

Criminal Justice Committee

5th Meeting, 2021 (Session 6), Wednesday 22 September 2021

Victims' rights and victim support

Written submissions

1. The Criminal Justice Committee is holding a roundtable meeting about victims' rights and victim support.
2. Written submissions have been provided by the following organisations who will be attending the roundtable meeting—
 - Children 1st;
 - Parole Board for Scotland;
 - Police Scotland;
 - Victim Support Scotland;
 - The Wise Group.
3. In addition, the Committee has received a submission from Jamie Buchan, Giuseppe Maglione and Laura Robertson of Edinburgh Napier University.
4. These submissions are attached.

**Clerks to the Committee
September 2021**

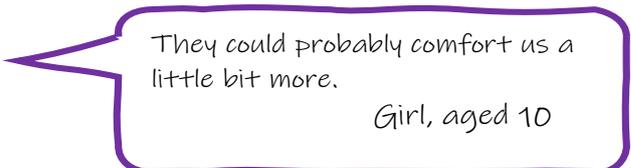
Written submission from Children 1st

Children 1st are grateful for the opportunity to provide this written submission ahead of the Committee's session on Victims' rights and support. Our Chief Executive Mary Glasgow looks forward to discussing proposals for Scotland's first Barnahus with you. In recognition that many Committee members are newly elected, this briefing gives an introduction to Barnahus before taking an overview of Children 1st's interest in this area.

Introduction

Children 1st provides practical, emotional and financial support in local communities and across Scotland, rooted in a children's rights approach. Through our local work and national campaigns, we support families to build on their strengths, to keep children safe and to help them to recover from hurt and harm. This includes work to ensure child victims and witnesses who have experienced trauma, abuse and adversity are supported in their recovery and in the pursuit of justice. As a result of what children and their families have told us about their experiences, we have long-running concerns about the impact of the justice system on child victims and witnesses.

It is crucial that children's rights are upheld at the heart of the justice system. We have heard from children that the trauma recovery work that they do with us when they have been victims or witnesses of crime has had a significant and positive impact on their lives. We have worked with the Scottish Government and partners on incremental improvements to the system, including those made through the Vulnerable Witnesses (Scotland) Act 2019. However, there is more to be done to transform the system to ensure it always upholds Children's Rights.



They could probably comfort us a little bit more.

Girl, aged 10

European best practice in supporting child victims and witnesses – the Barnahus Model – is, we believe, the most effective way to deliver this transformational change.

Children 1st is an affiliate member of the European Barnahus Network, [PROMISE](#), which encourages the adoption of child centred approaches to justice throughout Europe, provides a space to share learning and best practice, and which has developed the [European Barnahus Quality Standards](#). It is our position that these Standards should inform and align with Scotland's own Standards.

What children have told us

Children and young people have repeatedly told us that the experience of the justice system can be as traumatic as the experiences that brought them there in the first place. The experience of being in Court, having to talk about what happened to them in surroundings they find unfriendly and intimidating, and for some children facing adversarial cross-examination can be retraumatising. Children have told us that what they are looking for from the justice system is to know that justice will be done and they will get both immediate help and long-term support to recover. Sadly this is often not what they get.

Children tell us that one of the most re-traumatising elements of their experience of the justice system is having to repeatedly tell their stories, potentially of significant violence or abuse, to a number of professionals. Additionally, children tell us that having to navigate their way through many different buildings and places that they don't feel are child-friendly or trauma sensitive fails to create a safe, nurturing environment that meets their needs, respects their rights and prioritises their recovery.

The need for transformational approach

Children 1st have welcomed the incremental improvements in the way the justice system treats vulnerable witnesses. Yet it remains a system that is designed around adults. To ensure that the justice system always upholds children's rights, there is a need for a full-scale transformation. Indeed, the Scottish Courts and Tribunal Service Evidence and Procedure Review published in 2015 found that *"The best way to secure reliable evidence from a child or other vulnerable witness, in a manner that minimises any further harm to them, is to remove them as far as possible from the traditional styles of questioning and cross-examination. It is not merely a case of adapting the system we have, but of constructing a new approach, based on the wealth of scientific and experiential evidence available. In that context, there is a compelling case that the approach taken in Norway provides the most appropriate environment and procedures for taking the evidence of young or vulnerable witness. In terms of the environment, not only is the Barnahus a custom designed facility, away from the Court building, with high quality facilities in every aspect, it is also a one-stop shop for the child's needs in the longer term, with immediate access to medical, child protection and welfare services. As for the procedures, most child witnesses will undergo just one forensic interview, with a fully trained interviewer, no more than a few weeks after the incident has been reported, and often within a fortnight."*¹

When I had to talk to the police about my dad, I was taken away to a police station away from home and had to talk to two people in a small room with a camera. I wasn't allowed my mum or anyone I trusted. I felt really scared.

Girl, aged 12

It was terrible, absolutely terrible, and knowing that I'm leaving her there to give evidence even via video link. Her dad would see her and I wouldn't. And people in the court cross examining her when she's ten and vulnerable, fair enough it's from a video link but she's given her evidence. To be fair, in my opinion, the fact that she's given her evidence, I think that should be enough rather than cross-examining a wee ten-year-old.

