Redefining justice

Addressing the individual needs of victims and witnesses

Sara Payne, Victims’ Champion
Towards the end of 2008 I was surprised and delighted to be invited to apply for the post as the first national Victims’ Champion. When I was appointed in January this year I was determined to make the most of this unique opportunity to influence the agenda to put the needs of victims and witnesses at the centre of the justice system.

This new role and title of Victims’ Champion opened a lot of important doors across areas of the criminal justice system that were unchartered territory for me. I am grateful to the many ministers and officials who have taken the time to talk to me and who have shown their commitment to improving services for victims and witnesses. However, I felt that the only way to really understand the reality of how victims and witnesses experience the justice system would be to hear it ‘straight from the horse’s mouth’.

This report is the culmination of many months’ work. My dedicated team and I have met with hundreds of victims, witnesses and the people who work so hard to support them, to see exactly how the justice system works. In my study I purposely moved away from reviewing existing government strategy and tried to get to grips with the services for victims and witnesses at grass roots level. What you read in this report has come from real victims and witnesses and the people who work directly with them.

The experience that I and my family had of the criminal justice system was a positive one. The professionals who worked on the case from the very first day involved us and did everything they could to consider and accommodate our needs. At times I have almost felt guilty for this when hearing of the bad experiences some of the victims I have met have had. I hope this report clearly sets out my vision for a more effective justice system where every victim is treated with the same amount of consideration and respect that we were given.

Great strides have been taken over the past 20 years and particularly in the past 10 years to consider and include victims and witnesses in delivering justice. My appointment reflects the recognition that more can still be done. The series of challenges and recommendations in this report are based on what all the people we met or were contacted by have told us. The challenges are where I feel more research needs to be done to find solutions.

I have seen a great many truly inspiring initiatives run by incredibly dedicated individuals. The kindness and unstinting care from so many people working in the justice system never ceases to fill me with admiration for the difficult jobs they have to do. This report, I hope, guides a path for those who wish to make their work easier in being able to better meet the needs of victims and witnesses.

This report would not have been possible without all those who gave up their time to speak to me and my team. I would especially like to thank the people who gave their views in the focus groups held across the country as part of the journeys and the seminars held in London; Victim Support, who put us in touch with victims willing to share their experiences; the Victims’ Advisory Panel, who shared their knowledge; the people who wrote to me with their experiences of the justice system; the local criminal justice boards that hosted our visits as well as the boards that offered to host us but that we were not able to visit. Lastly I would like to thank all those working in the justice system and third sector services who have been so supportive in my work to develop this report.

Sara Payne MBE
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“A great deal of positive work has been done to improve the support available for victims and witnesses but there is still a disparity between policy and reality for victims.”
Main findings of this report

The cornerstone of the recommendations in this report, and of my thinking as a whole on how to improve services for victims, is that victims need to be considered in terms of the total impact of the crime committed against them and their individual needs arising from this impact.

This is in contrast to the current system that tailors services to victims in terms of the type of offence committed against them and how to successfully apprehend the offender. The report is separated between recommendations and challenges. The recommendations are actions that should be taken swiftly by the criminal justice system (CJS) largely to improve existing provisions. The challenges are where more work needs to be commissioned by government to find solutions and then implement them. These are by no means less important but I strongly believe a thorough and considered approach to tackling these issues is the only way to get the service victims and witnesses have deserved for so long.

Victims are individuals

There are some needs that are common to most victims and witnesses: the need for information about how their case is progressing, about the outcome of a court case and what will happen to the perpetrator; the need to be safe and perhaps more importantly to feel safe; and the need to be confident that they will not be worse off or re-victimised for coming forward and engaging with the CJS.

However, the variation in the level and duration of support needed cannot be predicted based on crime type. The effects of some offences may be common to a number of victims and the use of specialist advocates for victims of domestic or sexual abuse has proved to be a very valuable tool. However, even if you accept that there are common sets of needs, victims will still have different expectations, support networks to rely on and difficulties navigating a complex system.

Victims need joined-up support

What is also clear is that the needs that can result from being a victim of crime are not confined to the time when a case is progressing through the CJS nor limited to support offered through CJS agencies. Health, education, housing and social services all provide services that a victim may now desperately need because a crime has been committed against them. They are all areas that the state is responsible for and yet they are rarely represented on criminal justice boards, with the result that they do not take responsibility for victims that are unable to access appropriate services. The vast majority of victims never get their day in court but they are still victims and may need support to deal with the impact of this. The provision of emotional support, particularly for people suffering from post-traumatic stress disorder (PTSD), is woefully lacking.
“Building trust with victims takes a long time. It takes commitment and dedication. That’s when things will really begin and this whole concept of a system and service that is there for victims and witnesses will genuinely be understood. But it’ll take time.”

Her Majesty’s Courts Service official

Service delivery must improve

Staff across the CJS and the third sector are aware of these sometimes complex needs. The wealth of experience frontline staff have in dealing with victims is invaluable. But worryingly many of the staff and volunteers I met with felt they could not deliver the service that they would like to because of resource and/or policy constraints. It is not just frontline staff who recognise the importance of improving services for victims and witnesses. The Code of Practice for Victims of Crime set out statutory rights for victims from April 2006 but delivery of some of these rights still remains patchy. A recurrent example is that all victims should be told about Victim Support and either referred on to them or offered their service – but this is simply not happening.

A large number of police officers I met did not know what Victim Support does or the services they offer and so would not offer referrals or, if they did, would not be able to explain to victims what was being offered. Many victims I met feel the lack of information provided about an investigation or court case greatly adds to their worries at an already stressful time.

A Witness Service volunteer explaining court procedures and court layout to witness.
Main findings of this report

time. The Code sets out timescales for information to be disseminated from agency to victim but this obligation is not being met.

More effective use of special measures

The introduction of special measures in the Youth Justice and Criminal Evidence Act 1999 recognised the need for some vulnerable and/or intimidated witnesses to have adjustments made for them to be able to give evidence in court. Evidence from my study and anecdotal experience suggests that the numbers of applications for special measures left until the day of the hearing itself appears to be inexcusably high. Data is not being recorded nationally as to when special measures are applied for, or the impact that this has, but witnesses, court staff and the Witness Service reported the practical and emotional difficulty caused by regular late or same-day applications. I also encountered examples where special measures are offered to victims and witnesses regardless of whether they meet the criteria for such measures to be put in place. While it is important for witnesses to be reassured about going through the court process, falsely raising their expectations is not in anyone’s best interest.

To ensure that witnesses receive the provisions they are entitled to and that guarantees of special measures are not made erroneously, more work needs to be done to establish the impact (positive or negative) of special measures on the quality and impact of evidence; and for a uniform approach across the agencies to continuously assess whether a witness is vulnerable and/or intimidated.

This report is largely based on the focus groups and seminars I have held over nine months. A great deal of positive work has been done to improve the support available for victims and witnesses but there is still a disparity between policy and the reality for victims.
“The most compelling theme throughout my time as Victims’ Champion has been the need to treat victims and witnesses as individuals, with individual needs.”
A new approach to delivering justice

Becoming engaged with the CJS now is a very different experience for a victim or witness than it was 20 years ago. Significant improvements have been made to how victims and witnesses are treated by the system and the pace of reform has quickened considerably over the last 10 years in particular.

The introduction of special measures in the Youth Justice and Criminal Evidence Act 1999, the creation of Witness Care Units as part of ‘No Witness, No Justice’, the introduction of the Code of Practice for Victims of Crime, the Witness Charter and the Victim Personal Statement, among other reforms, represent an acknowledgement that the CJS needs to do better for victims and witnesses.

Problems with the system

This recognition came across clearly in the many hours of discussion I had with staff from the CJS agencies over the last six months, in order to inform this report. They were conscious of the need to better support victims in particular, and many of the ideas for how this could be done found in this report came from them. There was a strong feeling, however, that this was often made difficult by virtue of the system in which they operate, alongside the sheer volume of work they have to contend with.

"In the 20 years I've been a prosecutor in criminal justice, I think there's been a seismic shift in the way we think about witnesses and victims of crimes. In the old days we weren't even allowed to speak to them.

Crown Prosecution Service official
The inconvenience and worry shouldn’t sit with the victims and witnesses – they’re outside the system, they are victims of the system. It’s designed for the system’s sake not for their sake.

Crown Prosecution Service official

The feeling that the CJS is not designed to support the needs of victims and witnesses was shared by victims and witnesses themselves. And they’re right, it isn’t. The system we have today has evolved over many years towards meeting, generally, two aims: protecting the public and bringing offenders to justice. Initiatives which have sought, often effectively, to improve support for victims and witnesses must nonetheless operate within a system which has always had at its heart different objectives than meeting the complete needs of victims.

The impact of becoming a victim of crime varies enormously from person to person. Trying to predict what a victim’s needs may be from the type of offence committed against them is a reasonable starting point but too often can result in a victim’s needs being underestimated. This came across most strikingly from the discussions I held with victims and witnesses of ‘anti-social behaviour’, which, in practice, can range from a dictionary definition of ‘anti-social’ up to grave criminality. Predicting victim need according to offence type has proven a better approach in the cases of victims of domestic or sexual violence, where a set of measures and interventions has been developed – from sexual assault referral centres to specialist courts and advocates – to meet the common needs of such victims.

