

**Improving Access to Justice For Older Victims of Crime:  
Older People as Victims of Crime and the Response of the  
Criminal Justice System in Northern Ireland**

**TECHNICAL REPORT**

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# Executive Summary

## Introduction

- This report examines how to improve access to justice for older victims of crime in Northern Ireland. It explores crime against older people in Northern Ireland and responses to it by the criminal justice system. An older person is defined for the purposes of this study as anyone aged 60 or over.
- The Commissioner for Older People for Northern Ireland commissioned this research. Researchers from the School of Law at Queen's University Belfast conducted the study. The first phase of research study was undertaken from January – July 2016. The second phase was conducted between January – April 2018. A further update was made January-March 2019.
- The study had a number of aims:
  - (1) to better understand the experiences and expectations of older people when they are victims of crime in Northern Ireland, particularly in relation to their interactions with the agencies of the criminal justice system.
  - (2) to better understand how the criminal justice agencies, in particular the Police Service of Northern Ireland (PSNI) and the Public Prosecution Service of Northern Ireland (PPS) respond to crimes involving older people as victims.
  - (3) to make any relevant recommendations based on the research findings.
- This research study adopted a mixed methods approach combining analysis of quantitative and qualitative data. A statistical analysis of PSNI and PPS statistics was undertaken. In addition, interviews and focus groups were conducted with older people including those who have been victims of crime, as well as family members of older victims. Interviews and focus groups were also conducted with staff from the PSNI, PPS, Victim and Witness Crime Unit and Victim Support NI. The analysis of the results was informed by existing literature.

## Older People as Victims of Crime

- Older people have been neglected in research-based studies on victims of crime. The interviews and focus groups with older people, including those who have experienced victimisation first-hand, provide key and unique insights into older peoples' experiences of crime and the criminal justice system in Northern Ireland.
- The risk of an older person in Northern Ireland being a victim of crime is relatively low. Police records (PSNI 2018) in Northern Ireland show there was an average of 36 recorded crimes per 1,000 of the population in 2017/18 (excluding Fraud because its figures are not broken down by age of the complainant). In that year the likelihood of recording a crime with the police was the highest for the 20-24 age group (68 per 1,000) and lowest for the 65+ age group (15 per 1,000) (PSNI 2018). These statistics have shown a high level of consistency over the last decade, reflecting those found in the Northern Ireland Crime Survey (2018) and recorded crime levels in many other jurisdictions which show older people are less likely to be victims of crime than younger adults (Campbell, 2018; Central Statistics Office, 2017; Scottish Government, 2017).
- These overall figures though disguise differences within offence categories. Whilst older people are significantly less likely to be the victims of a violent crime in comparison to other adult age groups, when it comes to burglary, criminal damage and some forms of theft the risks of an older person being a victim of such a crime are similar to the adult population as a whole. It should also be noted that numbers of recorded violent crimes against the older population are increasing according to PSNI statistics at a time when recorded violent crimes against other age groups is falling or remains stable.
- Older peoples' perceptions of crime and the criminal justice system are typically based on their personal experience of being a victim of crime; contact (either direct or indirect) with someone who has been a victim of crime; the presence of family members who are concerned on behalf of older relatives; outreach programmes and initiatives; and media reporting of crimes.
- Certain characteristics and circumstances make older people as a group more vulnerable to the harm that being a victim of crime can cause in comparison to other

adult age groups. These factors include: a higher rate of fear of the impact of crime; a higher rate of physical and mental impairment and disability; a greater likelihood of living alone; a greater likelihood of the absence of support networks; higher rates of feelings of insecurity.

- The crimes that older people are most likely to be victims of include burglary, criminal damage and vehicle related theft (excluding Fraud data). These three categories of crime involve intrusions into supposedly safe spaces. Being a victim of a crime that undermines that sense of a safe space can cause serious and lasting harm.
- Being a victim of crime can cause older people emotional, psychological, physical and financial harm, which has the potential to undermine quality of life and exacerbate inherent physical and mental disabilities and social disadvantage.
- Whilst as a group older people are objectively more vulnerable to the effects of crime, at an individual level one must be careful to avoid labelling all older people as vulnerable. To do so is to stereotype or make presumptions based purely on age rather than individual circumstances.
- There is a reluctance amongst older people to self-identify as vulnerable for the purposes of accessing additional support when journeying through the justice system. It was common in the interviews and focus groups for older people to label other older people as vulnerable to the impact and potential impact of crime, but to reject the label when it came to themselves. This reluctance is in part due a desire to avoid perceived associated labels such as 'frail' or 'elderly' and the implications this can have for older people's sense of self. Some participants rejected the label of 'vulnerable' even in cases where the impact of the crime had clearly caused and continued to cause significant personal and physical distress and where the older person would have benefited from receiving additional support.
- In order to access additional support mechanisms in the justice system, current practice requires older people to identify as 'vulnerable' or 'intimidated'. Agencies of the criminal justice system need to be aware in their policy and practice of the varying degrees of vulnerability in the older population and that a rejection of the label of vulnerable by an older person does not necessarily mean that the person has

not been significantly distressed by the crime and may be in need of additional support.

- The legacy of the troubles is in evidence when it comes to the issue of older people as victims of crime. On a positive note there was no evidence of a sectarian divide when it came to trust in or experiences of the criminal justice agencies. There was though a perception among some participants that it is too dangerous to report criminality if it involves individuals connected to paramilitaries for fear of intimidation. It is important that the agencies of the criminal justice agencies remain vigilant to this.
- There was evidence of a perception in some communities that criminals felt at greater liberty to carry out crimes against vulnerable individuals than they would have during the troubles. For some older people the lack of paramilitary 'policing' in their communities heightened feelings of insecurity. The legitimate agencies of the criminal justice system were not seen as offering the same level of deterrence and protection in some communities. None of the participants were advocating a return to parliamentary 'policing' practices, but there was a sense among some that the post-troubles era actually makes them feel more exposed or vulnerable to the risks of 'everyday' crime. This is an important observation in itself of which agencies need to be conscious.
- This research has demonstrated that although older people are not homogenous, there are common aspects to the experience of older victims of crime which agencies of the criminal justice system should be aware. **It is recommended that Criminal justice agencies engage in regular dialogue with older people and their representatives to ensure that their voices and experiences inform future reforms.**
- This research has identified the significant short and medium term negative impacts that being a victim of crime can have on older people. **It is recommended that further research be conducted to explore the long-term effects that being a victim of crime can have on the health and well-being of older people. The findings of such research would help inform the approach taken to supporting such victims.**

## The Investigation of Crime Stage

- Older people expressed a range of levels of satisfaction with the investigation stage. In part their views depended on whether the investigation led to the successful identification and sanctioning of the culprit/s as well as their perceived view of the manner in which the police officers they came into contact with handled their case. In this respect older people are no different to the population as a whole. There were though a number of themes that emerged from the interviews and focus groups with older people and practitioners that are more specific to their demographic. This includes the heightened trauma that older people can experience from the investigation process. It also includes the important role that relatives play in supporting more vulnerable older people during the investigation stage. As discussed, having a support network becomes increasingly important as we age, but is also something that older people are less likely to have access to. The continuing impact of the fear of paramilitary intimidation on reducing willingness to engage with the investigation process among some older victims was another theme that emerged from the research.
- As a measure of the success with which recorded crime is dealt with the PSNI regularly publishes data on crime outcome rates. Outcome rates record the percentage of recorded offences in which an offender is identified and there is a further identifiable outcome to the case including prosecution, a financial penalty or a diversionary alternative. Such outcomes are often referred to as sanction outcomes. The statistic is therefore a useful indicator of how cases involving different categories of victim progress at the investigative stage.
- An analysis of PSNI statistics finds that older victims (in this case those aged 55+) are less likely to have a sanction outcome to their case than other adults. This applies across all policing districts in Northern Ireland. The likelihood of a sanction outcome drops further as older victims age with those in the 65+ category recording the lowest rates. This discrepancy is driven by differences in particular categories of crime. The categories of crime where those aged 60+ are statistically less likely to have a sanction outcome in comparison to adults aged 20-54 are burglary and criminal damage. Meanwhile those aged 65+ are statistically less likely to have a

sanction outcome than adults aged 20-54 for burglary, criminal damage and vehicular related theft. There is also an observable pattern of a lower outcome rate for those aged 60+ or 65+ for crimes of violence with no injury in comparison to other adults. The only category where older victims recorded consistently higher crime outcome rates than others adults was for the relatively uncommon (for older people) crimes of violence with injury (including homicide).

- The outcome rate figures for burglary should be of particular concern for a number of reasons. This is a crime which makes up significant proportion of recorded crime committed against older people. Studies have found that burglary is a crime which is potentially very harmful for its victims, in particular those who are vulnerable, with not just the financial cost, but also the emotional and psychological distress it can cause to those affected.
- There are a number of factors that appear to be contributing to lower crime outcome rates for older victims in comparison to younger adults. This includes: (i) the modus operandi of crimes that deliberately target older people including elder abuse and distraction burglaries that make it difficult to gather sufficient evidence to prosecute. (ii) The research findings suggest that older people are also more likely to be reluctant to want to pursue a report through to prosecution because of fear of the experience of giving evidence in court and/or the risk of reprisals for doing so. The fact that the crimes that older people report are often either crimes where the perpetrator knows them (e.g. breaches of relationships of trust) or knows where they live (distraction burglaries or criminal damage of property) means that fear of repercussions of pursuing a case are understandable. (iii) The long reported failings of the criminal justice system of Northern Ireland in identifying vulnerability and providing adequate support to vulnerable and/or intimidated adults disproportionately impacts on older victims. (iv) Another recognised shortcoming of the justice system of Northern Ireland is delays in the processing of cases. Such delays disproportionately impact on older and vulnerable victims of crime.
- The outcome framework used by the PSNI and by police services in England and Wales provides scope for greater transparency than the frameworks adopted in Scotland and the Republic of Ireland. The success of the framework from a statistical

point of view depends largely on the ability of the PSNI to ensure all data is recorded correctly. The PSNI should continue to closely monitor the accuracy of their data.

- The PSNI are the only agency in these islands, and indeed potentially worldwide, that publishes recorded crime and outcome rate statistics by age of the complainant. They should be commended for their transparency. This is a valuable source of data which informs policy and should continue to be published.
- As the concept of crime outcomes is couched in technical language there is a risk that practitioners or the general public will not readily understand it. The terminology whilst arguably more accurate than what preceded it still has the potential to confuse or mislead. **It is recommended that the PSNI give consideration to publishing information about crime outcomes on its website and other relevant media in a user-friendly accessible manner.**
- The Policing Board of Northern Ireland has in previous years included outcome rate targets for the PSNI in relation to older victims of crime. These targets demonstrated a commitment to tackling the problem of the discrepancy between outcome rates across age groups. No such targets are included in the most recent Policing Plan. Without such targets there is a risk that the issue will not receive the scrutiny that it should. **It is recommended that the Policing Board consider re-introducing targets for outcome rates in key offence categories for older victims of crime.**

### The Prosecution Stage

- An analysis of the PPS statistics involving complainants aged 60+ finds much to be positive about. The statistics suggest that for the most part the negative differences in outcome rate for older people found in the PSNI statistics are not to be found in the PPS statistics. To be particularly welcomed is the finding that conviction rates in both the Magistrates' and Crown Court are higher in cases involving complainants aged 60+ than for all ages.
- There were though some aspects of the statistics which warrant further analysis. **It is recommended that a review of case files be undertaken to better understand the following indicative findings from the data: files where the victim was aged 65-74 and 75+ having a higher rate of Decision Information Requests than the general**

cohort; a higher no prosecution rate for crimes involving complainants aged 75+ in comparison to the 60-64 and 65-74 age groups; and files with decisions involving older victims of crime being more likely to end in diversion decisions than the general cohort.

- To increase transparency and openness of case involving different age groups **it is therefore recommended that the PPS draw up an action plan to enable them to be able to include as part of their regular statistical publications statistics on victim age. In the interim, the PPS should provide the Commissioner for Older People for Northern Ireland with annual statistical returns by age based on this study (including the necessary caveats).**
- To provide a more accurate picture of the justice system's response to crimes in which older people are particularly vulnerable **it is recommended that the PPS in association with the PSNI examine the feasibility of adopting a similar approach to the CPS of flagging up particular types of cases as 'crimes against older people.'** This category used by the CPS is not based purely on the age of the victim. It also takes into consideration the circumstances of the alleged crime with crimes that are targeted towards older people or where older people are especially vulnerable contained within the category. Such crimes include where there is a relationship and an expectation of trust e.g. assault/theft by a carer or family member; where the offence is specifically targeted at the older person because they are perceived as being vulnerable or an 'easy target' e.g. a distraction burglary or a mugging; where the offence is not initially related to the older person's age, but later becomes so e.g. a burglary where the burglar does not know the age of the householder but later exploits the situation on discovering that the householder is an older person; where offences appear to be in part, or wholly motivated by hostility based on age, or perceived age e.g. an assault, harassment or antisocial behaviour involving derogatory statements associated with the victim's age; and where an offender deliberately targets an older person because of his/her hostility towards older people. Adopting this category of 'crimes against older people' would allow for analysis of the prevalence of such cases in our justice system. It would also allow such cases to be tracked and their progress through the justice system monitored.

- To guide prosecutors in dealing with cases involving older people and ensure a consistent approach to such cases, **it is recommended the PPS consider introducing dedicated prosecutorial guidance for ‘Crime Against Older People’, as is the case in England and Wales.** This would assist prosecutors in applying best practice in such cases. As a public document it would also serve to reassure older victims of crime.
- Awareness of the role of the PPS amongst older people is not high amongst the older population. **Whilst PPS resources are limited, it is recommended that the PPS consider the implementation of an outreach programme or public engagement strategy. If such a strategy is to be introduced the PPS should work with key stakeholder groups representing the diversity of our society including those representing older people.**

### Improving Outcomes and Supporting Older People Who Are Victims of Crime

- Navigating the criminal justice system can be traumatic for victims of crime and lead to the phenomenon of secondary victimisation. Justice is only served if all victims, including older people, can participate fully within the criminal justice process in order to have their voices heard and their experiences recognised without suffering undue distress.
- The criminal justice system in Northern Ireland has made significant improvements in recent years in how it supports victims, but much remains to be done. This research study is not the first to identify some of these issues, although the focus on the impact on older victims of crime is unique. At the various stages of the process changes could and should be made to improve the experience of older victims of crime.
- The establishment of the Victim and Witness Care Unit has done much to improve communications between the Public Prosecution Service and victims of crime. **It is recommended that consideration be given to instigating a recording practice which allows data on levels of engagement with the Victim and Witness Care Unit by different demographic groups (including age) to be gathered and published to inform research and practice.**
- The classification of a victim as either vulnerable or intimidated serves as a gateway to that victim accessing additional support mechanisms. It is therefore important

that practitioners readily understand these terms and how to identify victims who fall into either category. A number of recent reports have expressed concern about a 'hierarchy of identification' where the ability of the agencies of the criminal justice system in Northern Ireland to appropriately identify vulnerable and intimidated adults, as opposed to children, continues to prove inadequate. Given that older people are more likely to have characteristics or circumstances that make them vulnerable or intimidated in comparison to other adults, they are at a disproportionate risk. **It is recommended that PSNI and PPS training on identification of vulnerabilities and intimidation incorporate particular training on how best to do so in cases involving older people and how best to address any needs identified.**

- It is also important that victims understand the terms 'vulnerable' and 'intimidated' as self-identification or identification by family or friends may assist criminal justice practitioners. Literature sent to victims of crime by the criminal justice agencies includes information on what constitutes 'vulnerable' or 'intimidation'. Some of this literature uses the legal definitions that are overly technical and therefore not necessarily readily understood by victims. **It is therefore recommended that all literature sent to victims and witnesses and that which is available online adopt the explanations given in the Victim Charter for an intimidated victim which is an example of best practice. It is further recommended that the PSNI and PPS work with stakeholders such as the COPNI to provide further elaboration in documentation of what is meant by a 'vulnerable victim or witness'.**
- **It is recommended that consideration be given to the introduction of a victim vulnerability matrix for older victims of crime** with the matrix being used by agencies across the criminal justice system to encourage the better identification of victims' needs and the measures that should be put in place to support them.
- Successful multi-agency working aids in the identification of vulnerabilities and the subsequent provision of holistic support. A number of initiatives have been launched in recent years to provide multi-agency support to vulnerable participants, including victims, in the criminal justice system in Northern Ireland. This includes the introduction of Support Hubs. **It is recommended that the Commissioner for Older People for Northern Ireland liaise with the PSNI to ascertain the extent to which**

**the new Support Hubs are improving the identification and support of older vulnerable victims of crime and how they might improve their ability to do so.**

- This study, along with a number of previous reports, has identified a *perceived* reluctance on the part of *some* prosecutors in Northern Ireland to apply for special measures. **It is recommended that further research be conducted to explore how prosecutors in Northern Ireland make the decision as to whether or not to make an application for special measures, particularly in cases involving older people.**
- Given concerns about the ability of practitioners to correctly identify vulnerable and intimidated adults, the reluctance of older victims to accept labels such as vulnerable or intimidated, and the perceived reluctance of some practitioners to make use of special measures, **it is recommended that there be consideration given to the introduction of a form of presumption in favour of special measures for older people. This would not require older people to make use of special measures, but would ensure that they had the choice to do so if they felt they were necessary.**
- Some practitioners raised concerns about some members of the judiciary excluding witnesses who have given evidence via video-link from sitting in court following the giving of their evidence. **It is recommended that all members of the judiciary receive additional guidance on the right of victims and witnesses to sit in the courtroom following their video-link evidence.**
- Failings in technology and court architecture make it difficult for people with disabilities to participate in a dignified manner in the trial process. **It is recommended that an audit of the suitability of court infrastructure should be conducted followed by the making of necessary changes.**
- Concerns were expressed by some police officers about the availability of equipment and trained staff to facilitate video-recorded statements. **It is recommended that the PSNI conduct an audit of human and equipment resources on the taking and processing of video-recorded statements with additional resources and training put in place if necessary.**
- Given the largely positive experience in other jurisdictions of allowing vulnerable victims to pre-record their examination and cross-examination, **it is recommended that a pilot scheme for pre-recorded examination and cross-examination be**

introduced to courts in Northern Ireland as soon as possible. Furthermore, that consideration be given to permitting its use for vulnerable adult victims for all categories of crime, not just sexual offences. Such a scheme is likely to be of particular benefit to older victims of crime who are experiencing progressive deterioration in mental or physical health.

- Registered Intermediaries have proven successful in supporting adults with communication difficulties in the Crown Court. It is to be welcomed that they are now available in the Magistrates' Court.
- A systemic problem in the Northern Ireland justice system is that of delay. Unnecessarily lengthy delays particularly negatively impact on older victims and witnesses where deterioration in health is a more commonly encountered problem. Delay prolongs suffering and in the worst cases denies justice. **it is recommended that the Commissioner for Older People for Northern Ireland support measures to reduce delays in the justice system in Northern Ireland proposed by the CJINI and the National Audit Office. Proposals for the introduction of statutory time limits for all cases should be explored including the possibility of establishing a lower statutory time-limit for cases involving older people who are victims of crime.**
- Some practitioners raised concern that they *perceived* that some defence counsel are using committal hearings in cases involving older people to unnecessarily delay proceedings and ultimately increase the likelihood of the withdrawal of evidence before trial. Given that England and Wales has abolished committal hearings altogether, suggestions of their misuse in Northern Ireland in such a manner is of particular concern. **It is recommended that legislative reform to committal hearings be introduced as soon as is feasible to protect victims and witnesses from any additional potential trauma or delay.**
- Victim personal statements provide victims with the opportunity to have their voices heard and the harm caused to them recognised by the courts. The use of Victim Personal Statements is now increasing in Northern Ireland after years of very limited use. It is important that victims, from whatever section of society they come from, have the opportunity to complete a Victim Personal Statement. **To monitor use it is recommended that the Department of Justice collect and publish data on the**

**profile of victims who are making use of Victim Personal Statements and Victim Impact Reports, with the data broken down by demographic characteristics including age and gender.**

- Community impact statements, which are available in Northern Ireland, are designed to capture the impact of a crime on the wider community. Given that a crime against an older person or a number of older people in a locality (e.g. a number of distraction burglaries targeting older residents) can have a detrimental impact on older people throughout that locality, community impact statements can be used to capture that wider impact. Much like Victim Personal Statements they are presented to the court at the sentencing stage. Little is known about their level of use or their impact in Northern Ireland or indeed in other jurisdictions. **It is recommended that the Commissioner for Older People for Northern Ireland consult with other agencies on the potential utility of using community impact statements for crimes that have a wider impact on the older population.**
- Victim advocates have been introduced to Northern Ireland in order to champion and support the needs of various groups when it comes to responses to hate crime. The value of victim advocates is that they bring with them specialist knowledge of the needs of the group that they represent which they can use to advocate on behalf of victims. **It is recommended that consideration be given to introducing an older person's victim advocacy scheme in Northern Ireland to champion and support the needs of older victims.**
- There was concern among older victims and older people in general as well as some practitioners that crimes against older people do not receive sufficient penalties at the sentencing stage particularly in relation to burglaries. **It is recommended that research should be conducted to explore the types and lengths of sentences imposed in cases of domestic burglary particularly those involving older people and vulnerable victims.**
- The nature of sentencing guidelines in Northern Ireland is that they are not accessible in an easy to understand format for members of the public. Older people are therefore not aware of their existence or content. This lack of accessible information is likely to be contributing to a perception of an inadequate approach to

sentencing in cases involving older victims of crime. **It is recommended that the Judicial Studies Board and the Lord Chief Justice's Sentencing Group work with the COPNI to identify how to raise awareness amongst the older population of the relevant sentencing guideline and the process of sentencing more generally.**

### Author Biographies

Dr Kevin J. Brown is a Lecturer in Criminal Law and Criminal Justice at Queen's University Belfast. He is an expert on explorations of the impact of the criminal justice system on vulnerable individuals and communities. His widely published work has been cited by the Scottish Government and in the House of Lords. He previously held a position of Lecturer in Criminal Law at Newcastle University. He has been a visiting Scholar at Osgoode Hall Law School, Toronto and Fordham Law School, New York. Dr Brown can be contacted at [k.brown@qub.ac.uk](mailto:k.brown@qub.ac.uk).

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## Chapter One Introduction and Methodology

This report examines the issue of access to justice for older victims of crime in Northern Ireland. It explores crime against older people in Northern Ireland and responses to it by the criminal justice system. An older person is defined for the purposes of this study as anyone aged 60 or over. The Commissioner for Older People for Northern Ireland commissioned this research following the publication of statistics by the PSNI, which show the likelihood of a successful outcome to a case is reduced if the victim is an older person. Furthermore, given the criminal justice system of Northern Ireland's renewed focus on improving the level of service for victims and witnesses of crime, the Commissioner was keen to explore the experiences of older victims of crime and ensure there is adequate consideration of their particular needs. Researchers from the School of Law at Queen's University Belfast conducted the study. The initial research study was undertaken from January – July 2016. An updating of the research took place between January-April 2018 and the again in January –March 2019.

According to the preamble of the 2012 EU Directive establishing minimum rights, support and protection of victims of crime (hereafter referred to as the 2012 Directive) equal access to justice is a fundamental right of all EU citizens. This equal access requires that all victims should be treated with dignity and respect (2012 Directive Article 1). This includes the absence of malice or prejudice in the treatment of victims by practitioners (2012 Directive Article 1). In Northern Ireland, the 2015 Victim Charter is designed to give effect to the 2012 EU Directive. The Victim Charter states that all victims will be 'recognised and treated in a courteous, dignified, respectful, sensitive, tailored, professional and non-discriminatory way' (p.5). The enshrinement of such protections is an acknowledgement of the history of discrimination against particular categories of policed communities including travellers (Mulcahy, 2012), the BME community (Sharp and Atherton, 2007) and LGBT communities (Williams and Robinson, 2004). Prior to this study there has been no substantive published research study into access to justice for older victims of crime.

Equal access to justice is more than treating all victims in the same manner, as this does not necessarily provide fair access, as some victims need additional support to overcome individual or structural obstacles to participation (2012 Directive Article 22; 2015 Victim Charter pp. 22-29). Guaranteeing equal access means adequately supporting vulnerable victims on their journey through the criminal justice system (Burton et al., 2006). This includes tailored support mechanisms to enable a victim to provide their best evidence (Burton et al., 2007; 2015 Victim Charter pp. 22-29). Northern Ireland has an established legal framework of special measures for victims categorised as vulnerable or intimidated found within The Criminal Evidence (Northern Ireland) Order 1999.

Providing equal access also means taking steps to reduce the risk of secondary victimisation by eliminating unnecessary stress or trauma caused to victims when they participate in the justice system (2012 Directive paras 53-59; 2015 Victim Charter pp. 22-29). Such stress can be caused by the proceedings themselves or by the risk of further (re-)victimisation (Orth, 2002; Parsons and Bergin, 2010). Some victims will be at greater risk of such secondary victimisation than others due to vulnerabilities or the circumstances of the crime (Campbell and Raja, 1999; Herman, 2003). In the UK 'special measures', such as providing evidence via video link or with the aid of an intermediary, have an important role to play in reducing secondary victimisation (Maddox et al., 2011; Taylor and Gassner, 2010). A failure to adequately deal with secondary victimisation does not only lead to the risk of further traumatisation of victims, it also serves to discourage victims from participating in the justice system (Maddox et al., 2011; Taylor and Gassner, 2010).

