub watch”, a voluntary scheme for pub landlords which allows them to bar specified violent offenders from entering the premises.

But other victim support professionals were highly critical of the police. **UK.S.02** felt much more assistance should be given to victims of gang-related violence, but that the police do not take necessary steps such as moving the victim away from the local area.

## 7.2. Views of victims

7.2.1. When the interviewed victims first talked to the police, did the police assess whether they were in need of protection against repeat victimisation or retaliation (Question V 7.1)?

Of the six interviewees (**UK.V.01**, **UK.V.04**, **UK.V.05**, **UK.V.10**, **UK.V.11** and **UK.V.12**) who fell victim to crimes that did not have a domestic violence element, only one interviewee (**UK.V.11**) answered that he thought the police had assessed whether they were in need of protection against repeat victimisation.

**UK.V.11** was aware that bail conditions were placed on the offender to ensure that he stayed away from him.

The remaining five interviewees (**UK.V.01**, **UK.V.04**, **UK.V.05**, **UK.V.10** and **UK.V.12**) answered that the police had not assessed their need to be protected from repeat victimisation or retaliation. **UK.V.01** and **UK.V.05** both answered that the police had not assessed their need for protection however they also explained that they thought the police had determined that they were not at further risk from the offender.

**UK.V.01** felt that the police thought that she was not at risk from the offender as he lived in Manchester (England), and her in St Andrews (Scotland). The interviewee thought that the offender was released on bail without any conditions attached other than not being able to contact her. When he was arrested he was brought up to Dundee and on his release the university arranged for emergency accommodation for the interviewee in case he returned. The interviewee was not provided with information on his release which she found distressing:

*“I just was upset that he’d been released and he’d been brought up to Dundee which is half an hour from where I live, so I was put in emergency accommodation then, in case he came back, but the police couldn’t say where he was going, they just said “oh, I don’t think he’ll be coming to St Andrews” ... I was upset, distraught, that he’d been released half an hour to where I was. But it’s nothing to do with the police, it was all the university, they were the most helpful out of everybody” - **UK.V.01***

**UK.V.05** thought that the police did not assess whether she was in need of protection against falling victim to crime again as the type of offence in question is very rare in the town she lives.

*“No, they kept saying “it’s never happened here before ...I think what the police did was they focused on getting the guy, I wasn’t the focus and I should’ve, I don’t say I should’ve been the total focus but I think more care could’ve been given to me.” - **UK.V.05***

In the short time before the offender was arrested however the interviewee was very fearful for her safety.

*“Up to the point of him being arrested I was terrified, but when they were sure that they got the right man I was, you know, relaxed. But I mean I’m still seeing counsellors now because, you know, I’m literally heard voices, I heard footsteps outside my bedroom door, I lock my bedroom door, I go to bed with a cricket bat, at*

*one time I heard footsteps outside the door and I wanted to go to the loo and I couldn't go to the loo, couldn't leave the room. So I had to find a plastic waste bucket which I wee'd into until it was daylight, so I've had all these kinds of problems, I've had peculiar smells, you know, I've heard footsteps, so, it's my mind playing tricks on me, you know it's trying to process what's happened to me still." - UK.V.05*

**UK.V.10** felt like he had to keep informing the police of the continued threat posed to him by the offender. Throughout proceedings he was constantly in fear for his safety and remains so following the not guilty verdict in his trial.

*"I'm in fear of my life because the guy's a nutter. This particular guy stabbed somebody 10 years ago, he had 2 and a half years in prison, he's a nasty, horrible man and I said to [my Support Worker] "I'm fully expecting something to happen because as they say 'it's murder in slow motion', it's escalating and escalating and escalating". I'm now a prisoner in my own house. I keep all the windows closed and my front door locked. I don't go out. The only place I go to is my mum's house which is literally 200 yards around the corner and I have to go round in the car, it's that bad. And I'm still expecting something now because I've got no protection whatsoever, because he got found not guilty ... I said to [my Support Worker], "I'm fully expecting some sort of attack or acid attack or something like that to me", do you know what I mean? And I've got no protection, I've got nothing." - UK.V.10*

Similarly, throughout proceedings, **UK.V.01** was subjected to continual harassment from a friend of the offender, who was also a witness in the case. The interviewee explained that the police did not offer her protection from him and when incidents occurred she found herself having to explain to responding officers, often male, about her case and how the incident in hand was part of a bigger picture which caused the interviewee a lot of stress and anxiety.

*"Some police officers that, especially after something had happened and my window had been broken, they'd come round and they didn't know. None of it was matched up so they just thought I was some random student that had her window broken. They hadn't realised that actually I was in a whole investigation for the last two years and matches had been put through my door last week. Not even knowing that that happened to then come and say, "Oh, your window's been broken, is there anything else that's happened?" And I said, "yeah, actually" and then I'd explain, "Well actually I'm in a case, can you speak to this officer?" And they're like, "Oh, well they're not working today" and I was like, "Well can you look at something because I don't want to have to explain the whole situation, you've got databases like", it was a nightmare." - UK.V.01*

Because of the police's inaction and poor handling, the interviewee eventually stopped reporting the harassment.

*"I just knew the more I complained the more stuff he did, so I backed off talking to the police all the time, because the police would then go speak to him and that would just rile him up even more. And he had friends that got involved in that that weren't involved in that originally and I was more afraid of you know, the police didn't do anything with him so I was more afraid telling the police about him than, you know, so I suppose he got what he wanted in the end ... I don't think they were very.. they didn't take it seriously, the harassment, at all. There was no point in reporting it. It wasn't going to achieve anything, just make things worse because he would then get spoken to and try and do something else." - UK.V.01*

Accordingly, the interviewee took out an interdict against the witness that had been harassing her. She did so on her own without the help of any criminal justice professionals involved in her case.

*"I did it all myself. I looked it up and realised that that was a thing and realised I needed legal aid. Found a solicitor and rang the solicitor in Dundee who gave me some advice, and then contacted Rape Crisis Scotland, who put me in touch with the solicitor I have now, who did it without legal aid and got the interdict against him, and is now doing the civil case against the original offender. But it was all from my own ... no*

*one ever instructed me, no one ever gave me advice that I could do that. It was all solely from my own, just not being happy with what I was left with.*” - **UK.V.01**

7.2.2. In cases where the police found that the interviewee was in need of protection measures, which measures were adopted by the police? How did victims assess the effectiveness of these measures (Question V 7.2)?

**UK.V.10** and **UK.V.11** both explained that the police had put in place bail conditions on the offender so as to protect them from repeat victimisation.

The police did not put in place any protection measures for **UK.V.05**. However her Victim Support worker provided her with some anti-theft devices, personal alarms and arranged for lights to be put up.

**UK.V.12** could not recall clearly whether the police had assessed his need for protection against repeat victimisation however they had told him to get in touch again if anything ever happened. He explained that he had recently been getting threats from the perpetrator’s friends and families but he has chosen not do anything about it.

*“Yeah well I wouldn’t want to take any action really because I just, I don’t know, I wouldn’t want to cause any more conflict”.* - **UK.V.12**

## **7b) Domestic violence**

### **7.3. Views of practitioners**

7.3.1. As concerns cases of domestic violence, what are the standard procedures followed by the police in such cases in order to assess the need for immediate protection measures (Question Pr 7.3)?

As can be seen below, the responses of many interviewees revealed a very clear, coordinated and targeted criminal justice focus on attempting to protect victims of domestic violence against further victimisation from the perpetrator of the reported offence.

**UK.P.05** explained that in his police force area officers conduct a risk assessment by completing a Domestic Abuse, Stalking and Honour Based Violence (DASH) form which generates a level of risk to the individual victim of low, medium or high. There is also a team from the local women’s aid organisation working out of **UK.P.05**’s police station which maintains those risk assessments. **UK.P.02** described how in his force victims are treated as ‘high risk’ once they have experienced a second incidence of domestic violence, and this triggers multi-agency involvement:

*“The second incident they are going to become high risk... We would throw a lot of resources at it and get other agencies involved... housing... social services, schools, other agencies... We like to pick up on it straight away because we don’t want to get caught with our pants down six months down the line where there has been half a dozen incidents and we haven’t done anything... You deal with it really robustly straight away.”* **UK.P.02**

Prosecutors also felt that police officers are proactive and immediately discuss with the victim whether protection measures are both required and wanted. **UK.J.02**, **UK.J.07** and **UK.J.03** referred to routine and

on-going assessments and the use of Multi-Agency Risk Assessment Conferences (MARAC) with other key parties (social workers, healthcare professional etc.) to determine how to keep the victim safe.

“It depends upon the scenario, for example, if they have arrested someone quite often they will have done so to provide that immediate protection... and then they would also [consider] an application to try and keep somebody in custody to keep managing the risk... Obviously they do the same when considering bail conditions. So they do do something to try and manage the risk and obviously [there are also] referrals to agencies.” **UK.J.03**

Victim support professionals reinforced the priority that the police now give to the on-going protection of domestic violence victims. **UK.S.02** stated that the police, because they take domestic violence far more seriously now than previously, routinely visit the victim at home to assess whether he/she is safe or needs further protection. **UK.S.05** offered the view that high risk domestic violence victims are given an excellent level of protection. The police take continued vulnerability to crime very seriously but suggested that officers specially trained to deal with domestic violence most reliably identify victims’ protection needs:

“In my opinion every single domestic violence incidence should have a specifically trained domestic violence officer to go and deal with it rather than the neighbourhood policing teams. [Non-specialist officers] have had training on filling out [risk] assessments and what to look for but not specific intense training on what could effectively save someone’s life. These are the same guys that will go to the old lady down the road who had her plant pot nicked or whatever... The fact that there is such a sort of diverse level of quality with the way these assessments are filled in worries me slightly.” **UK.S.05**

Interviewees gave examples of good practice which illustrated the speed with which police officers act. **UK.S.05** described how, frequently the police have applied for an injunction before his victim support organisation has even received the victims’ referral and a prosecutor also gave an example the police focus on timely protection.

‘... the police really do try and get in and get the victim out and to a place of safety. They will ring around to find a place of safety, I’ve known officers to do that on cases until late in the night to find somewhere to go.’ **UK.J.06**

7.3.2. In cases of domestic violence, what are the standard procedures followed by the police when there is a need for immediate protection measures (e.g. advising the victim to move to a shelter, arresting or banishing the offender)? From the point of view of the practitioners interviewed, how effectively are these protection measures implemented (Question Pr 7.4)?

Again, police officers were best placed to give details of the standard procedures that the police follow to put immediate protection measures in place. **UK.P.01** explained that for very low level domestic violence incidents, typically carried out on the streets, these generally involve a warning to the suspect to desist. **UK.P.02** said that for more significant incidents, arresting and charging the offender is the best form of protection, as a charge of domestic violence would ordinarily mean that an offender is held on remand. **UK.P.01** confirmed that here the offender is not remanded in custody, bail conditions are routinely imposed and personal alarms installed, and **UK.P.02** stressed the importance of ensuring that uniformed officers are made aware of the situation so that they can monitor the offender.