Mum

While supporting the proposals in the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill, the Justice Committee in the last session of Parliament, also recommended this transformational approach, stating in its Stage 1 report on the bill that *"There is a compelling case for the implementation of the Barnahus principles in Scotland, as the most appropriate model for taking the evidence of child witnesses. The Committee recognises that there is no single model of the Barnahus and that its implementation would have to be adapted in the context of Scotland's*

¹ SCTS (2015) [Evidence and Procedure Review Report](#), pg.37

adversarial criminal justice system. However, the Committee does not consider that this should prevent the Scottish Government from moving towards full implementation of the Barnahus principles, specifically a ‘one forensic interview’ approach.²”

The European Barnahus model – best practice in supporting child victims and witnesses

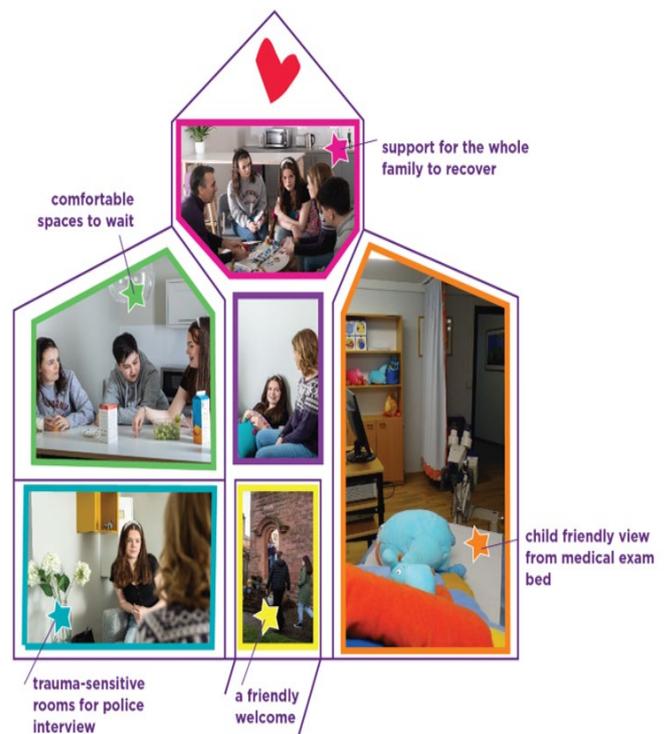
Barnahus means ‘a house for children’ in Icelandic, informing the name of Scotland’s ‘Bairn’s Hoose’. This model was developed to make sure the legal system responds to the specific needs of children where there is suspicion that they have been subjected to, or witnessed, violence or abuse. The needs of children in these situations are significantly different from those of adults in the same situation, hence the need for appropriate provision. To support the establishment of Barnahus models across Europe in compliance with European and international law, the PROMISE network developed the European Barnahus Quality Standards³, the main principles of which are:

- The Barnahus target group includes all children who are victims and/or witnesses of crime involving all forms of violence, with special effort is made to reach all child victims and witnesses regardless of form of violence.
- Respect for the participatory rights of the child by ensuring that they are heard and receive adequate information and support to exercise these rights.
- Multi-disciplinary and interagency collaboration during investigations, procedures, diagnostic and needs assessments and service delivery to avoid retraumatisation; and securing outcomes that are in the best interests of the child.
- Comprehensive and accessible services provided under one roof that meet the individual and complex needs of the child and their non-offending family or caregiver.
- Ensuring high professional standards, training and adequate resources for staff working with child witnesses and victims of violence.

² Scottish Parliament (2019) [Stage 1 Report On The Vulnerable Witnesses \(Criminal Evidence\) \(Scotland\) Bill](#),

³ Promise Network (2017) [European Barnahus Quality Standards](#)

The Barnahus – or Bairns’ Hoose as it will be known in Scotland – will be just as it sounds: a house designed with children in mind. Typically, it is situated in an unassuming residential area and furnished in a welcoming, homely and child friendly way. A great deal of effort is placed on ensuring the building is child-friendly and discreet. It offers a co-ordinated journey for child victims and witnesses through justice, care, protection and recovery. Everything the child needs is provided under one roof. Justice, social work, health and therapeutic recovery services for children are co-located. This provides a safe and developmentally appropriate space for children to have their rights to justice and recovery upheld. Therefore, the Barnahus carries its aims and values not only in the service it delivers but also in the physical environment it creates.



As the Barnahus model centres child protection and recovery at its core, it will be better equipped to meet the needs of child witnesses and victims than current provision, and, as the Barnahus is created as a child-appropriate space with trauma-informed staff, the provision of support is a critical component element.

Operationally the Barnahus provides a child-friendly environment for a single investigative interview, which will reduce the anxiety that child victims and witnesses have told us that they have felt before and during an interview and which, in turn, is crucial for securing the best quality evidence which will subsequently be presented to Court. This approach eliminates the re-traumatising repetition expected of child victims and witnesses, while ensuring that the child victim or witness has a pathway to justice with improved reliability and comprehensiveness of the evidence that is given. There will no longer be a need for, or expectation that children will move from place to place to work with a variety of services, instead there will be one child-friendly space in which multiple services and professionals are co-located.

Upholding the United Nations Convention on the Rights of the Child

Scotland has committed to full and direct incorporation of the UNCRC into Scots law and Barnahus is a fundamental step in operationalising children’s rights. As we design, develop and build Scotland’s first Child’s House for Healing we have a unique opportunity to embed participation from the start. Whilst all articles of the UNCRC have relevance, there are specific articles that are useful to guide the delivery of the Barnahus:

- Article 2: Children and young people have a right to non-discrimination
- Article 12: A right to be heard
- Article 13: A right to freedom of expression and information
- Article 16: A right to privacy, and protection from unlawful attacks that harm their reputation

- Article 19: A right to be protected from all forms of violence, including neglect maltreatment and exploitation
- Article 39: A right to special support to recover their health, dignity, self-respect and social life after abuse and neglect

Support from the Scottish Parliament and commitments from the Scottish Government

As previously highlighted, Children 1st welcomed moves to improve support for child victims and witnesses, in the last Parliament including through the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act. However, there was a consensus across the Parliament that while the steps taken by this Act, and associated work by the Police and SCTS around improving the way witnesses were interviewed, were welcome, they were still based on improving the worst impacts on children of a justice system designed for adults, rather than creating a truly child focused justice system.

We therefore welcomed the commitments made by Ministers during the passing of the Act and elsewhere to adopt the Barnahus model. Ash Denham, the Minister for Community Safety, said in May 2019 during the Stage 3 discussions of the Bill *“As the Cabinet Secretary has said to the Parliament throughout the passage of the bill, a Scottish version of the Barnahus concept is the Scottish Government’s intended destination and the bill is an important initial step towards that destination”*.⁴

The Scottish Government also commissioned Healthcare Improvement Scotland in partnership with the Care Inspectorate to develop Scotland-specific standards for Barnahus, based on the PROMISE Quality Standards. The development of these Scotland-specific standards was intended to provide a roadmap to identify how to deliver a child-centred, multidisciplinary, wrap-around response to child victims of traumatic crimes and their families and carers.⁵ Children 1st was an enthusiastic participant in the standards development process, and while were disappointed that the process was delayed due to the impact of the Covid pandemic, we are pleased it has now been resumed.