The issues addressed in this report are complex and sensitive. It is not feasible to attempt to address every aspect of the subject in one report. The focus of this report is firstly on how older people experience crime and the criminal justice system and secondly how the justice system responds to reported crimes against older people. The focus is not on crime prevention strategies, reassurance policing or restorative justice. This is not to downplay the importance of these issues and further research into these aspects of policing and justice with and for older people would be valuable.

This research study has identified a number of areas where the level of service and support offered to older victims of crime can be improved and recommendations as to how to do so are put forward. In suggesting recommendations the researchers were conscious of the fact that the criminal justice system in Northern Ireland is undergoing significant change and the current unfavourable fiscal climate which all of the agencies of the criminal justice system are currently experiencing.

The researchers would like to thank the older people who participated in this study, the staff of the Commissioner for Older People for Northern Ireland, the PSNI, the Public Prosecution Service and Victim Support Northern Ireland. In particular the willingness of the PSNI and PPS to co-operate with the researchers demonstrated the commitment of these agencies to ensuring that older people who are victims of crime should not face any unnecessary obstacles in achieving justice. They would also like to thank Jayne Hamilton for her work on an earlier version of the statistical analysis.

### **Aims of the Research Study**

The study had a number of aims:

1. to better understand the experiences and expectations of older people when they are victims of crime in Northern Ireland particularly when interacting with the agencies of the criminal justice system.
2. to better understand how the criminal justice agencies, in particular the Police Service of Northern Ireland and the Public Prosecution Service of Northern Ireland, respond to crimes involving older people as victims.
3. to make any relevant recommendations based on the research findings.

### **Methodology**

The study applied a mix of qualitative and quantitative research methods to allow for the aims of the study to be achieved.

Interviews were conducted with older people who had been victims of crime, as well as family members of older victims of crime. Eleven interviews were conducted in total. These interviews explored the experiences of the participants and their subsequent engagements with the criminal justice system. Following the interviews, two focus groups were conducted with older people, involving a total of 20 participants, to explore perceptions and experiences of crime and the criminal justice agencies.

The PSNI regularly publish statistics on levels of recorded crime and the outcomes of those reports. These statistics include details on the age of the complainant. The researchers analysed the statistics to explore what differences if any existed in levels of crime and the outcome rates between older people and other adult complainants under the age of 60.

A focus group with representatives from the PSNI was conducted. This included eight participants who had various relevant roles within the service. Three of the officers were in a response role, this involved responding to initial reports of a crime. Two of the officers had a role in neighbourhood police. One officer had a community outreach and crime prevention role which involved educating people including older people about how to reduce their risk of being a victim of crime. One officer was involved in a unit tackling organised crime. One officer had a role in case progression which involves helping to progress a case forward after the initial investigation. One officer had a strategic role relevant to crimes against older people.

The researchers worked in co-operation with statisticians from the Public Prosecution Service of Northern Ireland (PPS) to extract further information from their available datasets (PPS, 2015 and PPS, 2019) so as to better understand the application of prosecutorial guidelines in crimes involving older people as victims.

The researchers conducted eight interviews with members of the Public Prosecution Service of Northern Ireland (PPS). The participants were chosen to cover a range of roles and geographical localities in Northern Ireland. They included two Senior Public Prosecutors with the Serious Crime Unit, two Senior Public Prosecutors within Eastern Region, a Public Prosecutor with Belfast Region Court team, a prosecutor with a senior policy role within the

service, a High Court advocate, and two members of staff from the Victim and Witness Care Unit. These interviews explored the role of the PPS in prosecuting cases involving older victims of crime.

The researchers interviewed two co-ordinators from Victim Support Northern Ireland. The participants between them in their roles covered a range of geographical localities in Northern Ireland. Both participants had extensive experience of the difficulties that victims and witnesses can encounter in the criminal justice system and the support services that Victim Support provide.

In 2018, the researchers met separately with representatives of the PSNI, PPS, Victim Support, the Probation Board and the Department of Justice to ascertain if there had been any relevant changes to criminal justice policy and practice since the original interviews and focus groups had been conducted.

In 2019, the statistics were again updated for the report.

## **An Overview of the Criminal Justice System in Northern Ireland**

There are a number of agencies that have a role in the criminal justice in Northern Ireland that can impact on the experience of individuals who are victims of crime. More detailed discussion will follow in subsequent chapters, however at this point it is worth providing a brief overview of these agencies and their key functions.

The Department of Justice (DOJ) was established in 2010 following the devolution of policing and justice matters to the Northern Ireland Assembly. The roles of the DOJ includes the reform and updating of criminal law and rules of procedure (including sentencing), the issuing of consultations, the publication of statistics and research on justice matters, funding and oversight of five executive agencies including the Northern Ireland Courts and Tribunal Service. The PSNI and PPS remain operationally independent of the DOJ although this does not preclude them working in partnership with the DOJ on areas of mutual interest. The

DOJ's commitments in the last Programme of Government included 'tackling crime against older and vulnerable people by more effective and appropriate sentences and other measures'. During the course of the previous Assembly Mandate the DOJ steered a number of bills through the Assembly which were designed to make the criminal justice system more effective and improve the experiences of victims and witnesses. The principal legislative act in relation to experience of victims of crime is the Justice (Northern Ireland) Act 2015. The reforms made in the 2015 Act are yet to fully take effect so their impact is yet unknown, but where relevant these reforms are discussed in the report.

The Police Service of Northern Ireland (PSNI) is the principal investigatory agency. Most crimes are reported to them. Their principal role is to investigate reports with aims of identifying and charging suspects. The PSNI also have a role in crime prevention and community reassurance. The PSNI's stated vision is to 'help build a safe, confident and peaceful Northern Ireland.'

The PSNI is accountable to the Northern Ireland Policing Board. The Police Board is responsible for setting the Policing Plan in conjunction with the PSNI, which includes the objectives and measures that the PSNI are assessed against on an annual basis. The Policing Board also has a human rights function, monitoring the performance of the PSNI in complying with the Human Rights Act 1998. Each year the board issues a Human Rights Annual Report as well as periodic thematic reviews. Reviews to date have included examining policing with and for children and young people, and of lesbian, gay, bisexual and transgendered individuals. To date there has not been a thematic review of policing with and for older people. The Policing Board has a community engagement function which includes consulting with key stakeholders to assist with their understanding of the views and experiences of policing and to identify key issues affecting specific community groups. Stakeholders include organisations representing the views of older people including the Commissioner for Older People for Northern Ireland.

The Public Prosecution Service for Northern Ireland (PPS) functions as the principal prosecuting authority in the jurisdiction. They are a relatively new agency having been established in June 2005. An important function of the PPS is deciding based on the

evidence whether or not to prosecute cases. They are guided in their work by the Code for Prosecutors.

Depending on the offence and the age of the offender, the criminal courts with jurisdiction in Northern Ireland are the Magistrates' Court, the Crown Court and the Youth Court. In a contested trial the court will decide whether or not the defendant is guilty of the charges. The courts are also responsible for sentencing offenders after a finding or plea of guilty. The Magistrates' Courts deal with the vast majority of criminal offences that come before the courts in Northern Ireland. They have restricted sentencing powers that depend on the offence/s that are before them. The Magistrates' Court is presided over by District Judges. There is no jury trial available in the Magistrates' Court. The most serious criminal offences are prosecuted in the Crown Court. Trials in the Crown Court involve, in most cases, a judge and jury. Crown Court judges have the full range of sentences available to them. The Youth Court deals with criminal proceedings brought against young people under the age of 18. These cases are presided over by two lay magistrates and a District Judge.

Victim Support Northern Ireland is a charity in significant part funded by the DOJ which assists victims and witnesses of crime. They provide emotional support, information and practical advice. For victims and witnesses who will attend court, Victim Support Northern Ireland has a Witness Support service that provides to victims and prosecution witnesses advice on court procedures, the opportunity for court visits prior to trial, and the offer of a volunteer to accompany the victim or witness into the courtroom during the trial.

The Chief Inspector of Criminal Justice heads the Criminal Justice Inspection for Northern Ireland (CJINI). The CJINI inspects all aspects of the criminal justice system falling within its remit including the PSNI, the PPS and the Northern Ireland Courts and Tribunal Service. The CJINI conducts regular inspections of particular agencies but also thematic inspections making relevant recommendations for improvement. The findings of the CJINI are made public. In recent years the CJINI has published a number of reports examining issues which impact on the experience of victims and witnesses. These reports will be discussed at various points throughout this report.

## Structure of the Report

Chapter two explores the experiences of older people who have been victims of crime and the attitudes of older people to crime. It explores victimisation rates in the older population in Northern Ireland. It then gives voice to older victims in Northern Ireland exploring their views on crime. It examines factors, which influence perceptions of crime amongst the older population. It also examines the impact of crime on older victims. It includes explorations of the connection between vulnerability, resilience and older age. This is an under-researched area and the chapter provides original insights.

Chapter three explores the crime investigation stage. It includes discussion of older people's experience of police investigations. It also explores the concepts of recorded crime and the inter-related concepts of crime outcomes, crime clearance, crime detection. The chapter then proceeds to examine PSNI statistics on crime outcome rates for crimes where older people were the victims. Through a statistical analysis differences in crime outcome rate for older people in comparison to other age groups is identified for common offences categories. This includes lower crime outcome rates for older victims in offence categories of burglary, criminal damage, vehicle related theft and violent crime where there is no injury. The chapter explores explanations for these differences in outcome rate exploring the additional barriers to access to procedural justice that older people face.

Chapter four examines the prosecution stage of the criminal justice system. It explores PPS statistics on how cases involving older people are handled once they reach the prosecution service. These statistics made available for the first time indicate that the handling of crimes against older people by the PPS has much to be credited, although some findings call for further research and exploration. The chapter explores a number of reforms which may enhance the provision of service offered by the PPS to older victims of crime.

Chapter five examines how the experience of older people who are victims of crime can be improved upon. It explores a series of issues identified in the research as causing problems for older victims of crime including the identification of vulnerability within the older population, communication between older victims and criminal justice agencies and the

length of time taken for cases to reach a resolution. Methods designed to assist victims of crime are explored including the use of achieving best evidence interviews, special measures in court, registered intermediaries, victim advocates, Victim Personal Statements and increased guidance and training for practitioners

Chapter six concludes the report summarising the findings and recommendations.

## Chapter Two Older People as Victims of Crime

While there is a wealth of existing academic literature and research-based studies that have focused on young people as the perpetrators of and also the victims of crime (see Omaji, 2003; Brown, 2005; Walklate, 2006; Davies *et al.*, 2007; Finkelhor, 2008; Burke, 2013), there has not been a comparable volume of studies or interest in the area of older victims of crime (see Wahidan and Powell, 2007). Brogden and Nijar's (2000, p.8) study explores why the criminal justice system has 'ignored' older people and this is reflected in how 'traditional criminology has by-passed a population caricatured by ageist stereotyping and by assumptions about inviolate private space'. Wahidin and Cain (2012, p.5) note this existence of a lacuna in the literature and state that 'age has remained under-theorised in criminology', with 'remarkably little theoretical engagement with the plight of the unyoung'.

Academic research and the attention of policymakers on the issue of crimes against older people is 'poised between tackling an important and pressing social issue and compounding the unhelpful stereotypes which portray older people as vulnerable and dependent' (James, 2001: 11). According to James (2001: 1):

Making distinctions between groups of citizens on the basis of age alone overlooks or masks a range of other important social indicators and the diversity of experience, status and social location within that group. Older people are as diverse, possibly more so, as any other grouping in society.

He concludes that 'although the risks and impact of victimisation of older people should not be over-dramatised (as has been the tendency of the media), neither should they be minimised' (James, 2001: 1).

Content analysis of media content has shown that the media frame older people as 'voiceless', 'invisible' and 'forgotten' victims: 'Older Women: The Forgotten Victims of Domestic Abuse' (*The Telegraph*, 13 March 2016) and 'Durham University Study Finds Over-60s Sex Attack Victims Feel "Invisible"' (BBC News England, 25 November 2015). There is the

belief that the existing debate on victims' rights has been narrowed and needs to be readdressed to consider the existence of a lack of faith in the criminal justice system:

For far too long, victims' rights have been discussed only in the context of sentencing... the debate obscures something much more fundamental: most victims have so little faith in our criminal justice system that they do not access it at all. And the issue that deters them is simply the way in which they are likely to be treated if they come forward. It is that fundamental. (Keir Starmer, former Director of the Crown Prosecution Service, *The Guardian*, 6 April 2014)

As the above quotation drawn from a piece written by Keir Starmer MP highlights, victims' rights have typically been discussed in connection with the sentencing process, which has deflected attention away from the voices of victims and their direct experiences of other aspects of the criminal justice system, or decisions to opt not to report an incident of crime.

The sections that follow in this chapter will include an analysis of the levels of recorded crime and victimisation of older people. The chapter then will explore the perceptions of crime amongst older people in Northern Ireland and this will include the voices of older victims of crime, family members of older victims of crime and representatives from Victim Support NI. The chapter will then turn to explore the impact of crime on older victims. The interviews and focus group sessions provided a key insight into older people's experiences of crime, which is an under-researched area in the existing body of victims' research.

### **Victimisation Rates and Level of Recorded Crimes Against Older People**

A key measure in any analysis of criminal justice systems is a close consideration of 'crime levels' (Ministry of Justice, 2012: 12; see also The House of Commons Public Administration Select Committee, 2014). As the UK Statistics Authority (2009: 4) note, '[m]ost commentators would agree that measuring crime and reporting on the statistics are inherently difficult', coupled with the continued 'public criticism of the statistics and mistrust of the way they are used and quoted'. The House of Commons Public

Administration Select Committee (2014: 23) suggests that there exists 'clear links between accurate crime data, police effectiveness, and public confidence in policing'.

Graca *et al.* (2013) note the various means of measuring crime ranging from police and criminal justice statistical records, large-scale and mostly government-sponsored surveys and also small-scale academic research studies. Internationally and nationally three main sources of crime data include information obtained from police records, victimisation surveys and self-report offender surveys (Addington, 2010: 4).

Academic literature notes the various problems with the recording mechanisms and thus, measuring the level of crime in a society. Specifically problems exist in relation to the under-reporting, under-recording, political interest and bias in the interpretation of data (Graca *et al.*, 2013; Macionis and Plummer, 2008). The UK Statistics Authority (2009: 9) note that:

The limitations of "total" crime figures have long been recognised, although the desire for a single figure usually outweighs the argument against adding together offences of minor theft and extreme violence as if each had equal weight or consequence.

One significant aspect of contemporary policing is establishing a clear and more accurate picture of the extent of crime and also to ensure that it is recorded accurately and appropriately (Graca *et al.*, 2013). In exploring the question: '[t]o what extent can police-recorded crime information be trusted?' a report published by Her Majesty's Inspectorate of Constabulary (2014: 20) in the UK outlined several benefits of accurately recording crime data, such as ensuring that 'victims of crime can be looked after and attended to properly', suggesting that '[h]elp which is available to victims of crime is dependent upon accurate crime records'. Further to this, the above report (2014: 25) asserts that 'accurate crime records provide vital information', as 'the actual recorded crime data contribute to an understanding of the risk, threat and harm that the public face'.

In exploring more closely the recent statistics from Northern Ireland, what follows will draw out significant aspects of the reports which make particular reference to comparisons made in relation to the social determinant of the age of the victim.

The Northern Ireland Experiences of Crime Survey is published annually by the Department of Justice (Campbell and Rice, 2018). It is a victimisation survey which entails asking a sample of the Northern Irish adult general public what their experiences of crime have been in the last year. Victimisation surveys are designed to be a more accurate indicator of levels of crime than police recorded statistics. This is because victimisation surveys can capture the significant number of crimes in which the victim has chosen not to report to the police. The most recent survey data was published in 2018 and was based on surveys conducted in 2017/18. Results from 2017/18 estimate that 7.9% of all households and their adult occupants were victims of at least one crime during the 12 months prior to interview. The 2016/17 rate was 8.7%. The 2017/18 is one of the lowest rates observed since the measure was first reported in 1998 when a rate of 23.0% was recorded. The risk of becoming a victim of crime remains lower in Northern Ireland (7.9%) than in England and Wales (14.4%). Findings from the Northern Ireland Crime Survey over the years has shown that older people in Northern Ireland are considerably less likely to be a victim of crime than younger adults particularly in relation to crimes of violence.

Another source of information on levels of crime in Northern Ireland are the recorded crime statistics published by the PSNI (2018). This includes all notifiable offences recorded by the police in the relevant period. Notifiable offences are generally those offences that can be tried by a jury as well as some more minor offences which cannot (PSNI 2018). PSNI (2018) statistics show that levels of recorded crime have fallen significantly over the last decade and a half. In 2002/03 (the first year of the current data series) there were 142,496 crimes recorded. In 2017/18 the level of recorded crime had fallen to 101,882. This significant drop in recorded crime is unsurprising given the falls in the reported rates of victimisation recorded in the Northern Ireland Crime Survey over the same period.

The reported crime rate differs significantly across the age groups. Police records (PSNI 2018) in Northern Ireland show there was an average of 36 recorded crimes per 1,000 of the population in 2017/18 (excluding Fraud because its figures are not broken down by age of the complainant). In that year the likelihood of recording a crime with the police was the highest for the 20-24 age group (68 per 1,000) and lowest for the 65+ age group (15 per 1,000) (PSNI 2018). These statistics have shown a high level of consistency over the last

decade, reflecting those found in the Northern Ireland Crime Survey (Campbell and Rice, 2018) and recorded crime levels in many other jurisdictions which show older people are less likely to be victims of crime than younger adults (Central Statistics Office, 2019; Scottish Government, 2019).

The headline figures in the police recorded statistics mask differences in the profile of the types of offences that the various age categories are reporting (see Table 2.1). Crimes of property make up a much higher proportion of recorded crimes for the older victim population, whilst crimes of violence against the person make up a significantly smaller proportion of crime for older victims than they do for other adults. The principal reason for the difference is older people are much less likely to be victims of crimes of violence than their younger contemporaries in Northern Ireland as per the Northern Ireland Crime Survey.

	Crimes of violence against the person (with and without injury including homicide) (%)	Crimes of Property (including theft, burglary and vehicular theft and criminal damage) (%)	Other Crimes (includes sexual offences, robbery and crimes against society) (%)	Total (excluding fraud offences) (%)
<b>All Ages</b>	47	47	6	100
<b>Age 20-54</b>	46	49	5	100
<b>Age 55-59</b>	34	63	3	100
<b>Age 60-64</b>	29	68	3	100
<b>Age 65+</b>	21	77	2	100

**Table 2.1 Percentage of Recorded Crime (excluding Fraud) Recorded by PSNI by Age Category of the Complainant Falling with Particular Offence Categories (2017/18)**

	Age 60-64 (%)	Age 65+ (%)	Age 20-24 (%)	All Ages (%)
<b>Burglary</b>	3	3	3	3
<b>Criminal Damage</b>	7	4	11	7
<b>Theft - Vehicle Offences</b>	2	1	3	2
<b>Other Thefts</b>	4	3	10	5
<b>Violence with Injury (inc. Homicide)</b>	2	1	18	7
<b>Violence without Injury</b>	4	2	19	10
<b>All Offences</b>	23	15	68	36

**Table 2.2 Rates of recorded crime by PSNI per 1,000 of the population by Age of Complainant (2017/18)**

In Table 2.2 the rates of recorded crime per 1,000 of the population for various age categories of complainant are shown.<sup>1</sup> The figures show the greatest differences between the older and younger age groups are found in rates of crimes of violence with the difference between the age groups lessening when it comes to crimes against property. Indeed when it comes to burglary older people are as likely to report being a victim of this crime as the general population. These differences are in significant part determined by exposure to risk. Younger people are more likely than older people to be in environments in which they are exposed to crimes of violence (e.g. socialising in city or town centres at night). When it comes to crimes targeted against property such as burglary or vehicular theft older people with cars or houses are exposed to similar levels of risk of victimisation as any adult in similar circumstances.

### **Perceptions of Crime amongst Older People in Northern Ireland**

As criminologists have long acknowledged public perceptions do matter, as typically government and policymakers' agendas are shaped by the dominant attitudes, beliefs and concerns of contemporary society. This section will look at what shapes perceptions of crime amongst older people in Northern Ireland from the perspectives of older people themselves, which is an aspect that has not been explored in existing academic literature or research-based policy reports.

Several prominent core themes emerged during the interviews and focus groups, directly relating to perceptions held by older people in relation to crime and the criminal justice system in Northern Ireland. These central themes will be discussed in detail and include the older person's personal experience of being a victim of crime; the older person's thoughts on knowing someone who has been a victim of crime; the presence of family members who are concerned on behalf of older relatives and giving them advice; media reporting of crimes and in particular, crimes perpetrated against older people.

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<sup>1</sup> The population rates relate to the number of crimes in the chosen age range per 1,000 of the population in the same age range.

## Personal Experience

During the interviews and focus groups perceptions of crime, offenders and the criminal justice system had typically been formed by older people's personal experience of victimisation. In recalling their own experiences, interviewees and focus group participants described the nature of the crime, presented opinions of the perpetrators actions and how they as victims had responded to the incident or incidents. Typical responses made reference to the impact of personally being victimised:

I got mugged and do you know it nearly wrecked me... I was walking down to go to bingo... and I had my holiday money, I never carried money with me but that night... instead of me leaving it in the house I put in my bag... I had this handbag with big wooden handles on it and he came along and he... near broke my arm but he got the bag and of course I ran after him. *Older Person Focus Group Participant*

As the representative quotation above also illustrates, older people regularly describe how they responded to the incident if they had been present, typically with references to trying to protect themselves from further attack or potential violence or even in some cases apprehending the perpetrator. Analysis of descriptions of the impact of crime on older victims is discussed later in this chapter.

## Knowing Someone who has been a Victim

During the interviews and focus groups, interviewees and participants made reference to crimes that had been committed against other older victims in their community and their discussions emphasised a number of key themes, including their descriptions of a high volume of burglaries of the homes of older people: "Break ins the biggest one round our district lots of houses broken into you know" (Focus Group Participant).

The discussions of other incidents of crime and victimisation were typically presented in a narrative format, with on occasion several focus group participants discussing the same

incidents of crime perpetrated against older people in their community. It was evident in focus groups that those living in the same community had ongoing discussions about other older people who had experienced victimisation:

The lady next door's profoundly deaf, she's 90 years old and this... man came to her door, he was a young fellow, he came to her door and asked her for £80 to fix her back gate. He came back the next day with another boy and with ladders and said he was going to do her guttering but she couldn't hear him properly and I think he must have been watching the house because I live next door to her and nobody came near me... luckily her hairdresser was in the house... at the time and she went out and she chased him and told him to go away and not come back. ***Older Person Focus Group Participant***

I heard this from one of the elderly women that comes in and she said that they broke into her house, when they break in now she says they put the kettle on and they're coming to you if you're lying in bed and if you don't give them the number of your card they're going to throw boiling water over you... and she says she was that frightened she told them her number and gave them her card... imagine if they scalded you like. ***Older Person Focus Group Participant***

Several of the interviewees and focus group participants described that since retiring from employment they had more time in their homes and were present there more often during the day time, and had therefore become more aware of criminality in their areas:

We've seen other crimes in the area, we've seen people climbing over walls since those there's been two incidents, there's been a man robbed at Sainsbury's and somebody coming over his back wall in very close proximity. ***Older Person Focus Group Participant***

Community and social interaction was a dominant theme, with a number of interviewees and focus group participants becoming aware of incidents of crime via word of mouth, or at community groups for older people. The interviewees and participants described reactions within the community in relation to crimes perpetrated against older members of the community:

There was a real anger in the community when she was burgled the first time and we know from the local press coverage in this case, that there's been since the conviction, people are outraged. *Interviewee – Family Member*

## Family

Expressions of concern by family members also informed older people's perceptions of crime. During focus group sessions, participants made reference to family members worry and distress, as well as the advice provided to them or reminders to lock their homes securely at night and to be vigilant.

Family members also described how they reflected and responded to their older family member following the incident or incidents of crime:

We moved very quickly to put an alarm in the house because we found that was really important for mummy's sense of security... after that, that I was reflecting because it took her a wee while to get used to the alarm and to get setting it at night and whatever. But she soon became quite competent about it. *Interviewee – Family Member*

They came around and took the lock off the front door, which was really very frightening for us as a family. My mum lives in a semi-detached house in the middle of an estate... it was of great concern to us, that they had singled her out, you know, such a vulnerable woman. And what was it about that house that made them do that? *Interviewee – Family Member*

As the quotations illustrate, the impact of crime had long-lasting consequences, with family distress and concerns impacting on relationships with their older relative and further highlighting the active role of the family in organising and in many cases, financing the installation of home security measures, such as house alarms.

## Media Representations

Several of the interviewees also referred to media coverage of crimes in their local community newspaper or national newspapers as a means of informing them of specific incidents or the recorded volume of crimes occurring. The impact of media reporting has long been explored by academic criminologists and sociologists, who from the late 1960's onward first began to critically assess the objectivity of media reporting (see Young, 1971; Cohen, 1972; Hall *et al.*, 1978). In forming 'part of the social fabric' of contemporary society, specific media content plays 'an important role in ... day-to-day ... interactions' (Devereux, 2003: 11) and 'a pivotal role in organizing the images and discourse through which people make sense of the world' (Golding and Murdock, 1991: 15). To an extent it has become an unchallenged aspect of everyday life (O'Sullivan *et al.*, 2003: 140), with consumers' intimate familiarity often resulting in them taking the media and media messages for granted (Croteau and Hoynes, 2003; Glover, 1984: 26).