“So for example, that person is on bail, I personally make sure he gets tagged and that the local neighbourhood team are aware of his bail conditions and that they are rigorously enforcing them... That

his picture has gone around our police bulletins... so everybody that works [in the city centre] knows his face. And just really, really really enforcing that.” **UK.P.02**

**UK.P.01** and **UK.P.02** also spoke of seeking Domestic Violence Protection Orders (DVPOs) against the suspect, though this is not immediately necessary if the suspect is remanded in custody following charge. A DVPO is issued by the local magistrates’ court on application from the police and does not require a criminal conviction before it can be put in place. **UK.P.01** suggested that such orders are used only where a conviction for a criminal offence appears unlikely:

“Ultimately the DVPO is there rather than having no action whatsoever because you fall short of the criminal threshold. You’re taking some positive action to protect the victim of that domestic violence – and it is relatively short-lived but it is something.” **UK.P.01**

In addition, **UK.P.02**, **UK.P.05** and **UK.P.03** explained that the police can take any children into police protection or move victims into a refuge or other safe place, including in situations where the victim refuses to cooperate with a prosecution. However, as **UK.P.02** pointed out, pressures on resources limit the police’s ability to secure alternative accommodation for victims:

“Like everything... it does come down to money [so] you have to manage people’s expectations don’t you, what you can reasonably give them... It would be great if [once] they reported it you could go, ‘right I’ve got you a council flat ten miles away’ [but] it doesn’t happen like that ... You can’t just give someone a flat, do you know what I mean?... . But sometimes you’ve just got to really really push it and be really, really persistent and get them out of that environment.” **UK.P.02**

Prosecutors spoke of the same measures as police officers highlighted. **UK.J.01** and **UK.J.03** made the same point as a police officer, that the most immediate step the police can take to protect the victim is to arrest the suspect and remove him/her from the home. In cases at the lower end of the spectrum of seriousness, the police impose bail conditions and if the threat is thought to be more serious the police can assist the victim in moving to a hostel, though if the suspect is remanded in custody that will not be necessary pre-trial. **UK.J.02** said that the police can apply directly for Domestic Violence Protection Orders, though she felt that they are over used. **UK.J.03** pointed out the benefit of a referral to a support agency, which can support the victim to recognise the violence or assist them in moving away from it.

Specialist victim support professionals also felt that police take effective action to protect victims of domestic violence

“When someone is a victim of a crime like... a domestic violence situation, then they take them into a refuge, they don’t have to say. They are moved instantly.” **UK.S.02**

And confirmed that, if there are children in the home, the police alert social services to the possible threat.

Most professionals took a positive view of the effectiveness of the protection measures which the police are able to put in place. A number of prosecutors (**UK.J.02**, **UK.J.03**, **UK.J.05**) for example, described properly constructed bail conditions as a powerful tool for managing the risk to victims on the basis that breach is a criminal offence for which offenders are imprisoned or detained in police custody. Victim support professionals were more in favour of the use of hostels and refuges. **UK.S.03** felt that though relocation can cause considerable disruption for the victim and any children, it is effective in preventing on-going contact with the abuser. **UK.S.05** also favoured moving the victim into a refuge as an effective way of keeping the victim and her children safe and free from further victimisation.

However, professionals from all groups (**UK.P.02, UK.J.04, UK.J.06, UK.J.10, UK.S.02**) recognised that protection measures are easily and frequently undermined when victims make the decision to re-establish contact with the perpetrator of the violence.

“Because you can put in as much protection as you like, but if the family and the defendant manage to get to the victim and persuade them to re-engage and get back together there’s nothing you can do about that.” **UK.J.06**

This all too often happens, despite support from specialist victim support organisations, when the perpetrator successfully grooms the victim to resist help and remain in the violent relationship.

7.3.3. If the police learn of a case of domestic violence, do they routinely inform a victim support service? If yes, would it be a generic or a specialist support service (Question Pr 7.5)?

A referral to a victim support service is made in all situations when the victim consents to the referral (**UK.J.01, UK.P.01, UK.P.02, UK.S.03, UK.S.05**). Depending on the urgency, the report may be direct to a specialist service, or it may be to a first-line service which then refers the victim on to the most appropriate specialist or niche support service. **UK.P.05** felt referral was straightforward in his police area as a team from the local women’s aid organisation worked out of the police station allowing the officer in the case to make a direct introduction. **UK.J.03, UK.S.03** and **UK.S.05** all recognised that these support services are successful in supporting victims through the criminal justice process and in helping them break the cycle of violence.

7.3.4. In routine cases of domestic violence, are the protection measures adopted by the police followed up by court orders? If yes, which courts adopt such orders and for which time span? How do the interviewed practitioners assess the effectiveness of these orders (Question Pr 7.6)?

The general view (**UK.J.01, UK.J.03, UK.J.04, UK.J.05, UK.J.06, UK.J.07, UK.J.10, UK.P.01, UK.P.02, UK.P.05, UK.S.03, UK.S.04**) was that as part of sentencing the criminal courts are proactive in converting bail conditions into or issuing new restraining orders upon conviction, which prevent the defendant from contacting the victim. These orders typically last between 2 and 5 years, though they can be indefinite, and carry a significant penalty for their breach of up to five years in prison. Criminal courts are also prepared to impose other orders, such as Criminal Behaviour Orders which restrict the defendant’s movements by, for example, excluding the defendant from certain areas of a town or city. Such orders can also be indefinite or for a finite period of time. Furthermore, the civil courts can grant non-molestation orders.

Interestingly, several prosecutors (**UK.J.03, UK.J.05, UK.J.06**) pointed out that the criminal courts are able to issue a restraining order following a conviction or an acquittal. However, **UK.J.03** felt that this was not widely known within the police:

“A lot of police aren’t aware that a restraining order can be given on an acquittal. [Even if the CPS offer] no evidence... we can still get a restraining order... That can be very helpful when [victims say] they don’t want to proceed, but they don’t want to see the person again and they would like an order. That might well be an additional protective measure.” **UK.J.03**

**UK.S.03** pointed out that it is much easier for the victim if the matter is dealt with by the criminal court as part of the trial process as the victim then does not incur any costs.

**UK.J.10** described how in his court area in Scotland there is a specialist Domestic Violence Court designed to progress domestic violence cases to court quickly. The court only deals with domestic violence cases of a summary nature and cannot deal with more serious cases of domestic violence requiring a jury trial. The court is presided over by specially trained Sheriffs who have a knowledge of sanctions above and beyond custodial sentences for perpetrators of domestic violence, such as attending courses designed to address the causes of abusive behaviour. The court has been in existence for around fifteen years and is beneficial to victims of domestic abuse:

“I think what happens is that very often you’ll get either an early trial or an early plea of guilty in that case and the disposal will be tailored to the accused with a view to making sure that he doesn’t do it again, as far as can be done... It’s pretty rapid justice, I think that helps.” **UK.J.10**

Professionals’ views on the effectiveness of restraining orders recognised the limits of the courts’ reach. Formally sanctions are in place to deter and punish breach. A number of prosecutors (**UK.J.01**, **UK.J.03**, **UK.J.04**, **UK.J.05**, **UK.J.07**) reported that offenders are aware of the severity of punishment for breaching such orders and as a result they felt the orders are effective most of the time, and police officers (**UK.P.01**, **UK.P.02**) agreed:

“Yes, I think certainly restraining orders are very effective. The sentences that are generally passed for breach of restraining orders are pretty severe, generally a second breach would involve going to prison and I think people are aware of that. They do seem to offer protection. Yes there are people who will breach anything and there’s not much you can do to stop it but I would say in the majority of cases they are very effective.” **UK.J.03**

“When they do break them, which they invariably will, then at least you’ve got some kind of power to deal with them haven’t you? ... You’ve got a tool haven’t you? You’re not just going round and saying, you shouldn’t have done that but there’s nothing I can do about it.” **UK.P.02**

However, court orders are not effective if, as also happens pre-trial, the victim decides or is persuaded to reconcile with the offender. One judge told us:

“I don’t think they are very effective when the complainer in fact wants the accused back ... when it comes to the trial the complainer will say nothing happened, it was her fault, she was drunk and didn’t know what went on, and so on, so, but you can only go so far to help people.” **UK.J.10**

These concerns were equally expressed by prosecutors:

“Sometimes there is a difficulty when, if it’s a relationship which is fluctuating, it might provide short-term protection for the victim but there may be circumstances in which there is a reconciliation and then it becomes more difficult, I think, for it to be a valuable tool to protect her. Or him.” **UK.J.04**

Who also felt strongly that the effectiveness of court orders is dependent upon the reporting of any breach by the victim, which for a number of reasons may not occur:

“You have sexual offender prevention orders... so not allowing a sexual predator for example... to be alone with a child under 16... that kind of thing... Those orders will be enforced if they’re breached and they’re monitored, so to that extent, yes they are effective. But you can’t control the perpetrator, he may still go back and sometimes he’s not caught, so in that respect they could be a bit ineffective.” **UK.J.05**

Victim support professionals also had concerns about the effectiveness of court orders, but for reasons connected to their administration rather than non-reporting by the victim. **UK.S.04** gave an example of a protection order that had been issued by the courts but not notified to the police, who are responsible for ensuring the order is not breached.

“[The victim] been terrified all weekend because the police didn’t have this order on the system. So I got a copy and sent it off!” **UK.S.04**

**UK.S.04** also highlighted that victims who change address incur costs simply to change the order.

“I always think that is really harsh because some people can’t afford it. I always think... what harm is it to [simply change the address]. I always think that is really harsh because 9 times out of 10 they don’t have a lot of money”. **UK.S.04**

### 7.3.5. Did the interviewees agree to the following statements (Question Pr 7.7)?

7.3.4.1 More needs to be done to effectively protect victims of domestic violence against repeat victimisation.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	3	2	0	0	1	6
<b>P</b>	0	1	1	0	0	2
<b>J</b>	1	8	1	0	1	11
<b>L</b>	NA	NA	NA	NA	NA	NA
7.3.4.2. A number of good practices are already in place for victims of domestic violence.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	0	4	1	0	1	6
<b>P</b>		2	0	0	0	2
<b>J</b>	1	9	0	0	1	11
<b>L</b>	NA	NA	NA	NA	NA	NA
7.3.4.3. More needs to be done to ensure that victims of domestic violence have access to specialist support services.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	2	1	2	0	1	6
<b>P</b>		1	1	0	0	2
<b>J</b>	1	6	0	0	4	11
<b>L</b>	NA	NA	NA	NA	NA	NA

7.3.4.4. There are competing demands on resources for different groups of victims, and so sufficient resources are already dedicated to support victims of domestic violence.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	0	1	2	1	2	6
<b>P</b>	0	1	1	0	0	2
<b>J</b>	0	1	3	2	5	11
<b>L</b>	NA	NA	NA	NA	NA	NA

Please provide an analysis and your own interpretation of the results:

Given that the broad culture fostered within the criminal justice systems of England & Wales and Scotland is to support and protect victims of domestic violence in an effort to increase the prosecution and conviction rates for domestic violence offences, it is unsurprising that few professionals disagreed with suggestions that more should be done to protect and support them. However, equally almost all professionals agreed that much has already been achieved in this regard. The view seems to be less that existing protection and support is inadequate, and rather that with sufficient resources it is always possible to continue to make improvements. Professionals found statement 4 the most difficult to respond to with a third of interviewees providing a 'don't know answer'.