**Victims have individual needs**
While these are relatively effective where they exist, provision is inconsistent across England and Wales, and they still assume that victims of a certain type of offence have a consistent set of needs. In these specialist cases this assumption may well be sound, but the most compelling theme throughout my time as Victims’ Champion has been the need to treat victims and witnesses as individuals, with individual needs even where those needs are drawn from a commonly occurring set.

**Challenge 1:**
The criminal justice system must refocus so that it addresses the total impact a crime has had on a victim rather than the type of offence committed. Victim need and impact must be assessed on an individual basis and interventions for victims based on those assessed needs.
Multi-agency approach

Putting ‘victims and witnesses at the heart of the criminal justice system’ is a noble ambition but does it fit with the current role and remit of the CJS? In order to really put victims and witnesses at the heart of the system a new perspective is needed. We need to reconsider our definition of ‘justice’ so it is not just for punishing a perpetrator and preventing further crimes. These things are of course important but these alone do not address the full impact the crime has had on the victim. For example, a victim’s local housing association may need to make urgent repairs, the victim’s children may need further support at school – these needs and many more besides should be uncovered and the victim supported as an integrated part of the justice process.

Some practical support is currently provided but this recommendation is about making the full impact of crime and meeting the victim’s needs the central part of ensuring justice, alongside catching and punishing the offender. In doing this we would open up the need for statutory agencies from outside the CJS to become involved in supporting victims and witnesses where currently there are gaps.

Providing appropriate support to those affected by crime is vital to public confidence in the justice system. Victims, witnesses and the wider public need to know that when they have reported a crime they have done the right thing and that the system will aid them to rebuild their lives.
“With the exception of Victim Support, there is no single part of the system whose primary or only responsibility is to support the needs of a victim or witness.”
Building services around victims and witnesses

It has been accepted for some time that the CJS is sufficiently complex to warrant ‘end-to-end offender management’, to ensure that the interventions of the various agencies involved complement each other and address the overall aim of preventing individuals from reoffending.

End-to-end victim and witness management

The CJS is no less complex for victims, and the need for interventions to complement each other with the aim of supporting them no less demanding.

If the CJS is to move to a position where it seeks to address the impact and range of needs arising from a person being victimised then it must first assess those needs, keep track of them and establish procedures to ensure that they are met. There are various points throughout the journey a victim or witness takes through the CJS where formal or informal needs assessments take place. These include the point at which a police statement is taken, when a victim is referred to Victim Support or a victim or witness becomes the responsibility of a Witness Care Unit (WCU) after a person is charged. However, delivery is inconsistent and the sharing of information between agencies patchy. Moreover, with the exception of Victim Support, there is no single part of the system whose primary or only responsibility is to support the needs of a victim or witness. No part of the system is consistently able to effectively challenge service providers to ensure that those needs are met.

Victims need a champion

A single point of contact that the victim or witness can easily reach and an end-to-end approach that brings the many agencies involved in delivering justice together will help ensure that the victim’s needs remain central to the justice process and do not get lost between the many people who work on a criminal case.

In the current system, victims and witnesses are only supported by statutory agencies while a case is progressing. This means the vast majority of victims and witnesses will not get their needs assessed, and if they do it is unlikely to be a continuous process.

Victim Support does undertake a needs assessment of all victims referred to them but they are often unable to obtain information on behalf of victims from agencies and cannot engage services. They have no statutory right to access information or to challenge agencies on behalf of victims.

Where a case goes to court, witnesses have a varying set of needs arising from the fact that they are to give evidence. These may change as the case progresses, particularly in respect of the applicability of special measures or other types of support at court, and these victim needs should be assessed and tracked as the court hearing date approaches.
WCUs already provide this function, in many cases to a high standard, but the units themselves have reported difficulties in accessing information to accurately assess the needs of witnesses. The issue of applications for special measures being made late and witnesses arriving at court only for the witness to have additional needs on the day were widely reported in discussions with WCUs, the Crown Prosecution Service (CPS), the Witness Service and Her Majesty’s Courts Service (HMCS) staff.

I believe that WCUs are a step in the right direction but they only support witnesses who are going to court and the vast majority of cases never get this far. Also, someone to advocate on behalf of the victim or witness and bring all the agencies involved together as part of an end-to-end process would go a long way to ensuring their needs are met.

**Keep victims informed**

It is worth noting that the British Crime Survey 2002–03 reports that 75 per cent of victims need little or no support. This, along with my own study, suggests that what is required is a sliding scale of support which provides, at the least, timely information on case progress or basic advice on the criminal justice process through a single point of contact.

A commonly recurring theme during my discussions with victims was the difficulty in obtaining information. There is a plethora of leaflets and online information about the CJS but victims want to know specific information about their case.

**Witness journey**

- **Witness makes statement to the police** (police assess whether vulnerable and/or intimidated and whether special measures should be applied for).
- **Suspect charged** (police inform witness except in those few cases where the Crown Prosecution Service makes the charging decision).
- **In not-guilty plea cases the Witness Care Unit carries out a detailed needs assessment, including whether the witness is vulnerable and/or intimidated and ascertaining any practical needs. A Witness in Court leaflet is sent to the witness. In guilty pleas where the witness will not be needed to attend court, the witness is still updated on progress but no needs assessment is carried out.**
- **The Witness Care Unit offers the witness a pre-trial visit. If the witness would like to visit the court they are referred to the Witness Service, which co-ordinates this.**
- **The Witness Care Unit updates the witness on all hearing dates and results (including pre-trial hearings) and warns the witness when they are listed to attend.**
- **After the witness has attended, the Witness Care Unit will provide updates on the court result, the sentence and an explanation of the meaning of the sentence, and it will thank the witness for coming forward and participating in the justice process.**
Feedback from victims is that there's too many people involved in the chain - they would like a more streamlined approach. Once you put your trust in somebody, you want to speak to them all the time. If you don't have that personal contact at the beginning, you could start to lose a bit of confidence in the system.

Crown Prosecution Service official

Not all victims need constant contact but the sheer volume of people that can be involved in a case can make it very difficult for a victim to know who to contact. Often when they try to contact an agency the person responsible for their case is unavailable (this was particularly the case when victims tried to contact the police officer in the case). Conversely, a single point of contact with a good understanding of the CJS could ease the burden on agencies by relaying information to the victim and answering questions. This model has been shown to be successful for WCUs in their work to prepare witnesses for court.

For those people most seriously affected by a crime, more intense support will be necessary, possibly involving a number of agencies from the CJS and other public statutory and voluntary bodies. Likewise, many witnesses require little more than notification of when and where to turn up, while others will need considerably more support in the form of advice, practical arrangements, reassurance and measures such as pre-trial visits.

Support victims out of court
What is critical in the cases of both victims and witnesses is the recognition that their needs do not necessarily end with the termination of a case; the impact of a crime or of being targeted as a result of giving evidence may continue. The overwhelming majority of victims never go to court but their needs are just as important. End-to-end victim and witness management means beginning when needs arise and ending when they are resolved.

Engaging a range of services to support victims
The greater the impact a crime has on a victim, the greater the likelihood that they will need the services of statutory agencies outside of the CJS in order to support them. The importance of a joined-up approach to meeting victims’ needs consistently arose as an issue throughout the discussion groups with victims and those who support them.

My first, and main, recommendation – to define justice in terms of assessing the full impact of a crime on a victim and then supporting the victim to overcome that impact – will inevitably result in needs being discovered that cannot be met by justice agencies alone. Organisations including local councils, housing associations, education authorities, social and children services, the NHS and others will all need to play an active part in delivering the new definition of justice for victims and witnesses.

Independent Domestic Violence Advisers

Independent Domestic Violence Advisers (IDVAs) are trained specialists who provide a service to victims who are at high risk of harm. Agencies work together to identify, track and risk-assess domestic violence cases, and better share information so that more offenders are brought to justice, victims are protected and better supported, and further violence is prevented.
Increasingly I’m coming across certain housing associations that are charging people for damage to their houses – especially if it’s repeat burglary, it’s a real problem.

Victim Support volunteer

Bringing agencies together

Supporting victims of anti-social behaviour, or what is sometimes referred to as ‘quality of life crime’, is also an obvious area where the involvement of agencies outside the justice system can have a big impact in stopping and overcoming criminal behaviour. For example, where individuals are victimised by those accommodated in social housing, their first recourse is often to call the local authority, housing association or landlord. Neighbourhood policing teams, who were widely praised by many of the victims we met, have, in many areas, built good relationships with registered social landlords and housing associations but reported that this was time-consuming and not as easy as it could be. I met victims of anti-social behaviour who had established residents’ groups with full support from their housing officer. They worked together to address the low level but hugely damaging incidents of annoyance and intimidation but their success was largely due to dedicated individuals rather than a central strategy. Again, a more co-ordinated approach is required.

The dual use of both criminal and civil proceedings can play a crucial role in curbing anti-social behaviour in managed social housing. Tenancy agreements contain clauses to ensure acceptable behaviour and care of the property occupied. Anti-social behaviour can often contravene these clauses and yet action by the social landlord to either warn or evict anti-social tenants is rarely instigated. In many situations there is not enough evidence for criminal proceedings and this makes civil proceedings all the more important. More action needs to be taken by the police and housing authorities to use all legal avenues that are available to them to tackle anti-social behaviour.