It is asserted that the media, 'more than any other source' have the greatest influence on the public's perception of crime (see Muraskin and Domash, 2007: 7). For instance, Dorfman and Schiraldi's (2001) research found that 76 percent of the public said they formed their opinions about crime from the media, whereas 22 percent reported that their knowledge of crime was formed through their personal experiences. Crime in particular has become one of the main 'headline-grabbers' (Surette, 1998: x), with criminal events capturing the attention of the readership or audience in a way that few other events do (Skogan and Maxfield, 1981). These findings are significant as it is acknowledged that the public gain most of their information about 'crime', the criminal justice system and its processes, as well as the notion of punishment, from the media (see Hall *et al.*, 1978; Glover, 1984). Therefore, crime reporters have the capacity, significant power and opportunity to shape public opinion and a more broadly held understanding and knowledge of crime, offenders and punishment. This is particularly significant when individuals have not based their assumptions or beliefs on first-hand experience.

McQuivey's (1997) study also supports the fact that news which meets specific criteria is more likely to make it through the 'filtering' process that exists in newsgathering and the

selection of content by reporters and editors. Typically, violent crimes are selected more often, 'because they provide good visuals for television or print coverage; because they involve weak victims such as women, children, and the elderly' (McQuivey, 1997). While there is no existing analysis of the media's representation of older victims of crime in Northern Ireland, Gordon's (2012: 117) in depth content analysis of print media coverage of children and young people, found that from the newspapers sampled over a six month period 85 new items made reference to intergenerational crimes against older people.

Gordon (2012: 121) notes that the term 'vulnerable' was consistently used to describe older people who were victims. News items routinely emphasised the impact on victims, one example: 'Grandmother "Living in nerves" after latest attack on her home' (*North Belfast News*, 14 August 2010: 9), incorporated a direct quotation in the headline (Gordon, 2012: 121). News items typically featured direct quotations from those victims, which emphasised the impact of crime (Gordon, 2012: 121). Headlines included: 'Pensioner tells of gang attack on his family' (*News Letter*, 5 May 2010: 5); "'Open season on the elderly"; Seventy seven-year-old victim speaks out after crowbar robbery' (*South Belfast News*, 21 August 2010: 1-2) and 'OAPS "Tortured" in home: Pensioners the target of drug taking, foul mouthed youths' (*North Belfast News*, 28 August 2010: 10) (Gordon, 2012: 121; 122). One emotive example featured in several of the sample newspapers, with the Belfast Telegraph placing on its front page the following headline:

How teenage thugs robbed Ruby (82) of the will to live; tragic Ruby broken by teen thugs: Pensioner died soon after being targeted by masked robbers; "My mum was 82 and so full of life... until they took her away from me" (*Belfast Telegraph*, 22 March 2010: 1, 4, 5, cited in Gordon, 2012: 122).

Three images of Ruby (the victim) and family members accompanied the news item, with one enlarged image printed on the front page to give it prominence (Gordon, 2012: 122). Further, images of the victim and the victim's family were presented in the double page news item (Gordon, 2012: 122). Journalists reporting on another high profile case discussed the ongoing court case and framed the case commentary with a headline: 'Teen killed OAP for £80 ... and the watched TV, Court hears' (*Belfast Telegraph*, 8 June 2010: 1, cited in

Gordon, 2012: 122). Similar to the above example, an image of the victim was prominent and descriptions reinforced vulnerability: 'partially-blind pensioner was stabbed and strangled in his own home by a teenager' (Gordon, 2012: 122).

During interviews with media journalists and editors, Gordon's (2012: 194) study found that those working in the media proposed that news items and reports contributed to the 'fear of crime'. Several interviewees outlined that in their opinion, older people may be most affected by media reports and as one editor stated: "when elderly people get a knock on the door from a young person ... they are fearful ... we [the media] are part of the reason why" (Gordon, 2012: 194). Politicians interviewed also commented on the media's role in contributing or "perpetuating fear":

The media would more likely talk up crimes against older people, which are on the decrease ... if crime against an older person was committed by a younger person ... it instils fear within and between generations. (Gordon, 2012: 194)

Other existing studies have also suggested that community relationships are being 'damaged' due to the increase in the both the labelling and stereotyping of children and young people, along with an increase in older people's fear of crime (see Moore and Statham, 2006). Powell and Wahidan (2007: 5, see Skogan, 1987) propose that:

While older people would certainly benefit from more accurate information about the risk of victimisation than they commonly receive through the mass media, their fear is related to the seriousness of the consequences if they were to be victimised, as well to the degree of the risk they face.

This is reflected in Brogden and Nijhar's (2013: 7) study which notes that while media headlines 'are out of proportion' and therefore typically amplify the levels of victimisation of older people, 'until recently, both criminologists and law enforcement personnel have generally take a relaxed view of or ignored elder victimisation'. In exploring the state of social relations in contemporary society, Lloyd's (2008: 5) report found that 'age discrimination between different generations can occur both upwards and downwards'.

While media commentators typically report on the prevalence of young people and 'anti-social behaviour', Lloyd (2008: 5) notes that 'conversely, prejudice and discrimination toward older people may be relatively benign, such as an assumption that older people have lower expectations, or sinister, for example, when older individuals are denied access to healthcare' and other services.

Each of the interviewees in this study acknowledged that they receive substantial levels of their information on crime, crime levels and the criminal justice system from the media. In discussing the prominence of the crime in the media, the interviewees' responses demonstrated how this had shaped their perceptions of the levels of crime, in particular locally in their own community:

In the [local newspaper] this last couple of weeks there's been somebody burgled, maybe a couple in it every week ***Older Victim of Crime Interviewee 1***

You're conscious of it because of what we get reported on the television news, radio...  
***Older Victim of Crime Interviewee 3***

Always kept hearing about it all the time. ***Older Victim of Crime Interviewee 5***

When discussing older victims, the interviewees made reference to victims of violent crime:

When you saw on television there recently a few older people, ladies who had been beaten up quite badly you sort of think ***Older Victim of Crime Interviewee 2***

The above quotation was also representative of the clear links made between perceptions of the ineffectiveness of the criminal justice system, criticism of punishments for perpetrators and descriptions of a lack of confidence in the system as a whole, with interviewees referring to the perceived inadequate punishments, the perceived conditions of prisons and the perceived lack of redress for victims:

Well reading newspapers you see ... they just got a rap on the knuckles, they had to report to the police station ... you would have thought a month wouldn't have been

long enough but for some of the crimes that they have committed, to let them taste prison, to see what it's like, and maybe they'll not repeat the same crime that they had done before. ***Older Victim of Crime Interviewee 1***

And the prison is ... like a holiday home from what we hear, they're getting too many things, a lot of people don't have televisions and Play Stations ... it's a holiday home for them so I mean they're getting too much in the prisons. ***Older Victim of Crime Interviewee 1***

With specific reference to crimes against older people, several of the interviewees described how perpetrators “are getting very soft, very short sentences”, with one interviewee suggesting that the criminal justice system should consider: “bringing back the hanging for murder cases because there's an awful lot, it would deter them if nothing else, you're going to be hung or whatever way they do them” (Interviewee 1). Several of the interviewees directly questioned the criminal justice system and judges in particular during the sentencing process, with one interviewee describing the “process” as:

Not worth a damn, I mean I read horrendous cases in the paper and I see the sentence people got and I'm going what's the matter with that judge? ... maybe it's not the judge, it's the law... I think it's crazy. ***Older Victim of Crime Interviewee 4***

In contrast, while one interviewee stated that they “always feel confident in the police doing something, at least you think they're going to do something anyway” (Interviewee 1), it was more common for interviewees to be “critical” of, or question the workings of the criminal justice system:

I'm being cynical here but whether that's a bit of play acting and maybe some court cases are influenced by who's the best actor rather than what the actual justice of the thing is, that's my cynical view. ***Older Victim of Crime Interviewee 2***

It was evident from the interviewees’ responses that several felt the public should be provided with additional information about the criminal justice systems and outcomes. As one interviewee stated:

Well it would enlighten them to what goes on because we're not really any the wiser what happens after somebody's maybe caught for doing something, you just hear a wee bit in the paper and you're not sure how they get that far. ***Older Victim of Crime Interviewee 1***

### Outreach Programmes and Initiatives

A report for Help the Aged entitled: 'Future Communities: Re-shaping our society for older people' (Jopling, 2009), states that perceptions about crime have altered due to an increase in technology, for example CCTV. As the report suggests, measures such as these are designed for the protection of the community but can also imply that there is a greater risk to people's safety in the community (Jopling, 2009). The findings in the report also suggest that there has been a change in the way that members of society view others, such as the presence of suspicion about those who are different, fear of strangers and a 'keep out' siege mentality in existence (Jopling, 2009).

It was evident during the interviews and focus groups that older people and their family members were aware of schemes such as the 'Neighbourhood Watch Scheme', as well as several interviewees having attended groups which hosted PSNI talks on personal/home safety and crime prevention. A number of the interviewees discussed the importance of events at social and community centres and learning about such safety measures as a peer group, with the PSNI and community police officers being the dominant providers of information and advice on personal safety and home security measures:

I go to the social centre for elderly in [town] twice a week and once to [another town], started to go to [town] now too and we get talks quite a bit from people associated with the police and a lot of talk about crime. They give you leaflets and everything. ***Older Victim of Crime Interviewee 5***

I belong to a couple of organisations and we go to not exactly a seminar but they do have a lot of stalls around and there's police stalls and they give information out on how to get in touch with them if they're needed and I do have numbers here to ring the

police and I keep them stuck on the fridge out there ***Older Victim of Crime Interviewee***

***1***

Focus group participants also referred to visits by Crime Prevention Officers:

The Crime Prevention Officer came a couple of days later and fixed her up with some more secure locks and the police were around for two or three nights and I must say there very, very attentive and they were very good dealing with her, they were very, very good with her being so hard of hearing they dealt with it very, very well and were very compassionate.

***Older Person Focus Group Participant***

We did get advice from the police about trying to make our house more secure, we even got little bits of kit for our personal safety. ***Older Victim of Crime Interviewee 2***

In addition to facilitating the securing of properties, outreach programmes and initiatives had informed older people of the levels and types of crimes affecting older people in their community. Older people who did not have an active 'Neighbourhood Watch Scheme' in their area, said that they would participate if one was set up:

I wish there was a good Neighbourhood Watch in my area I'd be in it straight away. ***Older Person Focus Group Participant***

During discussions, it was evident that older people feel that involvement in forums, community groups and schemes were important in not only having their voice heard, but also in providing them with an opportunity to gain useful information on issues such as crime prevention and personal safety. In addition, interviewees and focus group participants spoke of how they "keep an eye out" for other older people in their community, with examples of how they conduct their own surveillance of the area and also support those who have been the victims of crime:

And we've got an elderly man... he's there on his own because his sons have gone out, I'll also keep an eye on his car and so on, most of the people you'll look after the older ones.

***Older Person Focus Group Participant***

## Impact of Crimes on Older People in Northern Ireland

In this section the impact of crimes on older people in Northern Ireland will be explored with reference to core themes that emerged from the interviews and focus groups, and it will draw on the direct experiences of victims and their families.

### Vulnerability to Crime and its Relationship with Resilience

The concept of 'vulnerability' and 'being vulnerable' emerged in interviews and focus groups, typically in attempting to describe why potentially the crime had occurred, in discussions of the overall impact of the crime, and also in suggestions of what additional support older people might require once they had been a victim. Vulnerability is a contested concept, it is therefore important to explore it (Walklate, 2011; Walklate et al., 2014). Much policy-making views victims or potential victims as vulnerable based on the attributes they possess such as being physically frail or of old age (Department of Justice 2015, p.24). Such an interpretation labels the 'elderly' as a vulnerable group. Vulnerability, however, can also be understood as relating to those who place themselves at greatest risk of victimisation (Sparks, 1982; Walklate, 2011). This definition leads to the labelling of younger adults who frequent public places at night as vulnerable, with older adults who remain at home at night as some of the least vulnerable in society. A third way of conceptualising vulnerability is to view those who are at greatest risk of harm from victimisation as vulnerable (Green, 2007; Sparks, 1982; Walklate, 2011). Related to this third interpretation is the concept of resilience. Resilience is a concept commonly utilised across a range of disciplines including medicine, psychology, business management and ecology (Walklate et al., 2014). According to Schoon (2006) resilience has been conceptualised in three different ways. The first is the ability to have a positive outcome despite experiencing adversity. The second is a continued ability to function positively in adverse circumstances. The third is the ability to recover from a trauma.

In interviews and focus groups with older people there was a rejection of the idea that older people as a group should be categorised as 'vulnerable'. Correspondingly there was a

rejection of the view that all or even most older people lack resilience to cope with the trauma of being a victim of crime. One victim of burglary described this view as follows:

I think it's up to the individual, I could see some people getting frightened about that, but it's like I said to you, I'm not going to let them make me a victim of constantly worrying about being burgled again. I certainly would have gone to court without any hesitation.

***Older Victim of Crime Interviewee 4***

Examples of resilience amongst older people included references to continuing with their lives, and in a number of cases fighting back against perpetrators: "I would have tackled anybody but as I say my daughter said, mummy let it go, you will not" (Focus Group Participant). The resilience of older people was also evident in their discussions of the need to interact with the criminal justice agencies, wanting to bring people to justice, as well as helping others. In also noting the impact on her mother's overall health, one family member highlighted the resilience and determination of her mother in not wanting another older person to experience what she had:

I've watched in her, over the period of time, she's been absolutely resolute in her determination that this was not going to happen to anybody else... it would have been maybe less stressful for her to have backed away from it. But she, right up to the point of going into court, and to face court, was a huge issue... Her sleep was disturbed. I suppose her overall enjoyment of life, you know [was negatively impacted]. I've utmost respect for her that she's seen it through to this outcome. ***Interviewee – Family Member***

The term 'vulnerable' was contested in discussions and some of the older people felt that it was incorrect to just associate older people with vulnerability, as other members of society can be vulnerable also: "it's not just older people that are... people can be vulnerable for different reasons as well" (Focus Group Participant). While certain factors make older people more vulnerable to crime, society and the criminal justice system should be careful to avoid labelling all older people as vulnerable, as there is a clear resistance to this amongst older people.

Practitioners were also keen to emphasise that they did not believe that all older people are vulnerable or lack resilience. To label all older people as vulnerable or lacking resilience strips away the autonomy and individuality of people based on their age. However, both older participants and practitioners emphasised that in their experiences as people age they are increasingly likely because of their circumstances to find a criminal infringement on their person or home traumatic and difficult to recover from.

The traumatic impact a crime, whether violent or not, can have on an older person was referred to frequently by practitioners and older participants:

The complainants themselves are traumatised with any incident that happens, whether it's antisocial behaviour on the ground, or more directed towards them themselves, the burglaries and especially distraction burglaries leave them in a very bad state. ***PSNI Focus Group Participant***

A wee woman, her son had just died and she was in her 80s and two fellas came [to burgle the house]... the woman has Alzheimer's now but such a lovely person and it near wrecked her so it did. ***Older People Focus Group Participant***

Crimes such as burglary have been shown to have significant adverse effects on victims with impacts on health, well-being and resilience. Recent statistics from the Crime Survey for England and Wales found in cases of burglary where there was effective entry 57% of householders reported the crime had 'quite a lot' or 'very much' of an emotional impact on them (Office for National Statistics, 2017, Table 3.10). Breaking this down further a third of householders stated it produced fear; 31% stated it caused a loss of confidence/heightened vulnerability; 23% anxiety and panic attacks and 16% depression (Office for National Statistics, 2017, Table 3.10). These figures are for all ages and health backgrounds so we can speculate they are likely to be higher for more vulnerable adults.

In terms of resilience, research in other fields has that circumstances that disproportionately impact on older people can reduce levels and therefore reduce the ability to recover from trauma such as being a victim of crime. Ill-health, both physical and mental, has been shown

to reduce levels of resilience especially in older people (AgeUK, 2015; Wiles et al., 2012). In Northern Ireland as elsewhere there is a higher prevalence of ill-health within the older population in comparison to other adults (Office for First Minister and Deputy First Minister (OFMDFM) 2015).

Other factors which impact on resilience levels among older people include whether or not they live alone and the extent of any support networks they have available to them (Kharicha et al., 2007; Victor et al., 2000). Research has shown living alone is associated with heightened risk of loneliness, social isolation, ill-health and reduced resilience (Kharicha et al., 2007; Victor et al., 2000). In the UK data from the 2011 census found 31% of the population aged 65+ living alone (Office for National Statistics, 2013). In 2012, 40% of all one person households in Northern Ireland were occupied by a person aged 65+ (NISRA, 2015). These figures are predicted to rise with changing population demographics due to increasing life expectancy (NISRA, 2015). During the interviews and focus groups with older people being a victim of burglary was a source of particular distress because members of their demographic were more likely to live alone and to spend significant amounts of time in their homes.

Levels of social isolation and loneliness amongst the older population are influenced not only by living alone, but the extent to which there is access to support networks (Cattan et al., 2005). Research demonstrates that older people are more likely to be lonely or socially isolated than younger adults (Bolton et al. 2012). A UK-wide study found 17% of older people have less than weekly contact with family, friends and neighbours and 11% having less than monthly contact (Victor et al., 2003). Older people are less likely to have the resilience derived from a support network to recover from the traumatic experience of being a victim of crime.

There was also discussion of the targeting of older people by criminals because of their perceived vulnerability. Interviewees and focus group participants referred to a range of factors, including the physical characteristics of their homes:

Police had said to us...It has the look of an elder person's house. *Interviewee – Family Member*

She [90 year old neighbour] was quite often out in the back yard, she'd be out, it's a wee small garden, it's got a five foot wall fence round it and she is very vulnerable and you can see she's vulnerable. ***Older Person Focus Group Participant***

The focus on the appearances of their homes and the potential that this would leave them open to be targeted by perpetrators who look for “who has a disability rail up” (Focus Group Participant), had resulted in several of the focus group participants refusing to have rails put up at their homes. Other focus group participants who had expressed their disagreement with being categorised as a “vulnerable” member of society, later described their own physical disabilities as potential reasons that they may be targeted: “you can be seen as a target dead easy because I look a bit weaker” (Focus Group Participants).

Interviewees and focus group participants noted the detrimental impact of crime on their own and other older people's health and overall well-being. The impact took a number of forms such as increased psychological fear; damage to mental or physical health of the older person and comparing or reflecting back on how they used to feel prior to the incident. Representative comments include:

Yes I would be a lot more nervous now than I would have been years ago, easy, and I'm 67 next week though I do feel, before that no. ***Older Person Focus Group Participant***

I was really sick, and I just couldn't even think straight that this should happen again and yeah it was scary. ***Older Victim of Crime Interviewee 9***

Focus group participants also described the emotional impact on the health of other older people who had been victims of crime:

A wee woman, her son had just died and she was in her 80s and two fellas came... the woman has Alzheimer's now but such a lovely person and it near wrecked her so it did. ***Older Person Focus Group Participant***

Physical violence or the threat of physical violence was a reality for a number of the interviewees. The two interviewees who had come into direct contact with the perpetrators described their experiences of victimisation:

I was getting ready to put my knitting down to go to bed when the door clicked and two men walked in and I had my doors all locked, chains on... and they had ... came in through the window... they just said sit where you are and you won't get hurt and then one of them went into the bedroom, I didn't even see his face, he went in that quick and closed the door behind him to ransack ... the one that stayed with me, stayed with me the whole time and he took all out of there, sat me over to sit across from the fireplace... and all they kept shouting was, where's the money... when they got the money they still shouted he has found more money... They went out through the window the way they came in. I was in shock but I dialled 999. ***Older Victim of Crime Interviewee 5***

In recounting her experience, one victim made reference to being emotionally upset, which impacted on her physical ability to move when directed to by the perpetrator:

I sat across out of the way, asked me what was in the door next to me which was the hot press but he still made me move so he could see into it, made me move onto the settee and by this time I could hardly walk, I was so upset but I just sat there and let them get on with it. ***Older Victim of Crime Interviewee 5***

The other interviewee (Interviewee 1) did not want to recount in depth during the recording of the interview, the details of the physical element of her victimisation, however as noted in the interviewer's field notes taken following the interview, the interviewee had sustained physical injuries. During the interview the victim did make reference to the physical attack as "an awful experience just coming up behind you kind of thing" (Interviewee 1). The interviewee clearly expressed several emotions in relation to the incident, ranging from anxiety to anger, and on reflection making reference to her age and physical strength she stated that:

As I say, it was a frightening experience but as I say I often regret I didn't push him down the stairs. *Older Victim of Crime Interviewee 1*

She also recounted the impact of having to further relive the incident, which occurred when she had “seen the young fella since up the town with his girlfriend” (Interviewee 1). The interviewee contacted the PSNI, but “didn’t know his [perpetrator’s] name” (Interviewee 1) and nothing came of the report to the police.

**More research needs to be conducted in this area to explore in further detail the impact of crime on the health and well-being of older victims, particularly over an extended period to allow for study of the long-term effects of victimisation.**

### Fear of Crime

The Northern Ireland Pensioners Parliament Survey conducted by the Age Sector Platform in Northern Ireland found that the fear of crime is a major concern for 2 out of 3 older people in Northern Ireland (April 2011). The findings report that fear of crime was selected by almost two thirds (64%) of older people across Northern Ireland as a major concern. The Northern Ireland Perceptions of Crime Survey for 2016/2017 (Rice and Campbell, 2018) reported that 7% of those aged 60+ stated that they were very worried about crime, with 9% of those aged 65-74 expressing this high level of concern. The rate for all adults was 7%. Of particular concern for older adults was the crime of burglary. 14% of adults aged 60+ expressed a high level of worry about burglary with 17% of those aged 65-74 expressing such worries. These findings suggest that almost one in six adults aged 65-74 in Northern Ireland has high levels of worry about being a victim of crime in their own home. This was the highest level of concern about burglary amongst all of the age categories. Almost one in ten adults aged 60+ who participated in the survey perceived that it is likely they will become a victim of burglary within the next twelve months. Older people reported similar levels of worry about violent crime to the adult population as a whole despite the fact that risk of violent victimisation drops significantly as people age. 13% of those aged 60+ expressed a high level of worry about such crimes, in comparison to 14% for the adult

population. 15% of those aged 65-74 expressed a high level of concern about violent crime. High levels of fear of crime can impact detrimentally upon an individual's quality of life. 28% of those aged 60+ who participated in the survey reported that fear of crime had moderate or great impact on their quality of life with 31% of adults aged 65-74 reported such an impact. These figures compare to 27% for all adults.

It has long been highlighted by academics such as Hale (1996) that despite the actual low level of victimisation rates, older people are disproportionately fearful of crime. In light of the existence of this common perception, it is typically argued that the fear of crime is a much more pressing policy issue for older people (Hough and Mayhew, 1983). This in part is reflective of Claire Keatinge, the former Commissioner for Older People for Northern Ireland's statement (COPNI, 2014: 3):

Crime against older people is universally condemned across our society and although the level of violent crime and burglary against older people is relatively low ... each incident is traumatic for the victim and causes fear amongst the wider population. Older people deserve to have confidence to feel safe in their communities and in their homes.

The former Commissioner does place emphasis on the criminal justice processes, when proposing that 'using targets' and 'acting swiftly' in bringing perpetrators of crime to justice would help to build up confidence and also may assist in reducing the fear of crime amongst older people (COPNI, 2014: 4). The section that follows explores the literature and aspects of the core debate on the fear of crime, as well as analysing the interviewees' responses and experiences in relation to the fear of crime.

Crime and criminal victimisation are regular topics of media reporting, particularly in contemporary society, which media and cultural studies labels as media saturated (Allan, 1999: 1; Potter, 2010: 6). As a specific 'social' institution (Silverblatt, 2004), the media's role is integral to meaning-making processes in society, as its representational powers and the communicative contexts in which messages are presented, illustrate the impact of the media's knowledge management functions and ideological control (Craig, 2004: 3, 10). Academic studies largely acknowledge that public knowledge and perceptions of crime and

justice are largely derived from the media (Dorfman and Schiraldi, 2001), however some studies note that there is relatively little known about the social factors that may also affect the 'nature and distribution' of these perceptions of crime (Sacco, 1982). The existing literature also explores the influence of media consumption on fear of crime, punitive attitudes and perceived police effectiveness (Dowler, 2003: 109).

The phrase 'fear of crime' has now gained 'almost universal use' (Burnett, 2006: 127), however it was not until the 1960s and 1970s that the 'fear of crime' first became a focus of academic enquiry and concern (Fattah, 1995). As Lee (2011: 1) observes, in the preceding decades the 'fear of crime' has become an increasingly prominent and significant concern for criminologists, victimologists, policymakers, politicians, the police, the media and the public. There now exist a wealth of studies that debate the relationship between crime and fear (see Skogan and Maxfield, 1981; Hough and Mayhew, 1983; Sparks, 1992; Hale, 1996). Within the existing body of literature there still remains conflict in relation to how the meaning of the term is constructed, applied and measured (see Ferraro, 1995; Pantazis, 2000; Gray *et al.*, 2008). While conflict remains in relation to the contested meaning of the term 'fear of crime', the widely accepted notion is that the fear of crime is now a 'prominent cultural theme' (Garland, 2001: 10) and is a 'major social problem' (Box *et al.*, 1988: 340).