One interviewee both agreed and disagreed with statement 3, so was categorised as a 'don't know' answer.

Three interviewees both agreed and disagreed with statement 4, so were categorised as 'don't know' answers

Notable observations made by interviewees on each statement are:

Statement 1:

"In a general sense, the answer has to be yes, I do agree that more needs to be done, but I can't put my finger on what it could be at the moment that offers more. That has to be an agree, yes. Don't ask me what!" **UK.J.01**

"I'm happy that there seems to be quite a bit in place. But there is always something more that can be done." **UK.P.01**

"I think there is a lot of support there but obviously it is about resources again." **UK.S.03**

Statement 2:

"Domestic violence is high on the agenda, it's recognised, every police force has a domestic abuse unit and quite a lot of the officers on those units are pretty dedicated to what they do. I just don't think 20 years ago that was the case... [Now] it's taken very seriously and everyone does what they can to protect these victims." **UK.J.06**

"I think there is some good stuff and really good work, like amazing, but not enough." **UK.S.02**

### Statement 3:

“It’s all resources isn’t it? If we had unlimited resources and we had loads of refuge centres where we could put victims of domestic abuse and their children in comfort, even if it’s just for a week to get away from the perpetrator easily, then, you know it would make all the difference. But there’s just not the money.’ **UK.J.06**

“Resourcing and I think government funding for statutory organisations. To prevent people having to rely on charities essentially.” **UK.P.02**

“They’ve got more than enough!” **UK.P.03**

### Statement 4:

“I would agree with the first part of the statement but I would disagree with the second part.” **UK.J.05**

“I think there are conflicting issues with regards to the money pot, as to who gets what. Domestic abuse victims should get more, but then I suspect people say those victims of a hate crime should get more, so everybody is competing for the little money that there is.” **UK.J.06**

“The decision about what resources to give to any particular group really are policy matters for government.” **UK.J.08**

“There are definitely competing demands, but I wouldn’t necessarily agree that that means less needs to be done”. **UK.J.11**

## **7.4. Views of victims**

7.4.1. How did the police learn about the interviewees’ situation: were they called to the interviewees’ homes or did the interviewees call them or turn to a police station (Question V 7.3)?

All six interviewees (**UK.V.02, UK.V.03, UK.V.06, UK.V.07, UK.V.08** and **UK.V.09**) who were victims of domestic violence reported their situation to the police themselves.

7.4.2. When the police first learned about the interviewees’ situation, did they thoroughly assess whether measures were needed to protect the victims against repeat victimisation or retaliation (Question V 7.4)?

Three of the six interviewees (**UK.V.02, UK.V.03** and **UK.V.08**) did not think the police had thoroughly assessed whether measures were needed to protect the victims against repeat victimisation or retaliation

**UK.V.02** explained how she had informed the police on a number of occasions before making a statement and they had told her that they could not take any action until she had made a statement. Prior to making a statement, the police did not assess whether the interviewee was in need of protection measures:

*“What they needed was for me to give details of what he was doing to me, which was horrific and frightening to start with, before they’ll then act. Because I’m not reporting a crime, so I suppose their hands are tied legally.” - **UK.V.02***

Moreover, a specialist domestic violence officer advised her to forget the previous assaults and wait until another incident occurred before reporting it.

*“I spoke to the domestic violence police two or three times before I actually gave a statement, because they weren’t going to come out ... When I was phoning the police saying, “He’s doing this, he’s doing that, can you come and speak to him?”, nobody said to me “you realise you’re in danger here?” In fact one officer actually said, this domestic abuse officer actually said, “Why don’t you wait until, draw a line under what he’s done so far and wait until he does something again, and then report it”. That’s what he actually said to me. So, I’m sitting thinking, at the time I’m thinking, “Maybe I should”, but looking back I’m thinking he could have killed me.” - UK.V.02*

**UK.V.03** reported incidents on a number of occasions where the police took no action. Moreover, on one occasion after reporting an incident the interviewee was merely advised to change her phone number.

*“There’s been a lot that I’ve reported to the police for the last few years, but nothing’s ever been done ... I phoned the police and reported the malicious calls and the threats and they came out, they took statements from me, they got me to fill in the domestic abuse form, they listened to the messages, they told me that the only advice they could give me was to change my phone number. They said they could go and have a word with him, but because he’s not carried out any of the threats there wasn’t really much they could do. And I felt, the most horrible feeling in the world, you feel like they don’t believe you anymore. They’ve listened to the messages, they’ve seen the texts on your phone, you feel as if they just personally don’t care about if you. I don’t know whether they would’ve treated it differently if I had reported him for abuse when he was hitting me when we were married.” - UK.V.03*

Bail conditions were put in place that prevented the offender from having any contact with **UK.V.08**, which he thought were ineffective as the offender did in fact make attempts to contact him and sent people round to intimidate him.

*“It was put on her bail conditions that she wasn’t allowed nowhere near me, but there again some people don’t listen to bail conditions, so she could’ve knocked on my door at any point. ... She actually sent someone to knock on my window at one point and she used other Facebook accounts, she’s made a different name up, like one of our friends, she used his name, he doesn’t even know how to use a phone let alone make a Facebook account ... There were a few bangs on the back window because my back window’s the only window that isn’t ‘camera’d’ up. Because I live in a block of flats and there’s cameras everywhere except for my back window. ... And her partner have been sitting on the wall, like right outside my window... But he doesn’t intimidate me.” - UK.V.08*

**UK.V.02** and **UK.V.06** explained how the police had immediately arrested the offender to provide them with immediate protection from the offender.

Like **UK.V.08**, the police put in place bail conditions to protect **UK.V.02** from the offender. **UK.V.02** also felt however that the bail conditions were not adequate in protecting her from the offender. She explained how the conditions themselves were weak and had gaps in them, through which the offender could still get near to her which caused her distress.

*“The bail conditions as well allowed him access to the back garden, because, who does that? Because he stood up in court and said, “I’ve got gardening equipment in the back garden, I need access to it”. So instead of the bail conditions saying that ‘you can send someone round on one occasion to collect it’, the bail conditions allowed him to come in my back garden. So, these are just some of the reasons why I wouldn’t go down this route again ... It was just a control thing I think ... Normally, what I was told is it’s the address, normally it would say the bail conditions are you’re not allowed into ‘T Place’ which is where I live, but no, how bizarre. So, you’re getting bail but you’re allowed in her back garden, who does*

*that? Crazy ... He was clever, he would have that plausible deniability if he did decide to come. But you come across as crazy, saying, "Oh, you know, his stuff's in the shed, what if he turns up?" and people go, "Well, he's not going to turn up" and, you know, in the back of my mind I'm thinking well if he does turn up he's just going to say, "I'm here to collect my stuff". So, he's already lining up his excuse if he decides that's the route that he wants to go down. So the bail conditions were, I don't think, not tight enough." – UK.V.02*

Owing to the weak bail conditions, the interviewee experienced a number of occasions where the offender was waiting at the bottom of her street or was accessing her garden and she had been forced to call the police through fear. The police however were not able to take any action because the offender was not going so far as to breach the conditions of his bail.

*"I think it was about five times I had to report him, but he wouldn't breach bail. He would be like at the bottom of the street or he would just come close enough that, you know, you could say, "Well he's not doing anything, he's not breaching bail". The police can only do what the courts tell them to, and if P's [the offender] not breaching bail then the police say, "He's not breaching bail, we can't do anything". So that's why you have to keep reporting it and change it to, almost like a stalking offence, but even then it was too far apart and he had plausible deniability, he always had a reason. Because he's a police officer he knows how it works, so, anyway the police weren't involved much at all, once the initial bail was in place, I think they felt that was it, their job had been done." – UK.V.02*

Moreover, after the offender was convicted his bail conditions were no longer in place and the interviewee had not been granted a non-harassment order. She was again forced to continue to report incidents of intimidation to the police and explained how on one occasion she had been reprimanded by the responding officer for wasting police time.

*"Well I had to phone treble 9 once and then I had to report 3 or 4 times he'd been at the bottom of the street and about because Women's Aid had said, "Every time you see him somewhere he's not supposed to be report it because you can build up a stalking case or there are other laws they can use to keep him away." So it was important to me, so I did that. The police noted it and they came out on the treble 9. Once the police badly let me down after he'd been convicted he was at the bottom of the street and I phoned the police and they said "do you want somebody to come out and talk to you?" and I said "well, alright then", so the police came out and sat and spoke to me and she basically accused me of wasting police time, I said "look there's a man at the bottom of the street with a conviction for assaulting me" and she's saying "well, he's allowed to be at the bottom of the street" and I'm saying "but is there not something like intimidating a witness after the trial, putting you in a state of fear and alarm?" she was like "no you've got to be careful you don't get in trouble for wasting police time". Now if it wasn't for Women, I was straight on the phone to Women's Aid and they said "that's outrageous, that's absolutely outrageous that police officer should be taking your safety seriously." – UK.V.02*

**UK.V.08** discussed how he would have liked the police to do more to protect him from retaliation within his local community. He would have liked to have been moved to a safe place as he no longer felt safe where he lived after the offender had spread around that he was a "grass".

*"Basically she's spreading rumours around that I'm a grass to try and get other people to, people think that you're a grass, half of them will hit you, half of them will just throw verbal abuse. So it is worrying, she's wanting someone to come and fill me in or smash me flat up or something." - UK.V.08*

The interviewee made the police aware of these incidents who told him to just ignore it and that they are unable to do anything until an offence is actually committed:

*“Well I’ve told them but there’s cameras all about, but the placement of the cameras isn’t that great anyway, so, by the time someone got into my door. But I’ve rung the police up before someone kicking my door in: “We can’t do nothing unless they’ve actually done something”. So it’s like when they stab me you’ll come then will you? Kind of thing. Yeah, so it’s a bit ridiculous really.” - UK.V.08*

The interviewee was even told by one officer that if someone came and threatened him he has the right to punch that person:

*“One copper did, yeah, because he knows her ex-partner and he said he’s just an idiot. Basically because he’s threatening to beat me up, and I said well if he kicks the door off I’ve got all rights to punch him back out basically, my doorway, he was like “carry on” ... I said “if he does kick my door in, I’ll open it and I will punch him” and the officer said “that’s fair enough” kind of thing, he says, well he basically yeah, just fill him in.” - UK.V.08*

7.4.3. When the police learned about the interviewees’ situation, what concrete measures did they adopt in order to immediately protect victims against repeat victimisation? How did the interviewees assess the effectiveness of the measures adopted by the police (Question V 7.5)?