Strategic level co-ordination

Addressing the impact of crime seems to be viewed by the CJS as catching the perpetrator and ensuring that they do not reoffend. This is of course over-simplifying but I was continually struck by the lack

Recommendation 1:

Local criminal justice boards must ensure that they have sufficient engagement with the NHS, local authorities (including social services) and housing providers to ensure that services are co-ordinated at a strategic level and that commonly occurring problems are addressed promptly and sensitively. The National Criminal Justice Board must ensure that it has sufficient engagement with the parent departments/agencies at the national level.
Victim Support Plus
Victim Support Plus is a faster, more effective and more tailored service for victims of crime. The charity now aims to contact everyone within 48 hours of referral to do a structured needs assessment and agree a package of support. This can include emotional support from a volunteer and practical support (such as help with security). This is followed by routine check-ups to make sure that needs have been met.

Protecting victims at home
The involvement of social services in cases of domestic violence, where children were deemed to be at risk as a result, was a commonly occurring theme, as was resentment at a perceived lack of understanding on the part of social services that any risk to them was not the fault of the victim. Often, the result was that the victim had to deal with a difficult set of criminal proceedings against the perpetrator, with whom they might still be in a relationship, while at the same time handling a parallel, but completely unco-ordinated process initiated by social services, with the result that any children might be taken into care. Local agencies must work better together to ensure that victims in cases such as these are not penalised for the crimes committed against them. A more co-ordinated response is needed, with support provided to protect the family as a whole.

Recommendation 2:
Local criminal justice boards should review the level of participation of Victim Support to ensure that they are fully involved in strategic planning; referral processes are robust and effective, in line with the Victims’ Code; and that criminal justice system agencies fully understand the role of Victim Support so that its services can be meaningfully offered to victims.
The needs arising from the impact of a crime on a victim are not limited to functions of the justice system. By bringing other statutory services to the local criminal justice board (LCJB), strategic links can be forged and measures put in place to resolve commonly occurring issues and consider needs that arise outside the justice process. Also, by having a strategic link between organisations, greater co-operation between those working on the frontline is also more likely to occur.

If we are to adopt a new understanding of ‘justice’ then a co-ordinated response to meeting victims’ needs – whichever part of government is responsible – is essential. It should be a matter for LCJBs to decide how best to achieve this but there must be no risk that a victim will not receive the service they need due to local priority setting.

**The role of Victim Support**

There is a need to strengthen the existing integration of Victim Support with the rest of the CJS. I was shocked at how few of the police officers we met understood Victim Support’s role and the services they are able to offer and commission. The Victims’ Code sets out that the police have a statutory responsibility to refer a victim’s details to Victim Support unless the victim specifically asks them not to or if the offence is domestic abuse, sexual violence or homicide. In these cases consent must be sought by the police to refer the victim but the offer of referral should still be made. The onus is on the police to make these referrals but Victim Support figures show significant variations in referral numbers compared to recorded crime. Some variation is explained by consent not being given, but that does not account for the current lack of referrals.

However, because so few of the police I met understood the services that are provided by Victim Support, I question how they are supposed to make adequate referrals and be able to inform victims comprehensively on why speaking to Victim Support, may be beneficial for them. Also, despite the referral of victims’ details being a statutory obligation, currently there does not seem to be any accountability where this isn’t happening. This initial referral should ensure all victims have the option of accessing support, and they are being failed when this does not happen.

The extent to which Victim Support is represented on LCJBs varies from area to area, perhaps appropriately. But many Victim Support staff I met reported difficulties in gaining the necessary traction.

**Recommendation 3:**

Multi-agency arrangements should be established to manage the needs of victims, with all relevant services represented. Participation should be a legal duty, as with Multi-Agency Public Protection Arrangements.
Victim Support is generally used by a certain age group. Younger victims don’t want to be referred. I think the image of Victim Support and the wording is a problem."

Victim Support volunteer

with CJS agencies in order to provide the comprehensive support to victims they would like. This is, however, in the context of some examples of good practice. For example, Victim Support is in many areas routinely involved in police training for new starters. Despite this, there is a low level of understanding of the role of Victim Support and the type of support they can provide across the wider system. Victim Support has merged into one national charity from 77 local charities over the past few years and their services have evolved dramatically. This lack of understanding may be a factor in the highly variable rates of referral to Victim Support from the police, area by area.

Proactive approach
For referral rates to increase and the police to be able to more meaningfully offer the services of Victim Support to victims, a more consistent approach should be adopted. Although the responsibility remains with the police to be informed about Victim Support and to refer victims, I would also like to see a more pro-active approach being made by Victim Support to publicise their service both to the police and within local communities. During one discussion with a neighbourhood policing team it was suggested if a representative from Victim Support attended local community meetings it would raise awareness among the police and the public, who may not report crime but might self-refer to Victim Support.

Where Recommendation 2 would bring thinking on victims together at the strategic level, there is a similar need for joint working at the operational level. It is for this reason that a model of end-to-end victim and witness management is proposed so that services can be co-ordinated to meet a victim’s full set of needs. Too often during the journeys I heard both victims and professionals asking for services without being aware that they should be in place but had not been implemented properly or were not being resourced in an area. An important element of the end-to-end management of victim needs would be to ensure that measures that should be in place for victims were being provided appropriately. For children this is particularly important. They are less likely to tell the police when they have been a victim, so other agencies have much more of a role to play in ensuring that they can access support.

Case owners should meet
In some cases, where the needs of a victim are particularly complex and consequently a very high level of co-ordination between services is required, the case owners within each service should be physically brought together. This response has already been

Multi-Agency Risk Assessment Conferences
Multi-Agency Risk Assessment Conferences (MARACs) involve key agencies – police, probation, education, health, housing and the voluntary sector – working together on an individual victim’s case to share information. This means that they can build up a comprehensive picture of the abuse, and agree action to best support and protect domestic violence victims and their families.
Our work is very much multi-agency. I know the courts have their problems – as do we, probation and the voluntary sector. But there isn’t anything stopping us all acknowledging that the people who need our care and attention are the victims and the witnesses, not the cracked and ineffective trial targets, the timeliness targets, or the discontinuance rates.

Crown Prosecution Service official

implemented, patchily, across England and Wales for domestic violence victims in the form of Multi-Agency Risk Assessment Conferences (MARACs).

However, in a system where interventions and activities are based on victim need and impact rather than by offence type, this particularly intensive form of co-operation should be available to any victim whose needs are sufficiently wide-ranging or complex.

Such intensive co-operation between those responsible for meeting a victim’s needs is required in only a small minority of cases, with those victims who would benefit from it being identified through the process of end-to-end victim management.

Less intense collaboration would also be valuable for victims with less complex or traumatic needs. The individual responsible for overseeing the end-to-end process should have an identifiable point of contact within each agency helping the victim, and this group of contacts should be able to liaise with each other as required.

The need for counselling

I have grave concerns that the work being done to encourage victims to report crime and engage with the CJS will lead to more victims being let down when they come forward and do not receive the help they need. The need to build capacity within primary care trusts to meet victims’ need is acute in the area of counselling, in particular for PTSD. This is not merely a matter of resourcing, but of a lack of trained practitioners and a clear referral process.

Action is urgently required because the desperate lack of counselling provision for victims of crime was an almost universal theme throughout the discussions held with victims. I met victims who had never received counselling despite a GP referring them, and even a bereaved relative diagnosed with PTSD who had been on a waiting list for 18 months.

There remains a common misconception among CJS staff that victims cannot receive any counselling while criminal proceedings are ongoing. While there

Challenge 2:
The Government should develop and implement a model of end-to-end victim and witness management. A single point of contact should be available to all victims and witnesses to act as an advocate within the system and to engage the required services. This support should be provided on an ongoing basis for as long as the victim or witness has outstanding needs resulting from their experience of victimisation or of giving evidence.
Challenge 3:
The current provision of emotional support for victims, especially specialist support for post-traumatic stress disorder counselling, is insufficient. The Government should put forward proposals to raise the level of provision across England and Wales to an adequate level, including the allocation of necessary funding.

are some difficulties around victims who are to be called as witnesses receiving therapy/counselling, these difficulties can be managed. Vulnerable and/or intimidated witnesses in particular should be able to access specialist help. The CPS has no authority to prevent an adult vulnerable and/or intimidated witness from receiving therapy but should be made aware of the intention to seek professional help and will need to consider any possible impact on a trial. The impact of having to wait until the end of a trial to receive the emotional help needed can be huge for many victims, and certainly doesn’t support the idea that the CJS values witnesses who are called to give evidence.

Supporting victims and witnesses at court
A number of reforms over the last decade have focused on improving the court experience for victims and witnesses. While recognising – as the proposals for end-to-end management of victims do – that only a tiny minority of victims of crime ever see the perpetrator go to court, improving the experience for those who do is nonetheless important.

Putting victims and witnesses at the heart of court processes
The most commonly occurring issue which arose during discussions with victims and staff was that of listing – or rather over-listing – of cases to take place in the same courtroom at the same time. It has a very significant impact on victims and witnesses and is the greatest single undoing of the notion that victims and witnesses are at the heart of the CJS. Plainly, victim and witness needs are not routinely given high enough priority in listing decisions.