In exploring definitions of 'fear of crime', core themes of 'emotional reactions', 'sense of danger', 'vulnerability' and 'anxiety' remain present. Over the last four decades, the phrase has come to be associated with 'a variety of emotional states', 'attitudes' or 'perceptions', which include 'mistrust of others, anxiety, perceived risk, fear of strangers, or concern about deteriorating neighbourhoods or declining national morality' (Warr, 2000: 453). These 'emotional dynamics' are reflected in Garofalo's (1981: 840) summarised definition:

We can define fear as an emotional reaction characterized by a sense of danger and anxiety. We restrict our definition to the sense of danger and anxiety produced by the threat of physical harm. Furthermore, to constitute fear of crime, the fear must be elicited by perceived cues in the environment that relate to some aspect of crime for the person.

Hale (1996: 95) also observes that:

Any model trying to explain fear will include some notion of vulnerability. At a common sense level people who feel unable to protect themselves, either because they cannot run fast, or lack the physical prowess to ward off attackers, or because they cannot afford to protect their homes, or because it would take them longer than average to recover from material or physical injuries might be expected to 'fear' crime more than others. Three broad groups have been identified as falling into this category: women, the elderly and the poor.

Box *et al.* (1988: 341) note several other factors accounting for the level of fear in society. The range of factors that appear to make a contribution to the fear of crime include: vulnerability; environmental clues and conditions; personal knowledge of crime and victimisation; confidence in the police and criminal justice systems; perceptions of personal risk and the seriousness of various offences (Box *et al.*, 1988: 341). As the earlier section explored, people's fear of crime can be also affected by their 'knowledge of crime' (Box *et al.*, 1988: 342). Moore and Trojanowicz (1998: 6) note that 'there is both a reason for fear and an opportunity to work directly on that fear, rather than indirectly through attempts to reduce criminal victimization'.

Several key criminological studies have since been produced on fear of crime and old age (Jones, 1987; Pantazis, 2000; Berrington and Jones, 2002; Chivite-Mathews and Maggs, 2002; Ziegler and Mitchell, 2003; Powell and Wahidin, 2007). One significant problem facing older people is the fear of criminal victimisation (see Balkin, 1979; Miethe and Lee, 1984). Burnett's (2006) discussion of older people's 'fear of crime', notes that the fear of becoming a victim of crime remains consistently ranked as the second highest worry after 'something bad happening to a loved one'. In contrast, existing literature notes the recurring theme of 'lower risk/higher fear', which has been referred to as 'the fear/risk paradox' (see Lee, 2013). Unpacking this, Moore and Trojanowicz (1988: 3) outline that:

[T]he groups that are most fearful are not necessarily those with the highest victimization rates; indeed, the order is exactly reversed. Elderly women, who are most afraid, are the least frequently victimized. Young men, who are least afraid, are most often victimized.

Existing analyses of survey data, such as the British Crime Surveys, note the similarities between the experiences of the 'unyoung' and women, particularly in relation to what has been labelled the 'irrational fears of crime' (Wahidin and Cain, 2012: 8; Hough and Mayhew, 1985). Drawing on a body of established work (Sparks, 1992; Farrall *et al.*, 1997; Farrall and Gadd, 2004; Lee, 2007) Jackson (2009: 4) states that unpacking both 'the nature and impact of vulnerability', as well as 'risk perception' is required to 'shed light on the vexed notions of rationality in the fear of crime'.

It is evident that previous research studies on the fear of crime, 'do not differentiate between perceived risk and fear' (Ferraro, 1995: 23). In considering the means of conceptualisation and measurement of the fear of crime, Garofalo (1981: 841) has pointed out there is a distinction between 'actual fear' and 'anticipated fear', which needs to be highlighted. He does however go on to state that 'this does not mean that anticipated fear is unimportant' (Garofalo, 1981: 841). Reflecting on the literature in the area of 'fear of crime', Feilzer and Jones (2015) call for the 'need for a more systematic understanding how different socio-economic factors, especially, place, health, deprivation, affect intergenerational contact and conflict, as well as fear of crime' on the part of older people. It is also important to explore how 'crime' is represented and portrayed, and in particular the potential impact this has the sort of information that the public receive about older people as victims of crime (see Gordon, 2012).

In contrast, there are studies which have concluded that 'older people are not more likely than younger people to be afraid of crime' and that 'growing older does not ... increase the likelihood of fear of crime' (Ferraro and LaGrange, 1988: 214-242). Similarly Moore (2010: 22) describes the 'fear of crime paradox' as having 'been based on an over-simplistic analysis of the relationship of crime and age'. This has also been reflected in 'official discourse' following the publication and analysis of findings from the British Crime Survey, which asks respondents about their 'Fear of crime', described as 'a shorthand for anxiety

about street and property crime' (Mellows-Facer, 2001; see also Pogrebin and Pojoan, 2014). For the purposes of the British Crime Survey's analysis, respondents are questioned about their perceptions of risk; worry about crime and feelings of personal safety (Mellows-Facer, 2001). As noted in 'official' reports:

Fear of crime is about not just the chances of victimisation but the perceived consequences. Greater anxiety on the part of the elderly about their safety on the streets may be because they see the physical, emotional and financial consequences of victimisation as greater than do the young (cited in, House of Commons, 2001: 5).

Returning to the themes of vulnerability and resilience, increased fear of crime in the older population in significant part may be due to the fear of the impact of being a victim of crime, rather than simply the risk of the likelihood of being a victim. In this sense, heightened fear of crime in the older population is completely rational and is something that is likely to remain a feature of future victimisation surveys.

### Impact of Crime on Lifestyle

From the interviews with victims, the theme of the impact of crime on their lifestyle emerged, with two dominant aspects discussed in relation to their daily routines and several descriptions such as "your home's not your home anymore" (Focus Group Participant). Firstly, interviewees and focus group participants described how they felt that the perpetrators had been monitoring or undertaking a form of surveillance of their daily routines, in order to seek out opportunities:

[Perpetrators] had been watching me. *Older Victim of Crime Interviewee 7*

I was only away about half an hour, I think he had been watching the house, his girlfriend lived next door and I think he'd seen me going out because my husband was out in the nursing home at the time and he wasn't eating .... and [I] come home again so as I say he must have been watching for me going out. *Older Victim of Crime Interviewee 1*

Maybe six weeks before it.... He actually watched me leaving the house in the car, I was here that day and I left here so they were watching because I forgot something and I came back up again they'd been watching the house. **Older Victim of Crime Interviewee**

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This created a sense of uncomfortableness in going about their daily routines. In addition to the sense of uncomfortableness or increased awareness of personal security measures, interviewee 1 was of the opinion that: "people that are going about just watching them... [see] older people are just a wee bit more careless and not as careful", as they are not "maybe locking everything up and making sure the windows have things" (Interviewee 1).

The securing of their homes was also a main concern for older people:

We keep our doors locked and the windows downstairs you must. **Older Person Focus Group Participant**

If I go on holiday the lights stay on... if it's a fortnight the lights stay on a fortnight, I tell all the neighbours apart from one who lives next door to me I don't think it would be good to tell him that I'm away but all the neighbours I'd let them know I'm going away for a fortnight if there's anybody at my door it's not for me because I'm not there. **Older Person Focus Group Participant**

In discussing the use of enhanced security measures and personal safety devices, one interviewee noted that older people might be resistant to using them and feel that:

... it's another nail in the coffin as I call it, it makes you feel you're old and people don't like having to stop driving because they think I am getting old, I can't do these things anymore and wearing a buzzer is the same sort of thing, you sort of think I haven't got to that stage yet. **Older Victim of Crime Interviewee 2**

A second theme raised by the interviewees' responses was the need to "alter" their routine following the incident or incidents of crime, which was viewed by some interviewees' as a necessity:

For a while after it you do feel vulnerable and you're making sure everything's locked definitely. ***Older Person Focus Group Participant***

I'm very careful and I do come in and make sure the door is locked always... and not leave the keys in the door because if somebody broke the glass they could get the keys and get into the house so as I say I always take the keys out of the door especially at night. ***Older Victim of Crime Interviewee 1***

We're a bit more conscious now of where you leave what jewellery and things like that which would have just been an old jewellery box in the bathroom before that, we didn't try to hide it away somewhere or put it in a safe or anything like that so we're a bit more cautious now. ***Older Victim of Crime Interviewee 3***

It was also viewed by some interviewees as an inconvenience, particularly in relation to the security measures, which some interviewees felt their 'age' was a factor in using new personal safety and home security measures:

I had to get doors on that you can't have a post box on or a knocker on and it just lead to so many changes in my life that are minimal if you like and don't sound like a load of hassle to you young techies but to an older person yeah, it made changes in my life that I don't welcome. I'm inconvenienced by it because of putting on burglar alarms and then getting out to the car and I realise I've forgotten to take something which is part of the age thing and you've to come back in... I hate that, and if I hadn't been burgled the boys wouldn't have insisted on me getting a burglar alarm. ***Older Victim of Crime Interviewee 4***

When reflecting on changes to their routines and the installation of burglar alarms and other personal security measures, several interviewees and focus group participants reflected back to previous decades when:

People would have left their front doors open and... you could walk the streets and felt safe, now if you're going out at night you get a taxi to where you want and taxi home, you don't go out or you won't go out and sometimes through the day you don't feel safe... but years ago people all looked out for each other and there was a lot more respect for elderly people. ***Older Person Focus Group Participant***

In noting the isolation of older people, focus group participants described how several older people in their community were too afraid to join forums and leave their homes at set times during the week:

Well we don't go out at night. I don't think any older person likes to go out at night.  
***Older Person Focus Group Participant***

There's a lot of very isolated older people about, we try to get them into the forum and the groups and things like that but sometimes it's very difficult and they don't want to come out of their house and a lot of them are afraid to come out of their houses in case their house is burgled while they're out and things like that. ***Older Person Focus Group Participant***

It is evident that the fear of victimisation can affect an older person's use of private space, as well as their opportunities and experiences of engaging in activities outside of their homes.

#### **Concerns About Re-Victimisation and Intimidation**

Older people and their families had a number of concerns about the threat of retaliation and further re-victimisation. The threat or fear of violence was routinely mentioned by interviewees:

Well obviously I'm more frightened because of the violence perpetrated by these hoodlums who beat elderly people up, I mean they can't just burgle them, they've got to knock seven bells out of them, that scares me but that's the world we're living in.  
***Older Victim of Crime Interviewee 4***

Further fear in relation to potential additional victimisation following the incident was mentioned by one interviewee who described the possibility of retaliation for his interactions with the PSNI in reporting the incident of 'rural crime':

I would love to catch the person that done it but on the long term I sort of think there has been somebody coming just some knock on your door some night saying we'll learn you, you boy you, sometimes you have to just bite your lip and say it's a loss but hopefully it will not happen again. I would say it is, I would still be saying to myself to the same wee house and say who's going to be here the night? Or who's going to land?

***Older Victim of Crime Interviewee 7***

I'd be looking at the bigger picture; I'd be saying yes, I would love to catch that person that done it but... I'm saying that then my life will be in danger [after that] so I nearly had to kiss the hare's foot and say it's water under the bridge but it's not good enough at the end of the day that these boys can just do that there and get away, it's not good enough. ***Older Victim of Crime Interviewee 7***

Having personally experienced the impact of victimisation, with several of the participants and interviewees having been the victims of crime on multiple occasions, risk of re-victimisation were high in the consciousness of the interviewees and focus group participants. Fears of being re-victimised took a number of forms, from always carrying their belongings with them, to not being seen to interact with the criminal justice agencies for fear of retaliation:

Well the simple reason is that it could backfire and come to your house and smash windows in or set fire to it or attack you, I would say that's why a lot of the elderly people wouldn't go. ***Older Person Focus Group Participant***

Too frightened whenever I went to court I had a chance it was the window, not the windows the mirrors were smashed and the tyres were slashed after I went to court and ... I think it's an unknown entity for older people going to court ... very nervous about going. ***Older Person Focus Group Participant***

## Post-Conflict Issues

As with other aspects of life in Northern Ireland the legacy of the troubles is in evidence when it comes to the issue of older people as victims of crime. On a positive note there was no evidence of a sectarian divide when it came to trust in the criminal justice agencies. There was though a perception among some participants that it is too dangerous to report criminality if it involves individuals connected to paramilitaries for fear of intimidation. It is important that the agencies of the criminal justice agencies remain vigilant to this. There was evidence of a perception in some communities that criminals felt at greater liberty to carry out crimes against vulnerable individuals than they would have during the troubles.

For some older people the lack of paramilitary 'policing' in their communities heightened feelings of insecurity. Such participants were not calling for a return to paramilitary 'policing', but rather contrasting the speed to which a resolution to a case could be brought in comparison to the criminal justice system.

The legitimate agencies of the criminal justice system were not seen as offering the same level of deterrence and protection in some communities. Some focus group participants referred to the presence of paramilitary 'policing' in communities and the legacy of the Conflict:

The irony is if something happened to me now I could go to the paramilitaries and I could have it settled within a couple of weeks and I've been told that you know when they heard what had happened I went back to the club again and they said we can get that sorted for you. So it seems an irony where the police can't get anything done about it, can't even identify the person yet the community can find out who it is and have it sorted and it will never happen again. **Older Person Focus Group Participant**

None of the participants were advocating paramilitary 'policing' practices but there was a sense among some that the post-troubles era actually makes them feel more exposed to the risks of crime. This is an important observation in itself of which agencies need to be conscious.

## Conclusions and Recommendations

Older people have been neglected in research-based studies on victims. The interviews and focus groups with older people, including those who have experienced victimisation first-hand, provide key and unique insights into older peoples' experiences of crime and the criminal justice system in Northern Ireland.

The risk of an older person in Northern Ireland being a victim of crime is relatively low. These overall figures though disguise differences when different offence categories are examined. Whilst older people are significantly less likely to be the victims of a violent crime in comparison to other adult age groups, when it comes to other crimes such as burglary the risks of an older person being a victim of such a crime are similar to the adult population as a whole.

As the findings in this study demonstrate, older peoples' perceptions of crime and the criminal justice system are typically based on their personal experience of being a victim of crime; their thoughts on knowing someone who has been a victim of crime; the presence of family members who are concerned on behalf of older relatives; crime prevention outreach initiatives; and media reporting of crimes.

Certain characteristics and circumstances make older people as a group more vulnerable to the harm that being a victim of crime can cause in comparison to other adult age groups. These factors include:

- a higher rate of fear of crime;
- a higher rate of physical and mental disability;
- a greater likelihood of living alone;
- a greater likelihood of the absence of family support networks;
- higher rates of feelings of insecurity.

The crimes that older people are most likely to be victims of include burglary, criminal damage and theft from a vehicle. These three categories of crime involve intrusions into

supposedly safe spaces. Being a victim of a crime that undermines that sense of a safe space can cause serious and lasting harm.

Whilst as a group older people are more vulnerable to the effects of crime, at an individual level one must be careful to avoid labelling all older people as vulnerable. Indeed this research study identified resistance to this label among older people. Even in cases where older people had been the subject of serious criminality, there was evidence of resilience and a determination to not let the experience define them. It was common in the interviews and focus groups for older people to label other older people as vulnerable to the impact and potential impact of crime but to reject the label when it came to themselves. Some participants rejected the label of vulnerable even in cases where the impact of the crime had clearly caused and continued to cause significant personal distress and trauma. Agencies of the criminal justice system need to be aware in their policy and practice of the varying degrees of vulnerability in the older population and that a rejection of the label of vulnerable by an older person does not necessarily mean that the person has not been significantly distressed by the crime and may be in need of additional support.

## RECOMMENDATIONS

- It is recommended that criminal justice agencies regular engage with older people who have been the victims of crime and other related stakeholders, to ensure that these voices are central in developing policy and in the implementation of change.
- The legacy of the conflict continues to impact on some older victims of crime, in particular, in relation to victims' fear of intimidation from criminals following their interactions with the police. This is something of which policymakers, police and other branches of the criminal justice system in Northern Ireland need to be aware.
- This research has identified the significant short and medium term negative impacts that being a victim of crime can have on older people. Further research should be conducted to explore the long-term effects that being a victim of crime can have on the health and well-being of older people. The findings of such research would help inform the approach taken to supporting such victims.

## Chapter Three Older Victims of Crime and the Investigation Stage

This chapter explores the investigation stage of the criminal process. It starts by exploring the views of older people including older victims of crime on the investigation stage. Then it progresses onto examining the PSNI statistics on crime outcomes. In recent years concerns have been raised by the Commissioner for Older People for Northern Ireland (2014) and the Policing Board of Northern Ireland (2015; 2016a) about the handling of cases involving older victims of crime. These concerns are based on Police Service of Northern Ireland (PSNI, 2018a) data, which show over the last a decade cases involving older victims of crime in Northern Ireland have on average lower crime outcome rates than other adult victims. The precise meaning of crime outcome rate will be explored later in the chapter, but, in brief, it is a measure of the percentage of recorded reports of crime in which a suspect is identified and faces proceedings in a criminal court or an alternative disposal such as a fixed penalty.

Outcome rates are an important indicator of the extent to which older victims have substantive access to procedural justice in Northern Ireland. A leading source of procedural rights in European nations is the 2012 European Union (EU) Directive establishing minimum rights, support and protection of victims of crime (hereafter referred to as the '2012 Directive'). According to the preamble of the 2012 EU Directive, equal access to justice is a fundamental right of all EU citizens. Equal access requires that all victims should be treated with dignity and respect (2012 Directive Article 1). This includes the absence of malice or prejudice in the treatment of victims by practitioners (2012 Directive Article 1). Treating all victims in the same manner provides prima facie equal access, but it does not necessarily provide fair access, as some victims need additional support to overcome individual or structural obstacles to participation (2012 Directive Article 22). Guaranteeing fair access requires systems that adequately support vulnerable victims on their journey through the criminal justice process (Burton et al., 2007).

## Older People's Views of the Investigation Stage

In discussing the reporting of the incident to the PSNI, each interviewee described the police response time, which varied from interviewee to interviewee. Several interviewees recalled that the PSNI responded "quite quickly":

When we got in, we phoned the police and the police reacted quite quickly, they were round fairly sharply to see what had happened. ***Older Victim of Crime Interviewee 2***

However a small number of interviewees recalled "slower" response times from the PSNI:

Well they did come out and there's not really a lot they could do because the fella had scarpered and as they say at that time. ***Older Victim of Crime Interviewee 1***

Following the interviews several interviewees expressed concern about the new policing districts and arrangements and whether this would impact on the response times of the police. In particular, interviewee 4 felt unsure as to which station would be responding to incidents of crime in her area and felt that older victims would require additional information on this (interviewer's field notes).

Similarly, Interviewee 7 stated that when he was reporting the crime he had been "passed" from call centre to different stations, rather than his local station:

I rung them up and I got through to [town] so [PSNI] more or less was....so they took the statement and transferred back to [town] then [PSNI] rung me, they didn't come out.

***Older Victim of Crime Interviewee 7***

In relation to the collection of possible evidence and forensic samples, the interviewees described the process as one of "inconvenience":

My experience of the burglary was it was all a huge inconvenience. ***Older Victim of Crime Interviewee 4***

The more practical aspects included receiving an incident number from the PSNI for insurance claim purposes, as well as arranging someone to secure their property following the incident:

They [PSNI] did give us a number the first night; they gave us a crime number for insurance purposes. ***Older Victim of Crime Interviewee 3***

Okay so then they [PSNI] went and then we had the place boarded and also a man come round that boarded the window up and started making good so we could continue to live here. The policeman said he was working evenings I think the next week and would come back and take a fuller statement. ***Older Victim of Crime Interviewee 2***

Interviewees' responses also indicated that they felt they had not received much information on the forensic process prior to, and following this aspect of potential evidence gathering:

We'll get people down the next day to check and see if there's any fingerprints or evidence that they can find that would help them to try and find out who had been the perpetrator of the crime. So that happened and the next day the man did come and he had a look around and I'm not quite sure what he found, he didn't divulge whether he'd found anything of significance or not. ***Older Victim of Crime Interviewee 2***

One victim who was present during the burglary and who was the victim of common assault without battery discussed how intimidating the police presence was in her home. She recounted in detail the feeling of not having access to her family while the PSNI officer recorded the details of the incident:

More access to my family while I was being questioned because it was a female police person who done the interview, the male policeman walked round the house with a gun on his arm and he walked round with it across his arm all the time which was sinister looking to start with. Not pleasant, not pleasant and the lady wrote pages after pages. ***Older Victim of Crime Interviewee 5***

Based on her experiences, the victim felt that other older victims of crime would need to have family or another person with them whilst they engage with the PSNI, and she also felt that it was important if having to leave her home, that she had access to some of her personal belongings, such as “pyjamas”:

I couldn't touch anything, they said it was a crime scene and that I was to touch nothing, couldn't even get my pyjamas, I couldn't get anything and it was after dinner time the next day before they let us into the house. ***Older Victim of Crime Interviewee 5***

This description of the investigatory process emphasised the need for the victim's individual needs to be at the centre when taking statements. In contrast another interviewee who had family present had a more reassuring experience of interacting with the PSNI, mainly the time and approach taken by the response police officer:

I was confident in the police yeah I was because the policewoman that came in she sat the whole night with me there and didn't seem to be in any hurry to get away or anything, she was very good now and very helpful. ***Older Victim of Crime Interviewee 9***

Family members present noted that they had played a significant role in assisting and reassuring their relative following the incident and during interactions with the police:

When the police arrived they brought her into the front sitting room and started to take statement. We settled her. ***Interviewee – Family Member***

One interviewee that had been the victim of what would be described as a ‘rural crime’, in that he had livestock stolen, referred to his victimisation as a less serious crime and recounted that during his interactions with the PSNI he had stated that:

I said to the policeman, I said more or less this is only a minor thing to you, it's like penny halfpenny job, sure you's have more to do with your time. ***Older Victim of Crime Interviewee 7***

Unlike the other interviewees, the victim referred to the PSNI interaction in a different manner:

No they asked me had I any suspects and I said this is between me and you I said to the policeman, it's very dangerous talk for me to mention somebody. ***Older Victim of Crime Interviewee 7***

In outlining the potential ramifications of providing the PSNI with potential names of perceived perpetrators, the interviewee reflected on the conflict in Northern Ireland and the history of punishment attacks and beatings, and the potential for these in the contemporary setting.

In discussing the PSNI, focus group participants noted that following crimes against older people in their area there had been some increased patrols but this did not continue:

We haven't seen patrols since then. But I know they're very busy in other areas and they are busy so I quite understand it's a matter there isn't enough staff on the ground to do it. ***Older Person Focus Group Participant***

Another focus group participant felt strongly that there "aren't enough police on the ground".

The policemen now I find are very difficult... I don't know who our community police are now, we .... used to have them riding round on their bicycles ... came to us and they spoke to our groups or if they had any problems they would come to us and say look there's such and such happening in the area and just be very aware and be aware of that. ***Older Person Focus Group Participant***

This also was directly linked to the interviewees' interactions with the PSNI and the 'follow-up' process:

Initially they [PSNI] came and said they would come again and then they didn't so we weren't overly, what's the word...impressed. ***Older Victim of Crime Interviewee 2***

The incident happened around Easter time and it was perhaps July-ish or something like that when they came back to actually take a statement, we thought it wasn't going to happen at all. I'm not sure whether the guy who initially dealt with it then went off sick or was taken to other duties or what happened but for some reason it wasn't followed up for quite a long time. ***Older Victim of Crime Interviewee 3***

To give a statement yeah but it was a long time later we suddenly realised and my only thoughts were that if the guy has gone sick and something needs to be done quickly then somebody else needs to pick that bit of work up and deal with it. ***Older Victim of Crime Interviewee 2***

Their experiences of the lack of information provided, impacted on their perceptions of the effectiveness of the investigative process and it also influenced their levels of confidence or belief in a suitable 'outcome':

No I mean we actually didn't think they were ever going to come and take a statement and then some months later we had a phone call. ***Older Victim of Crime Interviewee 3***

If they can't do anything or if there's no system involved in retrieving things or finding or knowing it is a waste of time really as far as we're concerned they might be better doing other things. I suppose in a sense if they didn't do anything you feel neglected as well. ***Older Victim of Crime Interviewee 2***

But we also then questioned whether it's being done to be seen to be done rather than to be effective. ***Older Victim of Crime Interviewee 2***

The interviewees also described the difficulties they experienced in contacting individual police officers in order to be updated on the progress of the investigation. As one interviewee acknowledged, the police officer stated that:

They were here for us and I think that then was maybe where I got the number to phone and I tried to phone but I didn't get her, whoever she was. But if you can't

contact them then when you do want to speak to them then it's of no value really.