Neither **UK.V.02** or **UK.V.03** thought the police had adopted any measures to immediately protect them against further abuse.

*“They never approached me and said “is everything alright? What do you need? And again it was Women’s Aid who helped out with that, with the police getting the police marker on the house, I wouldn’t of known to ask for that. Women’s Aid were great.” - UK.V.02*

**UK.V.07** was moved to a safe house and later to another house which was fitted with alarms. She was also given a rape alarm by the police. **UK.V.09** had a police marker installed on his property and welfare patrols were arranged. He stated that he felt safer thanks to the measures adopted.

7.4.4. When the police learned about the interviewees’ situation, did they inform the victims of support services available to them or did the police contact a support service themselves (Question V 7.6)?

The police referred five of the interviewees (**UK.V.02**, **UK.V.03**, **UK.V.06**, **UK.V.07** and **UK.V.09**) to a specialist support services. The remaining interviewee (**UK.V.08**) was also referred to specialist support service but thought it had been the CPS who had done so.

7.4.5. In cases where victims were in contact with a support service, how did they assess the services provided in terms of supporting them in coming to terms with their victimisation or in finding a way out of a violent relationship (Question V 7.7)?

Five of the interviewees (**UK.V.02**, **UK.V.02**, **UK.V.06**, **UK.V.07** and **UK.V.09**) all thought that the support service they had been in touch with either supported them in coming to terms with their victimisation or helped them find a way out of the violent relationship.

Women’s Aid were instrumental in helping **UK.V.02** come to terms with the violence she suffered.

*“Women’s Aid said, “He’s a rapist, he’s an abuser, he’s going to hurt you or worse” ... They were great, came down right away, had a session with them and then they put me on their books. And right enough it did, it did get worse, he did assault me, it did go off the scale, it was exactly like she predicted. Because I’m still defending him at this point I’m still saying, “No, it’s the alcohol that makes him do that” and she says, “But lots of people drink alcohol and they don’t go about battering their wives.” or “Oh, it’s a stressful job”, “Well why isn’t he taking the stress out on his boss?” “Oh, he’s got anger management”, “Well why’s he only angry when he shuts the door with you at night?”. They sat down and explained it all to me, before that I thought it was all my fault. That’s, I had this support from Women’s Aid and that was brilliant, absolutely brilliant.” - UK.V.02*

Women’s Aid also helped her find a way out of the relationship by encouraging her to report to the police.

*“They encouraged me to report him to the police because they knew I was going to get badly hurt.” - UK.V.02*

The support organisations definitely helped **UK.V.07** with acknowledging what had happened to her.

**UK.V.09** stated that Safer Wales had been extremely helpful in coming to terms with what had happened to him.

*“Oh yeah they came to help me with no end. Even down to the fact of knowing that it wasn’t me, it’s not my fault.” - UK.V.09*

The remaining interviewee (**UK.V.08**) did not think that Safer Wales had helped him come to terms with the violence suffered. It appeared that this was more because he thought he did not need to receive such help rather than the support service not having provided the support. He had decided himself that he was going to end the relation on the night of the violent incident.

*“The second she laid a finger on me it was over, I told her that, that night, that’s why I probably got another 20 or 30 slaps. But as far as Safer Wales, they helped me out as much as they possibly could, same as the prosecution service.” - UK.V.08*

- 7.4.6. According to the interviewed victims, did a court issue at any time a protection order with a view to protect the victim against repeat victimisation? If yes, which court, and how do interviewees assess the effectiveness of these court orders (Question V 7.8)?

Only one interviewee (**UK.V.07**) was issued with a court order to protect her from the offender. However the offender was remanded in custody and then given a custodial sentence after being found guilty so enforcing the court order has not been necessary at the time of the interview. **UK.V.09** had been asked whether he wanted to apply for a restraining order but he did not.

For **UK.V.02**, not being granted a court order to protect her from the offender was the biggest problem she had with her experience of the criminal justice system and had caused her great distress. In particular, she did not understand how the offender could have been found guilty, implying that he poses a danger to her, but yet the judge refused to grant her protection from him.

*“What else doesn’t make sense to me is, I had bail conditions for 17 months, then the court says, “That man is a violent offender”, and they lift my bail conditions. They wait until they tell me and agree with me, yeah he’s a nasty and violent man, and then they lift the bail, who does that? They tell me he’s innocent until found guilty but they’ll give me bail, and then they say, “Right, he’s found guilty” and they lift the bail conditions and it’s like they give me a big stick and say “poke that bear”, so I’m poking the*

*bear and they open the cage door and walk away, and I'm left holding the stick, it was horrendous. And that's why I wouldn't go through it again, not a chance." - UK.V.02*

She could not understand why it had not been granted and felt a sense of injustice. Accordingly she asked for the judge (the Sheriff) to explain her reasoning:

*"She [the judge] said it was the most chilling thing she'd ever heard in her 30 years in the courts, was the recording of him assaulting me, why didn't she give me my non-harassment, why didn't she give me it? That's when I got in touch with victim support and we dug out the Victim and Witness Act that say's I've got a right to know her reasoning behind her decision. So after her Sheriff's clerk said, "No you don't" and I was arguing, "Well yes I do it's in the Victims and Witness Act, I do", "had to complain to her boss and then her boss went down to her and said, "Yes she does". Then the Sheriff rung back and said because basically he pinky promised not to come near you again. Three weeks later he's at the bottom of the street. Why on earth you would take the word of a convicted criminal and I'd asked for a non-harassment order. And I said there was nothing legally stopping her from giving that. That's why I took it down the civil route, to get a civil interdict to keep him away.*

...

*The very final question his lawyer asked me was "what arrangements were made about P moving out the house?" and I said to his lawyer "P said if I didn't report him for raping me he would leave the house" and his lawyer said "pardon?" and I said "P said if I didn't report him to the police for raping me he would move out the house" I said he'd been raping me and I looked him in the face and told him that and she's sitting watching this and she said this was the most chilling thing she'd heard in 30 years, she saw, and she said "there could not be a more credible witness than me" was what her comments were, and yet she would allow that man to walk straight back into the marital home and kick off again. And that's what infuriated me more, that she knew how bad things were, she had it in her power to give me that and she didn't." - UK.V.02*

Without the non-harassment order the interviewee continued to fear for her safety after the offender was found guilty and decided to apply for a civil injunction against the offender. This process was also extremely distressing for the interviewee and is not suitable for a victim of domestic violence. She found having to provide all the information for the affidavit re-traumatising and thought that the offender had too much power over proceedings:

*"I went and got a civil interdict, which was horrendous, absolutely horrendous, and worse than the criminal court case. It was just absolutely horrendous ... To get a civil interdict you obviously have to give an affidavit, you give an affidavit and you detail quite horrific abuse. So you're basically re-traumatising yourself and you've just been through 17 months of talking about it. So I wrote about all the stuff he had done. So he gets to read your affidavit, through his solicitor, he takes the affidavit and he shows it to our son. That is why the courts needed to issue a non-harassment order, because all they're doing is sending you down another horrific route. Could you imagine your son reading that? 30 year I kept my mouth shut when I was being raped so I wouldn't wake my son, made excuses for his father's behaviour, had a lock on my bedroom door, I would let my husband in when he started to get loud so my son wouldn't see it. I tried to cover all these years for that horrific abuse, I put it in an affidavit thinking the court would just rubber stamp it and he takes it and shows it to our son. Who does that? So that is what you're up against. That is why the criminal courts can't wash their hands of this once they drag you into it. I couldn't face court again, so I agreed to a watered-down version of the interdict, which keeps him 100 metres away instead of 400 metres, so he still comes to the bottom of the street which still means I've got to drive past that man going up to my own house. And I got it initially for 6 months, after 6 months we had to go back to him and ask him to extend it. How ridiculous is that? And it was*

only the threat of us taking him back to court that he agreed to extend it. But how does that make me feel, having to go and ask his permission every 3 months and he says, "Aye, ok, I'll give you another 3 months". How is that system any better than, so. The civil system needs a good overhaul as well, and you should never have to go down it." - **UK.V.02**

She also raised concerns over the costs of the process and the fact that most women in her situation would not be able to afford to take civil action:

"Why should I have to, or other women, have to pay? Most women can't afford that, I couldn't afford £2000. See if you go to court with a civil interdict, and the Sheriff decides that you're not getting it, I would be liable for his costs, so that 2 grand that he gave me in my compensation order, I could easily had to give that straight back to him if the sheriff on the day decides, "You don't have enough evidence to drag him to court". So there's nothing in black and white, there's no guarantees, and I couldn't take the chance of 1) having to give that 2 grand back because that would've just finished me and I couldn't face court again after the hell I'd been through, so I thought, "I'll take a watered down version". I'd of taken 6 minutes and 6 metres at that point I was so exhausted, so. And that's why the whole system is just a disaster, it really is." - **UK.V.02**

7.4.7. To what extent did the interviewees agree to the following statements (Question V 7.9)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
7.4.7.1 Overall, the police made all possible efforts to protect me.	1 (UK.V.02)	3 (UK.V.06, UK.V.07, UK.V.09)	1 (UK.V.03)	1 (UK.V.08)	0	6
7.4.7.2 I would have needed more support in changing my situation with a view to overcoming the threat of violence.	0	2 (UK.V.02, UK.V.08)	4 (UK.V.03, UK.V.06, UK.V.07, UK.V.09)	0	0	6

Comments added by interviewees

**Statement 1:**

**UK.V.02**

I don't think they could've done anymore. It's not their job, it's the courts. The police can't do anything unless they've got, you know, to do, they can't sit outside myself they need a protective order from the courts for them to uphold. Paul could still, although I've got a civil order, but without that he could just sit outside my house at any time he wants, it's his house as well, so, yeah.

**UK.V.03**

The first time he did the abusive phone calls and the threats, they could've done something about it then.

**Statement 2:**

**UK.V.02**

I agree because Women's Aid are stretched, if I could still have a Women's Aid worker in my life I would still have it, but they are 26, she had to move on to the other women who were needing her help more than I was. But Victim Support were really the only organisation after this was all over that bothered to keep in touch. They still phone once a month to say, "Are you doing alright? Is there anything we can help you with?". And you've no idea the difference that makes, just to, the Crown Office dropped me like a ton of bricks. ASSIST, I'd sacked ASSIST already. And the courts aren't interested, they're like, "well, he's been found guilty, we're washing our hands of it" and it's all over. Because I phoned her and said, "Well, it's over for you, it's not over for me, he's still at the bottom of my street", "Well he's been sentenced and found guilty and that's it, you know, that's as far as we're concerned, it's finished". I remember saying to that clerk, Sheriff's clerk, "it's finished for you but it's not finished for me"

### **UK.V.03**

There wasn't really anymore I could've done with what I was doing, so disagree.