The vast majority of magistrates’ courts run on the basis of double, or sometimes triple, listing. This means that two or more cases are allocated to the same courtroom

Recommendation 4:
Assessment for the appropriateness and eligibility of special measures should be continuous in approach to trial, delivered through a model of end-to-end victim and witness management. Assessments should exclusively be made on the basis of victim need and impact, not on characteristics of the witness (such as age).
Challenge 4:
The system of sentence discounts to reward guilty pleas should be amended to eliminate the discount for trial-day guilty pleas and to increase the incentives to plead guilty earlier in the process.

Giving evidence must be a bit like attending hospital to have an operation or something. It must be such a nerve-wracking, awful experience and anything you can do to try and reduce that pressure a little bit has got to help them.

Crown Prosecution Service official

at the same time. This is done because a significant proportion of cases ‘crack’ (the defendant changes plea on the day, pleads to a lesser offence or the prosecution offer no evidence), are ineffective or do not proceed on the date or time intended. The Crown Court estimates that the daily cost of running a courtroom is £4,601 (figure from 2006, figure for magistrates’ court unavailable) and it is understandable that every effort is made to minimise the number of courtrooms not in use. It is inevitable therefore that on any given occasion, the victims and witnesses of at least one case will not, be required as the case will not be heard.

Cases should be listed carefully

However, in deciding which cases should be listed together, too often I found that the only significant consideration was the convenience of the court and not the needs of the witnesses due to attend. Particularly in cases involving vulnerable and/or intimidated witnesses, extra care must be taken to make sure their cases are listed to minimise the difficulties for them to attend court.

There are several reasons why a case might not go ahead or be delayed; we heard widespread reports of counsel not being ‘trial ready’ despite having given assurances to the contrary. This means that considerable time after victims and witnesses have arrived at court is spent handling legal matters such as disclosure. Counsel are rarely penalised for this despite the availability of ‘wasted cost orders’ to do so. It has been argued that such orders can be highly damaging to the counsel concerned, resulting in judges being reluctant to impose them in all but the most serious cases. It was the view of some of the judiciary I spoke to that imposing ‘wasted cost orders’ is bureaucratic and time-consuming and therefore adds to the inefficiency of the court.

Additionally, figures for 2008–09 show that 13 per cent of civilian witnesses do

Recommendation 5:
The Lord Chief Justice and Chief Executive of Her Majesty’s Courts Service should issue joint guidance to judges and listing officers providing detailed advice on how to balance the management of court costs, meeting victim and witness needs and protecting defendant rights when making listing decisions. The effectiveness of this guidance should be reviewed by the issuing parties and the Victims’ Commissioner after one year.
A prosecutor is only as good as their preparation. If you have many trials listed, even if you stay up all night, you struggle to prepare properly. We do need to speak to the witnesses, especially those who might be particularly nervous. If you’ve got a roomful of them, you don’t have much chance of caring for them.

Crown Prosecution Service official

not turn up to court when required, resulting in the trial not going ahead. Because defendants can expect a discount to their sentence of 10 per cent for pleading guilty on the day of the trial, they have an incentive not to plead guilty at an earlier point if there is doubt as to whether witnesses essential to the trial will present themselves to give evidence.

There was very mixed evidence provided on the factors driving listing decisions, but the system is clearly in dire need of national guidance and a standard model. I believe a model could be devised to enable courts to run effectively – but not at the expense of victims and witnesses. While guidance is available for listing officers, it does not contain sufficient detail on how to balance the competing factors of court costs, victim and witness needs, and defendant rights. Too often, victims and witnesses lose out.

The impact of delays
Far more consideration needs to be given to the impact of delays on witnesses. The analogy of a dentist’s waiting room was used by several people we met: psychologically preparing yourself for the appointment, making the practical arrangements such as taking time off work or arranging childcare and then anxiously sitting in the waiting room only to be told some time later that the procedure you have been in cold sweats about has to be rearranged because the dentist is double-booked. It is simply not acceptable to expect witnesses who may have seen something hugely traumatic to put their lives on hold and then come to court only to be dismissed until a later date.

It is not all a bleak picture. There are examples of good practice in listing. I visited the North Somerset Magistrates’ Court where the use of pagers and mobile telephones was being trialled to allow court staff to release witnesses and then contact them shortly before they were to be called. A number of courts also list cases to start at the end of the day, with no witnesses being called until the following day, to allow administrative business to be addressed without inconveniencing witnesses.

Challenge 5:
The Ministry of Justice should put forward proposals for a system of penalties to be imposed on counsel, both defence and prosecution, who are not ready for trial following an assurance that this is the case. This should balance the need to impose an appropriate financial penalty without having long-term consequences for the individuals involved or requiring undue court time to administrate.
Recommendation 6:
The Ministry of Justice should commission research to determine the extent to which the use of special measures influences juries and the judiciary in their views of the evidence presented to them. The evidence collected should inform decisions as to the most effective use of special measures in meeting the needs of witnesses and ensuring the best possible testimony in court.

Still, there were too many reports of the needs and vulnerabilities of victims and witnesses being overlooked in favour of other concerns. Beyond the problem of over-listing, we found other problems with the listing process. Particularly in rural areas I found that witnesses often have to travel long distances to attend the court where their case is listed to take place.

While accessing services generally in rural areas means travelling longer distances, what I found unacceptable were situations where cases were listed in certain courts while courts that would have been more convenient for a witness sat empty. With the advent of virtual courts and the ability of vulnerable and/or intimidated witnesses to give evidence via a live link, there are also opportunities to allow witnesses to attend courts closer to their homes when the trial is taking place in a different location. There is a need to clearly establish the needs of victims and witnesses as a priority in listing decisions, without losing sight of the need to deliver justice efficiently.

Special measures
The issue of special measures, available to vulnerable and/or intimidated witnesses under the Youth Justice and Criminal Evidence Act 1999, is one which has sparked very differing views throughout the collection of evidence for this report. It is widely accepted that they are an appropriate and proportionate device to allow some vulnerable and/or intimidated witnesses to give evidence where they would otherwise be unable or not prepared to do so.

At the outset of my study I was convinced of the value of special measures but as the journeys continued we heard more and more professionals questioning their impact on achieving best evidence. Some people I spoke to felt that using a live link reduced the impact of the evidence given

Recommendation 7:
Local criminal justice boards should ensure, via their police and Crown Prosecution Service representatives, that guidance on how special measures are offered to witnesses is followed and that expectations are realistically managed. Performance data on the timeliness of special measures applications should be collected with a view to driving down the number of late (particularly same-day) applications.
because we are so desensitised from exposure to trauma on television.

Other people felt that the use of screens in court significantly raised the perceived trauma being experienced by the witness and thereby influenced juries to take a more negative view of the defendant. I remain convinced that for some witnesses giving evidence would simply not be an option without one or several special measures being put in place.

**Striking a balance**

However, while there remains scepticism over their effect, it will remain difficult to strike the right balance between supporting witnesses to give evidence and ensuring that the evidence remains compelling. It is not possible to answer this question with any degree of confidence without asking those responsible for evaluating evidence given in court about the level of impact the legislation has had.

The suggestion of asking such questions of magistrates and juries, particularly the latter, has in the past met with considerable resistance. This is understandable on the grounds that nothing must be allowed to interfere with the fairness or objectivity of trials and that juries must be free to make their deliberations without fear that they will be challenged on them at a later date. However, it does not seem impossible to develop a piece of research which would balance these important interests.

**Vulnerable witnesses**

The current special measures regime is applicable to ‘vulnerable’ and ‘intimidated’ witnesses. Vulnerable witnesses are

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**Special measures that may be available**

- **Screens around the witness box.** A screen is placed around the witness box to prevent the witness from having to see the defendant.
- **Evidence via a live link.** The witness can sit in a room outside the courtroom and give evidence via a live television link to the courtroom. The witness will be able to see the courtroom, and those in the courtroom can see the witness on a television screen.
- **Video-recorded evidence in chief.** The witness’s main oral evidence is videotaped and played to the court.
- **Removal of wigs and gowns.** The judge and lawyers in the Crown Court do not wear gowns and wigs so that the court feels less formal.
- **Evidence given in private.** This is when members of the public are not allowed in the courtroom.
- **Use of communication aids.** For example, an alphabet board.
- **Examination through an intermediary.** An intermediary is someone who can help a witness understand questions they are being asked, and can make his or her answers understood by the court.
those under 17 years old or a person whose quality of evidence or ability to give evidence is likely to be diminished by reason of mental disorder, significant impairment of intelligence or social functioning, or physical disability or disorder. An intimidated witness is anyone whose quality of evidence is likely to be diminished by reason of fear or distress in connection with testifying in the proceedings.

In the case of both vulnerable and intimidated witnesses, CJS practitioners have argued for refinements to the process by which those who should be offered special measures are identified. They have reported a tendency to push young people (especially victims) towards special measures in cases where this may not be what is best for the person concerned; young victims are often keen to face the defendant in court. What is important is that there is no automatic assumption that if a victim is eligible for special measures then they are given them.

Every witness is an individual; and their individual needs and wishes must be considered. Equally, individuals are not always identified as vulnerable and/or intimidated. This may be due to the fact that the critical point for assessing the appropriateness of special measures comes at the point a statement is taken; the witness’s attitude or circumstances may change between this point and the date of the trial.

**Late applications**

There is also a need, in the immediate future, to tighten the procedures by which special measures applications are made to the court. Late applications by the CPS were widely reported by the CPS itself, HMCS and Witness Service staff.

