

To: SOCIAL WORK (OPERATIONS & SERVICES) SUB COMMITTEE		Subject: CONSULTATION DOCUMENT ON THE PROCEDURES FOR A VICTIMS STATEMENTS SCHEME – SCOTTISH EXECUTIVE REPORT
From: DIRECTOR OF SOCIAL WORK		
Date: 6 th December, 2001	Ref: JS/HH	

1. PURPOSE OF REPORT / INTRODUCTION

1.1 The purpose of this report is to –

- Inform Committee of the contents of a report from the Scottish Executive entitled “Consultation Document on the Procedures for a Victim’s Statement Scheme”.
- To seek approval of the response (attached as an Appendix to this report) to the Scottish Executive Justice Department in relation to the recommendations. A copy of the consultation document is available in the Member’s Library.

2. BACKGROUND

2.1 The purpose of the document is to consult on the procedures for a pilot Victim’s Statement Scheme in Scotland. The Consultation Document is seen as part of the implementation programme for the Scottish Strategy for Victims which was launched in January, 2001. As part of this strategy a range of initiatives are being developed with the aim of putting victims at the heart of the Criminal Justice system. The strategy sets out a framework which will help provide better information to victims of crime and more opportunities for victims, where seen as appropriate, to participate in the Criminal Justice process. As part of this the main Criminal Justice agencies, Scottish Executive’s Justice Department, Police and Procurator’s Fiscal have produced action plans setting out the ways in which they propose to support the victims of crime.

2.2 The action plan of the Justice Department makes a commitment to consult on procedures for a pilot Victim’s Statement Scheme. This document is the result of that commitment.

3. PROPOSALS / CONSIDERATIONS

3.1 The Consultation Document presents two options for consideration in relation to the procedures to be adopted for the Scottish pilots. The first option entails a statement being made by the victim shortly after the crime was committed, which could be updated at a later stage, providing time was available before the disposal of the case. Under the second option a statement would be made at the time of a report provided to the Procurator Fiscal. The document also highlights the practical issues relating to both of the options under consideration and explains how these options would work. Throughout the document, in each of its sections, there are a number of questions to which those consulted are invited to respond. The questions and North Lanarkshire Council’s responses are contained within the attached Appendix.

3.2 The report is in two main parts, each broken down into further sub sections. These are as follows –

Part 1 – Scope and Definitions

- What is a Victim’s Statement and how might it be used ?
- Which crimes should be covered ?
- What is the definition of a victim for the purpose of this scheme ?

Part 2 – Considering the Options and Procedures

- Advising victims of their right to make a statement
- Option 1 Making an early statement
- Option 2 – Making a statement when a report is sent to the Procurator Fiscal
- Making a statement and providing additional statements including establishing a cut off point
- Making the statement available to Criminal Justice agencies
- The role of the victim, Criminal Justice agencies and Voluntary Organisations
- Information and training for Criminal Justice agencies and Voluntary Organisations.

3.3 Within Part 1, the report explores the definition of what a victim’s statement is, and how that may be used within the Court system. The victim’s statements is intended to provide victims of crime, who wish to use it, the right to explain how the crime has affected them, by setting out in writing their thoughts, feelings and concerns about the incident. This section also explores the crimes which would come within the scope of the Pilot Schemes and the detailed definition of a victim of crime for the purposes of the Pilot Schemes. It is suggested that initially the scheme should be limited in scope but offered to all the victims of the following category of crimes: non sexual crimes of violence; crimes of indecency and crimes involving housebreaking at domestic properties. This would ensure that offences such as murder, culpable homicide, rape and domestic housebreaking would be covered. The report describes the definition of a victim as follows, “any person who has been the subject of any type of crime”. In the event of the death of a victim of crime, or their incapacity in relation to criminal proceedings, the family or those sharing a family like position may also be considered as victims.

3.4 Part 2 of the document sets out the more detailed procedures and offers two options regarding when the right to make a statement could first be exercised. Both options propose that the Police would identify those victims who could submit a victim statement under the scheme which would require both an assessment of the category of the offence and also the identification of those eligible to make a statement. Information about the scheme would then be provided by the Police to the victim. Once the victim had been advised of their right to make the statement it would be up to them to notify the authorities that they would wish to exercise that right at the appropriate time. It is at this point in the proceedings that one of the two options, whichever is preferred, would be enforced.

3.5 Option 1 would allow the victim to make a statement from the point when the crime is reported as the right to make a statement would be immediately available, the Police officer attending the crime would be responsible for telling the victim that this is the case.

3.6 Option 2 suggests that the statement would be made at a later stage when the case is reported to the Procurator Fiscal and it would then be the responsibility of the Procurator Fiscal service to advise the victim of the appropriate time to make a statement.

3.7 The document then explores how the statement would be used after it has been made and how the statement should be made available to various criminal Justice agencies and how the statement may be of benefit to those agencies.

3.8 The document concludes in detailing the role of the victim and the role of the various Criminal Justice agencies and voluntary agencies in relation to the Victim Statement Scheme.

3.9 It is important to note that the Victim's Statement Scheme is a new initiative which would help to make it easier for victims to participate in the Criminal Justice process.