### **UK.V.08**

Now everyone around Brockworth and everything think I'm a grass and everything, so. I've done nothing wrong. So the person who hasn't done nothing wrong still gets abuse from everybody else, kind of thing. Well, a long time ago, in the same flat, different situation, someone said I was a grass, I had my, I think he was about 3 at the time, my son, he threatened to stab me in the face, and that was whilst I was holding my son. That's just from someone saying "he's a grass" ... Being a single parent, putting me in a bit of worry, like if something did happen to me, what would happen to me son kind of thing, like. Crawl in the road, I don't know. That's what I mean, people under situations like this they should move them away. But they just don't seem to bother. As long as they get their conviction of the other person, they don't really care about the victim any longer, that's the way I see the police point of view.

Please provide an analysis and your own interpretation of the results:

Interviewees responses to the statements posed varied according to the unique factors present in their own experiences of the criminal justice system, there appears to be no common thread among answers.

## **8. Civil law claims: compensation and restitution**

### **8.1. Views of practitioners**

8.1.1. According to the practitioners interviewed, do the police routinely inform victims about their entitlement to state compensation (Question Pr 8.1)?

Police interviewees were clearly in the best position to comment on whether the police routinely tell the victim that they are entitled to apply for state compensation in the form of the Criminal Injuries Compensation Scheme. **UK.P.01** said that, in his police force area, they do not routinely pass on this information because of a concern that in court defence counsel might accuse the victim of fabricating the allegation simply to obtain financial reward.

“Well some people, the first words out of their mouths before you have actually had a chance to introduce yourself is, “If I make this statement will I get criminal injuries compensation?”. And then you can’t help but question their motives for making a statement.” **UK.P.01**

**UK.P.02** said that he does advise victims of their right to seek state compensation, but he shared **UK.P.01**’s concerns about challenges to the victim’s credibility:

“Sometimes I question why, you know, are they just doing it for the compensation and that doesn’t look good ... if a defence barrister raised that, you know, you’re only doing this for compensation, it could undermine your case couldn’t it? It is something that will put the form in [for] but I will always sort of talk them away from it. Because that is something you can do at the end [of the criminal process].” **UK.P.02**

**UK.P.05**’s practice is also to wait until later on in the criminal justice process to inform victims about the possibility of criminal injuries compensation for the same reason given by other officers, to prevent defence counsel from accusing the victims at trial of being motivated by financial gain.

In contrast, **UK.P.03** said that in his police force area officers routinely either give the victim a criminal injuries compensation form to fill in or the officer completes it on the victim’s behalf and he expressed no concerns relating to this practice.

Most prosecutors and judges were unable to comment on whether the police routinely inform victims about the possibility of applying to the Criminal Injuries Compensation Scheme. **UK.J.04** was aware of a number of cases where victims have an application pending for the Criminal Injuries Compensation Scheme, but did not know whether the police inform them routinely about this possibility.

Victim support professionals tended to the view that the police do not routinely inform victims of their entitlement to state compensation, and agreed with **UK.P.01** that this is the correct approach because of the potential for such a claim to impact on the credibility of the victim at trial.

“No they don’t and I totally understand why they don’t. Well speaking specifically about criminal injuries compensation, no one wants a victim to turn up in court having claimed compensation. And if they did they would be absolutely lacerated by the defence... “You’re only doing it for money”, you know. It’s a very cheap shot isn’t it?” **UK.S.01**

**UK.S.02** took the view that if anyone informs the victim about their right to state compensation it would be a solicitor or the organisation that is supporting them through the criminal justice process. **UK.S.05** confirmed that his support organisation asks victims whether they have considered applying for compensation and explains the options, either as part of the criminal process or through the Criminal Injuries Compensation Scheme. **UK.S.06** reported that victims often ask Witness Service volunteers whether they are eligible.

#### 8.1.2. Do the police routinely inform victims about the possibilities to obtain restitution within the framework of criminal proceedings (Question Pr 8.2)?

**UK.P.01** confirmed that the police do inform the victim that he/she is entitled to apply for compensation but they also warn the victim that the amount is awarded according to the defendant’s means, and as a result it may be a relatively small amount which is paid in instalments.

“I’ve just been taught about this this morning actually. We routinely do. But I am also quite frank in terms of the compensation awarded by the courts as well – don’t hold your breath. It isn’t always awarded and

when it is awarded, it is sometimes any number of months after the incident at amounts that can be as little of a few pounds every week.” **UK.P.01**

This compensation – in the form of a compensation order – is awarded following conviction by the court that has heard the criminal trial. **UK.P.01** and **UK.P.02** confirmed that police officers ask the victim to supply the information that the court needs to determine whether or not to make such an award and that is included in the case file for the judge or magistrate to use when needed.

“We have a form, MG19, which is a compensation form. If they fill out that form – compensation form for consideration upon conviction. That form goes into the case papers. So it is there already, it is in the case file for the court to be made aware exactly what has been stolen, what’s been damaged, the value of the damage, what’s been stolen and not replaced etc.” **UK.P.01**

**UK.P.03** confirmed that police procedure is to make a note in the case file or on form MG6 that the victim is seeking compensation as part of the criminal proceedings and what the compensation is to cover. However, **UK.P.03** stated that practice on the ground is dependent upon the individual officer.

Prosecutors (**UK.J.01**, **UK.J.02**, **UK.J.07**) also described that police procedure is to complete a Form MG19 containing all the necessary information for the CPS to apply to the court for a compensation order to be issued upon conviction. **UK.J.02** reported that though MG19 forms are routinely filled out, the quality varies, with the consequence that the CPS is sometimes unable to submit the compensation claim due to lack of information. However, other prosecutors (**UK.J.04**, **UK.J.06**) felt that they would take steps to gain sufficient information for the application, even in the absence of a form MG19.

From the victim’s viewpoint, the most significant drawback of a compensation order that is made by the criminal court is that the amount awarded is linked to the means of the defendant.

“When the sentence is not immediate custody, judges do quite regularly say two or three hundred pounds in compensation is being ordered. But in most of my work where it’s normally an immediate custodial sentence, there tends not to be an order for compensation made at the time. So the victim is left to pursue that through the civil courts”. **UK.J.07**

“If the defendant doesn’t go to prison for a long time, then compensation is perhaps more of a live issue and I would think normally we would expect it to be considered seriously unless the defendant can’t pay for good reason.” **UK.J.04**

“It’s down to the judge to decide how much or if at all [compensation is awarded] because they’ll look at the [means of the] defendant as well. If he’s going to prison he’s not likely to get any income [so] he’s not likely to be able to pay any compensation” **UK.J.05**

**UK.J.09** confirmed that, in the court he sits in, compensation is awarded only very occasionally as owing to the serious nature of the cases they deal with the amount of money would have to be very significant and one which most defendants could not afford. **UK.J.10** confirmed this and stated that though the Victim and Witness (Scotland) Act 2014 requires the court to consider making a compensation order, and must seek victim’s views prior to that consideration, in practice most defendants do not have the financial means to allow an order to be made.

“I think it’s effectively a waste of time, because, with all due respect, the people that are committing these crimes don’t have two pennies to rub together. Parliament has done something about it, [and] it’s a good idea where it can work... but for the most part... I think it will be a waste of time, unless you’re talking about very small amounts of money, which really won’t compensate at all.” **UK.J.10**

8.1.3. As concerns proceedings in cases of violent crimes and judging by your practical experiences, how often does the criminal court adjudicate on the victim's civil law claims (Question Pr 8.3)? According to the interviewees, does this happen?

	S	P	J	L
Often or very often	1	NA	3	NA
Occasionally	0	NA	2	NA
Only in exceptional cases or not at all	0	NA	2	NA
Don't know	5	NA	4	NA
TOTAL	6	NA	11	NA

Please provide an analysis and your own interpretation of the results:

Most interviewees in commenting on their answers to this question spoke of the circumstances in which an order may be made rather than justifying their estimation of the frequency with which compensation orders are made. More than half replied that they did not know how often compensation is awarded and of those who were prepared to indicate the frequency, few, if any, seemed to have any factual basis for their assertion. Judicial interviewees are likely to be the most reliable in this respect, and indicated that a compensation order is only occasionally or exceptionally made.

## 8.2. Views of victims

8.2.1. Did the interviewees apply for state compensation? If yes, what was the result (Question V 8.1)?

Half of the interviewees (**UK.V.01**, **UK.V.02**, **UK.V.06**, **UK.V.07**, **UK.V.11** and **UK.V.12**) had applied for state compensation under the Criminal Injuries Compensation Scheme (CICA). Out of the six that had applied only one interviewee (**UK.V.01**) had received compensation and she received the full amount of compensation she had applied for. The remaining five (**UK.V.02**, **UK.V.06**, **UK.V.07**, **UK.V.11** and **UK.V.12**) were awaiting a decision on their application.

**UK.V.02** explained how the application process had been difficult owing to the fact that the offender was a police officer and the police had redacted information about the case that the interviewee needed for her CICA application. She was however, able to be represented by a solicitor throughout the process under a government scheme for victims of domestic violence that covers legal fees which was essential in light of the fact the application process was particularly complicated in her case.

*"She's a solicitor and she's got a team behind her and they've taken a year to get this far because, because he was a police officer, trying to get stuff out of the police, first of all they said I didn't report it, and then were saying yes I did, but because all the files are shut down, it's like redacted because he's a police officer, they don't want people outside getting information about police officers. So I've had to basically chase it up myself, so, it's been slow, it's been painful, and well, then they say, do you know,*

*it's just awful. Say if I was traumatised still or didn't speak the language, it's hopeless, it's a long-winded system and it's still ongoing and even the solicitor bangs her head off a brick wall now and again."* -

**UK.V.02**

**UK.V.11** also experienced problems with his CICA application and even with the help of a lawyer could not get information about the progress of his application and had been informed that only Members of Parliament (MPs) can approach CICA.

*"I've tried ringing them and speaking to them, the counsellor has tried ringing them and speaking to them, I've had, I've conversed with a lawyer about it, and the CICA, the only people who can approach CICA are MPs, I've actually started that route but recently I've given up the fight, I'm the brain injured victim fighting."* - **UK.V.11**

The remaining half of the interviewees (**UK.V.03, UK.V.04, UK.V.05, UK.V.08, UK.V.09** and **UK.V.10**) had not applied for compensation under CICA. Five of those had no knowledge of the possibility of applying for compensation under CICA.