I was horrified to hear of an incident in one court where an application was made at the last minute for a witness to give evidence behind screens but due to his height and lack of notice, court staff had to adapt the screens with makeshift pieces of cardboard so the witness could not be seen. As well as ensuring that special measures are correctly implemented,
timely applications are also important for the listing process to run smoothly and so that the Witness Service can plan ahead to ensure enough volunteers are available to support witnesses.

CJS staff, in particular the police and Witness Care Officers, also need to ensure that witnesses’ expectations are managed appropriately and that witnesses are not led to believe special measures are an automatic right. I came across many people who said that CJS staff offered special measures in order to reassure and encourage witnesses to give statements and to attend court before the witness had been properly assessed and found eligible. The results of doing this are poorly managed expectations that are in nobody’s interests.

Court facilities
Approximately 500,000 witnesses pass through the courts each year and HMCS has gone a long way towards improving their experience in court. However, going to court remains a daunting experience for most people and this is not alleviated by the less than adequate facilities in many courts.

I was hugely impressed with the Witness Service staff and volunteers I met throughout the journeys. Witnesses and CJS staff also had a great deal of praise for their work. I was far less impressed with the facilities they are provided with in some courts. For a vulnerable and/or intimidated witness to have to wait in a windowless room with no access to washrooms or refreshments without having to pass through public areas of the court – where the defendant is often located – is unacceptable. In many courts the Witness Service was viewed as an integral part of the system: when I visited Bradford Magistrates’ Court, I was impressed by the facilities provided. They were spacious and modern while also allowing privacy for those who needed it. HMCS and the Witness Service worked in partnership and the benefit of this was obvious. The difficulty of adapting listed court buildings was often quoted to me as a reason for poor facilities but I do not accept this. If witnesses are as important as they are billed to be by the CJS, then allocation of existing facilities can be reprioritised. Facilities for disabled witnesses are non-existent or very limited in some courts; if this cannot be remedied then the need for proper disabled access must be addressed by listing officers.

Poor facilities for witnesses in courts were not limited to older, listed buildings. I have visited a number of newer courtrooms and even there I felt more could be done. Waiting rooms were still too small and I found court staff having to work around the design of the buildings where they worked to meet the needs of witnesses coming to give evidence. There also needs to be greater consideration given to the planning of communal public areas and to how witnesses can be kept apart from both the defendants they are going to testify against and the defendants’ supporters.
“Redefining justice to meet the needs of victims will often go beyond the CJS to areas where no existing code or pledge is in place.”
It is clear that victims and witnesses need improved access to information about how the justice system works and how their own case is progressing. This was, alongside the need for better emotional support following a crime, the most commonly reported concern by victims, witnesses and those who support them.

The need applies not just at the system level – how it works and what level of service a victim or witness can reasonably expect – but at the individual level as well. Once a person becomes engaged with the system they want to be able to find out what is happening with their case promptly, and at their convenience. It is also important that victims are able to report crime, and be apprised of their options, in whatever way is most comfortable for them. Streamlining the vast amount of generalised information that is available to victims and giving them an avenue to ask questions would ease a great deal of anxiety and dissatisfaction.

Expectations and understanding of the criminal justice system

The need for the public in general to understand the level of service they can expect from the CJS has already been recognised through initiatives such as the Policing Pledge and the Prosecutors’ Pledge. This is essential if people are to have realistic expectations of the system and, more importantly, to be able to challenge the level of service they receive if it falls short. However, the existing pledges, codes and charters provide a confusing array of references for victims and witnesses. If I am a victim and while giving evidence in court as a witness find reason to make a complaint, which pledge, code or charter should I refer to? The second problem is that if we are going to redefine justice to meet the needs of victims, those needs can and often will go beyond the CJS to areas where no existing code or pledge is in place.

Unfortunately the number of professionals and victims who had heard of and/or read any of the existing codes and pledges was nowhere near as high as it should be. The Victims’ Code sets out statutory duties but practitioners with those obligations are not always aware of them. The Code is not ‘victim friendly’ or particularly accessible. Although it sets out victims’ rights, none of the victims I met were aware of their rights.

In developing a new single code setting out what victims and witnesses can expect we must learn from previous efforts and make the new code more accessible and easier to use by victims and witnesses.

The CJS has developed expectations and rights across the agencies; I am not suggesting that they do not want victims to know their rights or that they do not want to deliver them, so it seems logical that this information is pro-actively delivered.

Sentencing policy

A frequently occurring issue, raised by victims of a wide range of crime types,
Recommendation 8:
The terminology used to describe all types of sentencing, and the explanations that the judiciary are required to provide in court, should be reviewed with the aim of making them clear and easy for the public to understand.

was that of sentencing. There is an understandable desire among victims for sentences to be tougher and, in the case of custodial sentences, longer. It is outside the scope of this report to propose substantive changes to sentencing policy. This will be disappointing to many of the victims I met who have proposed tougher sentences but a strictly objective approach to sentencing is a fundamental element of a fair justice system.

A great deal of the sense of frustration expressed over sentencing can, however, be addressed through a better approach to managing expectations. The most commonly raised complaint in this regard relates to life sentences, which many victims (or their families), and much of the public at large, reasonably take to mean a sentence of natural life in custody. The reality is that comparatively few offenders serve natural life sentences, with most released at some point on life licence. That an individual on licence can be recalled to prison at any time is little consolation in the face of an expectation that the person concerned will never be released. As I have stated, it is not in my remit to comment on the rights or wrongs of this but I feel very strongly (as do the majority of people I met – both victims and professionals) that if an offender is sentenced to, for example, 12 years it is reasonable for anyone viewing that sentence to expect an offender to be in custody for 12 years. The reality is that the offender is likely to be released after serving half that sentence but be subject to recall to prison. The offender may also be eligible for home leave and therefore possibly in the locality of a victim seven years before the victim expected them to be. Where an offender has been sentenced to more than 12 months in custody a Probation Service Victim Liaison

Challenge 6:
Building on the Policing Pledge and the Prosecutors’ Pledge, the Victims’ Code and the Witness Charter, the Office for Criminal Justice Reform should develop a single code that defines the requirement for all criminal justice system and non-criminal justice system agencies to address the total impact of a crime on a victim. This will provide a single set of expectations and levels of service that a victim or witness can expect to receive as part of the justice process.
Policing and Prosecutors’ Pledge

The Policing Pledge is a set of promises from the police on the service they should provide – they promise to listen to your concerns, act on these concerns, and then keep you informed of the progress they’ve made. Each neighbourhood will have locally agreed priorities, as agreed by the community.

The Prosecutors’ Pledge is a 10-point pledge that describes the level of service that victims can expect to receive from prosecutors.

Officer should keep a victim informed of the offender’s sentence but this is not always the case, and even where it is, the expectation of the sentence has been set by the judge. Put simply, the sentence the victim hears handed down by the judge must be the sentence that is served. If the offender is likely to be released after half of their sentence then this must be explained at the point of sentencing by the judge to the court.

Transparent sentencing would not need to have an impact on the fairness and objectivity of sentencing but it would allow victims and the public as a whole to better understand sentencing decisions and the reality of the decision.

Accessing information on case progress

However many efforts are made to improve the public’s understanding of how the CJS works, and the sort of service they can receive should they be unfortunate enough to need it, many victims and witnesses will still have a relatively low level of knowledge about the system at the point when they initially become engaged with it. It is therefore important that they are able to access information on ‘what happens next?’ delivered in a way which is relevant to their particular circumstances. For many victims we met, the volume of information they were expected to absorb was simply too great in the immediate aftermath of the

Recommendation 9:
All local criminal justice boards should have a clear process in place for delivering continuous improvement in response to victim and witness feedback.
I find myself apologising a lot to victims who haven’t been updated. It’s embarrassing for us to say ‘I’m really sorry that you were a victim of crime six weeks ago and nobody’s been in contact with you’. There isn’t any continuity; the serious crimes, yes, but not at the lower level. Here it’s almost a case of, ‘well, you only had your handbag stolen’.

Police officer

trauma of being a victim of crime. It would be a key role of any end-to-end victim and witness management function to deliver such information on demand, tailored to the specific circumstances of the victim or witness concerned.

Equally importantly, such information should be available at a time which suits the victim or witness. There is a widely held feeling that victims and witnesses are ‘used’ by the CJS; that they are only contacted according to the needs of the system, such as when they are required to provide a further statement or to attend court. It is vital for victims to be able to contact one person with whom they have some rapport to ask questions or have information relayed again when they need to know it.

Barriers to information

Some victims I spoke to remarked that, as things stand, getting information on their case is a very passive experience. They often have to wait for someone to offer them information. By enabling victims and witnesses to access information or to speak to a named point of contact when they want to and on their terms can help to provide a sense of empowerment and help break down the victimhood feeling of not being able to take control of their situation.

Access to timely information on the progress of police investigations, pre-charge, is of particular concern and the frequently reported inability to obtain it leads many victims to believe that no action has been taken by the police.

Despite some examples of good practice, many under the Citizen Focus agenda, too many victims feel that they are unable to access information on case/investigation progression, including on key milestones such as cases coming to trial. Police officers acknowledged that accessing information on investigations is highly dependent on the availability of the lead investigator at the time when a victim or witness calls. Lead investigators often work on a shift basis, and will also be working on a number of cases, meaning they will simply not be in the station and available to speak to a victim or witness. Police officers also reported a reticence – described by one officer I met as an ‘unwritten rule’ – to divulge information on another officer’s case even where the desired information is accessible on the relevant case management system.