***Older Victim of Crime Interviewee 2***

The lack of direct contact from the PSNI was criticised by several of the interviewees:

After that night the police never checked with me did I remember anything more or anything else, there was never another word about it, that was it, it was over and done with. They weren't very helpful towards what I'd come through, they were more or less trying to find out what had happened and all they wanted to know was were they wearing gloves, were they wearing this or were they wearing that. ***Older Victim of Crime Interviewee 5***

In an interaction between two of the victims, they outlined how a previous negative experience had potentially impacted on their opinion of the best methods for the PSNI to take statements from older victims of crime:

Our experience of the taking of the statement was quite laborious, I mean I think we were at the police station for about an hour and a half and he wrote everything down and every single item that I had given to the insurance company he wrote it down manually, he wasn't able to take a photocopy of it apparently, he even asked me the value of it which I thought was quite personal. ***Older Victim of Crime Interviewee 3***

Yes and one of my experiences of taking a statement before was quite negative so perhaps that was in my head. ***Older Victim of Crime Interviewee 3***

Family members referred to delays in the PSNI investigation process and they felt that this did not favour the needs of victims:

As a family, [it] felt to us... the system isn't really stacked in the favour of a victim because to do a ID parade six months after could be, you know, that's quite a passage of time. And I believe it should be done closer to the time. ***Interviewee – Family Member***

The problem of delays in the criminal justice system in Northern Ireland and its impact on older victims of crime is a theme that will be returned to a number of times in this report.

When asked about their 'confidence in the criminal justice system', the dominant theme was a lack of confidence in the criminal justice system, which was closely linked to the perception of the lack of "successful outcomes" for victims:

We weren't over impressed with the police service really I suppose in a sense we just at the same time what were they going to be able to do? Our feeling was that perhaps initially because I had quite specific information I could have given them if they had some contact or whatever. ***Older Victim of Crime Interviewee 2***

Productive? No [no] well I don't know if it was pursued or not but we didn't really expect it to be productive, we didn't ever expect to get the small amount of money back but we did think maybe some of the jewellery might appear. ***Older Victim of Crime Interviewee 3***

Interviewees' who had had personal and sentimental items stolen from their homes felt that a successful outcome for them was the retrieval of such items:

Well in our case the thing wasn't really, after they eventually got round to taking a statement that was the end of it, we heard no more, we assumed that if they came up with some jewellery they thought was ours they might come back and say did this belong to you? But if they didn't we didn't really expect to hear from them again and we haven't heard from them again. I don't know that we would have benefited by hearing from them just to say that we ain't got anywhere. ***Older Victim of Crime Interviewee 2***

It was awful because they were all sentimental value you see, my husband he's dead 25 years now and it was very traumatic and the fact that he'd bought them for me and it's something you can't replace. ***Older Victim of Crime Interviewee 9***

Several of the other interviewees felt that apprehending and punishing the perpetrators would have been a successful outcome:

Catching him. *Older Victim of Crime Interviewee 1*

Punish them. *Older Victim of Crime Interviewee 5*

While the majority of interviewees did want the perpetrators apprehended, only one victim was unsure as to what might have been the best option for her emotionally:

At the time I was glad they didn't find [the perpetrator] because I [would have ] had to try to identify them and everything else and I was just as happy that they didn't find them. Yeah but if they had caught them then I would have been glad too because it would maybe stop them going somewhere else. *Older Victim of Crime Interviewee 5*

Reflecting on the “prospect” of securing a “successful outcome”, two of the interviewees talked about whether police time could have been better utilised in another way:

I mean in burglaries of this sort I suspect that the recovery rate or the success rate... is pretty low so we just questioned whether somebody has got to make a judgement and say that is a reality and therefore we can better protect those people by having policemen in their neighbourhood rather than sitting in a police barracks writing statements and trying to follow something up that really holds very little prospect of producing any successful outcome. *Older Victim of Crime Interviewee 3*

The interviewees’ (2 and 3) comments were closely linked to their own experience, which included a delay of over three months in the PSNI taking an official recorded statement and also was grounded in their perception that property is rarely retrieved and returned to its original owner.

### **Measuring Success at the Investigation Stage - Current Practice in Northern Ireland and England and Wales – ‘Crime Outcomes’**

Police outcome rate data is the best quantitative indicator available in Northern Ireland of the extent to which procedural justice for those who report a crime is likely to be obtained.

In basic terms, the outcome rate is the rate at which recorded crimes achieve a successful police outcome. A successful police outcome is regarded as an accused/s being identified for the crime and being either charged/summoned for the offence, cautioned, the offence taken into consideration and a penalty notice being issued or the accused being given a discretionary disposal such as a referral to restorative justice (PSNI, 2018b). It should be noted the outcomes relate only to pre-court proceedings and decisions. Where Northern Ireland is unique is in gathering data that allow for outcome rates to be contrasted by age of complainant/victim (PSNI, 2018a). An analysis of the Northern Irish data thus provides original insights into how outcomes of police investigations can be impacted by the age of the victim.

The methodology behind the calculation of outcome rates in Northern Ireland is based on the approach adopted in England and Wales (Home Office, 2019; PSNI, 2018b). The Home Office introduced a new framework for counting crime outcomes on 1<sup>st</sup> April 2014. This followed a consultation launched in 2012 following criticism of the previous counting rules. The PSNI adopted the new Home Office counting rules on 1<sup>st</sup> April 2015.

Under this new framework, all recorded crimes are assigned an outcome type (PSNI, 2018b). There are 20 outcome types used by the Home Office of which 18 of them are also applied by the PSNI. The remaining two are not applicable to the Northern Irish justice system. Table 3.1 provides a breakdown of the 20 outcome types.

Crime outcomes are based on recorded crimes rather than offenders. In crimes involving multiple offenders, if at least one of the offenders faces a particular outcome (for example is charged with an offence), this is recorded as the official crime outcome for that recorded crime, even if the remaining offenders are not identified, or if they are identified, no proceedings are taken against them.

Once an outcome has been assigned, if the victim is identifiable they must be informed of the outcome unless the authorities consider it not to be in the victim's best interests to do so. In cases of children who are victims of crime, the parent or guardian must be informed of the outcome. The PSNI guidance is silent as to whether in cases of vulnerable adult

victims who because of mental or physical disability are not able to understand the nature of the outcome, next of kin or persons with power of attorney should be informed.

<b>Outcome type</b>	<b>Explanation</b>
Outcome Type 1: Charge/summons	A person has been charged or summonsed for the crime (irrespective of any subsequent acquittal at Court).
Outcome Type 2: Juvenile caution	A youth offender has been cautioned by the police (has received a juvenile informed warning, restorative caution or prosecutorial diversion).
Outcome Type 3: Adult caution	An adult offender has been cautioned by the police (has received an adult caution or informed warning).
Outcome Type 4: TIC (taken into consideration)	The offender admits the crime by way of a PACE compliant interview and asks for it to be taken into consideration by the court.
Outcome Type 5: Offender died before proceedings	The offender has died.
Outcome Type 6: Penalty notice for disorder (PND)	A penalty notice for disorder (or other relevant notifiable offence) has been lawfully issued.
Outcome Type 7: Not applicable in PSNI	A warning for cannabis possession has been issued – within PSNI outcomes of this nature would be recorded under Juvenile or Adult cautions.
Outcome Type 8: Discretionary disposal	A community resolution (with or without formal restorative justice) has been applied. Since their introduction within the PSNI in 2011 these have been known as discretionary disposals.
Outcome Type 9: No prosecution directed	Prosecution not in the public interest. Within England & Wales this refers to CPS directed decisions, within Northern Ireland this refers to PPS directed decisions.
Outcome Type 10: Not applicable in PSNI	Formal action against the offender is not in the public interest (police decision). Within Northern Ireland these decisions are made by PPS and covered within outcome type 9.
Outcome Type 11: Under age	Prosecution prevented – named suspect identified but is below the age of criminal responsibility.
Outcome Type 12: Too ill (suspect)	Prosecution prevented – named suspect identified but is too ill (physical or mental health) to prosecute
Outcome Type 13: Too ill (victim/witness)	Prosecution prevented – named suspect identified but victim or key witness is dead or too ill to give evidence
Outcome Type 14: No prosecution: no named suspect	Evidential difficulties victim based – named suspect not identified
Outcome Type 15: No prosecution: named suspect and victim support	Evidential difficulties named suspect identified – victim supports police action but evidential difficulties prevent further action
Outcome Type 16: No prosecution: named suspect but no victim support	Evidential difficulties victim based – named suspect identified; victim does not support (or has withdrawn support from) police action
Outcome Type 17: Prosecution time limit expired	Suspect identified but the time limit for prosecution has expired
Outcome Type 18: Investigation complete	Investigation complete - no suspect identified. Crime investigated as far as reasonably possible – case closed pending further investigative opportunities becoming available.
Outcome Type 19: National Fraud Intelligence Bureau filed	A crime of fraud that has been recorded has not been allocated for investigation as insufficient lines of enquiry as determined by NFIB
Outcome Type 20: Other Agencies	Further action resulting from the crime report will be undertaken by another body or agency subject to the victim (or person acting on their behalf) being made aware of the action to be taken

**Table 3.1. Crime Outcome Framework Currently Applied by PSNI (reproduced from PSNI Guidance)**

The outcomes listed in Tables 3.1 are divided into three categories by the PSNI and Home Office:

- a) outcomes where the offender received a formal sanction;
- b) outcomes where no action was taken against the offender;
- c) outcomes where there was no prosecution for evidential reasons including where no suspect was identified.

Table 3.2 shows which outcomes are placed into which category. The categorisation appears logical on the face of it. Although it should be noted that the outcomes relate only to pre-court proceedings and decisions. Therefore the data does not record what happens to a case, if, and when, it proceeds to the courts. There will be cases recorded under the ‘formal sanction’ category where the defendant was charged, but ultimately never faced court proceedings or where there was court proceedings which ended in an acquittal. The PSNI and the Home Office outcome data do not tell us anything about the outcome of cases once these reach the court stage.

<b>Outcome Category</b>	<b>Outcomes</b>
Offender received a formal sanction	Outcome Type 1: Charge/summons Outcome Type 2: Juvenile caution Outcome Type 3: Adult caution Outcome Type 4: TIC (taken into consideration) Outcome Type 6: Penalty notice for disorder (PND) Outcome Type 8: Discretionary disposal
No action was taken against the offender	Outcome Type 9: No prosecution directed Outcome Type 11: Suspect under age Outcome Type 12: Too ill (suspect) Outcome Type 13: Too ill (victim/witness) Outcome Type 17: Prosecution time limit expired
No prosecution for evidential reasons (including no suspect identified)	Outcome Type 14: No prosecution: no named suspect Outcome Type 15: No prosecution: named suspect and victim support Outcome Type 16: No prosecution: named suspect but no victim support Outcome Type 18: Investigation complete Outcome Type 19: National Fraud Intelligence Bureau filed Outcome Type 20: Other Agencies

**Table 3.2 Categories for outcomes applied by PSNI.**

Both the Home Office and PSNI use the outcome data to publish outcome rates for different types of crime. The outcome rate can be calculated in one of two ways (Method A and B). Method A involves taking the total number of crimes with a sanction outcome (the first outcome category in Table 3.2) and dividing it by the number of record crimes for that year. This number is then multiplied by 100 to achieve an outcome rate. Method B involves examining all crimes recorded in a year and measuring the percentage of those same crimes that were given a sanction outcome that year. A limitation of Method A is that the data on outcomes is not necessarily related to the recorded crime for that year. Outcomes may instead relate to crimes recorded in previous years. Method B avoids this problem as the outcomes relate to the crimes recorded for that year. A limitation of Method B is that some crimes recorded in a year may not have an outcome attributed to them until a later year. The most recent statistical analysis published by the Home Office for England and Wales and Northern Ireland uses both Methods A and B. Method A is used in this study to compare statistics across the years due to Method B only being applied in recent statistics produced by the PSNI.

The Home Office crime outcome data for England and Wales does not provide any information on the demographic characteristics of the complainant. Therefore their statistical analyses reports do not explore how crime outcomes might differ depending on the characteristics of the complainant including age, gender and race.

In contrast to England and Wales, the PSNI data on crime outcomes includes information on the gender and age of the complainant of the relevant recorded crime. This permits an analysis of the crime outcome data by age and gender of the victim. The PSNI data is therefore of utility to those who wish to explore how crime outcomes may differ for different types of complainant.

## Analysis of PSNI Outcome Rate Statistics

The PSNI publish data annually on the outcome rate for all recorded offences apart from Fraud. The PSNI breaks this data down into various crime categories. These categories include criminal damage, burglary, sexual offences, theft (vehicle offences), violence without injury, violence with injury, robbery and other theft. The PSNI data also includes information on the age of the complainant for a given recorded crime. This permits a comparison of the outcome rates for different ages for all offences and for the various offence categories. The PSNI must be commended for gathering, processing and publishing such information as comparable data is not available in any of the other jurisdictions on these islands (i.e. the Republic of Ireland, Scotland or England Wales).

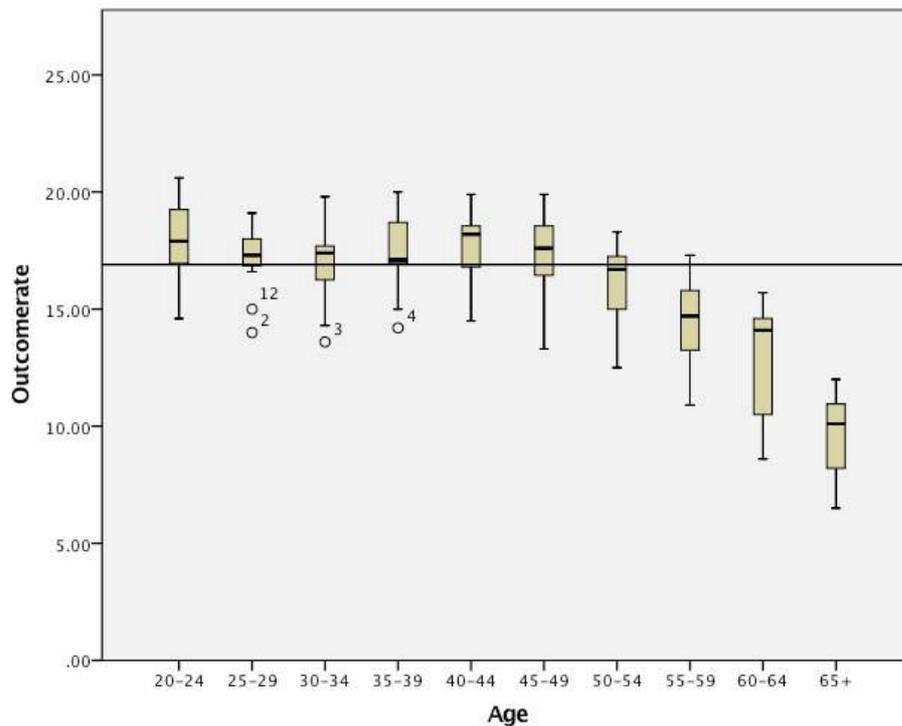
A boxplot of the outcome rate statistics broken-down by age for all crimes where there was a person victim,<sup>2</sup> as represented in Figure 3.1, shows a non-linear, monotonic relationship between age and outcome rate. There is a strong negative correlation between age and outcome rate over the period 2007/08-2017/18.<sup>3</sup> There are statistically significant differences in median outcome rate between age groups.<sup>4</sup> Visual inspection of the boxplot in Figure 3.1 shows a lower outcome rate amongst the older age categories. The four categories below the median outcome rate for the relevant period are the 50-54, 55-59, 60-64 and 65+ groups, although the 50-54 category is very close to the median value.

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<sup>2</sup> The figures provided in this report relate to those crimes where there was a person victim. State-based crimes, crimes where there was a non-person victim (eg business, council, organisation) and crimes where the victim was a police officer on duty are not included.

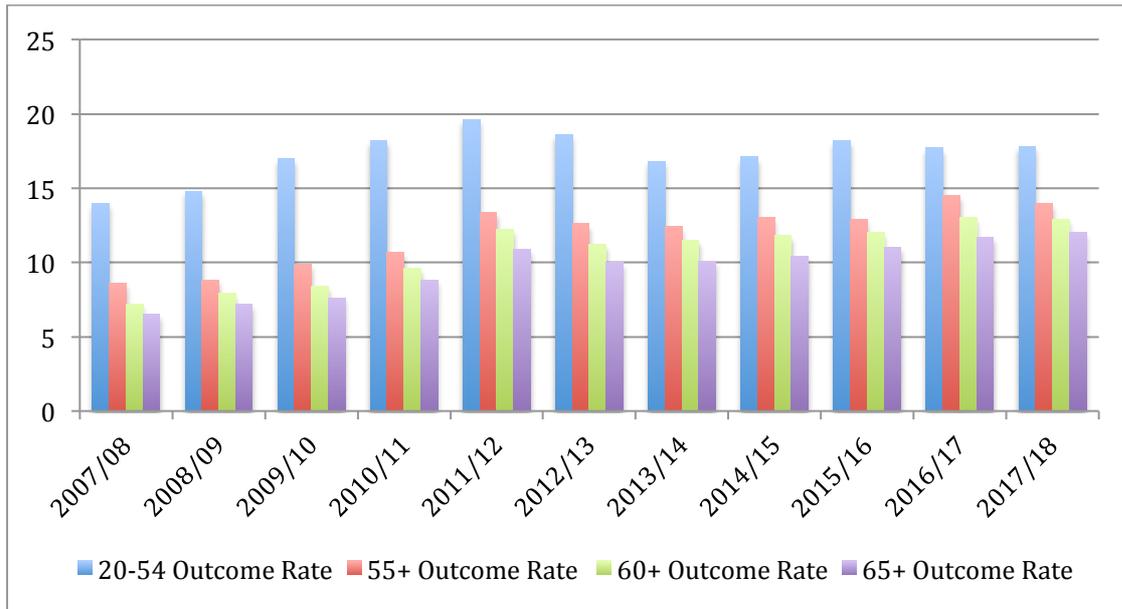
<sup>3</sup> Spearman's Correlation - ( $r_s$  (108) = -0.634,  $p < .0005$ ).

<sup>4</sup> Kruskal-Wallis H test -  $X^2(9) = 58.203$ ,  $p < .0005$ .



**Figure 3.1: Boxplot of Mean Outcome Rates for Recorded Crimes Where a Person was the Victim by Age in Northern Ireland 2007/8-2017/18 (Median value of 16.9).**

To explore the differences further, Figure 3.2 contrasts the annual outcome rate of a combined 20-54 age group with the three older age groups of 55-59, 60-64 and 65+. Visual inspection of Figure 3.2 shows the 20-54 age group having a consistently higher outcome rate than the older age categories across the eleven years, although by varying amounts. Amongst the three older age groups the outcome rates drop as we progress up the age categories. The 65+ age category always recorded the lowest crime outcome rate.



**Figure 3.2: Outcome rates for crimes where a person was the victim for various age categories 2007/8-2017/18**

A lower outcome rate for older adults in comparison to younger adults is in evidence across the eleven policing districts of Northern Ireland. The figures for 2017/18 and 2016/17 are shown in Tables 3.3 and 3.4 respectively. They show higher crime outcome rates for the 20-54 age group than the 55+, 60+ and 65+ categories in all districts. The data shows a pattern of outcome rate falling as the categories are narrowed from 55+ to 60+ and then to 65+, although not each district conforms to this pattern each year. The 65+ is most commonly the category with the lowest crime outcome rate in both 2016/17 and 2017/18. The figures demonstrate that lower crime outcome rates for older complainants are found across Northern Ireland including in urban districts such as Belfast City and Derry City and Strabane and more rural policing districts such as Fermanagh and Omagh and Mid Ulster.

Policing District	All Ages Outcome Rate (%)	Age 20-54 Outcome Rate (%)	Age 55+ Outcome Rate (%)	Age 60+ Outcome Rate (%)	Age 65+ Outcome Rate (%)
A - Belfast City	12.8	13.3	11.9	10.9	9.7
B - Lisburn & Castlereagh City	21.4	22.8	14.9	12.1	12.9
C - Ards & North Down	17.7	19.8	13.8	13.8	12.1
D - Newry, Mourne & Down	18.1	19.9	12.9	10.6	9.6
E - Armagh City, Banbridge & Craigavon	18.7	19.5	13.3	11.0	11.8
F - Mid Ulster	22.1	23.0	17.4	15.1	18.0
G - Fermanagh & Omagh	21.1	21.9	17.6	15.7	11.6
H - Derry City & Strabane	19.3	20.5	16.4	17.2	15.7
J - Causeway Coast & Glens	19.0	20.6	15.3	15.3	15.9
K - Mid & East Antrim	16.8	18.7	14.0	13.8	11.7
L - Antrim & Newtownabbey	16.9	18.1	14.9	14.9	11.5
<b>Northern Ireland</b>	<b>16.9</b>	<b>17.8</b>	<b>14.0</b>	<b>12.9</b>	<b>12.0</b>

**Table 3.3. Outcome rates for crimes where a person was the victim by age of the complainant across the eleven policing districts of Northern Ireland in 2017/18**

Policing District	All Ages Outcome Rate (%)	Age 20-54 Outcome Rate (%)	Age 55+ Outcome Rate (%)	Age 60+ Outcome Rate (%)	Age 65+ Outcome Rate (%)
A - Belfast City	13.2	13.3	12.6	11.4	10.3
B - Lisburn & Castlereagh City	22.4	23.9	17.8	16.1	14.2
C - Ards & North Down	19.3	20.7	16.8	16.1	13.2
D - Newry, Mourne & Down	19.2	20.1	13.4	10.6	10.2
E - Armagh City, Banbridge & Craigavon	19.1	20.8	14.0	12.2	12.1
F - Mid Ulster	20.1	21.6	13.7	14.6	13.6
G - Fermanagh & Omagh	21.0	22.5	15.5	12.9	11.3
H - Derry City & Strabane	20.2	20.9	16.9	13.6	11.6
J - Causeway Coast & Glens	19.5	19.5	18.8	19.1	18.2
K - Mid & East Antrim	15.8	17.6	11.1	8.6	6.7
L - Antrim & Newtownabbey	16.1	17.1	15.3	14.8	11.8
<b>Northern Ireland</b>	<b>17.1</b>	<b>17.7</b>	<b>14.5</b>	<b>13.0</b>	<b>11.7</b>

**Table 3.4. Outcome rates for crimes where a person was the victim by age of the complainant across the eleven policing districts of Northern Ireland in 2016/17**

A plausible hypothesis for the differences between older and younger adults in outcome rate is that the age groups are reporting different types of crimes and those different types of crime have differing outcome rates. To test this hypothesis differences within offence

categories by age of the victim were explored. Table 3.5 provides a breakdown of mean outcome rates for various categories of offences by age category during the period 2007/08-2017/18.

Offence Category	All Ages Outcome Rate (%)	Age 20-54 Outcome Rate (%)	Age 55+ Outcome Rate (%)	Age 60+ Outcome Rate (%)	Age 65+ Outcome Rate (%)
<b>Total Police Recorded Crime</b>	16.9	17.3	11.9	10.7	9.7
Burglary	9.4	9.9	7.8	7.4	6.8
Criminal Damage	10.7	11.1	8.2	7.5	7.0
Theft – Vehicle Offences	17.5	17.8	15.3	14.4	13.7
All Other Theft Offences	6.0	6.0	5.9	5.7	5.4
Violence Without Injury (including Harassment)	23.0	24.1	23.9	23.2	22.5
Violence (with injury including Homicide)	29.7	29.6	34.8	35.7	36.9

**Table 3.5: Mean Outcome Rates for various categories of offences by age category 2007/08-2017/18**

The data from Table 3.5 demonstrate that there are differences in outcome rate by age of complainant within offence categories as well as in the overall crime figures. Over an eleven year period, the PSNI recorded for the older complainant age categories lower outcome rates for burglary, criminal damage, theft – vehicle offences, other thefts and violence without injury. For the violence with injury category crimes recorded where the complainant was an older person recorded on average a higher outcome rate than for other adults. It is therefore not the case that the difference in overall outcome rate is simply due to the different make-up in terms of categories of offences being reported by the different age groups. This disparity within offence categories is something that the PSNI and the Policing Board has acknowledged (NIPB 2015; 2016; 2017). The more common categories of offences are explored in more depth below.

## Burglary

The category of crime where the difference in rate by age has raised the greatest concern over the years is 'Burglary'. It was concerns regarding these figures which caused the Policing Board of Northern Ireland to set targets for the PSNI to improve the outcome rate for older victims of burglary (2015; 2016). 'Burglary' is defined as where a person enters any building as a trespasser with intent to commit an offence of theft, grievous bodily harm or unlawful damage. This includes both domestic and non-domestic burglaries. In 2017/18 there were 1,280 recorded cases of burglary involving complainants aged 60+. The number of recorded incidences of burglary involving those aged 60+ has fallen by 28% from a high in 2011/12 when 1,786 incidents were recorded. For 2017/18 the rate of recorded cases of burglary for those aged 60-64 and those aged 65+ was the same at 3 per 1,000 of the population.<sup>5</sup> This figure is the same as that for all age groups combined. Burglary offences make up a significantly higher proportion of recorded crimes for older people than other adults (in 2017/18 20-54 7%, 55+ 17%, 60+ 19% and 65+ 22%).