The remaining interviewee (**UK.V.05**) had yet to apply for criminal injuries compensation. As a victims of sexual assault herself, **UK.V.05's** main issue with her experience of the criminal justice system lies in the disparity between the amount awarded under CICA to victims of rape and that awarded to victims of sexual assault. She felt the fact that a lesser amount is awarded to victims of sexual assault than rape victims trivialises her experience and sends a message to her that the criminal justice system does not take it as seriously:

*"The compensation is disgusting. £11,000 for a rape, £3,500 for a serious sexual assault. You know, mine was a category A crime, I nearly was murdered and to be told that I'm only entitled to a third, it's less than a third isn't it? Of the compensation for rape, I think it trivialises and it demeans the crime that I was subjected to. And I've done my utmost now to change it ... I am incensed at the compensation for the crime committed against me."* - **UK.V.05**

8.2.2. Did the interviewees raise civil law claims within the framework of criminal proceedings? If yes, what was the result (Question V 8.2)?

Civil proceedings cannot be raised within the framework of criminal proceedings in the UK. However offenders can be ordered to pay compensation to victims as part of their sentence. Accordingly interviewee's were asked whether they had been awarded compensation as part of the criminal proceedings as opposed to being asked whether they raised a civil claim within them.

There seemed to be a general lack of knowledge among interviewee's about the possibility of asking for compensation to be awarded as part of the criminal proceedings. Three quarters of interviewees (**UK.V.01, UK.V.03, UK.V.04, UK.V.05, UK.V.06, UK.V.07, UK.V.09, UK.V.10** and **UK.V.12**) did not receive compensation as part of their criminal proceedings, five of whom (**UK.V.01, UK.V.03, UK.V.05, UK.V.06** and **UK.V.10**) specifically stated that they had not been aware that it was a possibility. One interviewee's (**UK.V.04**) case did not proceed to trial accordingly no compensation was awarded to her.

Two interviewee's (**UK.V.02** and **UK.V.11**) received compensation during the criminal proceedings, but neither had been aware that it was a possibility prior to it being awarded and neither were satisfied with it is a sanction.

**UK.V.02** was awarded £2,000 in damages but would have rather the judge have given sanctions that would have afforded her some protection from the offender:

*"To be honest, I'm not being cheeky here, I don't need £2000. What I need is that man to keep away from me, he's dangerous. I gave 35 hours' worth of statements to the police including the national rape task force,*

he's a nasty, violent man. All I wanted was for him to stay away from me and have the law protect me and keep him away and I didn't get that." - **UK.V.02**

**UK.V.11** was awarded £5,000 to be paid in monthly instalments of £300 but thought that amount was not significant enough to be anything more than an inconvenience to the offender. He was also unhappy about the lack of information about the payment of the compensation and had to contact the court service himself after not receiving his first instalment:

*"When I was sat in court and I heard the judge talking, his closing statement or whatever you would call it, it was like, "There will be £5000 compensation paid to me, at £300 a month, but the first £300 will go to the young kid" and then I'll get the rest. And on the case result that I received in the post, it said there will be £5000 paid to me, in £300 a month instalments starting on the 1st of April, got to May and I hadn't received anything but in my mind I know that the judge has said that this kid's going to get the payment first. So I tried to get to the bottom of it ... So I rang the court, rang up court, they had no idea what I was talking about but they did find out that they'd passed it over to in Cleveland. They were in Northumbria. So I rang up them and they said, "Right, we can only go off what we've be sent on the screen, and on the screen it says you're getting £284 a month, and the rest is going to the kid every month." - **UK.V.11***

**UK.V.08** was told that he would receive compensation as part of the criminal proceedings to cover the cost of the damage the offender caused to his mobile phone. At the time of the interview the trial had not concluded and therefore the result was unknown.

### 8.2.3. To what extent did the interviewees agree to the following statement (Question V 8.3)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
Criminal courts should ensure that victims receive compensation from the offender.	3 ( <b>UK.V.03, UK.V.05, UK.V.10</b> )	5 ( <b>UK.V.01, UK.V.02, UK.V.06, UK.V.07, UK.V.08</b> )	2 ( <b>UK.V.09, UK.V.12</b> )	1 ( <b>UK.V.11</b> )	1 ( <b>UK.V.04</b> )	12

Please provide an analysis and your own interpretation of the results:

Despite providing opposite answers to the question **UK.V.01** and **UK.V.12** both thought that receiving compensation is not the most important outcome of proceedings for victims, **UK.V.01** thought however that it is better for the offender to have to pay rather than the government. A third of respondents had reason to believe that compensation awarded as part of the criminal proceedings are rarely paid or paid in such small instalments they are not worth receiving.

*"Well I agree but I think what they should do is have a fund somewhere so that they offender, the money, like say if you're awarded £1000 right, that should come out the victim's fund, you get your £1000. Because I've heard horror stories of some guys paying up £20 a week or £20 a month and then*

*they miss a payment and all that. Who would want to be stuck with £20 a month for the next year, so, they should be made to pay but it should come out of a fund initially, and that means we can all move on, take our money and go. I was lucky that my husband had money, well the fact he stole out from behind my back is another story, but, he had a good pension, I think I was unusual in that kind of situation where the perpetrator has got money, so. But I've heard some horror stories of people, £5 a week, you know, that kind of thing, it just drags the whole thing out.” - UK.V.02*

*“Yes. But the only problem there is, they can take as long as they like to pay it really, it's just ridiculous, they can pay like a pound or two a month, a week or whatever, it's just ridiculous. The court should pay it and charge them a high rate straight away kind of thing, the longer it takes to pay it back, the more they get charged ... I got jumped in Cheltenham and they charged the kid like £300 and he used to put like £10-20 into my account every couple of weeks. If the court would've paid that straight away to me and said to him that he had to pay the court, he'd of paid a heck of a lot faster. Because it was the law who he owed it to, not someone who he'd beaten up ... It might cost the government a little bit more but I think they'd get their money back straight away, like I say if I owed you money and I don't really wanna pay it, no one could stop you from not paying it. There again, if I owed money to the court, I know if I didn't pay it I would get done. So I'd wanna pay it as soon as possible.” - UK.V.08*

*“Having spoke to the CDN enforcement courts, they say, and this is factual, I asked if she recorded the phone call and she wouldn't answer the question but she said I'd be lucky to receive anything because you only get it if he pays, if the assailant pays it. If they don't receive it you get nothing. That to me, says he has influence on my life, and he does, because I've got no money ... I think there should be a fund where it's paid to me and he pays back the fund.” - UK.V.11*

## 9. General assessment of victims' situation in accessing justice

### 9.1. Views of practitioners

9.1.1. To what extent did the interviewed practitioners, divided by professional groups, agree to the following statements (Question Pr 9.1)?

9.1.1.1 Criminal justice is mainly a matter between the public and offenders; hence victims' role in criminal proceedings is necessarily peripheral.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	1	5	0	0	0	6
<b>P</b>	0	0	3	1	0	4
<b>J</b>	0	6	5	0	0	11
<b>L</b>	NA	NA	NA	NA	NA	NA
9.1.1.2 If victims became influential in criminal proceedings, this would come with a risk of unsettling the fragile balance between public prosecution and the rights of defendants.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	1	2	1	0	2	6
<b>P</b>	0	3	0	1	0	4
<b>J</b>	1	6	3	0	1	11
<b>L</b>	NA	NA	NA	NA	NA	NA
9.1.1.3 Generally speaking, practitioners working in the criminal justice system take the rights and concerns of victims very seriously.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	2	4	0	0	0	6
<b>P</b>	1	3	0	0	0	4
<b>J</b>	5	6	0	0	0	11
<b>L</b>	NA	NA	NA	NA	NA	NA
9.1.1.4 In the past, the criminal justice system has not paid due attention to the concerns and rights of victims. It is about time that victims' concerns are taken more seriously.	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
<b>S</b>	1	3	1	0	1	6
<b>P</b>	2	1	1	0	0	4
<b>J</b>	1	5	1	0	4	11
<b>L</b>	NA	NA	NA	NA	NA	NA

Please provide an analysis and your own interpretation of the results:

### Statement 1:

Overall, two-thirds of interviews agreed that criminal justice is mainly a matter between the public and offenders; and, as a result, victims' role in criminal proceedings is necessarily peripheral.

Victim support professionals exclusively agreed that this is the position in practice.

"The evidence has been taken, they've given their statement. And then it's a battle between the prosecution and the defence. The defendant has access to his defence because he's paying for it, he's going to get as much out of it as he can, whereas the victim is just sat out here on a limb and when we need something from them, we'll get them." **UK.S.04**

I don't think there is a role for victims in the judicial system other than the one that currently exists."  
**UK.S.06**

Although we might have expected victim support professionals to object to a peripheral role for victims, few offered any suggestion that this is problematic. Only 2 victim support professionals made further comment on whether the current position is appropriate. Both interpreted the statement as suggesting that a more significant role for the victim implies party status. **UK.S.03** did not support that approach, on the ground that such a role would require more legal and professional expertise than most victims possess.

"If I would have to take a case to court I wouldn't know where to start. I think it is good that we do have the CPS." **UK.S.03**

Another, **UK.S.05**, supported that position entirely but offered no detail as to why or how it should be achieved.

**UK.S.05** – "I think the proceedings should be between the victim and the offender personally but they're not."

In contrast, police officers exclusively disagreed with the suggestion that victims occupy a peripheral role and emphasised that victims are central to the criminal justice process.

"No, we need victims!" **UK.P.01**

"Without a victim you can't have a trial." **UK.P.03**

Though **UK.P.05** seemed conflicted about the reality of that central role:

"I think they are limited to an extent, because whilst it's their case we, we generally take over don't we, the prosecution, it's not down to them what decisions are going to be made." **UK.P.05**

Judges and lawyers were almost equally split but none offered any significant comments for their choice of response. Those that agreed appeared to be commenting on the formal position of the victim in the structure of adversarial proceedings.

"Yes I agree with that. I don't know whether it should be that, but that's what it is." **UK.J.11**

And, given the paucity of explanations for their views, we can only speculate that those who disagreed focused on the contribution of the victim to the proceedings rather than his/her formal role in them.

"Disagree, I think they both go hand in hand." **UK.J.03**

“Disagree... It isn't necessarily limited, which was the way that you phrased it!” **UK.J.04**

“

#### Statement 2:

Two interviewees both agreed and disagreed with this statement and so were allocated to the 'don't know' category.

In total, just over half of interviewees agreed with this statement. Victim professionals were almost equally split. However, of those who agreed that victims' greater involvement with criminal proceedings would unsettle the fragile balance between public prosecution and the rights of defendants, only two offered any additional explanation for their choices, and one would not be unhappy to see some disturbance to the equilibrium.

“Obviously a defendant has got rights – innocent until proven guilty. I think it would become more emotional. If you're on the jury you've got to sit back and try to not let your emotions and try to see both sides.” **UK.S.03**

“It might be that if it's a really serious case and this person is a danger to society then yes, you know, who minds if that is unsettled? If the outcome is going to be an appropriate one.” **UK.S.02**

Judges and lawyers and police officers overwhelmingly agreed that victims' greater involvement with criminal proceedings would unsettle the fragile balance between public prosecution and the rights of defendants, but again offered little insight into why. The small number who disagreed, or felt unable to make a choice, appeared to do so on the basis that victim influence can be accommodated within the structure of a system in which the state and the defendant are the only formal parties to the proceedings. Comments relating to this statement are therefore, to some degree at least, in-line with comments relating to statement 2.