**Challenge 7:**

Delivered as part of end-to-end victim and witness management, a single point of contact should be established – either nationally or area by area – for the purpose of accessing at least basic information on investigation and case progression.
This was driven, to be frank, by a concern that the lead investigator may have been selective about passing on to the victim information to which they would be legitimately entitled. Police also reported in different areas that they did not always ‘own’ a case: this may have meant a victim did not need to wait for a particular officer to be on duty, but it did mean an officer, in looking for information, would have to familiarise themselves with the case and might not be able to answer queries.

**Loss of trust**

The frustration created when a victim or witness is not able to get the information they want when they need it must have an impact on their levels of trust and confidence in the justice system, and the police in particular. Tackling this issue will therefore have an impact on the central target that the police are measured against by government.

The most worrying examples for the CJS, while relatively few in number, were those where a victim discovered some considerable time later that an individual had been brought to justice for the crime against them but the victim had, until that point, believed that there had been no outcome from their reporting of the crime or making a statement. It would seem an obvious solution to improving public confidence to ensure that victims, and in some instances the public as a whole, are given access to case outcomes.

### Expectations and complaints

Providing victims and witnesses with a clear set of expectations, and an understanding of their entitlements, is critical to allowing them to challenge the CJS where the level of service they receive is not adequate. There have been a number of positive developments in this area over the last few years, in particular through the Victims’ Code and the Witness Charter, but there remains a significant problem with the processes involved in seeking redress.

**Seeking immediate redress**

When a victim or witness feels that they have not received a good service there are a myriad of routes by which they are able to complain, and they vary from area to area. There are many agencies, and even more staff, involved in taking a case through the justice system, making it very hard for a victim or witness to identify who is doing what and, importantly, who is at fault if there are any problems. Also, if there is a problem it is possible that more than one agency is involved. This makes the current system of separate complaints processes for each justice agency difficult to navigate and cumbersome in providing any resolution of a complaint.

I also found a tendency to engage formal complaints processes where what was really wanted by the victim or witness was
straightforward redress of whatever they perceived the problem to be. The majority of victims I met who were unhappy with the CJS would have been satisfied if the issue had been resolved early on and did not wish to enter into a formal complaints process. A common issue was lack of information or disagreement with a decision that could have been rectified by the appropriate agency communicating with the victim and having an open dialogue. I propose that a single point of contact for complaints – no matter which agency the complaint refers to – should be established to carry out triage and take the complaint forward as appropriate. This should be a separate but parallel process to end-to-end victim and witness management to ensure complete objectivity when examining how a victim’s needs are being met.

Responding to more serious complaints

This complaints process should be based upon the new single victims’ code that I have recommended, with all agencies working with a victim or witness being held to it.

The existing Victims’ Code and Witness Charter, while valuable in setting expectations, actually compound the complexity of the complaints process. A two-tier system has been established because the statutory rights in the Victims’ Code enable victims to seek recourse to the Parliamentary Ombudsman.

On the other hand, CJS agencies are not statutorily required to meet the guidelines in the Witness Charter because it is an ‘aspirational’ document. This means that witnesses can not use it as a basis for making a formal complaint. By bringing in a single code for victims and witnesses we would not only establish a single benchmark for all agencies but remove the second-class citizenship that is currently assigned to witnesses.

Where the Victims’ Code does apply, the available statistics paint a worrying picture. Only 46 complaints have been received by the Parliamentary Ombudsman since the inception of the Code in 2006. A significant number of these (precise figures are not available) were rejected on the basis that the local complaints procedure had not been exhausted, or for other reasons.

Simplified complaints process

Simply on the basis of the enormous numbers of victims who become engaged with the CJS each year, it seems inconceivable that this small figure is the result of near universal satisfaction with the level of service received. The discussion groups held not only with victims and witnesses, but with CJS staff, have confirmed that this is not the case.

The difficulty in making a complaint can only serve to compound the dissatisfaction already felt and lead to more damaging consequences for both individuals and agencies. Putting in place a single, simple, two-tiered process that can both
**Witness and Victim Encouragement and Support (WAVES)**

WAVES is a partnership project between Breckfield and North Everton Neighbourhood Council and relevant stakeholders, including the police, fire service, registered social landlords and Victim Support. The project enables local residents who have been victims or witnesses, and who may not report to the police for fear of reprisals, to report crime in confidence. WAVES operate a confidential telephone line, drop-in surgery, home visits and community meetings.

A simple and accessible criminal justice system accommodate the immediate and informal problems that occur as well as handle formal complaints is urgently required.

### Accessing criminal justice services

It is not always the police to whom victims or witnesses find it easiest to report crime. Victims of anti-social behaviour will often, in the first instance, seek to report crime to housing providers and it is for this reason it is recommended they are linked into LCJBs.

Other victims may be cautious of reporting direct to the police for different reasons. There may, for example, be concern at engaging the CJS without fully understanding the implications, or if it is deemed potentially harmful or disruptive to do so. Victims of domestic and sexual violence, as well as young victims of crime, are particularly vulnerable to worries about going to the police.

Access to the CJS, and consequently justice itself, should be based on victim need not the demands of the system. Neighbourhood policing teams are already taking positive steps, albeit not consistently nationwide, to allow victims to report crime or seek advice in places such as community centres which don’t carry the perceived risks associated with being seen walking into a police station. There are also good examples of third-party reporting models offered by the third sector, many of which, particularly in the case of hate crime, are very well established. However, levels of knowledge of these routes are variable and need to be better publicised.

### Challenge 8:

Each local criminal justice board should develop a single, formal complaints procedure for all agencies involved in meeting the needs of victims impacted by crime where informal resolution of the problem has failed. Victims and witnesses must be able to easily understand the process and escalation procedure. This process should be parallel but distinct from the proposed model of end-to-end victim and witness management to ensure objectivity in any inquiry.
“If the issues facing a victim as a result of their experience are to be tackled based on individual need and impact, then the support offered must be consistent – irrespective of whether criminal proceedings are brought or not.”
Consistent provision of support

The significant improvements in support for victims and witnesses which have been introduced over time have, to varying degrees, delivered a better experience and higher rates of satisfaction and confidence in the CJS. However, a negative consequence of the CJS continuously introducing new policies has been inconsistencies in provision and implementation across England and Wales.

If the issues facing a victim as a result of their experience are to be tackled based on individual need and impact, then the support offered must be consistent—irrespective of whether criminal proceedings are brought or not.

Support for young victims of crime

Throughout the discussion groups there was, in general, a low level of awareness of young people being victims of crime, with the significant exception of young victims of very serious crime, including sexual violence. This appeared particularly stark when set against the considerable public and governmental attention given to the issue of youth offending. I met several young victims and their families who felt they had received little or no support, in comparison with the range of interventions offered to young offenders. It was understood by the majority of victims I met that any work done with young offenders is aimed at reducing reoffending, but it still felt to many of the young people who had been victims that offenders were rewarded for their actions.

During one of the journeys I visited a youth offending team office to meet with young victims they were in contact with through victim liaison officers. During the meeting, a group of young offenders returned from a mountain biking activity organised by the team. The sight of this understandably incensed the families I was with: they couldn’t understand why their children, who had through no fault of their own been victims at the hands of other young people, would never be offered these sorts of therapeutic activities. I have seen some trial projects established by the Government

Challenge 9:
Delivered through a single, criminal justice system-wide point of contact, processes should be established by each local criminal justice board to deal with challenges to the level of service provided to victims and witnesses quickly and without recourse to a formal complaint route. This should be incorporated, eventually, into the proposed model of end-to-end victim and witness management.
Recommendation 10:
Support and engagement in the criminal justice process should be provided to those close to victims of crime according to their need and the wishes of the victim or, in the case of homicide, in consultation with the next of kin. Support and engagement should not be based on the nature of the relationship with the victim.

“We need to be more victim-orientated. If I want something for a victim I have to beg for it. Meanwhile, the young offender seems to have all these interventions and practical support. I’ve only been in the job six months but already I feel as though the victim’s the last thought.”
Youth offending team worker

to explore the best ways to support young victims of crime and my study emphasises this grave issue that needs to be tackled.

CJS and third sector staff who work with young victims widely reported that young people do not perceive themselves to be victims in circumstances where adults would. Low-level violence, theft and other types of offending can be perceived as simply a feature of growing up. Young people also reported concerns about being taken seriously when reporting anything but very serious offending.

Confidence in the police
I visited several local projects working with young victims and was worried by the lack of confidence among the young people I spoke to about reporting crime to the police. More worrying than their reluctance to report, though, was the common response that the police wouldn’t do anything so they would take matters into their own hands.

In addition to the real danger of young victims engaging in criminal behaviour to deal with a crime, they are also likely to miss out on the support they need. Addressing this issue is, primarily, a matter of education and work with schools alongside provision for third-party reporting (Recommendation 11) and work within the CJS to raise the profile of young victims. The extent to which CJS staff, in particular neighbourhood policing teams, have been able to build productive relationships with schools is mixed. The challenge of educating young people about the impact crime may have on them, and the support which is available, is complicated by the need to reach young people who are not engaged in education.

The ripple effect
When a crime occurs, the effects are often not limited to the victim. Those close to a victim may also need support and want involvement in the criminal justice process. Not being kept informed about case progress following the victimisation of a loved one can lead to feelings of isolation and helplessness.