Moving to the current Parliament, the Programme for Government 2021-22 makes a commitment that “all children in Scotland who have been victims or witnesses of abuse or violence, as well as children under the minimum age of criminal responsibility whose behaviour has caused significant harm, will have access to a “Bairns’ Hoose” by 2025.”⁶ Children 1st welcomes this commitment and acknowledges the preparatory efforts of the Scottish Government and partners, laying the groundwork for this transformative commitment to be met in full.

The Scottish Government have now published ‘Bairns’ Hoose – Scottish Barnahus: vision, values and approach’⁷ as part of restarting the standards development process. On launching this document, Cabinet Secretary for Justice, Keith Brown, said:

“We are aiming for transformational change in relation to how children in the justice system are treated, not just in relation to the taking of evidence but ensuring that they can access timely support and begin their recovery as soon as possible. Bringing these

⁴ Scottish Parliament [Official Report](#) May 9th 2019

⁵ Scottish Parliament [Letter to Justice Committee](#) 12th December 2018

⁶ Page 48 Scottish Government [Programme for Government](#) 2021

⁷ Scottish Government [Bairns' Hoose - Scottish Barnahus: vision, values and approach](#) 2021

elements together in one setting is our goal and we must work collectively to achieve it. At present, young people who are caught up in our justice system have to go to multiple different services and locations. We believe that every eligible child victim or witness has the right to consistent and holistic support, access to specialist services and be afforded the opportunity to recover from their experiences and that these services should be delivered cohesively.”

It will now be of critical importance that attention is paid to the full implementation of this bold vision to make a real difference for all child victims and witnesses across Scotland.

Children 1st’s role – the Child’s House for Healing

On the basis of children’s stories about their experiences, Children 1st has campaigned for transformational change to the justice system for many years. This has included facilitating learning visits to Iceland to see the Barnahus in operation.

In 2020, Children 1st, Victim Support Scotland, Children England and the University of Edinburgh formed a partnership to work together to create Scotland’s first Barnahus, which is to be known as the [‘Child’s House for Healing’](#). This three-year project is funded by the players of the People’s Postcode Lottery as part of the Postcode Dream Trust. The House will be based in East Renfrewshire, working closely with the North Strathclyde Partnership which is piloting the new National Joint Investigative Interview (JII) model of practice. This involves a specially trained police and social work team from four local authorities and two police divisions, working alongside Children 1st to ensure they have advanced knowledge, skills, competencies and the required experience of conducting forensic interviews to produce best quality evidence and ensure the protection of children. These Joint Investigative Interviews will be conducted in the new House for Healing as agreed by the North Strathclyde Strategic Oversight Group.

Central to our model will be the trauma responsive approach and the focus on recovery from the moment that the child victim or witness discloses. This extends to supporting the child’s whole family to understand what is happening and come to terms with the trauma, in order to support the child’s recovery.

Taking a test, learn, develop and disseminate approach the ambition of the Child’s House for Healing is to share evidence and research about what is best practice in order to achieve transformational change for children, young people and their families when they experience child protection and justice processes. This approach will inform the scaling up of this model which will be required to meet the Scottish Government’s ambitions, based on the direct experience of children and their families as well as professionals. Our work will be underpinned by a rights-based approach embodied in the UNCRC.

Written submission from the Parole Board for Scotland

1. The Parole Board for Scotland (the Board) is Scotland's parole court. We are a Tribunal NDPB and independent from Scottish Ministers. Our primary role is to determine whether it is safe for offenders to serve the rest of their sentence into the community under the supervision of a social worker.
2. We occupy a critical decision making point in the system as all long term and life sentence prisoners will have their cases considered by the Board. Our decisions rely on information from social work, SPS, health professionals, COPFS, and the police and we therefore have a wide ranging and well informed perspective on how the system operates, and how it could be improved, at the point where a prisoner is eligible for consideration for early release.
3. Whilst there is an understandable system focus on victims from the offence through to sentencing, the point of release, or consideration of release, is hugely significant for victims. It is often re-traumatising, and this is exacerbated by a clear gap in support and information for victims between sentencing and release.
4. We have set out below a brief summary of some of our thoughts. These are of course constrained by the requirement for brevity but I would be happy to expand on any of what follows at the roundtable or future discussions.

Current Position

5. The Board's statutory duties in relation to victims are set out in the Criminal Justice (Scotland) Act 2003, the Victims and Witnesses (Scotland) Act 2014 and the Parole Board (Scotland) Amendment Rules 2021. These are summarised at Annex A.
6. We support meaningful involvement of victims in the parole process but are conscious that expectations need to be managed in line with statutory constraints. These are not widely understood. For example, whilst representations from victims are helpful in informing the assessment of risk and producing appropriate licence conditions, the role of the Board is not to consider questions of punishment, innocence or guilt or general deterrence.
7. Within these constraints the Board has proactively made progress in engaging positively with victims. This has included:-
 - Ensuring that the outcomes of Board considerations are communicated to victims as soon as possible and in most cases within 24 hours;
 - On request, meeting with victims to explain the parole process outwith the statutory requirements;
 - Providing victims with a summary of a Board decision, where that has been requested;
 - Building positive relationships with 3rd sector victims organisations; and,

- Driving the agenda for victims to be able to attend hearings as observers.