4. NORTH LANARKSHIRE COUNCIL POSITION

4.1 In May of this year the Council was requested by the High Court of Justiciary to provide a Victim Impact Statement in respect of an individual charged with murder. This was the first time in Scotland that a request had been made.

4.2 Due to the lack of legislative procedures advice was sought from the Scottish Executive who advised that there was no statutory basis for such a request.

4.3 The recommendations of the report are welcomed since it proposes a framework for such requests.

5. RECOMMENDATIONS

5.1 Committee is asked to –

- (i) Note the content of the Consultation Document from the Scottish Executive Department on the Procedures for a Victim Statement Scheme
- (ii) Approve the Council's response for submission to the Scottish Executive which is attached as an Appendix to this report.



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November, 2001

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APPENDIX

Scottish Executive Consultation Document On the Procedures for a Victim's Statement Scheme

1. PURPOSE

Following the publication of the Consultation Document the Scottish Executive has asked Local Authorities to consider the content of the document and to comment particularly on specific questions and points raised throughout the document. Proposed comments are as follows –

2. BACKGROUND

- North Lanarkshire Council welcomes the publication of this Consultation Document and acknowledges the value of offering the document for consideration not only to Local Authorities and those in the Criminal Justice agencies but also Voluntary Organisations and victims themselves before reaching a view on the scope and final arrangements for a Pilot Scheme. The Council recognises that such a programme would enable victims to play a role in the Criminal Justice system through the expression of their experiences and concerns in relation to crimes which have been committed against them. It is also recognised that statements from victims could also add much value to the work of the various Criminal Justice agencies and possibly also to the rehabilitation of offenders both within the Prison system and within the community.

3. CONSIDERATIONS

- The comments in relation to the questions and specific points raised in the document are as follows –
- **Points raised at the end of section 4 – Are there any additional offences which should be included, and if so what are the reasons for this ?**

Response – It would seem appropriate that Road Traffic Offences where a death, or serious injury occurs, should also be included, as well as offences which are racially motivated but do not necessarily come under the headings suggested within the report. The reasons for these inclusions would be the impact that these offences have on the lives of the victims after the crimes have been committed.

Are there any of the offences proposed which should not be included, and if so what are the reasons for this ?

Response – No.

- Responses to points raised at the end of section 5.

Are there any additional individuals who should be considered as victims – and if so, how might they be sufficiently well defined to ensure that those administering the scheme are able to develop them.

Response – Rather than father or mother being specified as a category of nearest relative, this should be changed to parent or guardian, as the nearest relative may often be a parent or guardian who is not the birth father or mother.

Is the list of those eligible to make a statement too extensive, and if so, why ?

Response – The list of those eligible to make a statement appears to be appropriate.

- In relation to section 7 of the document it is recognised that the victim being advised of their right to make a statement by the Police at the time of the offence would be of value. However it is felt that as victims are often traumatised by the events that have occurred, which may lead to their being incapable of fully understanding what their rights are in relation to making a victim statement. ON the other hand if the victim is not advised of their rights until a crime is dealt with by the Procurator Fiscal's Department the full impact of the crime may have been diluted by the time delay, therefore diluting the value of the victim statement. Consideration should be given to having the Police pass information to the victim at the time of the offence with follow up contact a few days later from an appropriate body.
- In relation to the two options suggested in the report it is recognised that both options have their advantages and disadvantages. However, it is recognised that the opportunity to make further statements at later stages in the proceedings would be beneficial.
- In relation to the points raised in section 10 of the report, the following comments are made –
 - Victims should be provided with the opportunity if required, to make more than one single statement, depending on the stage at which comments are collated. However, it is recognised that if there is no limit to the number of statements can make about a specific incident that this may become unwieldy. As victims often require much support after an offence the self completion option offered to victims could prove to be very difficult for some people to cope with in the absence of any assistance. However, it is recognised that if Police are to take the victim's statements there would be implications in relation Police resources.
- In relation to points raised in section 11 of the document, that there would be great value to be gained by making the victim statement available to Criminal Justice agencies. In relation to Criminal Justice social workers, the victim's statement could prove invaluable in their work with offenders. The information gleaned from the victim's perspective about the impact of the crime could be useful in challenging the offender's view about the effects which the crime has had on their victim. The social work service within Prisons would also find this information to be of great use in working towards rehabilitating offenders back into the community and in the preparation of Parole reports.
- In relation to the points raised in section 12 of the report it is recognised that social workers within the community would benefit from the use of victim's statements in preparation of social enquiry reports or in the management of individual community sentences. However, these situations could be addressed more completely and competently if the offender's statement and/or fuller details of the actual offence were made available at the same time.
- In relation to the points raised in section 13 of the report the Criminal Justice section within Local Authorities would welcome specific detailed information when pilots and full schemes are operational. This would include how the victim was told of their right to make a statement and how and who would carry out this task as well as the task of actually taking the statement. Social work units would also wish to know at what point, if any, these victim's statements would be made available to themselves, either in the preparation of a social enquiry report, Parole report, Probation case etc. Victims would require fairly detailed and explicit information in relation to victims statements in order that they are clearly aware of their rights.

4. CONCLUSION

North Lanarkshire Council welcomes the Scottish Executive's consultation document to set a framework in place for a Victims Statements Scheme.