Recommendation 11:
Each local criminal justice board should audit the availability of third-party reporting in their area and ensure that such routes are well publicised. There should be a particular focus on availability for young people and vulnerable victims.
Challenge 10:
Through education of young people and criminal justice practitioners, the perception that young people are not victims of crime in cases where adults would be considered to be must be challenged.

In the case of the friends and family of homicide victims, this is recognised through the support offered by the CJS and voluntary organisations to those who have been bereaved. While the voluntary sector will, in general, accept self-referrals from any bereaved person, irrespective of their relationship to the victim, the support offered by the CJS is often limited and depends on someone’s relationship with the person concerned.

This is most apparent in the case of the siblings and children of homicide victims. The parents and partners of such victims are usually well supported and kept involved as any case against a perpetrator is progressed. However, many of the bereaved partners I met reported difficulty in accessing an equivalent level of support for their children.

More than one victim
This is despite the fact that the children of the victim are plainly as likely to have suffered as great, although of course different, an impact as the partner. The same is true of adult siblings of homicide victims, who are often not recognised as having the same ‘stake’ in a case as the immediate family and are not kept involved in the criminal justice process or offered the same level of support.

Other victims and their loved ones have reported receiving much better tailored support, where the police and CPS in particular have engaged with friends and family based on the victim’s wishes.

In homicide cases where children have lost either a parent or a sibling, much more support needs to be offered. A handful of third sector organisations offer this specialist support, but children are not part of a routine referral process and nor are their needs assessed.

Non-criminal proceedings
The first challenge in this report calls for offences to be viewed according to their impact on the victim and the needs of the victim as a result. These needs may require the involvement of the NHS, social services, the education sector or any number of voluntary sector organisations to provide

Recommendation 12:
Victims should be better supported through civil proceedings, for example injunctions or care orders, where these arise as a result of having been a victim of crime. The support should be equivalent to that available as part of criminal proceedings.
Challenge 11:
Some behaviour which is deemed as ‘anti-social’ would be more appropriately dealt with in the criminal courts. A clear threshold should be agreed between the Association of Chief Police Officers and the Local Government Association, above which cases would be treated as primarily criminal.

specialist support. However, many of the victims I have met have also needed support to deal with other parts of the justice system (such as the civil and family courts).

Domestic violence victims are often advised to seek an injunction against the perpetrator as well as, or instead of, a criminal prosecution against the perpetrator. They may also be involved in proceedings brought by social services if children are thought to be at risk, which is why this report calls for better joint working between criminal justice agencies and social services.

Victims in civil cases
Whether a court case is heard in the criminal, civil or family courts doesn’t really matter when it’s happening because a person – through no fault of their own – has been put in that position by somebody else. In such cases, the victim should be entitled to exactly the same level of support as they would be in criminal proceedings – whether this means advice and support at court, pre-trial visits or separate waiting areas. Most critically, it is unreasonable to expect victims to have to cover their legal costs for civil proceedings or – regardless of income – when these are the result of their being a victim of a crime.

Anti-social behaviour orders
Of all the victims I have met over the last eight months, the stories of those whose lives have been ruined by anti-social behaviour have been among the most poignant. It became very quickly apparent that the term ‘anti-social behaviour’ has too easily come to describe types of behaviour which are plainly criminal and totally unacceptable. The experiences of these victims have been instrumental in my reaching the conclusion that the CJS should act according to victim need and impact rather than the offence type.

Loitering and littering – and even minor criminal damage or drug use – might reasonably be referred to as anti-social behaviour. Standing outside a family home in the middle of the night and bellowing racial abuse should not be. Nor should the term be used to describe three hooded figures standing in a woman’s garden at

Recommendation 13:
Victims of offences dealt with under anti-social behaviour legislation should have access to the same support as is available to those whose cases are dealt with in the criminal courts.
3am, attempting to break into her car. It is not acceptable for people to be fearful of popping out for a pint of milk because they will face a barrage of verbal abuse outside their front door or sitting at home in the dark because leaving lights on attracts the group who throw eggs and sometimes stones at their windows.

Something has gone deeply wrong that these types of behaviour – among many examples I have heard direct from the victims themselves – are classed as a form of nuisance and left to housing associations, landlords and local authorities to deal with. Each has a role to support tenants, monitor bad behaviour and press for anti-social behaviour orders where necessary.

**Police action needed**

However, where the behaviour concerned is serious, it should be for the police to take the lead in tackling it. A CJS which acted based on victim need, rather than offence type, would recognise the enormous impact of these types of behaviour on their victims and prioritise them accordingly.

As a priority, the police and local authorities must ensure that they have a shared understanding of who is responsible for which types of behaviour, and what can sometimes be very serious offending should be dealt with through criminal proceedings.

Where anti-social behaviour orders are the appropriate route for tackling bad behaviour, it is critical that the victims and witnesses concerned receive exactly the same level of support as they would were their case being treated as critical. This should include the support of the UWin Service and community service provided by Victim Support, as well as separate waiting facilities and, once in place, support offered through end-to-end victim and witness management.

**Keeping victims and witnesses informed**

Much of this report has focused on looking again at the way in which justice is delivered to bring about improvements for victims and witnesses over the long term. However, within the system which operates at present, there are improvements which can and should be made more immediately.

The issues most often raised by the victims and witnesses I have met relate to the provision of information in two key areas: police investigations and, in the case of serious crime, post-conviction services. In both areas, there appear to be significant inconsistencies nationally and also within LCJB areas – without an obvious cause.

**Progress updates**

Many police forces either have systems in place to ensure that victims and witnesses are kept updated about investigations or are in the process of developing them. In one area I was confidently told that strict case management processes make it impossible to close a file on an investigation without informing the victim. However, in the same area, I met victims who in the recent past had reported crimes and had statements taken without ever being informed of the result. Clearly, the system in place was not as robust as advertised.
If you’re tracking a parcel from abroad, you get told when it flies, when it lands, when it’s been transferred and when it’s been delivered. If we could get something like this in place it would be great: it would take the pressure off other professionals such as police officers.”

Crown Prosecution Service official

The issue of victims and witnesses not being informed about the progress of investigations came up throughout the journeys and is a widespread concern. In the first instance, each LCJB area should satisfy itself each agency has case management systems in place which remind officers to report back on progress to victims and witnesses at appropriate periods, for example every fortnight or when new developments take place, such as an arrest or a charging decision. Because many forces already operate such systems, while the evidence suggests that some victims and witnesses slip through the net, each LCJB should also satisfy itself that it has robust performance monitoring in place to ensure that processes are adhered to.

Many of the professionals I spoke with felt that victims pressed for information and updates when there were none. I understand the strain this can place on resources, but a victim does not and should not have to think of themselves as one of a number of cases. Their case may be the sole focus of their life and a telephone call to reassure them that a case is ongoing but there is no progress can be very reassuring.

More than once I have encountered victims who reported not being informed by the police about investigation progress only to find out later, accidentally, that a person had been arrested, charged and successfully prosecuted. By definition, it’s difficult to accurately determine how often the police achieve a result without the victim being informed, but these cases should be of great concern to the whole of the CJS as they represent a missed opportunity to build confidence among the public.

**Post-conviction update**

A second area in which central collection of performance data should be made a priority is post-conviction information provision. Again, despite systems being in place to ensure the flow of information from offender managers to victim liaison officers and then to victims, I have encountered very inconsistent practice. This has been reported not only by victims but probation staff as well. Probation and youth offending team staff I met felt under-resourced and under-valued.

**Challenge 12:**

Each local criminal justice board should ensure that the processes in place for informing victims and witnesses about the progress of police investigations and post-conviction information on perpetrators are robust and continuously monitored. Monitoring information should be collected centrally to ensure that performance can be effectively managed.
“When I first started doing Victim Support, one of the major complaints about the police was that if you were burgled they’d turn up the next day. Nowadays I hardly ever hear this complaint – I’m sure the police do turn up on time and that they’re polite and they do everything they’re supposed to. Instead I hear that the police tell victims they’ll get back to them, but they never do. Victims need some kind of closure even if the police come back and say, ‘sorry, unless we actually catch the guy with your video, then you’ve had it’. It still gives them something at the end of it.”

Victim Support volunteer

within organisations where the focus is on offenders. They often struggled to get the information they requested or even to be referred the victim’s details. As with police investigations, each LCJB should ensure that the processes in place for informing victims of parole dates, release dates and other key milestones in the management of their perpetrator are appropriate and regularly monitored.

Building good practice

The work undertaken to compile this report has uncovered numerous areas for improvement, the most significant of which I have attempted to address through the recommendations and challenges the report contains. I have also encountered some excellent examples of good practice and an almost universal desire to do better for victims and witnesses across the board.

There are two key sources from which CJS staff and agencies can learn how their practice can be improved: victims and witnesses, and each other. The subject of complaints and feedback to the CJS by victims and witnesses is very complex, with significant regional variation, and the need to make it simpler for victims and witnesses is covered elsewhere in this report. It is clear, however, that systems
for providing feedback are not at present delivering benefits for the CJS either. There is a wealth of available information which isn’t, consistently or visibly, being used to evaluate and improve the practice of criminal justice agencies. This must change.