What victims tell us

8. It is clear from feedback from victims and victims organisations that:-

- Sudden notification that a prisoner is being considered for release, often many years after any previous contact from the Victim Notification Scheme (VNS), can result in significant re-traumatisation.
- A frequent concern of victims is that they have no information about how the prisoner has conducted themselves in prison, what rehabilitation activity they have undertaken or where they are being held.
- Many victims do not understand how the parole system operates. For example, where a life sentence prisoner is released on parole licence, that they may be recalled to prison if they breach licence conditions at any point during their lifetime.
- There is a lack of clarity about the distinct responsibilities of the Board and the Scottish Prison Service. SPS have sole responsibility for managing forms of release other than parole such as the First Grant of Temporary Release (FGTR) and this is often confused with release on parole licence.
- Communication from VNS can be confusing and is sometimes unreliable.

What the Board is doing now

9. To assist with the implementation of the 2021 statutory Rules amendments which allow victims to observe Tribunals, the Board has been allocated additional funding to establish a dedicated victims team. Initially the team will be working, in consultation with victim support organisations, on the following priorities:-

- The rollout of a victims “Safe Space” project. The victims team will be engaging with Local Authorities and other external stakeholders to build a network of safe, secure venues to allow future face to face meeting with victims to be carried out for the purposes of remote Tribunal observation, statutory victim interviews and any other face to face engagement with victims. COVID-19 related restrictions are currently impacting on our ability to facilitate such engagement but we are continually monitoring the situation.
- The development of a range of victim information resources including materials on the Board’s website and a hard copy information booklet that will be available to all victims involved in face to face interaction with the Board.
- The development of a technical solution with SPS that will allow us to conduct future observations safely and securely between the remote live link location (close to the victim’s home address) and the prison, (testing is underway).

What else needs to be done?

10. Victims should have access to information and advice about release processes at the beginning, and throughout, the prisoner's sentence.
11. Messaging from Scottish Ministers about victim involvement in parole processes should be tailored to manage expectations about what that involvement means in practice.
12. Obstacles that prevent the provision of appropriate information to victims about how prisoners have conducted themselves in prison, what rehabilitation activity they have undertaken or where they are being held should be removed.
13. To provide a less confusing landscape for victims, and an increased opportunity for a single point of contact for victims, consideration should be given to transferring the responsibility for FGTR decision making from SPS to the Board. This would replicate the situation in England and Wales, where the Parole Board makes decisions on progression to open conditions. The Board's core business is the assessment of risk and therefore we have the expertise to undertake such decision making. The Board's independence is also an argument for this approach.
14. The VNS scheme should be radically revised, with the involvement of victims, to make sure it is easily understood, flexible and focused on user requirements. Victims should be able to access information from the scheme and be notified of critical dates, through a user portal as well as maintaining more traditional communication channels.

Parole Board for Scotland – statutory duties in relation to victims

1. The Board's statutory duties in relation to victims are set out in the Criminal Justice (Scotland) Act 2003, the Victims and Witnesses (Scotland) Act 2014 and the Parole Board (Scotland) Rules 2001.
2. In summary these are that, where it falls to the Board to recommend whether, or direct that, a convicted person be released, the Board must inform any victim registered under the Victim Notification Scheme (VNS): -
 - if it has recommended or directed release
 - where it has recommended or directed release, whether it has also recommended that the person released comply with conditions; and
 - of the terms of any such conditions which relate to contact with the victim or with members of the victim's family.
3. In addition, any victim registered under Part 2 of the VNS must : -
 - be afforded an opportunity to make written representations to the Scottish Ministers as respects such release and as to conditions which might be specified in the licence in question (these representations will then be provided to the Board); and,
 - if the convicted person is serving a sentence of life imprisonment, be afforded an opportunity to make oral representations to a member of the Board who is not dealing with the convicted person's case as respects such release and as to conditions which might be specified in the licence in question. (a written report of those oral representations will then be agreed with the victim and passed to the members of the Tribunal considering that case)
4. There is no specific statutory requirement for the Board to take account of victims' written or oral representations although in practice the Board will always do so.
5. In 2021 the Parole Board (Scotland) Amendment Rules 2001 were amended to introduce new statutory duties which: -
 - Explicitly state that in reaching a decision, the Board may take into account 'the effect on the safety or security of any other person, including in particular any victim or any family member of a victim, were (...the prisoner) to be released on licence, remain on licence, or be re-released on licence as the case may be';
 - allow a registered victim to attend a Tribunal hearing for the purpose of observing proceedings if authorised to do so by the chair of the Tribunal.

There is a presumption that observation will be by live link, that is by video, audio, or some other means and the victim may be accompanied by one or more persons for the purposes of support; and

- In cases where a Tribunal of the Board has directed release require the Board to publish an anonymised summary of the reasons for their decision and to provide a copy to any registered victim who wishes to receive one.

6. More generally the Board is required to set and publish standards in relation to: -

- the carrying out of the functions of the Board in relation to a person who is or appears to be a victim or witness in relation to a criminal investigation or criminal proceedings,
- the procedure for making and resolving complaints about the way in which the Board carries out those functions.

Written submission from Police Scotland

1. Purpose

- 1.1 The purpose of this paper is to provide a written submission to the roundtable evidence session of the Criminal Justice Committee on Victims' Rights and Support scheduled for 22 September 2021.

2. Background

- 2.1 Police Scotland welcomes the opportunity to provide this written response ahead of the roundtable evidence session. This will be supplemented by Superintendent Colin Convery attending the session in person.
- 2.2 The information provided in advance stated the purpose of the roundtable is for the Criminal Justice Committee to hear from key stakeholders about a range of policy ideas on victims' rights and support. Key issues for discussion were highlighted with the understanding that stakeholders were not expected to cover all points. Evidence and comment on these key issues have been replicated below.
- 2.3 Police Scotland is committed to delivering on the commitments made as part of the annual review of Victims' Standards. We look forward to working with stakeholders to refresh the standards over the coming nine months.

3. Key Issues

3.1 **The impact of current legislation on improving the experience of victims and witnesses of crimes, including the experience of children and vulnerable witnesses.**

Police Scotland's main purpose is to improve the safety and well-being of people, places and communities in Scotland. As a result it is the organisation's remit to implement new legislation and deliver an appropriate policing response including enforcement.