“They are fundamental – you can't have a case without a victim.” **UK.P.01**

“Provided it's in the ways that we've talked about and there are checks and balances to it, I think there is, there must be, a role for victims within the criminal justice process. I disagree with that.” **UK.J.07**

“If victims became influential? I don't like the question, because they do have an influence, it depends upon the extent to which they become influential. So, I think I'll disagree with that on the basis that they do have an influence at the moment, and the balance would only be upset if they gained a disproportionate amount of influence.” **UK.J.09**

“There would be a risk, and that would have to be considered carefully, but I don't necessarily agree that it is a zero-sum game... For example... jurisprudence of the European Court of Human Rights [shows] that the rights of victims and witnesses can easily be accommodated alongside the rights of the accused... So yes it's a risk but I don't think that's a strong argument for not increasing participation of victims”. **UK.J.11**

“I think there would potentially be a small risk, but it's not a risk that couldn't be addressed... I think as far as sentencing is concerned, they're not allowed to influence sentencing clearly, they can't say whether

somebody should go to prison or not, but there may be more input they could be allowed to give in relation to avenues of sentencing.” **UK.J.04**

Statement 3:

This statement was the least controversial of any in this section, with all interviewees either agreeing or strongly agreeing that practitioners working in the criminal justice system take the rights and concerns of victims very seriously. This is broadly consistent with the overall view expressed throughout the remaining sections of the report that criminal justice professionals within the criminal justice systems of England & Wales and Scotland believe they adhere to a strong culture of victim support.

“I strongly agree with that and I think that is about the culture change I spoke about.” **UK.P.02**

“Because that is what I do and I do take it very seriously... It doesn’t matter if they ring us 10 times a day or whether they ring us once a week. What they say is very important and I have to cascade that to the other departments that they’re dealing with.” **UK.S.04**

Perceptive interviewees further commented that the issue is how that culture translates into positive support on the ground:

“I strongly agree with that [though] it’s not what I imagine public perception is.” **UK.J.09**

“The support and services that victims are provided with are taken seriously. [There is] undoubtedly strong leadership on that in terms of the policies and directives that come from Crown Office and Procurator Fiscal Service... Whether or not that equates to the rights of victims yet is obviously a more complex issue.” **UK.J.11**

Statement 4:

In total, around two-thirds of interviewees agreed or strongly agreed with the statement. Only three disagreed but five interviewees were allocated to the ‘don’t know’ category: one interviewee both strongly agreed and strongly disagreed with the statement and four both agreed and disagreed.

Interviewees found this statement the most difficult of all to respond to, either because they found the precise meaning difficult to discern, or because they felt the two parts of the statement are not necessarily connected.

Whatever their response to the statement, be it agree, disagree or don’t know, most interviewees who made additional comments agreed that in the past the criminal justice system has not paid sufficient attention to the concerns and rights of victims. However, because attitudinal changes have been in place for some time, few were prepared to say that there remains a need for further significant change in attitudes. Invariably interviewees objected to the second part of the statement, interpreting it as a criticism that currently criminal justice professionals pay insufficient attention to the needs and rights of victims, though almost all acknowledged that continued progress is to be welcomed:

“Well that’s, that’s a question with two parts which are unrelated. The premise doesn’t follow from the proposition. In the past victim’s rights were not taken sufficiently seriously, I agree with that, I have observed it for myself, but things have changed radically in the last 20 years or so, and they’ve changed

with an increasing pace. So, the proposition that because they were treated poorly in the past, it's about time things changed doesn't follow. Things have changed and I think that they've changed much for the better. Now, I'm not suggesting that it's appropriate to sit with some sort of rose-tinted spectacles and say we've done all that we need to do, because it's perfectly obvious that we haven't particularly in the areas of child victims and in the areas of victims of sexual offences... Change is ongoing, and I approve of the process of change, but I wouldn't like it to be thought that we're starting from a position of utter inadequacy. We've moved from a position of inadequacy to a position of an understanding of the need to be careful about the circumstances of the victim, a need to be supportive of the victim, and a need to see a role for the victim and a level of influence. We can refine that further as we go on to ensure that the trial process is not about putting victims on trial, but I wouldn't like it to be thought that we've not done anything yet." **UK.J.09**

"In the past, but I've seen the change... they really are making improvements now." **UK.S.03**

"I agree that *in the past* victims were not as important as they should have been, but I certainly think that over the thirty years since the CPS has existed, there's been a growing move towards supporting victims through the process... I think we've got more to do because I think we are learning different things about victims and witnesses." **UK.J.02**

"I agree to a certain extent but the way the question's phrased suggests that things haven't improved in the past 5-10 years or so and I think they have massively. That statement might have been due 15 years ago." **UK.J.04**

"I don't like the way that's expressed at all... That infers that nothing's been done, and quite a lot has been done... There's something about that question... its intention is to suggest we're not doing anything at the moment... There's always more to be done [such as] taking people out of the courtroom altogether... [so] we certainly can't rest on our laurels." **UK.J.10**

"I don't agree with that, I believe we have always taken them into consideration, maybe not as well as they should've, but we're getting better at it." **UK.J.05**

"I don't think it's the case that they are not taken seriously, because I think they are." **UK.S.02**

"In the past it wasn't. There is a bit of a double question there isn't there. Things have moved on and are now getting better, I think that's why I agree to that." **UK.S.06**

"Certainly in the past it has been worse, so I would agree. I do think we are already taking them seriously but it has certainly improved from the past. Definitely, we can never do enough." **UK.P.01**

"If we're talking in the past 10 plus years I would agree, if we're talking in the last couple of years I disagree. It depends how far back we're going." **UK.J.03**

"Again, it's definitely got better especially with everything that's been done with speaking to witnesses at court and all the measures that are put in, witness service, witness care units. Years and years ago we never had any of that so it's definitely getting better. Whether it can get any more better I don't know." **UK.J.06**

"In the past the issue has been very much, 'this is it, this is a public prosecution, you're a witness and you have no other rights or interests in the matter', that [was] very much the approach taken. But I think that's changed quite a lot, and that a much greater recognition of the victim's role and victim's rights has taken place." **UK.J.08**

However, one victim support professionals took a different approach and expressed the view that recent progress has been limited:

“I think it is very much in its infancy that the victim is seen as a major player in the process. I think you can’t write the wrongs of the last 200 years away just by saying “for the last 2 years we’ve been really supporting people and helping them a lot”. It is going to take a little bit longer. Not necessarily to get it right but to alter people’s mind set.” **UK.S.05**

## 9.2. Views of victims

9.2.1. Did the experience of the interviewed victims in the course of the investigation and the ensuing proceedings rather add to the harm done by the offender(s) or support them in coming to terms with the experience of victimisation (Question V 9.1)?

Overall, what I experienced during the investigation and the court proceedings	rather added to the harm done by the offender;	5 <b>(UK.V.01, UK.V.02, UK.V.06, UK.V.10, UK.V.11)</b>
	mitigated the harm done by the offender;	3 <b>(UK.V.05, UK.V.07, UK.V.09)</b>
	I couldn’t tell/don’t know.	4 <b>(UK.V.03, UK.V.04, UK.V.08, UK.V.12)</b>

Please provide an analysis and your own interpretation of the results:

Nearly half (**UK.V.01, UK.V.02, UK.V.06, UK.V.10** and **UK.V.11**) of interviewees felt that proceedings had added to the harm done by the offender. Unsurprisingly none of the five interviewees whose case had not ended in conviction felt that the proceedings had mitigated the harm done by the offender. Three (**UK.V.03, UK.V.04** and **UK.V.08**) of the five felt they could not tell/did not know and two felt that proceedings had added to the harm (**UK.V.01** and **UK.V.10**),

9.2.2. To what extent did the interviewees agree to the following statements (Question V 9.2)?

	Strongly agree	Agree	Disagree	Strongly disagree	Don't know	TOTAL
1. During the investigation, I had the impression that my concerns and rights were taken seriously by the police and were given due attention.	2 (UK.V.06, UK.V.07)	6 (UK.V.02, UK.V.03, UK.V.05, UK.V.09, UK.V.11, UK.V.12)	3 (UK.V.01, UK.V.04, UK.V.10)	1 (UK.V.08)		12
2. At the court trial, I had the impression that my concerns and rights were taken seriously and were given due attention by the court.	3 (UK.V.05, UK.V.07, UK.V.08)	3 (UK.V.01, UK.V.03, UK.V.09)	3 (UK.V.02, UK.V.10, UK.V.11)	1 (UK.V.06)	1 (UK.V.12)	11 (Question not asked to UK.V.04 as her case did not proceed to trial.)
3. Overall, the investigation and the following proceedings conveyed a strong message that justice is done.	2 (UK.V.05, UK.V.07)	3 (UK.V.09, UK.V.11, UK.V.12)	1 (UK.V.04)	4 (UK.V.01, UK.V.02, UK.V.06, UK.V.10,)	2 (UK.V.03, UK.V.08)	12

Please provide an analysis and your own interpretation of the results:

There appears to be a strong correlation between whether a conviction was secured in their case and interviewees feeling that their rights and concerns were taken seriously by the police, with all seven interviewees whose cases ended with a conviction responding positively to Statement 1. Similarly, with regard to Statement 3, none of the five interviewees whose case had not ended in conviction felt that proceedings had conveyed a strong message that justice was done.

## 10. Conclusions

This Section draws from the last sections of the interview templates (“Observations and a general assessment of the interview”). In particular, recurring themes and overarching observations and assessments are to be included here.

### 10.1 Perceptions of the victim’s role in the criminal justice system:

Assigning the role of the victim to a single category proved difficult for a third of professional interviewees. When pressed to make one choice, interviewees were equally split between ‘a witness testifying and thus providing evidence’ and ‘a party to the criminal proceedings entitled to have a say in the proceedings’.

Given that the victim has no formal role as a party to criminal proceedings, a surprising number of prosecutors (4 out of 8), described the main role of the victim as ‘a party to criminal proceedings entitled to have a say in proceedings’.

Although almost all interviewees focused on the contribution that the victim makes to the case through providing evidence, most professionals also wished to acknowledge the damage done to the victim through his/her victimisation and emphasised the role the criminal proceedings may take in providing the victim with a form of state recognised restitution or justice.

### 10.2 Victims reporting their victimization to the police

It is difficult to generalise about whether victims are prepared to report to police, much depends on individual victims’ personal motivations, which are highly varied, as are the circumstances of the crime they have been subjected to.