Equally, much more can be done to extend locally developed initiatives across the system as a whole. It has been both encouraging and troubling to have encountered over the last eight months some genuinely innovative and promising local initiatives, almost by stumbled upon by chance.

Local examples
There are 42 LCJBs: I have been able to look at the work of five in great depth and have visited and learned a little about several more. I am sure that each of them has tried new things from which others could usefully learn. For this reason I am asking that each LCJB assess which of its activities – whether policy or delivery – might be valuable to the CJS as a whole, and nominate these for inclusion in a repository of good practice to be compiled and periodically updated by the Office for Criminal Justice Reform.

Recommendation 14:
Each local criminal justice board should be asked to nominate examples of good practice in the support of victims and witnesses, with evidence of their success, to the Office for Criminal Justice Reform for evaluation and dissemination to all boards.
Appendix A: Approach to compiling this report

At the time of writing this report, the role of Victims’ Champion has existed for just eight months. Anyone who has worked in the CJS or experienced crime in any aspect of their life will know that this is not a great deal of time to consider the huge subject area that is victims of crime.

When I took on the role at the end of January 2009, I met with CJS officials and ministers to consider how best to make use of my time in post. These meetings – alongside my own experiences over the last eight years – led me to identify five areas to focus on:

- victims of anti-social behaviour;
- victims of serious crime;
- young victims;
- vulnerable and/or intimidated witnesses; and
- expectations of the CJS and the complaints system.

I began meeting with victims, the third sector and officials, and looking at these areas as separate ‘themes’. It soon became apparent that these themes could not be considered in isolation – there were so many overlapping issues. However, I have stuck with them throughout my research in order to maintain focus.

I had to limit the scope of my work in order to produce something meaningful in such a short time. This of course means that there are areas that I have not considered, and I am aware this may disappoint some. I have not considered the effects of restorative justice, the Criminal Injuries Compensation Authority (CICA) or (in any great detail) the Witness Service.

Restorative justice was mentioned in several focus groups, usually in the context of young offenders and young victims. A victim can request a restorative justice approach to make an offender aware of how a crime has affected their life or to find out how to put the crime behind them – for example by hearing why the offender targeted them. I heard some positive outcomes from people who had used restorative justice, but I did not learn enough about this approach or how widely it is used to form any conclusions.

Many victims, third sector groups and professionals expressed disappointment and reservations about CICA. I heard the process was excessively bureaucratic (even professionals found the forms complicated), lengthy and did not reflect the need victims had for compensation. CICA was not formally part of my research, but the strength of feeling about the scheme meant it was often raised throughout the journeys and again at the seminars. CICA is currently being reviewed, so it seemed appropriate to wait for this process to be completed before adding my views. I do, however, strongly recommend that the incoming Victims’ Commissioner engages with CICA and reviews its function at the earliest possible opportunity.

I have not gone into any detail about the Witness Service (the support service provided by Victim Support at court). But what I saw of it was impressive, and I am in no doubt that some form of emotional and practical support should be available to victims and witnesses at court. Again, the Witness Service is currently being reviewed and my team and I shared our views on it with the external reviewers.
Appendix B: Challenges

**Challenge 1**
The criminal justice system must refocus so that it addresses the total impact a crime has had on a victim rather than the type of offence committed. Victim need and impact must be assessed on an individual basis and interventions for victims based on those assessed needs.

**Challenge 2**
The Government should develop and implement a model of end-to-end victim and witness management. A single point of contact should be available to all victims and witnesses to act as an advocate within the system and to engage the required services. This support should be provided on an ongoing basis for as long as the victim or witness has outstanding needs resulting from their experience of victimisation or of giving evidence.

**Challenge 3**
The current provision of emotional support for victims, especially specialist support for post-traumatic stress disorder counselling, is insufficient. The Government should put forward proposals to raise the level of provision across England and Wales to an adequate level, including the allocation of necessary funding.

**Challenge 4**
The system of sentence discounts to reward guilty pleas should be amended to eliminate the discount for trial-day guilty pleas and to increase the incentives to plead guilty earlier in the process.

**Challenge 5**
The Ministry of Justice should put forward proposals for a system of penalties to be imposed on counsel, both defence and prosecution, who are not ready for trial following an assurance that this is the case. This should balance the need to impose an appropriate financial penalty without having long-term consequences for the individuals involved or requiring undue court time to administrate.

**Challenge 6**
Building on the Policing Pledge and Prosecutors’ Pledge, the Victims’ Code and the Witness Charter, the Office for Criminal Justice Reform should develop a single code that defines the requirement for all criminal justice system and non-criminal justice system agencies to address the total impact of a crime on a victim. This will provide a single set of expectations and levels of service that a victim or witness can expect to receive as part of the justice process.

**Challenge 7**
Delivered as part of end-to-end victim and witness management, a single point of contact should be established – either nationally or area by area – for the purpose of accessing at least basic information on investigation and case progression.
**Challenge 8**
Each local criminal justice board should develop a single, formal complaints procedure for all agencies involved in meeting the needs of victims impacted by crime where informal resolution of the problem has failed. Victims and witnesses must be able to easily understand the process and escalation procedure. This process should be parallel but distinct from the proposed model of end-to-end victim and witness management to ensure objectivity in any inquiry.

**Challenge 9**
Delivered through a single, criminal justice system-wide point of contact, processes should be established by each local criminal justice board to deal with challenges to the level of service provided to victims and witnesses quickly and without recourse to a formal complaint route. This should be incorporated, eventually, into the proposed model of end-to-end victim and witness management.

**Challenge 10**
Through education of young people and criminal justice practitioners, the perception that young people are not victims of crime in cases where adults would be considered to be must be challenged.

**Challenge 11**
Some behaviour which is deemed as ‘anti-social’ would be more appropriately dealt with in the criminal courts. A clear threshold should be agreed between the Association of Chief Police Officers and the Local Government Association, above which cases would be treated as primarily criminal.

**Challenge 12**
Each local criminal justice board should ensure that the processes in place for informing victims and witnesses about the progress of police investigations and post-conviction information on perpetrators are robust and continuously monitored. Monitoring information should be collected centrally to ensure that performance can be effectively managed.
Appendix C: Recommendations

**Recommendation 1**
Local criminal justice boards must ensure that they have sufficient engagement with the NHS, local authorities (including social services) and housing providers to ensure that services are co-ordinated at a strategic level and that commonly occurring problems are addressed promptly and sensitively. The National Criminal Justice Board must ensure that it has sufficient engagement with the parent departments/agencies at the national level.

**Recommendation 2**
Local criminal justice boards should review the level of participation of Victim Support to ensure that they are fully involved in strategic planning; referral processes are robust and effective, in line with the Victims’ Code; and that criminal justice system agencies fully understand the role of Victim Support so that its services can be meaningfully offered to victims.

**Recommendation 3**
Multi-agency arrangements should be established to manage the needs of victims, with all relevant services represented. Participation should be a legal duty, as with Multi-Agency Public Protection Arrangements.

**Recommendation 4**
Assessment for the appropriateness and eligibility of special measures should be continuous in approach to trial, delivered through a model of end-to-end victim and witness management. Assessments should exclusively be made on the basis of victim need and impact, not on characteristics of the witness (such as age).

**Recommendation 5**
The Lord Chief Justice and Chief Executive of Her Majesty’s Courts Service should issue joint guidance to judges and listing officers providing detailed advice on how to balance the management of court costs, meeting victim and witness needs and protecting defendant rights when making listing decisions. The effectiveness of this guidance should be reviewed by the issuing parties and the Victims’ Commissioner after one year.

**Recommendation 6**
The Ministry of Justice should commission research to determine the extent to which the use of special measures influences juries and the judiciary in their views of the evidence presented to them. The evidence collected should inform decisions as to the most effective use of special measures in meeting the needs of witnesses and ensuring the best possible testimony in court.
Appendix C: Recommendations

**Recommendation 7**
Local criminal justice boards should ensure, via their police and Crown Prosecution Service representatives, that guidance on how special measures are offered to witnesses is followed and that expectations are realistically managed. Performance data on the timeliness of special measures applications should be collected with a view to driving down the number of late (particularly same-day) applications.

**Recommendation 8**
The terminology used to describe all types of sentencing, and the explanations that the judiciary are required to provide in court, should be reviewed with the aim of making them clear and easy for the public to understand.

**Recommendation 9**
All local criminal justice boards should have a clear process in place for delivering continuous improvement in response to victim and witness feedback.

**Recommendation 10**
Support and engagement in the criminal justice process should be provided to those close to victims of crime according to their need and the wishes of the victim or, in the case of homicide, in consultation with the next of kin. Support and engagement should not be based on the nature of the relationship with the victim.

**Recommendation 11**
Each local criminal justice board should audit the availability of third-party reporting in their area and ensure that such routes are well publicised. There should be a particular focus on availability for young people and vulnerable victims.

**Recommendation 12**
Victims should be better supported through civil proceedings, for example injunctions or care orders, where these arise as a result of having been a victim of crime. The support should be equivalent to that available as part of criminal proceedings.

**Recommendation 13**
Victims of offences dealt with under anti-social behaviour legislation should have access to the same support as is available as those whose cases are dealt with in the criminal courts.

**Recommendation 14**
Each local criminal justice board should be asked to nominate examples of good practice in the support of victims and witnesses, with evidence of their success, to the Office for Criminal Justice Reform for evaluation and dissemination to all boards.
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