Police Scotland supports all measures which improve the quality of support provided to victims and witnesses of crimes. This extends to the Victims' Standards which we publish jointly with our Criminal Justice partners on an annual basis.

There are a number of key pieces of legislation which support service delivery and these include:

Victims and Witnesses (Scotland) Act 2014 is one of the principal pieces of legislation which influences our activity. This includes:

- The requirement to offer all victims and witnesses the opportunity for referral to victim support services. This is a primary duty for Police Scotland.

- For specified offences, the opportunity to specify the gender of the investigating officer who is to carry out the interview and the gender of the medical examiner (where applicable)
- Victims to be accompanied during a relevant interview by a person of their own choice

The Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019 aims to increase the use of evidence by ‘prior statement’ and evidence by commission in solemn cases to improve the experience of child and vulnerable adult witnesses and victims and spare them the traumatic experience of giving evidence in person in court where possible. The means of ‘prior statement’ agreed with the law officers is Visually Recorded Interview facilitated by specialist officers.

United Nations Convention on Rights of Child (Incorporation) (Scotland) Bill is currently subject to Supreme Court challenge. Nonetheless the principles promoted by the Bill, and its over-riding objective of enhancing children’s rights offers particular potential for a review of support provided to children and young people who are victims and witnesses of crime. This could be based around supporting young people by developing a trauma-informed support service for victims and witnesses of all crimes and especially those where specialist support is not currently routinely provided e.g. sexual abuse. These might be provided through facilities under development through the Scottish commitment to the Barnahus approach.

Getting It Right For Every Child (GIRFEC), whilst not legislation, is the national approach in Scotland to improving outcomes and supporting the wellbeing of our children and young people by offering the right help at the right time from the right people. For practitioners, this means putting children at the centre of their work, working together and using a shared understanding and common language to consider the needs of the child as a whole.

The work of police officers and social workers with children, including joint investigative interviews (JII), is underpinned by the GIRFEC approach. Adopting a child centred approach to planning interviews is vital in securing best evidence and providing the necessary support for the child before and after the interview.

3.2 Proposals for a Barnahus style approach to taking evidence from children, including the establishment of Scotland’s first Barnahus, the Child’s House for Healing in East Renfrewshire.

Based on a model pioneered in Iceland, children can be interviewed and medically examined for forensic purposes, comprehensively assessed and receive all relevant therapeutic services from appropriate professionals in the one place.

The key principles of Barnahus are:

- Children who have been abused receive appropriate assessment, treatment and support;

- Children are not subject of repeated interviews by many agencies in different locations and so reduces trauma;
- To provide a child friendly environment for investigative interviews which reduces anxiety, crucial in eliciting the child's disclosure, and effectively captures admissible evidence in a way that maximises the likelihood of the child NOT having to give evidence in person in any court proceedings.

Simply, the Barnahus is designed to provide a trauma-informed, co-ordinated and effective response to children by placing the child or young person's rights, wellbeing and best interests at the centre.

Police Scotland is fully supportive of the introduction of Barnahus in Scotland and recognises that the new Scottish Child Interview Model for JII and developments in national IRD training for police officers supports the central principles of Barnahus.

Police Scotland welcomes the opportunity to work alongside Children 1st as it develops the 'Child's House for Healing'. The vision is for the specialist Joint Investigative Interview Cadre to work alongside Children 1st and for the Joint Investigative Interviews to be conducted in the new House for Healing. It is anticipated this development will offer significant potential to further develop and assess support services for child victims.

3.3 Possible legislation to establish a Victims' Commissioner as a spokesperson for victims and witnesses.

Police Scotland considers this to be a matter for Scottish Parliament although welcomes the opportunity to provide support and comment should the proposal be developed further under the auspices of the Victims' Task Force or by other means.

Police Scotland has experience of working with other similar organisations including the Children and Young People's Commissioner for Scotland.

We welcome any development which provides an independent voice for all victims and where advocacy services can enhance the victims' expectations of criminal justice agencies and hold organisations, including Police Scotland, to account through scrutiny, challenge and the promotion of a co-ordinated, rights based approach.

3.4 The impact of the Victim Surcharge, which was introduced in 2019.

Police Scotland considers this a matter for Scottish Parliament although recognises the benefits that the scheme provides in terms of generating funds to further support victims.

Police Scotland appreciates the surcharge was developed in consultation with victims and as such is based on supporting lived experience and the wishes of individuals and communities who have been subject to criminal acts.

3.5 The effectiveness of the Victim Notification Scheme which was introduced in 2013 by the Victims and Witnesses (Scotland) Bill.

Police Scotland recognises that the impact of crime on victims and witnesses is significant and wide ranging. We also recognise that the impact can be long-lasting and reaches far beyond the conclusion of criminal proceedings.

Police Scotland welcomes the benefits which the Victim Notification Scheme brings to victims, including helping to identify where support for trauma is required and keeping victims' needs to the forefront.

Police Scotland is aware of some of the practical challenges faced by stakeholders in the implementation of the Victim Notification Scheme.

3.6 The role that preventative spend and action can have on reducing the number of victims of crimes.

Police Scotland is working to use a public health model to develop a prevention approach, applying the following approach:

- **Primary prevention**, i.e. prevent the problem occurring in the first place, but acknowledging that this is not always possible
- **Secondary prevention**; recognising the issue when it starts to emerge and seeking to resolve it and
- **Tertiary prevention** - seeking to reduce the harmful consequences.

This is embedded in our Annual Police Plan 2021/22 to design services jointly to tackle complex public safety and wellbeing challenges; further enhance and invest in our approach to partnership, prevention and community wellbeing, working constructively with our partners across the public, private and third sectors to support Scotland's public health approach.

Written submission from Victim Support Scotland

Impact of current legislation

At the Criminal Justice Committee roundtable on the impact of Covid-19 which was held on 7 September 2021, Victim Support Scotland (VSS) notes the discussion around digital developments in our courts and in particular the views of some witnesses it was imperative in-person court proceedings resume as soon as possible.