The overall outcome rate for the most recent year for which statistics are available (2017/18) for the Burglary category is 9.7%. When this is broken down by age a rate of 10.5% is found for recorded crimes where the complainant was aged 20-54. A rate of 8.0% is found for those crimes in which the complainant was recorded as being aged 60+ and 7.9% is found for those cases where the victim as aged 65+. There was a 2.6% percentage point difference between the 20-54 and 60+ categories and a 2.7% difference between the 20-54 and 65+ age group. The 60+ and 65+ age categories had statistically significantly lower crime outcome rates than the 20-54 age group for this category of crime over the period 2007/08-2017/18.<sup>6</sup> This means that older people are statistically less likely to obtain a sanction outcome than other adults in cases where they report being a victim of burglary. The 65+ age category had the lowest crime outcome rate of any adult age category in ten of the

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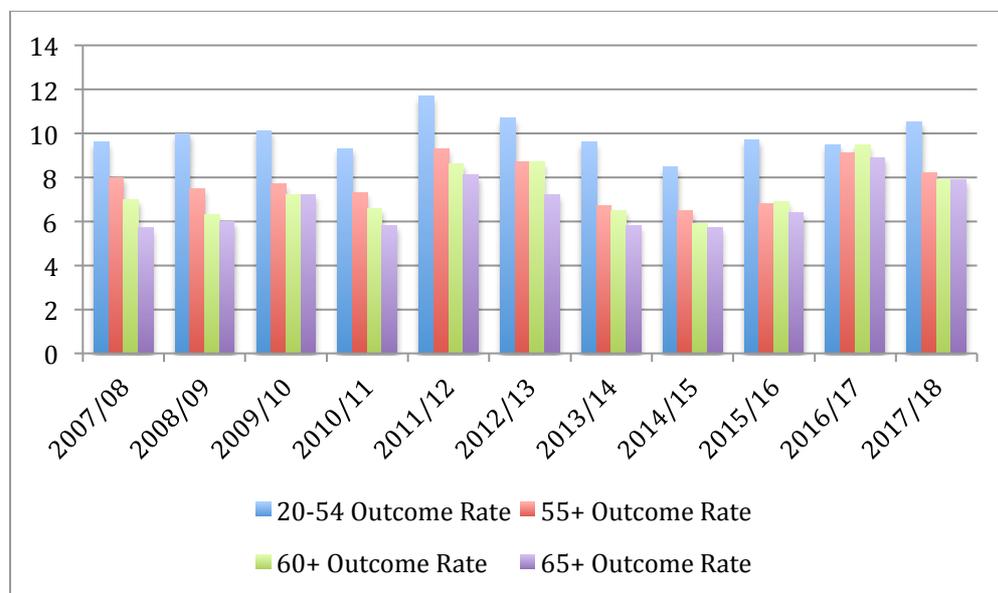
<sup>5</sup> The population rates in this chapter relate to the number of crimes in the chosen age range per 1,000 of the population in the same age range.

<sup>6</sup> Due to the presence of outliers, pairwise comparisons were performed using Dunn's (1964) procedure with a Bonferroni correction for multiple comparisons. Adjusted p-values are presented. This post hoc analysis revealed statistically significant differences in outcome rate between the 20-54 and 65+ groups  $p < 0.0005$ ; 20-54 and 60+  $p = 0.005$ ; but not the 20-54 and 55+ ( $p = 0.086$ ).

eleven years with 2016/17 proving an exception. The statistics are broken down further in Figure 3.3 and Table 3.6.

Year	Outcome Rate 20-54 (%)	Outcome Rate 55+ (%)	Outcome Rate 60+ (%)	Outcome Rate 65+ (%)	Difference in Outcome Rate Between 20-54 and 60+	Difference in Outcome Rate Between 20-54 and 65+
2017/18	10.5	8.2	8.0	7.9	2.5	2.6
2016/17	9.5	9.1	9.5	8.9	0	0.6
2015/16	9.7	6.8	7.0	6.4	2.7	3.3
2014/15	8.5	6.5	5.9	5.7	2.6	2.8
2013/14	9.7	6.7	6.5	5.9	3.2	3.8
2012/13	10.7	8.7	8.7	7.2	3.0	3.5
2011/12	11.7	9.3	8.6	8.1	3.1	3.6
2010/11	9.3	7.3	6.6	5.9	2.7	3.4
2009/10	10.1	7.7	7.2	7.2	2.9	2.9
2008/09	10.0	7.5	6.3	6.0	3.7	4.0
2007/08	9.6	8.0	7.0	5.7	2.6	3.9

**Table 3.4 Outcomes Rates for Burglary by Age of Complainant (2007/08-2017/18)**



**Figure 3.4 Outcomes Rates for Burglary by Age of Complainant (2007/08-2017/18)**

The burglary statistics can be broken down further into burglary–residential and burglary–business & community. This is a new sub-categorisation that was established from the 1<sup>st</sup> April 2017. This means there is only one year (2017/18) of data for these sub-categories which is presented in Table 3.5. The data shows that older victims of residential-burglary are less likely to have a sanction outcome than other adults. The overall outcome rate was 7.7%, with those where the complainant was aged 60+ at 6.1% and those where the complainant was aged 65+ at 5.9%. These figures contrast to an outcome rate of 8.4% for the 20-54 age group.

Age of Complainants	Outcome Rate (%)
65+	5.9
60+	6.1
55+	6.4
20-54	8.4
All Ages	7.7

**Table 3.5 Outcome Rates for Burglary-Residential by Age of Complainant 2017/18**

Prior to the current sub-categorisation, burglary figures were divided into domestic (burglary from a dwelling) and nondomestic (burglary from other than a dwelling). This differed from the new sub-categorisation in a number of respects, for example sheds, garages, outhouses etc within the boundary of a dwelling were previously recorded as non-domestic burglary where as now they are recorded as under burglary-residential. The ten years of data (Table 3.6) available under the old sub-categorisation show a clear trend of domestic burglary having a lower outcome rate in cases where the complainant was an older person in comparison to other adults. The difference in outcome rate for domestic burglary between the older age groups and other adults was in most years higher than in the overall burglary category (Table 3.4).

Year	Outcome Rate 20-54 (%)	Outcome Rate 55+ (%)	Outcome Rate 60+ (%)	Outcome Rate 65+ (%)	Difference in Outcome Rate Between 20-54 and 60+	Difference in Outcome Rate Between 20-54 and 65+
2016/17	10.7	10.7	11.2	10.4	-0.5	0.3
2015/16	10.5	7.2	7.1	6.5	3.4	4.0
2014/15	9.5	7.2	6.4	6.1	3.1	3.4
2013/14	10.9	7.7	7.5	6.6	3.4	4.3
2012/13	11.7	10	9.9	8.2	1.8	3.5
2011/12	12.9	9.4	8.6	8.1	4.3	4.8
2010/11	10.0	7.8	7.2	6.2	2.8	3.8
2009/10	10.8	7.6	7.1	6.9	3.7	3.9
2008/09	10.6	7.9	6.9	6.6	3.7	4.0
2007/08	10.5	8.7	7.7	6.1	2.8	4.4

**Table 3.6 Outcomes Rates for Domestic Burglary by Age of Complainant (2007/08-2016/17)**

The Northern Ireland Policing Board has recognised the problem of relatively low outcome rates for older people for the burglary category. The Policing Plans for 2015/16 (NIPB, 2015) and 2016/17 (NIPB, 2016) set targets for the PSNI to ‘increase the outcome rate for burglary against older people by 2% points’. The PSNI Annual Report for the year ending 31 March 2017 recorded these objectives as fully achieved. The 2017/18 Policing Plan did not set numerical targets for the PSNI in the same way as the 2016/17 Plan (NIPB, 2017). If similar targets had been put in place they would not have been met. Instead, it wanted the police to ‘Improve service to the most vulnerable across PSNI policing districts through the implementation of Support Hubs in collaboration with PCSPs and other partners’ and ‘Improve the service to vulnerable groups in collaboration with partners in relation to...older people’. The PSNI (2018c) Annual Report for year ending 31 March 2018 recorded the measure in relation to Support Hubs as ‘Partially Achieved’, with the measure relating to service to vulnerable groups as ‘Achieved’.

### **Theft (Vehicle Offences)**

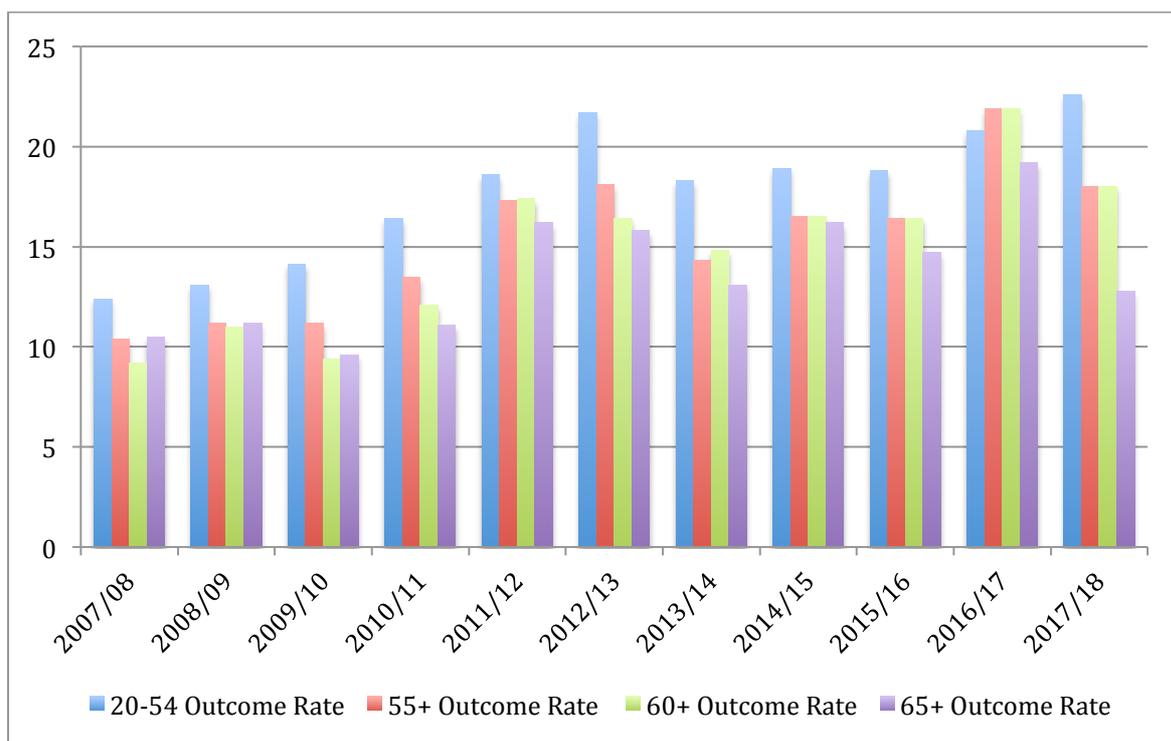
Another category of crime where the difference in rate between the age categories is significant is ‘theft (vehicle offences)’. Theft (vehicle offences) includes the following

offences: theft of a motor vehicle, unauthorised taking of a motor vehicle, theft from a motor vehicle, and interfering with a motor vehicle (usually causing criminal damage in an attempt to steal). In 2017/18 there were 409 recorded cases of theft (vehicle offences) involving complainants aged 60+. The number of recorded incidences of theft (vehicle offences) involving those aged 60+ has fallen by 41% from a high in 2009/10 when 690 incidents were recorded. For 2017/18 the rate of recorded cases of theft (vehicle offences) for those aged 60-64 was 2 per 1,000 of the population and was 1 per 1,000 of the population for those aged 65+. The figure for all ages was 2 per 1,000 of the population. Theft (vehicle offences) offences make up the same proportion of recorded crimes for older people as other adults (in 2017/18 20-54 6%, 55+ 6%, 60+ 6% and 65+ 6%).

The overall outcome rate for the most recent year for which statistics are available (2017/18) for the theft (vehicle offences) category is 21.8%. When this is broken down by age a rate of 22.6% is found for recorded crimes where the complainant was aged 20-54. A rate of 16.1% is found for those crimes in which the complainant was recorded as being aged 60+ with a rate of 12.8% recorded for those aged 65+. The outcome rate was therefore considerably lower for the 60+ (by 6.5 percentage points) and 65+ (by 9.8 percentage points) age groups for theft (vehicle offences) in 2017/18 in comparison to the 20-54 age category. 2017/18 marked the largest difference in the last eleven years between the younger and older adult complainant populations in terms of the outcome rate in this category of offences (Figure 3.5 and Table 3.7). Over the last eleven years, the 20-54 outcome rate has been statistically significantly higher than the 60+ and 65+ age categories.<sup>7</sup> This means that older people are statistically less likely to obtain a sanction outcome than other adults in cases where they report being a victim of vehicle related theft. The statistics are broken down further in Figure 3.5 and Table 3.7.

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<sup>7</sup> Independent student t-tests were run. Statistically significant differences were found between 20-54 and 65+ groups  $p=0.006$ ; 20-54 and 60+  $p=0.033$ ; but not the 20-54 and 55+  $p=0.112$ .



**Figure 3.5. Outcomes Rates for Theft Vehicle Related Offences by Age of Complainant (2007/08-2017/18)**

Year	Outcome Rate 20-54 (%)	Outcome Rate 55+ (%)	Outcome Rate 60+ (%)	Outcome Rate 65+ (%)	Difference in Outcome Rate Between 20-54 and 60+	Difference in Outcome Rate Between 20-54 and 65+
2017/18	22.6	18.0	16.1	12.8	6.5	9.8
2016/17	20.8	21.9	20.7	19.2	0.1	1.6
2015/16	18.8	16.4	14.9	14.7	3.9	4.1
2014/15	18.9	16.5	16.5	16.2	2.4	2.7
2013/14	18.3	14.4	14.8	13.1	3.5	5.2
2012/13	21.7	18.1	16.4	15.8	5.3	5.9
2011/12	18.6	17.3	17.4	16.2	1.2	2.4
2010/11	16.4	13.5	12.1	11.1	4.3	5.3
2009/10	14.1	11.2	9.4	9.6	4.7	4.5
2008/09	13.1	11.2	11.0	11.2	2.1	1.9
2007/08	12.4	10.4	9.2	10.5	3.2	1.9

**Table 3.7 Outcomes Rates for Theft Vehicle Related Offences by Age of Complainant (2007/08-2017/18)**

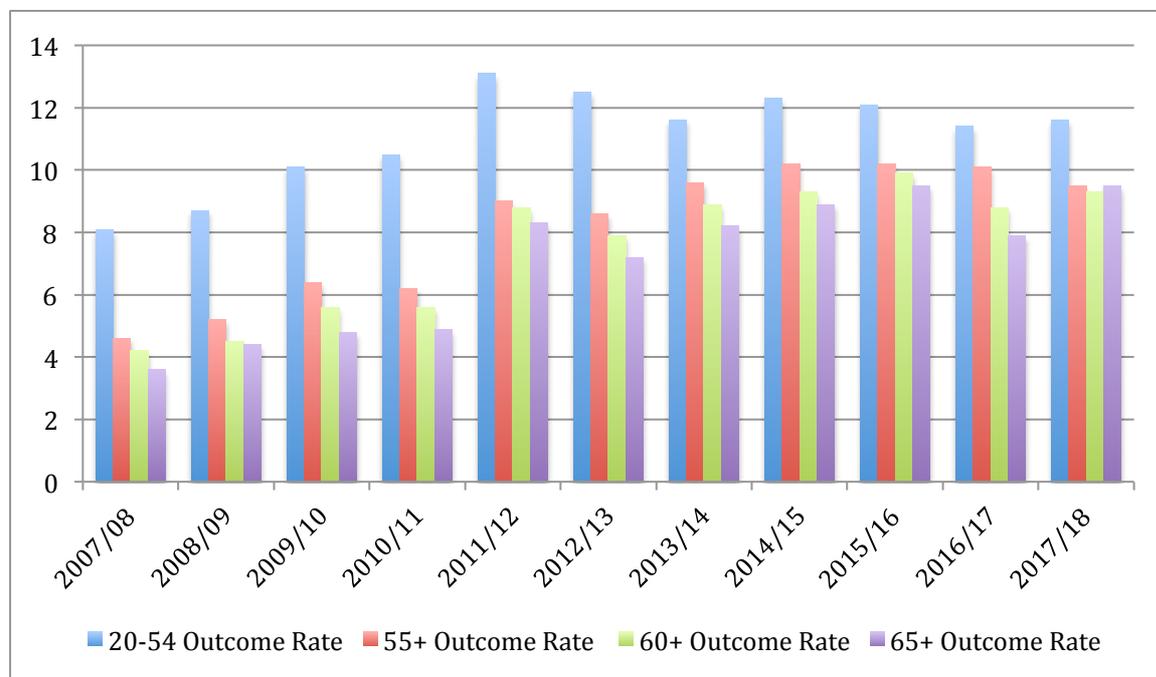
## Criminal Damage

A third category of crime where there is a consistent difference by age over the years is Criminal damage. Criminal damage is defined as a crime committed by any person who without lawful excuse destroys or damages any property belonging to another, intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged. The figures include arson which is defined as the act of deliberately setting fire to property including buildings and vehicles.

In 2017/18 there were 1,899 recorded cases of criminal damage involving complainants aged 60+ in Northern Ireland. The number of recorded incidences of criminal damage involving those aged 60+ has fallen by just over a third from a high in 2007/08 when 2,895 incidents were recorded. For 2017/18 the rate of recorded cases of criminal damage for those aged 60-64 was 7 per 1,000 of the population and for those aged 65+ it was 4 per 1,000 of the population. This figure compares with 7 in a 1,000 for all age groups. Criminal damage offences make up a higher proportion of recorded crimes for older people than other adults (in 2017/18 20-54 22%, 55+ 28%, 60+ 28% and 65+ 27%).

The overall outcome rate for the most recent year for which statistics are available (2017/18) for the 'criminal damage' category was 11.3%. When this is broken down by age a rate of 11.6% is found for recorded crimes where the complainant was aged 20-54. A rate of 9.3% is found for those crimes in which the complainant was recorded as being aged 60+ with a rate of 9.5% for those aged 65+. The outcome rate was therefore 2.3 percentage points higher for those recorded criminal damage offences in which the complainant was aged 20-54 in comparison to those recorded criminal damage offences in which the complainant was aged 60+. The difference in outcome rate between the 20-54 and 65+ age groups was 2.1 percentage points. For each of the last eleven years a lower outcome rate was recorded for criminal damage where the complainant was 60+ in comparison to those aged 20-54. The 65+ age category had the lowest crime outcome rate of any adult age category in ten of those eleven years. Analysis of the PSNI statistics for 2007/08-2017/18 shows the 55+, 60+ and 65+ age categories had statistically significantly lower crime

outcome rates than the 20-54 age group for this category of crime.<sup>8</sup> This means that older people are statistically less likely to obtain a sanction outcome than other adults in cases where they report being a victim of criminal damage. The statistics are broken down further in Figure 3.6 and Table 3.8.



**Figure 3.6 Outcomes Rates for Criminal Damage by Age of Complainant (2007/08-2017/18)**

Year	Outcome Rate 20-54 (%)	Outcome Rate 55+ (%)	Outcome Rate 60+ (%)	Outcome Rate 65+ (%)	Difference in Outcome Rate Between 20-54 and 60+	Difference in Outcome Rate Between 20-54 and 65+
2017/18	11.6	9.5	9.3	9.5	2.3	2.1
2016/17	11.5	10.1	8.8	7.9	2.7	3.6
2015/16	12.2	10.3	9.9	9.5	2.3	2.7
2014/15	12.3	10.2	9.3	8.9	3.0	3.4
2013/14	11.6	9.6	8.9	8.2	2.7	3.4
2012/13	12.5	8.6	7.9	7.2	4.6	5.3
2011/12	13.1	9.0	8.8	8.3	4.3	4.8
2010/11	10.5	6.2	5.6	4.9	4.9	5.6
2009/10	10.1	6.4	5.6	4.8	4.5	5.3
2008/09	8.7	5.2	4.5	4.4	4.2	4.3
2007/08	8.1	4.6	4.2	3.6	3.9	4.5

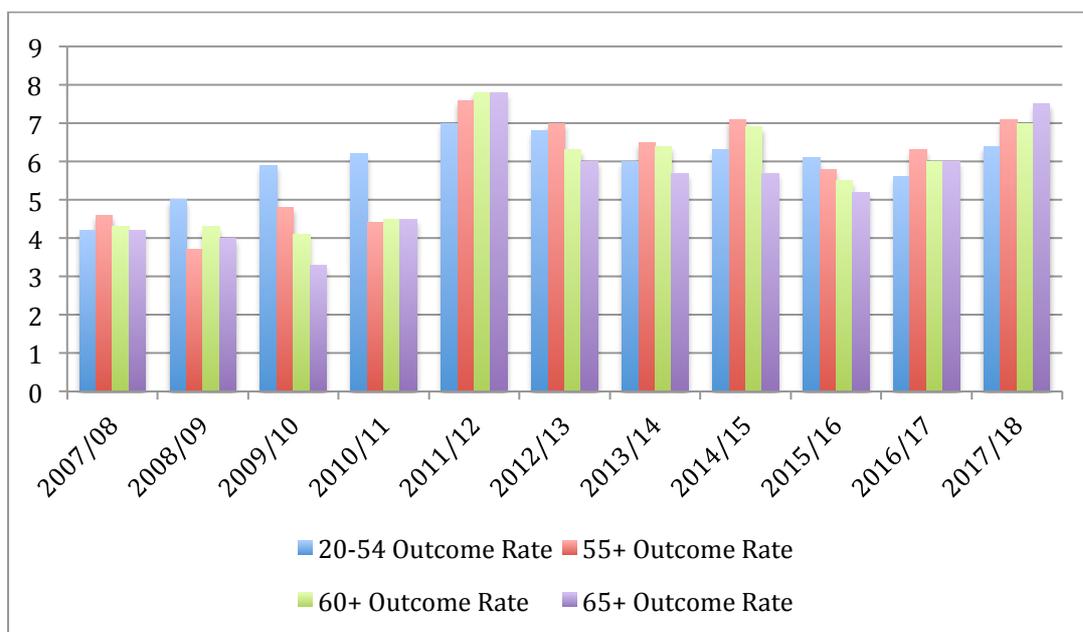
**Table 3.8 Outcomes Rates for Criminal Damage by Age of Complainant (2007/08-2017/18)**

<sup>8</sup> Independent student t-tests were run. Statistically significant differences were found between 20-54 and 60+ and 65+ ( $p < 0.0005$ ) and the 55+ ( $p = 0.002$ ).

## All Other Theft Offences

The 'all other theft' category includes other forms of theft not yet covered in the categories above. It includes theft from the person including directly from the victim, but without the use of physical force against the victim, or the threat of it (so not including robbery). It does not include fraud. In 2017/18 there were 1,419 recorded cases of 'all other theft' offences involving complainants aged 60+. The number of recorded incidences within this category in 2017/18 involving those aged 60+ was the lowest recorded since 2010/11 (when 1,387 offences were recorded). For 2017/18 the rate of recorded cases of all other thefts for those aged 60-64 and 65+ was 4 per 1,000 and 3 per 1,000 of the population respectively, this compares with a figure for all ages of 5 per 1,000 of the population. 'All other theft offences' make up a higher proportion of recorded crimes for older people in comparison to other adults (in 2017/18 20-54 14%, 55+ 19%, 60+ 21% and 65+ 22%).

The overall outcome rate for 'all other theft offences' in 2017/18 was 6.5%. This category of offences consistently attracted the lowest outcome rate of all the categories across all ages. This may be to do with the nature of the offences which mean that in many cases it will be difficult to identify a suspect as they are unlikely to be known to the victim. When this is broken down by age a rate of 6.4% was reported for recorded crimes where the complainant was aged 20-54. This compares with a rate of 7.1% for those crimes in which the complainant was recorded as being aged 60+ and 7.5% for those aged 65+. The outcome rate was therefore higher for the 60+ (by 0.7 percentage points) and 65+ (1.1 percentage points) age groups for all other theft offences in 2017/18 in comparison to the 20-54 age category. In seven of the last eleven years the 65+ age group has had a lower crime outcome rate than the 20-54 age group for this offence category. The 60+ age group had a lower crime outcome rate than the 20-54 age group in five of the last eleven years and a higher one in six. Across the eleven years, as can be seen from Figure 3.7 and Table 3.9 this was the category of offences in which there appeared to be no consistent difference across the age categories. It should be borne in mind that the outcome rate for all age groups is low for this category of offence.



**Figure 3.7. Outcomes Rates for Other Theft Offences by Age of Complainant (2007/08-2017/18)**

Year	Outcome Rate 20-54 (%)	Outcome Rate 55+ (%)	Outcome Rate 60+ (%)	Outcome Rate 65+ (%)	Difference in Outcome Rate Between 20-54 and 60+	Difference in Outcome Rate Between 20-54 and 65+
2017/18	6.4	7.1	7.1	7.5	-0.7	-1.1
2016/17	5.6	6.4	6.1	6.0	-0.5	-0.4
2015/16	6.1	5.8	5.5	5.2	0.6	0.9
2014/15	6.3	7.1	7.0	5.7	-0.7	0.6
2013/14	6.0	6.5	6.4	5.7	-0.4	0.3
2012/13	6.8	7.0	6.3	6.0	0.5	0.8
2011/12	7.0	7.6	7.8	7.8	-0.8	-0.8
2010/11	6.2	4.4	4.5	4.5	1.7	1.7
2009/10	5.9	4.8	4.1	3.3	1.8	2.6
2008/09	5.0	3.7	4.3	4.0	0.7	1.0
2007/08	4.2	4.6	4.3	4.2	-0.1	0

**Table 3.9 Outcomes Rates for Other Theft Offences by Age of Complainant (2007/08-2017/18)**

### Violence without Injury (including Harassment)

The next category of crime is ‘violence without injury (including harassment) offences’ which covers a range of offences including threats to kill, harassment and assault without injury. In 2017/18 there were 1,052 recorded crimes of violence without injury (including

harassment) involving complainants aged 60+. This figure was the highest recorded in the eleven years of statistics analysed. This increase is in part due to changes in counting method impacting on the statistics in 2009/10 which increased the range of crimes falling into this category (PSNI, 2018b). However, subsequent to the changes the levels of recorded violence without injury incidents involving those aged 60+ has continued to increase with 2017/18 marking a high point in the last decade (an increase of 50% on the figures from five years previous (2012/13 529)). It is within the older age categories that the largest increases in police records on violence without injury have occurred in Northern Ireland.