Interviewees generally viewed victims with a personal relationship to the alleged offender, particularly victims of domestic violence, and those where there is some overlap between offending and victimisation as being the most reluctant to report. Fear of police and societal attitudes to victims is also a deterrent. Failure to report makes prosecution difficult as the victim’s evidence is usually the primary account of the incident but victimless prosecution which focuses on gathering third party and forensic evidence is increasingly being seen, especially in domestic violence cases where the public interest in prosecuting is regarded as strong. Where that proves impossible, and following a detailed risk assessment, some victims are summonsed and compelled to give evidence.

### 10.3 Empowerment of victims (support, advice and information)

There is a complex pattern of victim support services in UK with both State and Independent services provided at both a national and a local level. Although first-line victim support organisations, Witness Care/Victim Advice and Information Service and court based Witness Services seem to have delineated responsibilities, in practice there is considerable overlap and duplication of service which is difficult for victims who would benefit from a ‘one-stop’ approach to victim support.

Recent changes to funding arrangements which require providers to regularly rebid for funding puts extra administrative pressure on some organisations but improvements in service, particularly the improved use of on-line technology, are apparent amongst some of the new entrants.

Interviewees generally agreed that pressure on resources is limiting the amount of support that can be provided to victims, but this is not specific to the criminal justice system and is a pressure in all public services. The following quotes pithily summarised interviewees' general attitudes to resource constraints:

"It is all to do with money isn't it. Give us more money and we could do a really good job!" **UK.J.01**

"[Victim support is ] a thousand times better than it ever was but like everything it could be a lot better ... it kind of comes down to money and staff and resources." **UK.P.02**

Procedures for informing victims about the support services available and their rights and roles in criminal justice proceedings are clear and detailed and are available in written form and on-line. Police officers feel that they are effective in passing this information to victims, but other professionals comment that victims frequently appear ill-informed. Professionals recognised that victims' lack of knowledge may be caused as much by difficulties in accepting and processing information at a time of considerable trauma as by police (or other agencies) failure to deliver the information in a timely and effective manner.

Victims who have a consistent advocate throughout the criminal justice process, typically from a specialist or niche victim support service, find the criminal justice system easier to navigate than those who do not.

Most interviewees agreed that more can be done in the future to better support victims during criminal proceedings, but emphasised that much progress has already been made.

#### **10.4 Effective remedy**

The police do exercise discretion in deciding if there is sufficient prima facie evidence to justify a police investigation, but there is no formal test. Similarly there is no specific scheme to challenge a decision not to investigate though most interviewees were comfortable that internal police complaint mechanisms or independent police complaint mechanisms provide an adequate and appropriate remedy for dissatisfied victims.

There is a structured discretionary test in place in both England & Wales and Scotland which guides prosecutors in making decisions whether or not to lay charges and proceed with a criminal prosecution. The evidential sufficiency stage of the test is the most significant and the public interest stage can only come into play once the evidential threshold has been reached. A case rarely fails the public interest test. There must be strong public interest reasons for not proceeding with a case that has passed the evidential threshold.

There is a formal right to review scheme for victims who are unhappy with prosecutors' decision to discontinue criminal proceedings. Prosecutors felt that this was appropriate but not highly used.

#### **10.5 Victims' active participation**

Victims are far more influential in stopping a criminal investigation than they are in influencing the progress of an active prosecution. Decisions on whether to initiate and progress a criminal investigation and on

whether to commence and continue criminal proceedings are almost entirely evidence based. Prosecutors may, though rarely do, decline to proceed on public interest grounds, though on those occasions the victim's view may be one of a number of factors that shape the prosecutor's decision. Ultimately, although there is scope to canvas and listen to victims' views, the prosecutor retains the decision-making power as the decision is a legal decision which requires legal knowledge.

Thus, the only significant decision of the victim to be acted upon is a refusal to participate in criminal proceedings, and even then, particularly in domestic violence cases, that view is not always respected. Although prosecutors are more willing than before to proceed without the evidence of the victim, 'victimless' prosecutions present considerable challenges in terms of meeting the necessary evidential threshold for a criminal conviction. Consequently prosecutors can and do make use of witness summonses to proceed with a prosecution against the wishes of a reluctant victim where they believe it is necessary to do so in the public interest and a full risk assessment of the dangers to the victim has been completed.

Victims are able to participate in proceedings post-conviction through the Victim Personal Statement which is read in open court and ensures that the judge is fully informed about the harm caused to the victim as a result of the crime. However, the VPS cannot affect the quantum of sentence, which is for the judge to decide, taking sentencing guidelines into account in order to ensure equal justice. Few victims understand the limits of the VPS and many have unrealistic expectations of the extent of their influence.

In all other respects, apart from providing testimony, victims have limited ability to participate in the criminal process. They cannot ask for evidence to be gathered or suggest questions to be put to witnesses. Few interviewees supported the introduction of these rights into the criminal justice systems of England, Wales or Scotland.

Professionals who support increasing the participation of victims in the criminal justice process seemed to take the view that this should take the form of a more explicit demonstration of the value of the victim's contribution to criminal proceedings rather than a more substantive influence over the shape and direction of the case.

## **10.6 Protection against secondary victimization**

Interviewees demonstrated a good level of awareness of the extent of the secondary victimisation which may be caused through a victim's involvement in the criminal justice system. The most intractable challenges are presented by the experience of cross-examination, widely regarded as a central and important aspect of the adversarial trial process which exists to ensure a fair trial for the defendant. However, interviewees were supportive of Special Measures support for victims and witnesses to ease the overall experience of appearing in court to give evidence. Well established procedures are in place to ensure that the police routinely assess victims' Special Measures need at an early stage, though in practice late requests for support are commonly seen and victims regularly display a lack of understanding about how measures will assist them.

Measures to prevent confrontation both within the court-room and outside of the court-room but within the court building are felt to be generally effective, and professionals take seriously the concerns of victims who do not wish to see the defendant. A recent development in some police force areas is the use of CCTV evidence from remote sites which avoids the need for the victim to enter a court building at all and allows victims to testify from a much more comfortable environment than normal. However, there is a tension between the needs of the victim to avoid the intimidating environment of the courtroom and the needs of the court to receive the best possible evidence. Where possible, practitioners prefer evidence presented in person from the witness box over 'technologically flattened' evidence delivered through video or TV links,

though most recognise that many victims could not testify at all without the greater support that video-recorded evidence and remote CCTV offers.

There is no general right to request an interviewer of the same sex, though in Scotland there is a newly introduced right to request a police interviewer of the same sex when the offence is a sexual offence or relates to domestic violence, stalking or trafficking. Victims have no control over the gender of the defence advocate who conducts cross-examination as choice of advocate is solely within the gift of the defendant. It is possible to apply for the public to be removed from the court during a victim's testimony, though the tradition of public justice means that this is rarely granted. However, Scotland has recently introduced an obligation on the courts to consider removing the public in cases concerning sexual offences, and in practice many do so. There are legal restrictions on the questions that victims may be asked about their sexual history and practitioners believed that they ask questions about victims' private or family life only where necessary. Judges take the view that they are under an obligation to protect victims from insulting and unnecessarily upsetting questions.

Interviewees generally felt that criminal justice practitioners attempt to treat victims with respect and sympathy and although they acknowledge that victims have no formal role in proceedings they equally see them as central to the criminal justice process in each case.

### **10.7 Protection against repeat victimization**

There are a number of steps which the police can put in place to protect victims against repeat victimisation, not the least of which is arresting and detaining the alleged offender. Additionally police may use bail conditions to restrict contact; move the victim to a refuge or hostel; install personal protection alarms or direct telephone contact with the police; change the locks or reinforce windows; put a police TAU marker ('Treat as Urgent') on the house so calls from that property are known to be a priority, or apply for Domestic Violence Protection Orders. Not all professionals agree that the police routinely assess victims' need for this protection; many believed that the victim must take the initiative and ask for assistance. The one exception to this is domestic violence where professionals almost unanimously praised the priority that the police give to the on-going protection of victims.

The criminal courts can and do follow up police measures with court orders to prevent offender contact with the victim, and these orders are issued following both conviction and acquittal. Orders may be indefinite but generally last between two and five years. The most significant issue in terms of effectiveness is the reporting of any breach. When a breach is reported the courts are able to impose significant punishments, however court orders are not effective if, as frequently happens, a domestic violence victim decides or is persuaded to reconcile with the offender pre-or post-trial.

Although practitioners recognised that there is always more that can be done to protect domestic violence victims, they felt that many good practices already exist and that criminal justice professionals on the whole are well motivated and willing to take any protective action available to them.

### **10.8 Civil law claims: compensation and restitution**

There were conflicting views on whether it is appropriate for the police to inform victims of the possibility of claiming state Criminal Injuries Compensation because of the potential for defence advocates at trial to accuse the victim of making the allegation simply to obtain financial reward. Victim support organisations routinely provide advice and assistance on the scheme later in the process, after the initial report to the police has been made.

The criminal courts must consider whether it is appropriate to make a compensation order upon conviction of a defendant. Procedures exist for the police to record and pass to prosecutors details of the harm caused to the victim, and prosecutors include an application to the court for a compensation order to be issued upon conviction. From the victim's perspective, the most noteworthy drawback of a compensation order is that the amount awarded is linked to the means of the defendant. Awards are rarely made against defendants who are imprisoned as they cease to have any significant income. Practitioners also questioned whether awards are regularly made against defendants who receive a form of community punishment as they too tend to have limited financial means.

### **10.9 General assessment of victims' situation in accessing justice**

Interviewees recognised that formally the parties to a criminal prosecution in England & Wales are the State and the defendant and consequently most agreed that the victim has a limited role in criminal proceedings. Nevertheless, interviewees were keen to highlight the value that the criminal justice system places on the victim's contribution to criminal proceedings.

Unsurprisingly, it was legally qualified practitioners who work within the UK's adversarial systems of justice who felt most strongly that victims' greater involvement with criminal proceedings would unsettle the fragile balance between public prosecution and the rights of defendants. But again, these professionals were at pains to stress that, even within the adversarial structure, some degree of victim influence can be accommodated

There was no disagreement amongst interviewees that practitioners working in the criminal justice system take the rights and concerns of victims very seriously, though there was some recognition that the translation of such attitudes into practice is not a straight-forward issue. Most interviewees agreed that in the past the criminal justice system has not paid sufficient attention to the concerns and rights of victims but almost all felt that changes have been afoot for some time. Consequently most interviewees felt that it was unfair to say that there remained a need for a further significant change in attitudes, though almost all acknowledged that continued progress is to be welcomed.

Many interviewees under the victim category appeared to have identified, and focused upon, one particular grievance they had with their experience of the criminal justice system. Interviewers often observed that this focus, and importance placed, upon the interviewee's respective grievances often lead to many of their answers revolving around that particular issue rather than giving a more direct answer to the question posed. A number of interviewees were committed to bringing about change in relation to the problem they had identified and this often appeared to be their motivation for participating in the research. Additionally, half of interviewees experienced difficulty recalling some aspects of their experience either owing the trauma caused by, or injuries sustained during, the offence committed against them.