Victim Support Scotland is growing increasingly concerned that such comments ahead of the introduction of Covid permanence legislation, may lead to an erosion of victim's rights to measures which pre-date the pandemic. Under the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019, witnesses who are categorised as 'vulnerable' – this includes victims of sexual assault, domestic abuse, trafficking and stalking, and those under the age of 18 – have the right to provide evidence remotely via CCTV link, or pre-recorded in advance of a trial rather than giving their evidence in court.

Many victims describe appearing in court as more traumatic than the experience of the crime itself with Dr Lesley Thomson QC's ['Review of Victim Care in the Justice Sector in Scotland'](#) report noting that "victims often speak of feelings of re-victimisation... once they enter the criminal justice arena." Over the years there have many such reports with similar findings. In contrast, providing evidence remotely or pre-recorded via evidence on commission allows victims to provide evidence in a more comfortable setting and completely avoids the risk of contact with the accused increasing the likelihood of victims giving their best evidence.

VSS has recognised the opportunity provided by the pandemic, to overcome some of the challenges victims and witnesses face and is supporting the use of virtual courts for summary criminal cases during the pilot project in Grampian, Highlands & Islands. VSS is the largest organisation providing in-court support to vulnerable witnesses in Scotland and routinely receives over 20,000 referrals from the Crown and Procurator Fiscal Service to do so each year. Virtual trials were hailed by Sheriff Principal Pyle as, "a pillar in the effective administration of justice." His desire is that "virtual trials become the default method of judicial determination in summary crime" according to his report ['Summary Criminal Virtual Trial Pilot: The Way Ahead'](#) published 3 July 2020. In VSS's view, virtual summary trials have proven themselves to be an effective method of delivering justice and improving the experience of victims and witnesses. They should be viewed as core components of the justice system, rather than a short-term alternative born out of the necessity of Covid-19 or viewed as a threat to the sanctity of the courtroom.

VSS would like to see the extension of the provisions for vulnerable witnesses to all complainers who may choose to provide their evidence remotely. This aligns well with the current Programme for Government commitment to 'give serious consideration to the recommendations of the Dorrian Review, including the introduction of specialist courts, and allowing victims to pre-record their evidence.'

Under the emergency Covid legislation, time bars were extended from 40 days to 3 months for summary trials, and from 140 days to 6 months for solemn proceedings.

While VSS acknowledges the need to reduce the backlog of court cases and the detrimental impact lengthy delays are having on the wellbeing victims, given the timescales for addressing the backlog as set out by the Scottish Courts and Tribunal Service, it would be premature to return to pre-Covid time limits whilst the backlog continued. This would potentially result in some cases being thrown out and therefore removing the ability of victims to see their case brought to justice. VSS has major concerns about the impact of this in terms of public safety but also in relation to public trust in the justice system.

Barnahus and the Child's House for Healing

In partnership with Children 1st, Children England, the University of Edinburgh and the People's Postcode Lottery, Victim Support Scotland is working to establish the first Child's House for Healing in the UK in Scotland. It is inspired by the international renowned Barnahus standards, first developed in Iceland.

VSS understands that Children 1st have also been invited to give evidence to the committee and will be providing a more in-depth overview of the progress on the establishment of Scotland's first Child's House for Healing in East Renfrewshire.

A Victims' Commissioner for Scotland

VSS notes that the Programme for Government, published on 7 September 2021, states a commitment to "prepare for the necessary legislative process to appoint a Victims' Commissioner" but that the Scottish Government has not indicated a timescale for when this will happen. We want to see a Victim's Commissioner Bill brought before the Scottish Parliament by the end of this parliamentary year to allow for an appointment to be made during the life of the current parliament.

There is a clear mandate, from victims themselves and a commitment in the manifestos of the majority of political parties in the Scottish Parliament, for a Victims' Commissioner for Scotland.

The creation of an independent and properly resourced Victims' Commissioner for Scotland will allow the voices, experiences and views of those affected by crime to be heard and to influence decision making. A Victims' Commissioner should seek to promote the recognition, inclusion and participation of victims of crime in the justice system, seeking to improve awareness and access to the rights set out in the Victim's Code for Scotland.

It would also address the perceived imbalance that the representation of issues affecting victims and witnesses is better provided in Northern Ireland, England and Wales, and London, due to the lack of an equivalent role in Scotland.

In our report ['Making the case for a Victims' Commissioner for Scotland,'](#) Victim Support Scotland details how similar roles operate elsewhere to highlight instances of best practice and sets out its key criteria for such a position.

This support from VSS for the creation of a Victims' Commissioner is on the basis that the creation of this post does not adversely impact resources and funding that would go directly towards victims and/or victims' services – we feel strongly that this should not detract from this. VSS would require assurances that the role of

commissioner would come with a commitment to engage directly with victims and witnesses and believe that a key responsibility for the role should be to establish victim experience panels to give victims a forum to advocate for the changes they believe would make the most difference for them.

As demonstrated by the Victims' Reference Group, it is vital that their experiences are used to drive positive changes and improve outcomes for victims throughout the justice system. Enshrining the role of a Victim's Commissioner with a duty to directly consult with people affected by crime would make Scotland a world leader in taking a victim-centred approach to justice.

While we largely envisage that the powers of a Victims' Commissioner for Scotland would echo those of the Children & Young People's Commissioner, our report cites the Victims of Crime Commissioner in Victoria, Australia as an example of international best practice. The powers of the VCC include the ability to, 'carry out inquiries into issues affecting large numbers, or particular groups, of victims of crime in Victoria, and report to relevant ministers on those issues.' VSS is open to the idea that a Victims' Commissioner could conduct inquiries and take forward complaints on behalf of victims and their families, but would seek further consultation as to the scope and resources required for such a function.

Effectiveness of the Victim Notification Scheme (VNS)

VSS works with thousands of victims each year and based on their feedback is of the view that the current Victim Notification Scheme is not fit for purpose. VSS is fully supportive of the Scottish Government's pledge to review the scheme and would welcome a full review of this scheme to ensure it is trauma-sensitive. However, given that no specific commitment was made to the review of the VNS in the current Programme for Government, VSS remains concerned that this review is not being given adequate priority. The legislative context that governs the scheme is complex and needs simplification as well as the scheme requiring systemic and procedural change.