For 2017/18, the rate of recorded cases of violence without injury for those aged 60-64 was 4 per 1,000 of the population and for those aged 65+ it was 2 per 1,000 of the population. This figure compares with 10 per 1,000 for all age groups. Violence without injury offences make up a smaller proportion of recorded crimes for older people in comparison to other adults (in 2017/18 20-54 26%, 55+ 18%, 60+ 15% and 65+ 14%).<sup>9</sup> Given that the number of recorded incidents amongst the population is growing for this category of offences and falling in most other categories it means that violence without injury is making up an increasing proportion of recorded crime for complainants including older people.

The overall outcome rate for violence without injury offences in 2017/18 was 20.1%. When this is broken down by age a rate of 22% was reported for recorded crimes where the complainant was aged 20-54. This compares with a rate of 20.2% for those crimes in which the complainant was recorded as being aged 60+ and a rate of 19.1% recorded for those aged 65+. The outcome rate was therefore lower for the 60+ (by 1.7 percentage points) and 65+ (by 2.8 percentage points) age groups for violence with no injury offences in 2017/18 in comparison to the 20-54 age category. In ten of the last eleven years the 65+ age group has had a lower crime outcome rate than the 20-54 age group for this offence category. The 60+ age group had a lower crime outcome rate than the 20-54 age group in nine of the last eleven years.

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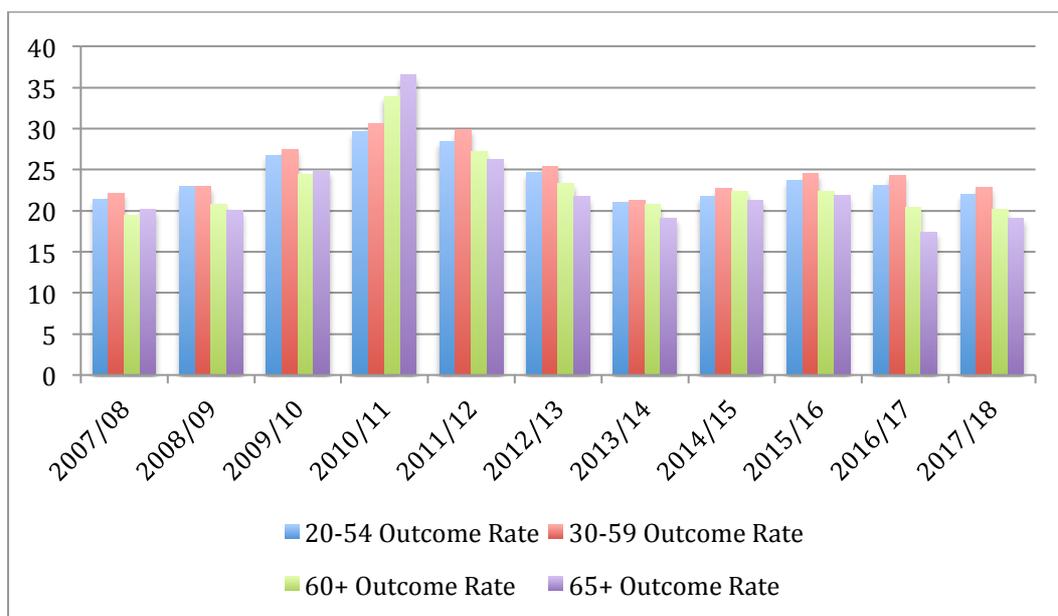
<sup>9</sup> Excluding Fraud offences.

In the eleven years of data the 20-24 and 25-29 age brackets had on average the lowest adult crime outcome rates in this category presumably because they are the age bracket more likely to be at risk of random acts of violence due to riskier life-style factors (e.g. socialising at night in places where alcohol is consumed). However, the 60-64 and 65+ age categories had the next lowest average outcome rates for this category, therefore lower than for the age brackets falling within the 30-59 age ranges. Taking the eleven years as a whole we can say that for recorded crimes of violence without injury where the complainant was aged 60+ or 65+ there is a clearly observable pattern (see Figure 3.8 and Table 3.11) of there being a lower crime outcome rate than those cases where the complainant was aged 30-59.<sup>10</sup> This means that there is an observable pattern of older people having a reduced likelihood of having their cases result in a sanction outcome in contrast to other adults (aged 30-59) in cases where they report being a victim of a violent crime not involving injury.

Year	Outcome Rate 20-54 (%)	Outcome Rate 30-59 (%)	Outcome Rate 60+ (%)	Outcome Rate 65+ (%)	Difference in Outcome Rate Between 30-59 and 60+	Difference in Outcome Rate Between 30-59 and 65+
2017/18	21.9	22.8	20.2	19.1	2.6	3.7
2016/17	23.2	24.3	20.4	17.4	3.9	6.9
2015/16	23.7	24.5	22.3	21.8	2.2	2.7
2014/15	21.7	22.7	22.4	21.3	0.3	1.4
2013/14	21.0	21.2	20.8	19.1	0.4	2.1
2012/13	24.6	25.4	23.3	21.7	2.1	3.7
2011/12	28.4	29.9	27.2	26.2	2.7	3.7
2010/11	29.6	30.6	33.9	36.5	-3.3	-5.9
2009/10	26.7	27.5	24.4	24.8	3.1	2.7
2008/09	22.9	22.9	20.8	20.0	2.1	2.9
2007/08	21.4	22.1	19.4	20.1	2.7	2.0

**Table 3.10 Outcomes Rates for Violence without Injury Offences by Age of Complainant (2007/08-2017/18)**

<sup>10</sup> The difference between the age categories is not statistically significant over the eleven years, but this is in part due to the skew effect of the figures for 2010/11 which are unrepresentative for the other 10 years in the sample.



**Figure 3.8 Outcomes Rates for Violence without Injury Offences by Age of Complainant (2007/08-2017/18)**

### Violence with Injury

The next category crime is violence with injury offences which covers a range of offences including homicide, attempted murder, death or serious injury by driving offences, grievous bodily harm offences, and actual bodily harm. In 2017/18 there were 543 recorded crimes of violence with injury involving complainants aged 60+. The number of recorded incidents of violence with injury involving those aged 60+ is 97% higher than in 2007/08 when 275 incidents were recorded. 2017/18 recorded the highest number of violence with injury offences against complainants aged 60+ in the last eleven years. This increase is in part due to changes in counting method impacting on the statistics over the years which have increased the range of crimes falling into this category (PSNI, 2018b). However, subsequent to the changes the levels of recorded violence with injury incidents involving those aged 60+ has continued to increase. It is in the older age categories that the largest percentage increases in police records on violence with injury have occurred in Northern Ireland over the last eleven years. Indeed many of the younger age categories have recorded drops in this crime category over this period.

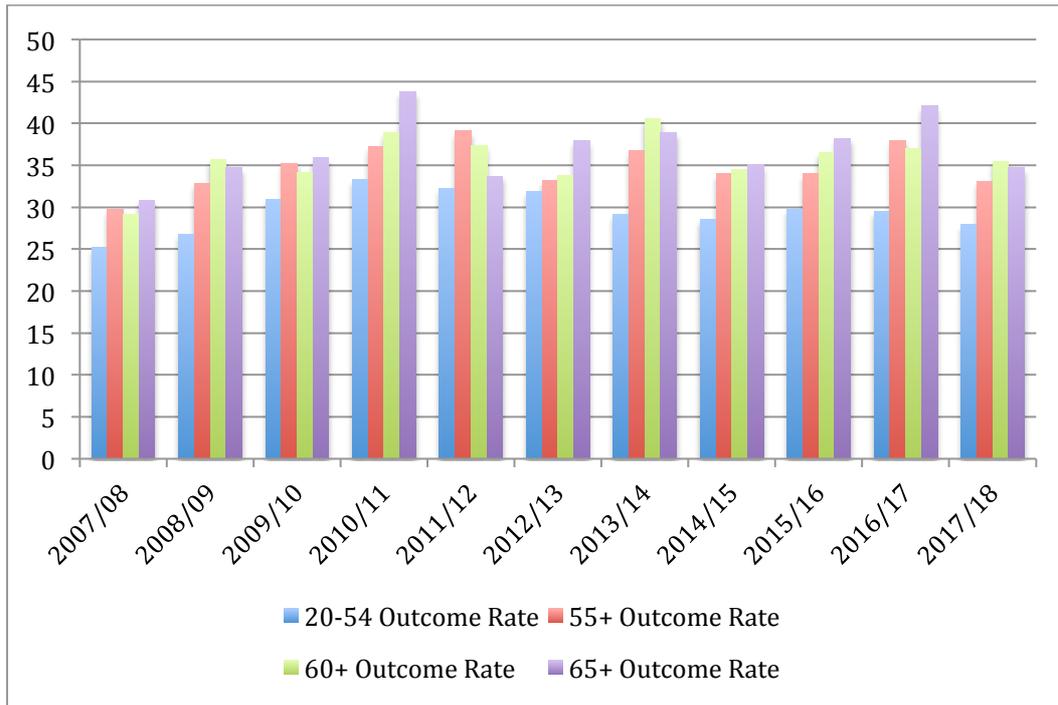
For 2017/18 the rate of recorded cases of violence with injury for those aged 60-64 was 2 per 1,000 of the population and for those aged 65+ it was 1 per 1,000 of the population. This figure compares with 7 per 1,000 for all age groups. Violence with injury offences make up a significantly smaller proportion of recorded crimes<sup>11</sup> for older people in comparison to other adults (in 2017/18 20-54 20%, 55+ 9%, 60+ 8% and 65+ 7%). Given that the number of recorded incidents amongst the older population is growing for this category of offences and falling in most other categories it means that violence with injury, as with the violence without injury category is making up an increasing proportion of recorded crime for this age demographic.

The overall outcome rate for violence injury offences in 2017/18 was 27.6%. When this is broken down by age a rate of 27.9% was reported for recorded crimes where the complainant was aged 20-54. This compares with a rate of 35.5% for those crimes in which the complainant was recorded as being aged 60+ and a rate of 34.7% recorded for those aged 65+. The outcome rate was therefore higher for the 60+ (by 7.6 percentage points) and 65+ (by 6.8 percentage points) age groups for violence with injury offences in 2017/18 in comparison to the 20-54 age category. Throughout the last eleven years the 60+ and 65+ age group has had a higher crime outcome rate than the 20-54 age group for this offence category (Figure 3.9 and Table 3.11). In the eleven years of data the 65+ age category has had the highest average outcome rate of all age categories. Taking the eleven years as a whole we can say that those aged 55+, 60+ and aged 65+ have been statistically more likely to have their cases result in a sanction outcome than those aged 20-54.<sup>12</sup> Violence with injury is therefore the only category of crime showing a clear pattern of outcome rate increasing with age of the complainant.

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<sup>11</sup> Excluding fraud offences.

<sup>12</sup> Due to the presence of outliers, pairwise comparisons were performed using Dunn's (1964) procedure with a Bonferroni correction for multiple comparisons. Adjusted p-values are presented. This post hoc analysis revealed statistically significant differences in outcome rate between the 20-54 and 65+ groups  $p < 0.0005$ ; 20-54 and 60+  $p = 0.001$ ; 20-54 and 55+ ( $p = 0.017$ ).



**Figure 3.9. Outcomes Rates for Violence with Injury Offences by Age of Complainant (2007/08-2017/18)**

Year	Outcome Rate 20-54 (%)	Outcome Rate 55+ (%)	Outcome Rate 60+ (%)	Outcome Rate 65+ (%)	Difference in Outcome Rate Between 20-54 and 60+	Difference in Outcome Rate Between 20-54 and 65+
2017/18	27.9	33.1	35.5	34.7	-7.6	-6.8
2016/17	29.6	38.0	37.0	42.1	-7.4	-12.5
2015/16	29.9	34.0	36.5	38.2	-6.6	-8.3
2014/15	28.6	34.0	34.5	35.1	-5.9	-6.5
2013/14	29.2	36.8	40.6	38.9	-11.4	-9.7
2012/13	31.9	33.2	33.8	38.0	-1.9	-6.1
2011/12	32.3	39.1	37.4	33.7	-5.1	-1.4
2010/11	33.3	37.2	38.9	43.8	-5.6	-10.5
2009/10	30.9	35.2	34.2	35.9	-3.3	-5.0
2008/09	26.8	32.8	35.7	34.7	-8.9	-7.9
2007/08	25.2	29.8	29.1	30.8	-3.9	-5.6

**Table 3.11 Outcomes Rates for Violence with Injury Offences by Age of Complainant (2007/08-2017/18)**

## Other Offence Categories

Other less frequently reported categories of crime, namely robbery and sexual offences, recorded insufficient numbers of crimes and outcomes to make any meaningful assessment of differences in outcome rate by age of complainant. No data by age and outcome rate is available for offences of fraud.

## Summary

This analysis of the PSNI statistics therefore illustrates that older people in Northern Ireland are less likely to be a victim of crime than other adult age groups. When they do report crimes they are disproportionately more likely to be crimes against their property rather than their person in comparison to younger age groups, although recorded crimes of violence are rising for the older age categories.

Statistics from the last eleven years and across all policing districts of Northern Ireland show that crimes committed against older people are on average less likely to have a successful police outcome than crimes committed against other adults. This is driven predominately by differences in outcome rates in offence categories that target property including burglary, criminal damage and vehicular theft. The category of violence with no injury also shows a pattern of a lower crime outcome rate for older complainants in comparison to other adults. The relatively uncommon violence with injury category is the only one showing a clear pattern of outcome rate increasing with age of the complainant. A consistent pattern of a lower crime outcome for older people for common offence categories is a cause for concern as it means older victims are less likely to obtain procedural justice in Northern Ireland than other age groups.

## Exploring Reasons Why Outcome Rates are Lower For Older People

It is of concern that crime outcome rates are consistently lower for older complainants for some of the most common offence categories. During the course of the research study,

possible explanations for these differences were examined. The findings suggest that there is no one reason for the differences, but instead there are a number of contributory factors. From the outset of this discussion it is important to note that the research study did not find evidence of any policies or practices that discriminated deliberately against older people. After identifying some of the key reasons for lower outcome rates subsequent chapters examine measures that can be undertaken to improve this situation.

### **Heightened Vulnerability and Reduced Resilience to Crime in the Older Population**

As discussed in the previous chapter, the older population is more vulnerable to the risks of secondary victimisation where victims suffer stress or trauma when they participate in the justice system. Such stress can be caused by the proceedings themselves or by the risk of further (re-)victimisation. Findings from the interviews and focus groups with practitioners identified that older people are more likely to be reluctant or unable to participate fully in the justice system due to their increased vulnerability without additional support measures being put in place. As discussed in the previous chapter the older population has higher levels of vulnerability to crime with lower levels of resilience to deal with the trauma that being a victim of crime can bring and the subsequent stress of engaging with the justice system. To reemphasise the points made in the previous chapter, this is not to say that all older people are vulnerable or that all older people lack the ability to cope or recover from being a victim of crime or to participate in the justice system. Rather as people age they are more likely to have issues with their physical or mental health and to have situational circumstances (including living alone, the lack of a support network, limited financial means) that make it more difficult to recover from traumatic events and put themselves through further stressful situations such as giving evidence to the police or to a court without additional support.

The statistics on crime outcome rate for 'violence with injury' challenges the hypothesis of resilience playing a central role in the lower crime outcome rate for older people. One would expect crimes involving physical harm to have a greater traumatic impact on the victim, yet the crime outcome rate is higher for older victims in this offence category than

younger adults. It is hypothesised here the reason for this difference is due to lower resilience levels being off-set because in cases of violent harm victims are more likely to receive additional support (discussed later) as they journey through the justice system. This provides evidence that higher levels of vulnerability and lower resilience levels do not necessarily have to result in lower crime outcome rates for the older population if appropriate support is provided.

### Heightened Reluctance or Reticence on the Part of Older Victims of Crime to Engage with the Justice System

Related to the issues of resilience, a theme that emerged from the data was that older complainants are more likely to be apprehensive about participating in the criminal justice system past the initial stage of reporting a crime to the police. This apprehension does not necessarily mean that older people have less confidence in the criminal justice system than other groups within society. Indeed findings from the Northern Ireland Crime Survey (Rice and Campbell, 2018) show that older people have some of the highest levels of confidence in the justice system in Northern Ireland.<sup>13</sup> Rather what the findings indicate is that practitioners report a reluctance among some older people to pursue a criminal complaint through the justice system even where there is evidence available that would allow this to happen. There are a number of reasons why this may be the case.

One of the reasons for an increased reluctance is fear of having to give evidence in court. This was identified particularly by the PSNI officers who participated in the research:

A lot of victims are very concerned about giving evidence in court, having to face the person again that has possibly either assaulted them or robbed from them. So that would be a huge concern for older people, because they've maybe never been through the process before. It may be the first time they've become a victim of a crime. So it's the thought of actually having to go to court, give evidence and have to look at this person again. **PSNI Focus Group Participant**

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<sup>13</sup> Although it should be noted that in the Northern Ireland Crime Survey a minority of older respondents thought the criminal justice system to be effective.

A couple of weeks ago I went to a shed fire. Some kids had gone in and set the shed on fire which was next to the house. Took a statement and when we said, 'Would you be willing to go to court?' 'Ooh, no. We just want it reported. I'm not going to go to court.' There was no chance of us getting anyone unless they admitted it but she was just, 'No. Not going to court. She wanted it reported and wanted it recorded but she didn't want to go to court.'

***PSNI Focus Group Participant***

This fear of pursuing the case and giving evidence in court can be exacerbated by the circumstances of the case. Older people are more likely to be a victim of a crime where they know the culprits because the culprit is a family member, neighbour or carer:

A lot of these older people don't want to go to court. They don't want to go. They just want it to stop. Whether it's physical abuse, financial abuse, they just want it to stop. There are so many people being targeted by their own family. They're never going to take their own family to court. ***PSNI Focus Group Participant***

One point we need to remember is it's not just the getting to court and whether we get the prosecution or not a prosecution. These people have to live with it afterwards. So if you're taking somebody, whether it's a family member, whether it's a neighbour, and whether they're found guilty or not, once the court case finishes they walk out of court, they have to go back to their lives and live either with these members of the public or members of family, and that's very daunting for people who are feeling vulnerable and victimised anyway. It's not just whether we actually get something reported, it's what happens after.

***PSNI Focus Group Participant***

Even where the older person may not have a personal relationship with the culprit, there will be cases where culprits know where they live. This is particularly pertinent in the case of domestic burglaries including distraction burglaries, but it also applies to reports of criminal damage where it is the property of the older person that is targeted:

You're having to go in a courtroom with Joe Bloggs. They now know where you live. Whether it's been a burglary or something like that. People don't want to get involved. They don't want to face them. ***PSNI Focus Group Participant***

Say I was a victim of burglary in my house, and you were caught for it, you're standing in court, you still burgled my house, you still know where I live, unless I've moved on, come the end of court how do I know you're not going to come back round my house? So, again, it's not just about the court. It's the fear of what will happen, reprisals, your friends, your family coming back because I've got you in prison. It's just thoughts about that. I don't know how we get over that. **PSNI Focus Group Participant**

Police reported that in their experience there is a greater tendency among older people to delay reporting certain types of crime to the authorities, either because the victim does not immediately realise that they have been the victim of a crime or because when they do they are either too embarrassed to report it to the police:

[A] delay. If you have somebody in your house saying, 'I'm here to read the meter,' and it's maybe a week later that you realise your purse is missing. **PSNI Focus Group Participant**

I find a lot when you're dealing with the distraction burglaries they get extremely embarrassed. They believe they're foolish, and even to admit to police that they're foolish, never mind members of their family. They really don't even want to tell you the truth or the whole picture because of the embarrassment, and the way they are being deceived. **PSNI Focus Group Participant**

[A] lot of the time they take time to ponder over it, to see whether or not they share it with someone first, and then tell police. **PSNI Focus Group Participant**

Even if fear or embarrassment did not appear to be a motivating factor sometimes older people did not wish the case to be taken further because of a fear of 'being a burden' on the authorities or family members who were involved in helping to report the crime:

'We don't want to bother them.' ...He had thousands of pounds worth of stuff stolen. 'Sure enough I'm not going to get it back so I don't want to hassle you.' So they don't think it's important enough, or, 'Realistically what's going to happen so we're just not going to go ahead with it.'... Don't want anything done about it. There was no way you were going to get an outcome for that. **PSNI Focus Group Participant**

## Evidential Issues

A theme that emerged as a partial explanation for the lower outcome rates for crimes involving older victims, is such cases tend to have a disproportionate amount of evidential complications. There cannot be a police sanction outcome without an identified suspect. Furthermore, to achieve a police sanction outcome, unless a suspect is willing to admit their guilt and accept a caution or alternative disposal, a police officer needs to be satisfied of a reasonable prospect of conviction prior to charging or the issuance of a summons (College of Policing, 2017). To obtain a conviction, unless there is a guilty plea, a court must be convinced beyond reasonable doubt that the defendant committed the crime.

Practitioners identified a number of issues that can make gathering sufficient evidence more difficult in cases involving older victims. As people age they are more likely to have issues with sensory impairment and communication difficulties as well as deficiencies in memory recall. This means older victims are more prone to have difficulty providing witness testimony that would be of a standard to satisfy the evidential thresholds of the criminal justice system. Additional support mechanisms such as video testimony recorded at the time of the incident or the use of intermediaries to aid with communication have been proven to assist in such cases, but, as will be discussed, too often these measures are not being utilised (Cooper and Wurtzel, 2014).

A number of practitioners spoke of how, in their experience, some offenders target older people because they might have difficulty providing admissible evidence. Older people themselves also expressed concerns about offenders targeting vulnerable members of their age group. One example of a category of crime that involves targeting older people is distraction burglaries, during which the occupier of the house is deceived into letting the culprit into their home or property to commit acts of theft (Lister and Wall, 2006; Elliston, 2002). Practitioners mentioned this type of crime as one in which it is difficult to gather sufficient evidence in order to identify suspects and prosecute. This is because of a lack of forensic evidence and the fact that culprits sometimes operate in organised gangs targeting older people in a particular neighbourhood before moving elsewhere.

PSNI officers in their experience reported that a further complication can be a delay between the crime being committed and the older person reporting it. For crimes involving elder abuse, the victim may not realise for some time their trust is being abused and when they do, they may find it difficult to report the culprit. If the abuse has been going on for some time when the crime is reported, it can be difficult to establish when a trusting relationship turned into an abusive one. PSNI officers also reported older victims are less likely to be forthcoming with information because they are fearful of reprisals, or are embarrassed or ashamed about the circumstances of the offence in cases involving breaches of trust or deception.

I find a lot when you're dealing with the distraction burglaries they get extremely embarrassed. They believe they're foolish, and even to admit to police that they're foolish, never mind members of their family. They really don't even want to tell you the truth or the whole picture because of the embarrassment, and the way they are being deceived. **PSNI Focus Group Participant**

The added complications that can be encountered in gathering evidence in cases involving older people means practitioners may decide such cases are too difficult to proceed with. This then has a disproportionate impact on an older victim's ability to gain access to justice, as was identified by a Victim Support Officer.

It'll be the elderly person that suffers at the end of the day. They've gone through this trauma; they've had this burglary, they've had this criminal damage, they did the right thing, reported it to the police, given their statements and all of a sudden somebody's saying, 'We don't think you'll make a good witness so therefore we're not going to prosecute.' **Victim Support Practitioner**

There is a risk that ageist prejudice amongst the police and prosecution service is influencing decisions on the strength of evidence of cases involving older people. For example, a decision-maker may view older people as inherently less reliable witnesses. Whilst there is to date no evidence to confirm the prevalence of such views in the justice system, research has found supposedly evidence-based decision-making by professionals in health and social

care is often influenced by such prejudices (Ben-Harush et al., 2017; Hanson, 2014; Swift et al., 2016).

### **Failures in the Identification and Support of Vulnerable Older Victims of Crime**

A key theme that emerged from the qualitative aspect of this research study, supported by the quantitative data, is older victims of crime in need of additional support are not always being correctly identified as vulnerable or intimidated. The ability to recognise and respond to vulnerability is a well-documented failing of the criminal justice system in Northern Ireland (Criminal Justice Inspection Northern Ireland, 2006, 2012, 2015). The Criminal Justice Inspectorate of Northern Ireland (2012; 2015) has spoken of a 'hierarchy of identification' of vulnerability that resonates with Burton et al.'s (2006) concept of a hierarchy of victims. Child witnesses and victims of sexual offences are more likely to be identified as being vulnerable compared to adult victims of other crimes. A Home Office study conducted in England and Wales in 2006 identified 24% of witnesses as being either vulnerable or intimidated in contrast to the 3–6% identified as such by the criminal justice system at that time (Burton et al., 2006). In 2012, the Inspectorate reported in their opinion in Northern Ireland fewer than half of all those who were vulnerable and intimidated were actually being correctly identified as such. In August 2016, a report by Her Majesty's Inspectorate of Constabulary (HMIC, 2016) reported in the year to March 2015 that the PSNI flagged 2% of its cases as having a vulnerable victim. This contrasted with 10.7% in England and Wales (HMIC, 2016). Such a large discrepancy provides evidence that there are significant problems in the identification of vulnerable and intimidated adults victims of crime in Northern Ireland. If vulnerabilities are not identified then victims are not receiving the support that they need to reduce secondary victimisation and to allow them to engage fully with the justice system.