VSS has described the mental health impacts of the pandemic on victims and witnesses and the cumulative impacts arising from knock-on effects to the justice system at a time when access to psychological support services is a challenge across the country. Overall, VSS has seen an alarming rise in the numbers of victims experiencing emotional distress and the number of safeguarding concerns that have had to be escalated for further action has remained high throughout the pandemic. The proportion of safeguarding concerns that relate to potential suicide or self-harm increased sharply at the beginning of the pandemic and has remained high.

For example, 29 Safeguarding concerns were reported in VSS in August 2021, of which 19 (66%) of those related to suicide. For comparison, in August 2020, 20 safeguarding concerns reported, with 12 (60%) of those being suicide related. This is a significant jump compared to the number of concerns reported in August 2019 when only one safeguarding concern was reported. There have been recent occasions where VSS has sought intervention by emergency services to provide medical attention to victims as a result of a letter notifying a victim of the release of a perpetrator having been received.

The VNS causes a huge amount of distress for victims and the manner in which it is administered often re-traumatizes people. The need for a review has never been greater given the wider context as outlined above. The scheme is problematic in a number of ways, a snapshot is given here to illustrate this: Notifications of a prisoner's release are mostly done by letter which means that the victim has little control with little or no time to plan ahead. These letters arrive without warning and often without a prior offer of support. Victims tell us that they have found themselves in the situation of being alone and vulnerable when receiving these letters, with no one to support them. Concerns have also been raised about the timing of the letters, some are received on a Friday afternoon which victims say is the worst time as there is no one in the relevant office all weekend to answer any questions they may have.

Victims receive no regular communication and, especially in the case of long sentences, they may have moved addresses. The onus is being placed on the victim themselves to update their details as the system is address-based with no option to opt in for email or text or online communications. This also puts anyone in rented or short-term accommodation at an additional disadvantage for receiving the information they are entitled to.

While the Covid-19 pandemic and closure of courts has been a factor in the number of people registering with the Victim Notification Scheme dropping to a record low from 443 in 2018-19 to 306 last year, the registration process itself remains a key issue.

Victims are given only one opportunity to sign up and it can be at the time they have experienced trauma as a result of the crime – while still at court immediately after the sentence has been handed down – and report to us that they can't remember being asked if they wish to opt-in to the scheme due to shock. Greater flexibility in when and how victims sign up, as well as the ability to choose how they are kept updated is urgently needed.

Early release

While efforts are made to put support plans in place for the offender upon release back into the community with Information Sharing Agreements now in place between the Scottish Prison Service and every local authority in Scotland, there is no equivalent consideration given to victims and support and/or safety planning. VSS sees this as a wasted opportunity.

During the Covid-19 pandemic the decision was made to release hundreds of prisoners sentenced to 18 months or less and who on 4 May 2020 had 90 days or less left to serve in custody to increase the availability of single-cell occupancy and allow for isolation if necessary. While prison governors maintained a veto, and those convicted on domestic abuse charges were not eligible for release under emergency legislation provisions, this mass release approach to release did not allow for a dynamic risk assessment process to take place. Full consideration to the impact on the prisoner, their victim(s) and their community are needed as part of a coordinated approach. Information sharing relating to the victim must be treated with equal importance to that of the prisoner so that appropriate support plans can be put in place for victims across Scotland.

With notice and clear information of the services available, support organisations can ensure victims are informed and supported in a trauma informed way and put additional measures in place. During the past year, VSS has seen an increase in the number of people accessing its Victims Fund to request home security equipment such as intruder alarms and video-enabled doorbells, demonstrating victims rising concern for their personal safety.

Impact of Victims Surcharge Fund (VSF)

Victim Support Scotland has operated its Victims Fund for over a decade, with a view to ensuring that no victim in need, is adversely impacted either materially or financially as a result of being affected by crime. Whilst the fund was relatively low in value previously, it has always been open to other organisations to apply on behalf of victims or for victims to apply themselves, with VSS taking on the administrative responsibility for applications.

In March 2021, VSS received a share of the first £157,000 payment out of the Victim Surcharge Fund and this funding went directly to the Victims Fund since the objectives of the two were well aligned. The VSF enabled VSS to scale-up its work through the Victims Fund considerably and reach hundreds more families than has been possible previously. In addition to the VSF, the Victims' Fund received an additional £30,000 of funds to ensure continued availability for crisis funding for women engaged in sex work/Commercial Sexual Exploitation in the financial year 2021/22.

Throughout the pandemic, VSS has seen an unprecedented demand for its Victims' Fund. In financial year 2020/21, £285,000 was distributed to 741 people and their families who have been affected by crime. It was only possible to match this increased, unprecedented demand due to, in the main, additional funds received through the VSF along with other charitable donations, reallocation of existing budgets and additional funding from the Scottish Government.

VSS is of the view that it is vital that funds remain available for direct allocation to victims and their families to meet these costs which arise out of emergency and unforeseen necessity.

Written submission from the Wise Group

Sometimes it is the people no one imagines anything of who do the things that no one can imagine.

The Wise Group's mission is to transform people's lives. We believe in a Scotland where everyone has opportunity to contribute and to thrive. Together with our partners, we believe in empowering those with experience of the justice system and beyond to help create a better Scotland.

Our values are our north star and outline what we look like when we are at our best. They are:

- We go the distance, so our colleagues and customers reach a positive and sustainable future
- We are ambitious to make a real difference every day: socially, financially, culturally
- We hurdle boundaries and innovate
- We thrive through collaboration, kindness and learning together
- We celebrate and respect individual difference

The role that preventative spend, and action can have on reducing the number of victims of crimes

It is our objective, in this modern democracy and as part of a solid approach to community safety and health, to support victims and to stop creating them. We support people to leave prison behind and we believe that in many cases you can't punish people put of offending.

There is a notion that once you get into crime you 'graduate' and those committing lower-level crimes (less than 4 years) can often be on a roundabout. The right intervention towards prevention is key to diluting the potential for more victims. We'd like to focus on crime itself as well as the outcome of crime.

The Wise Group is responsible for a Public Sector Partnership (PSP) National Throughcare programme called New Routes Mentoring. Running for 8 years, until 2019 only those under 24 were eligible to join the programme. Since 2019 this age limit has been dropped and all male offenders (not juvenile) are able to join the New Routes Mentoring Programme.

Our mentors use a relational approach, and often lived experience, to engage with all new inmates and take them on the New Routes journey.

Our New Routes Mentoring impact in the year 2020/21

- 1589 customers engaged with the New Routes Mentoring service
- 641 customers received liberation support
- 289 (72%) engaged in specialist support in the community
- 63% engaged with their mentor post liberation
- 56% customers eligible for New Routes during Early Release engaged with New Routes

Our 9 point 'behaviour change' approach offers a reason to change and offers empowerment for desistance. It helps our customers to diagnose the reasons for offending. It is more effective than clogging prisons up which in turn creates more inclination to re-offend. Clearly there are other 'higher risk' categories – women/children/sexual violence, these are not in scope. The 9-point approach covers –

- Health (General)
- Health (Mental)
- Addictions
- Education and Training
- Employment
- Relationships
- Finance
- Housing
- Attitudes and Behaviours

And we have a continuous improvement approach to our work – we will always look to new innovations and better ways of doing things.

New solutions

In preparation for Court business to resume to pre-pandemic levels and with an anticipated increase in the number of Community Payback Orders (CPOs) with an unpaid work (UPW) requirement, we have created a CPO Connect online service. Data from the Justice Analytical Services Monthly Safer Communities and Justice briefings suggests that if courts return to the pre-pandemic business levels the number of new CPOs per month could be in the region of 1400, adding even more to the current backlog. Potentially, 1000 of these per month could include an Unpaid Work requirement.

In a forward thinking move, the CPO Connect service has been created and launched in a number of Local Authority areas. It is a secure and flexible online learning programme that counts towards the “other activity” element of a CPO's Unpaid Work Order. It is a practical and accessible way to reduce Unpaid Work Hours with the added benefit of learning something new.

Our trained facilitators deliver sessions six days a week, and at lots of different times. Each session lasts two hours and is delivered by a friendly facilitator in an informal way. There are no exams or tests, just good quality learning on topics that everyone will get something from, including:

- Mental health
- Physical health
- Pro-social networks
- Employment
- Financial inclusion

We've designed our programme to be welcoming and inclusive. Those serving a Community Payback Order, either standalone Unpaid Work or Supervision, or a combination order, can take part.

The participant needs either an internet connection at home OR a laptop / tablet / smartphone but no internet. They will:

- Want to reduce Unpaid Work Hours
- Want to learn something new
- Be happy to engage with online sessions

CPO Connect is:

- Anonymous and confidential – your camera will be off
- Participants don't need to speak, the chat option is available
- Available for evening/weekend sessions to fit around commitments
- Accessible from home
- There are no exams or tests
- There is help at hand to get you connected
- Not focused on heavy learning or offence related content. It's practical groupwork.

Here's what the Clients of CPO Connect say...

"It's a no-brainer. I can do the sessions at home. I learnt how our diet affects our mental health." (Client)

"I work full time, so the evening and weekend sessions suit me." (Client)

"The facilitator was really good. I learnt mostly how to create a full CV, how to actually find work you are interested in. In all, everything has been useful." (Client)

Executive Summary

This report summarises key findings from a research project funded by the Carnegie Trust for the Universities of Scotland (RIG007869) conducted by researchers at Edinburgh Napier University (Principal Investigator: Dr Giuseppe Maglione; Co-Investigator: Dr Jamie Buchan; Research Assistant: Dr Laura Robertson). The aim of this project was to scope the provision of restorative justice (RJ) in Scotland at the level of local authorities, to provide an initial assessment of the implementation of recent Scottish Government policy on RJ, and to describe how practitioners understand RJ in the context of their work.

The key findings of the research were as follows:

- Most Scottish local authorities do not have a Restorative Justice (RJ) service available, posing a significant challenge for the Scottish Government's ambition to have RJ widely available across Scotland by 2023.
- Where RJ is available it is usually for young people involved in offending only and for minor offences. This reflects commonly held misconceptions about RJ which must be addressed if RJ is to be expanded nationally to the youth and adult criminal system in Scotland.
- Many existing RJ services – particularly those delivered 'in-house' by council youth justice teams – receive few referrals, even for minor youth offending.
- However, there is real enthusiasm for the use of RJ, and support for the Restorative Justice Action Plan, among relevant practitioners.
- We found indications of a significant body of valuable RJ skill and knowledge among the practitioners we interviewed.
- There may be a significant body of valuable RJ skill and knowledge among practitioners, although our research did not carry out a systematic assessment of training.
- There are a number of significant systemic challenges to the 'rollout' of RJ nationally, including limited and unsustainable funding, the effects of changing local and central dynamics elsewhere in the criminal justice system, and issues around information sharing and the impact of GDPR, which has led to a reduction in RJ referrals.

As discussed in Chapter 5, we recommend:

- The creation of robust, GDPR-compliant information sharing protocols between the police and restorative justice services to ensure a 'supply' of referrals for RJ services.
- Adequate and sustainable funding for RJ to ensure services can operate and plan for the longer term, 'bed in' in local partnerships and receive referrals consistently.
- The establishment of local stakeholder forums to raise awareness, primarily among criminal justice practitioners, and for knowledge exchange between RJ practitioners and potential referrers. This would alleviate the misunderstanding that RJ is appropriate only for young people and allow for more use of RJ with adults.
- Support from central government in identifying, providing and accrediting training and funding for RJ, and in 'championing' RJ within criminal justice, but with RJ continuing to be organised and delivered at the local level.
- The creation of an annual survey of RJ in Scotland, to measure RJ provision and outcomes, and with results to be published annually.
- Building links between RJ providers and victim support organisations to raise awareness of RJ among the general public.