### **Delays in the Criminal Justice System of Northern Ireland**

A further problem that was identified during the course of the research was the length of time the criminal justice system takes to process cases. Criminal cases in Northern Ireland

take on average significantly longer to reach a trial and onwards to a court-sanctioned outcome than comparable jurisdictions. A series of reports by the Inspectorate for Criminal Justice in Northern Ireland have identified systemic problems with the length of time it takes for cases to reach court and ultimately a court stage outcome. A report published in 2006 (p. vii) by the Inspectorate found that 'despite the best efforts of many working in the criminal justice agencies, delays in the Northern Ireland criminal justice system have become excessive.' A subsequent report published in 2010 (p.v) found that 'despite the major efforts to address the problem of avoidable delay since the previous inspection report in 2006, these initiatives have made a relatively limited impact. The length of time it takes the justice system to process individuals through to disposal by a court is too long.' Following the issuing of a progress report in 2012 (p. iv) the then Chief Inspector of Criminal Justice in Northern stated 'While considerable effort has been made to redress the problem, progress has been slow and indeed performance has got worse for Crown Court cases and for Magistrates' Court cases which commence through report and summons.'

In the most recent inspectorate report published in 2015 whilst progress was identified in some areas, concerns over continuing systemic problems leading to avoidable delays were again raised. These delays are not the fault of any one agency although the recent report from the Inspectorate found particular problems with the standard of files being sent from the PSNI to the PPS and a lack of sufficient partnership working between the PSNI and PPS. Problems with delays and the uncertainty they bring can be distressing for older victims of crime:

It also depends too on the length of time it does take a case to come to court. After the incident has actually occurred you might, as the investigating officer, have a lot of stuff to do in-between times before you actually put a case file through to the PPS, and then for [the victim] to sit and mull over for whatever length of time it takes them to determine whether there's enough evidence there, to bump it back to you to see that they've made more evidence for you, then they bump it back to them. As I say, that one I'm dealing with, which was an armed robbery of a 72-year-old male, it was September 2014 and it still hasn't got to court yet. By that stage then that person may have actually got over it, and such has forgotten about it, moved on with their life, like anybody would do maybe

thinking, 'Right, well, it's two years down the line now, I've come to terms with it.' To then suddenly two years down the line or whatever get a letter in the post to say, 'You're now required to attend court.' *PSNI Focus Group Participant*

Furthermore, there is a heightened risk with older people that due to age the longer the delays the greater the risk there will be deterioration in mental or physical health, particularly in relation to memory recall.

### Comparing Northern Ireland with other Jurisdictions

Comparative studies were sought to explore whether or not the statistical results on crime outcome rates and age found in Northern Ireland are replicated elsewhere or are an anomaly. Police forces in England and Wales operate under a similar criminal justice system and also use the concept of crime outcome rates, so a comparison with it and Northern Ireland would have particular value (Home Office, 2019). However, in personal communications (9 March 2016) with the Home Office it was confirmed that in England and Wales police forces do not record in a systematic manner the age of the complainant, meaning they are unable to break down crime outcome rate data by the age of the victim. In Scotland, statistical publications refer to 'crime clear-up' rates rather than outcome rates (Scottish Government, 2017). These are similar though not identical measures, but as in England and Wales the Scottish authorities are currently unable to break down their data by age of the victim (personal communication, 18 February 2016). In the Republic of Ireland, statistics on 'detection rates' are published (Central Statistics Office, 2016b). These data are not broken down by any characteristic of the victim. There is therefore no current way of knowing whether the outcome rate patterns found in Northern Ireland are also present in comparable jurisdictions on these islands. Indeed, no outcome/clear-up/detection rate data by age of the victim was found for any common law jurisdiction across the world. Given the similarities between the justice system of Northern Ireland and other common law jurisdictions, it is a plausible hypothesis that similar issues with age and outcome/detection/clear-up rate may exist. Given the implications for older victims of

crime, research in other jurisdictions to establish if this is indeed the case would be valuable.

## Conclusions and Recommendations

Older people expressed a range of levels of satisfaction with the investigation stage. In part their views depended on whether the investigation led to the successful identification and sanctioning of the culprit/s as well as their perceived view of the manner in which the police officers they came into contact with handled their case. In this respect older people are no different to the population as a whole. There were though a number of themes that emerged from the interviews and focus groups with older people and practitioners that are more specific to their demographic. This includes the heightened trauma that older people can experience from the investigation process. It also includes the important role that relatives play in supporting more vulnerable older people during the investigation stage. As discussed in the previous chapter, having a support network becomes increasingly important as we age, but is also something that older people are less likely to have access to. The continuing impact of the fear of paramilitary intimidation on reducing willingness to engage with the investigation process among some older victims was another theme that emerged from the research.

An analysis of PSNI statistics over eleven years finds that the sanction outcome rate for those aged 60+ is consistently and statistically significantly lower than for the general adult population. This applies across all of the policing districts of Northern Ireland. This is driven by differences across the majority of categories of crime. The categories of crime where those aged 60+ have on average lower sanction outcomes in comparison to adults aged 20-54 are burglary, criminal damage, vehicular theft and violence without injury offences. Only in one recorded category, violence with injury including homicide is a higher sanction outcome rate recorded for crimes against those aged 60+ in contrast to younger adults. These statistics are concerning as they provide evidence that older victims of crime are less likely to achieve procedural justice than other adults.

There are a number of factors that appear to be contributing to lower crime outcome rates for older victims in comparison to younger adults. This includes heightened levels of vulnerability and lower resilience to the trauma of being a victim of crime amongst the older population making it more difficult to deal with the trauma that secondary victimisation through participation in the justice system can bring. The long reported failings of the criminal justice system of Northern Ireland in identifying vulnerability and providing adequate support to vulnerable and/or intimidated adults disproportionately impacts on older victims. Whilst not all older people are vulnerable or need additional support journeying through the justice system, the older population has higher rates of vulnerability due to higher levels of mental and physical ill-health, higher rates of living alone and increased likelihood of a lack of a support network. Another factor is the modus operandi of crimes that deliberately target older people including elder abuse and distraction burglaries that make it difficult to gather sufficient evidence to prosecute. The research findings suggest that older people are also more likely to be reluctant to want to pursue a report through to prosecution because of fear of the experience of giving evidence in court and/or the risk of reprisals for doing so. The fact that the crimes that older people report are often either crimes where the perpetrator knows them (e.g. breaches of relationships of trust) or knows where they live (distraction burglaries or criminal damage of property) means that fear of repercussions of pursuing a case are understandable. Another recognised shortcoming of the justice system of Northern Ireland is delays in the processing of cases. Such delays disproportionately impact on older and vulnerable victims of crime.

The Home Office Counting Rules for Recorded Crime (2019) states that 'England and Wales have the best crime recording system in the world', which is 'consistently applied', 'delivers accurate statistics' which both the 'public' and 'victims' trust. The Home Office documentation states that accuracy and consistency are at the heart of the approach, along with ensuring that national crime recording takes 'a victim orientated approach' (Home Office, 2015). The outcome framework in Northern Ireland, England and Wales is designed to be more transparent and victim orientated than the detection framework it replaced. The inclusion of discretionary disposals and increased details on why recorded crimes did not result in a formal sanction are to be welcomed. The Northern Irish data provides information on outcome rates by age and gender of the complainant which the English and

Welsh data return does not currently include. The outcome framework appears on the face of it to provide scope for greater transparency than the frameworks adopted in Scotland and the Republic of Ireland. However, the new outcome framework is still relatively new, especially in Northern Ireland. The success of the framework from a statistical point of view will depend largely on the ability of the PSNI to ensure outcomes are recorded correctly. The PSNI has in place a quality assurance regime which should assist with this. As the concept of crime outcomes is new there is a risk that practitioners or the general public will not readily understand it. The new terminology whilst arguably more accurate than what preceded it still has the potential to confuse or mislead. It is recommended that the PSNI give consideration to publishing information about crime outcomes on its website and other relevant media in a user-friendly accessible manner.

#### RECOMMENDATIONS:

- That the PSNI continue to publish statistics on levels of recorded crime and outcome rate by age of the complainant. These statistics should be published in accessible formats.
- That the Northern Ireland Policing Board consider re-introducing specific outcome rate targets for crimes in which complainants are aged 60+.

## **Chapter Four Older Victims and the Public Prosecution Service for Northern Ireland**

The Public Prosecution Service of Northern Ireland was established in 2005. The aim of the service is to provide the people of Northern Ireland with an independent, fair and effective prosecution service. The service is independent of both the PSNI and the Government. In 2017/18, the PPS received a total of 1,493 files involving a victim aged 60 or over; in 2016/17 the figure was 1,577. The PPS review case files sent to them by the PSNI and decide whether there is sufficient evidence and public interest to prosecute. If the PPS believes there is insufficient evidence they may ask the PSNI to attempt to gather further evidence. For many common crimes the PPS also have a role in deciding upon the venue for prosecution, either the Magistrates' or Crown Court. If a decision is taken to prosecute it will be up to the PPS to decide whether to apply to the court for special measure to be put in place to support victims and witnesses in giving evidence. This chapter examines the role of the prosecution service in cases involving older victims of crime, exploring statistics, findings from interviews and policy documentation. It also makes a number of recommendations for reform.

For a case to reach the PPS, the PSNI (or in a minority of cases another investigative agency) must have referred it on to them. The discrepancy in police outcome rates by age of victim identified in the previous chapter mean that older victims are less likely to have a recorded crime reach the prosecution stage than other adults. Any further discrepancies by age of victim at the prosecution stage would therefore compound the problem found at the investigative stage. Even if there were no further discrepancies in outcome by age of victim at the prosecution stage this would not compensate for the lower crime outcome rate at the investigative stage as those cases not referred to the PPS will never reach that stage.

It is also important to note that the policy and practice of the PPS impacts indirectly on the police outcome rates. This is because the PSNI naturally take into consideration prosecution policy when deciding whether or not to refer a case to the PPS, the strength of evidence required to do so and the charges to bring. Furthermore, when it comes to identification of

vulnerability and special measures to support a vulnerable victim or witness, the PSNI will be aware that whatever recommendations they make it will ultimately be for the prosecutor to make the application to the court.

The PPS publish annual statistics which explore the key decisions prosecutors make in handling the cases that come before them. To date, this has not included statistics broken down by the age of the complainant because of PPS concerns with the reliability of the data. However, following a request from the authors of this research report, the prosecution service agreed to provide such data. The statistics come with a number of important caveats which will be discussed towards the end of this chapter. However this chapter includes for the first time a tentative analysis of the statistics by age focusing on whether the statistics highlight any differences in case handling for complainants aged 60+ in comparison to the general complainant population.

This chapter is also informed by interviews conducted with staff from the PPS in Northern Ireland. In depth interviews were conducted with eight staff working for the prosecution service, two of whom were based in the Victims and Witnesses Care Unit. The staff interviewed had a range of roles and had experiences covering different localities in Northern Ireland.

### **PPS Policy and Procedure Documentation and Older People as Victims and Witnesses**

A number of policy documents guide the work of the PPS. The most important of these is the Code of Practice for Prosecutors which includes a Code of Ethics (PPS, 2016). This document is issued by the Director of Public Prosecutions for Northern Ireland (under the statutory duty placed on him by section 37 of the Justice (Northern Ireland) Act 2002). The purpose of the Codes of Practice is to give guidance on the general principles to be applied in deciding in any case whether to prosecute, what charges to bring and how any prosecution should be conducted. The code serves the dual purpose of providing a code for prosecutors and informing the public of the how prosecutors make their decisions and the

standards of conduct expected from prosecutors. The current code came into operation on 1<sup>st</sup> July 2016, replacing a code that dated back to 2008 (PPS, 2016).

Another important document is the PPS Victims and Witnesses Policy (PPS, 2017). The purpose of the policy is as follows:

to explain the standards of service that victims and witnesses can expect from the Public Prosecution Service (PPS). The PPS recognises that the provision of services and support for victims and witnesses, and ensuring their needs are met, is essential to the overall effectiveness of the criminal justice system (PPS, 2017: 3)

No direct reference to the needs of older persons is included in the document. During the consultation on the adoption of the 2017 policy, the Commissioner for Older People for Northern Ireland recommended that explicit reference be made to the needs of older people in the documentation. This was rejected by the PPS on the basis that 'The PPS Victim and Witness Policy is a standalone policy that is deliberately silent on specific case type / victim categorisation to ensure ease of reference for all users.'<sup>14</sup> In contrast the needs of victims and witnesses under 18 are addressed in the policy. The Code for Prosecutors makes one direct reference to older people and that is in relation to elderly suspects with no reference made to older victims or witnesses. The lack of any direct reference to older people in PPS policy and procedure documentation should not be interpreted as a callous disregard or wilful neglect for the concerns of older victims of crime. Rather the lack of explicit reference to older people appears to be down to an intention within the organisation to promote equality by avoiding a 'hierarchy of victims':

We are very strong in our attempts to ensure that there's no hierarchy of victims as such and so we try to treat everybody the same but where there's a vulnerability identified we absolutely step in there to provide extra support. *PPS Prosecutor*

This view was accompanied by a desire to avoid labelling all older people who are victims or witnesses as vulnerable:

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<sup>14</sup><https://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Consultation/PPS%20Victim%20and%20Witness%20Policy%20-%20Summary%20of%20Consultation%20responses.pdf>

In relation to age you're talking more about potential vulnerability so we are I suppose quite careful that we don't automatically categorise somebody as potentially being vulnerable by just their age. *Representative from Victims and Witnesses Care Unit, PPS*

The need to avoid pigeonholing all people over a certain age as vulnerable was discussed in chapter two and in that regard the PPS are correct to be cautious about singling out older people for special attention. However, as was also discussed in chapter two, older people are more likely to be vulnerable to the effects of crime. There was recognition of this from PPS staff:

I think age isn't our issue, it's that there is a potentially a greater likelihood of [an older person] having a vulnerability. *PPS Prosecutor*

As discussed in chapters two and three, there are a range of factors that make the older population more vulnerable to crime and make it more difficult to participate in the justice system. As people age they are more likely to develop physical and mental impairments. There is also the additional social and familial vulnerabilities that older people are disproportionately more likely to face such as living alone, the lack of a support network and dependency on relatives or carers. The types of crime that older people are most likely to be victims of including burglary, crimes of deception, abuse of trust and criminal damage to private property, mean that it is common that the victim either has an existing relationship with the offender or the offender has knowledge of where the victim lives making the process of giving evidence potentially more intimidating. In light of these increased range of vulnerabilities amongst the older population there are significant risks in the PPS adopting an approach that verges on being age-blind in the same sense of being colour-blind when it comes to issues of race. Colour-blindness has been discredited as an approach for tackling racism, because, whilst it may come from a desire to avoid discrimination, it means that underlying racial inequalities are ignored rather than being acknowledged and tackled (Brown 2003; Richeson and Nussbaum, 2004). Ignoring such inequality further compounds disadvantage rather than reducing it. The same holds true for age-blindness. By failing to acknowledge from the outset the increased difficulties older victims are more likely to face

when engaging with the justice system, the PPS risk failing to provide appropriate support where it is needed.

The lack of explicit reference to older people in the PPS documentation stands in stark contrast to the approach of the Crown Prosecution Service (CPS) in England and Wales. The CPS publish a document which sets out the prosecution policy for prosecutors to follow in relation to crimes against older people (CPS, 2011a). There is also a lay-person friendly version of the documentation (CPS, 2011b). The CPS regard these as important documents and it is currently working with stakeholders on a revised and updated version of these documents which should be available later in 2019. In 2018 it consulted widely on the introduction of the new guidance.<sup>15</sup> The current guidance explains clearly the ways in which the CPS deals with crimes against older people and details how the body supports older people who are victims and witnesses of crime. The document asserts that the CPS wants ‘older people, their families, communities and the general public to be confident that the CPS understands the serious nature of crimes against older people’ (CPS, 2011a, Section 1.2). In identifying and making reference to core and ‘fundamental human rights’ for older persons such as the right to feel safe and secure and ‘to live free from the fear of crime’, the CPS acknowledges the negative impact crime can have on ‘older people’s health’, on their ‘sense of well-being’, as well as the longer-term consequences of isolation and the impact on their social and economic participation in their communities (CPS, 2011a, Section 1.2). The CPS document clearly outlines the agency’s commitment to ‘taking into account age equality issues into all... [of the] prosecution policies’ (CPS 2011a, Section 1.3). It positions the development of policies for prosecuting crimes against older people as one of its core commitments (CPS 2011a, Section 1.3).

The policy document was developed and formulated in consultation with older people and representatives from organisations working with older people, as well as academic input from those working in the discipline of gerontology (CPS 2011a, Section 1.6). Building upon the consultation process, the CPS recognised the need to treat each older person as an individual and acknowledge that the level of support and assistance required will vary from

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<sup>15</sup> <https://www.cps.gov.uk/consultation/public-consultation-crimes-against-older-people-policy-guidance>

individual to individual. By recognising 'the diversity in circumstances of older people', the document also makes the observation that 'many older people do not consider themselves to be frail, vulnerable or in need of support in any way' (CPS 2011a, Section 1.4) and must be treated 'above all... with dignity whatever their circumstances' (CPS, 2011a, Section 1.11).

The document outlines a number of support mechanisms for older people. One example is the assistance for older people who may need support to enable them to give evidence in court. The recognition of the need to ensure that older people have 'equal access to justice' is at the centre of the policy, which the CPS acknowledges is closely aligned or 'bound up with the status of older people and the regard in which they are held by society (CPS, Section 1.11).

The policy document notes that many older people are 'sometimes reluctant or unable to report' incidents of crime 'without support' (CPS, 2011a, Section 2.9). Further to this, the CPS guidance discusses situations whereby older persons may not report incidents to the police due to 'fear of repeat victimisation' or 'fears about continuing dependency on the perpetrator' or also 'fear of being removed from their own home' (CPS, 2011a, Section 2.9). This fear also extends to incidents which have been reported and the older person is 'reluctant to give evidence for fear of intimidation if the perpetrator is prosecuted' (CPS, 2011a, Section 2.9).

The guidance acknowledges that the presence of older people's either perceived vulnerability or actual vulnerability, alongside their potential 'unequal access to safety' can leave them as 'targets' (CPS, 2011a Section 3.3). The CPS policy document employs the following example of, 'an older man walking along a street may be robbed of his wallet because the suspect chose him because, on that basis, he was an 'easy' target' (CPS 2011a, Section 3.3). In discussing how the CPS would treat this case in light of the age of the victim, the policy outlines that there exists an 'aggravating element to the crime', as 'the suspect preyed on the older man due to his perceived age and visible frailty', which is clearly a factor that the CPS would choose to 'draw to the attention of the court' (CPS, 2011a, Section 3.3). Another significant element of the guidance is the description of crimes against older people

being viewed as 'serious' and prosecutions are therefore 'likely' to 'be needed in the public interest' (CPS, 2011a, Section 4.8).

It is evident in the content of the policy document that the CPS clearly present their treatment of cases involving older persons as distinct from other cases, with special consideration given to the approach, and ensuring equal access to justice. The interrelationship between the police and the CPS, particularly at the initial report stage is outlined as being key in firstly identifying the incident as 'a crime against an older people' and ensuring that this is communicated to the CPS by the police, for the purposes of informing the approach taken in handling the case and in monitoring performance (CPS 2011a, Section 6.1).

Beyond the initial reporting stage, the CPS's policy outlines several approaches and support mechanisms for older persons who are victims of crime:

- The CPS can, in protecting the older person from the risk of danger, threats or repeat offences, ask the court to impose bail conditions or ask for the defendant to be remanded in custody (Section 6.9).
- The CPS will work with a range of local service providers to ensure that older people receive the support they need. This can involve going beyond the criminal justice system, and can provide assistance to help older people, whether or not criminal proceedings do take place (Section 7.3).
- Tailored support will be identified during a needs assessment, which takes into consideration the specialist support an older witness may require in order to be able to 'give their best evidence' (Section 7). Examples of support include, assistance with transport to court; the use of accredited interpreters for hearing impaired witnesses and evidence via video link (Section 8.2).

The CPS's policy document outlines that the court will be informed of the older person's experience of the crime during the case, via the witness' evidence and also if they have

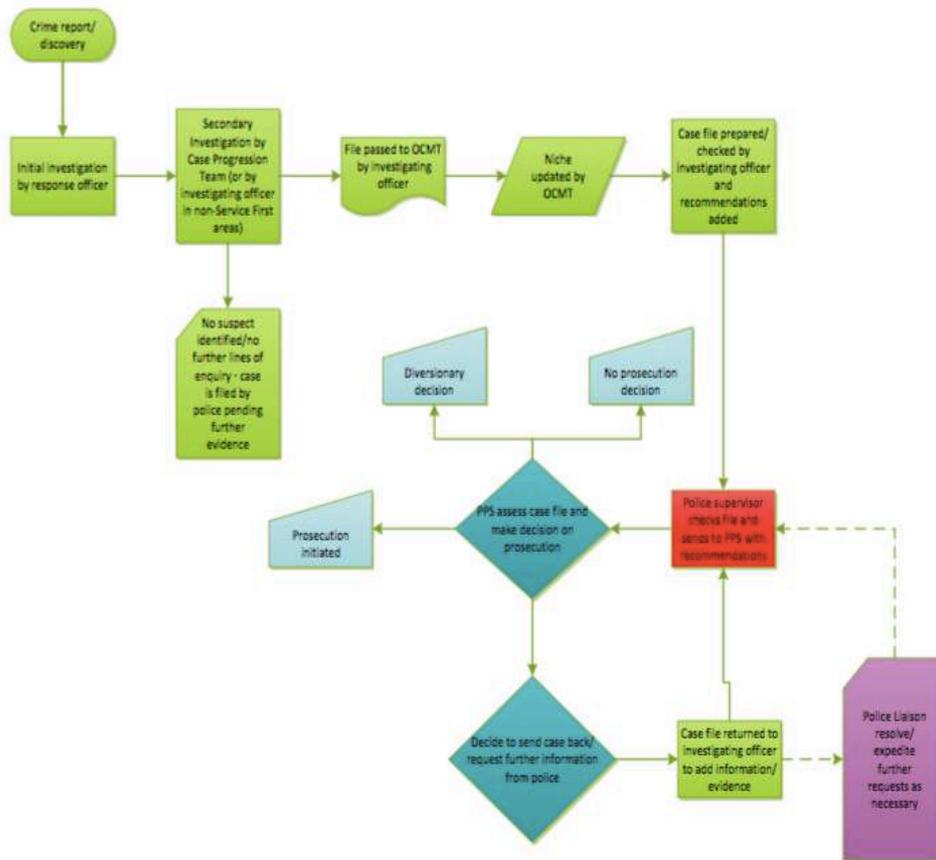
completed a Victim Personal Statement outlining the impact of the crime (CPS, 2011a, Section 11.5). This can also be taken into account by the court at the sentencing stage (CPS, 2011a, Section 11.5). Also at the stage of sentencing the perpetrator the CPS can raise to the court the existence of an aggravating element to the offence, if there is evidence that the offence was committed 'due to hostility towards the victim(s) based on their age' (CPS, 2011a, Section 11.). The policy document outlines that while there is no current legislation that imposes a duty on the courts to increase the sentence for an offence based on hostility towards a person because of their age, there are a number of cases of crimes against older people, such as theft, robbery, burglary and fraud, which highlight the aggravating nature of targeting an older or vulnerable victim (CPS, 2011a Section 11.1).

Many of the services and policies set out in the CPS document on older people are the PPS would no doubt state already in place in Northern Ireland. This might lead some to suggest that a specific policy on older people is unnecessary for Northern Ireland. However, there are a number of reasons why introducing such a policy document to Northern Ireland would be worthwhile. First, the process of designing and consulting on the policy would allow for relevant older people's stakeholders to have input into the approach taken to older people by the PPS in Northern Ireland. Second, the document once produced would provide reassurance to older people that their needs and concerns are recognised and addressed by the PPS in its work. Third, it would provide a readily accessible source of information for older people on what they can expect from the PPS if they are a victim or witness to crime. Fourth, it would provide guidance for PPS staff as to how most appropriately to respond to cases involving older people. Fifth, it avoids the problems associated with 'age-blindness' by ensuring that PPS staff are aware in their work of the issues which may be likely to arise in cases involving older people. **It is therefore recommended that the PPS, using the CPS document and recent consultation as a template, work with older persons and other relevant stakeholders in Northern Ireland to design and publish specific policy guidance on the handling of cases involving older people.**

## Police-Prosecutorial Interaction

In Northern Ireland, the police are the principal investigatory agency. If the police after an investigation identify a suspect they can, if there is sufficient evidence, either charge the suspect and send the investigation file to the prosecution service, or submit the investigation file to the prosecution service with a report on the person. The prosecution service then assumes responsibility for the case at that point. The prosecution service can however provide the police with advice at any point in the investigation. This can include advice on the quality and admissibility of evidence including the evidence required to support a prosecution of a person for a particular offence. They can also send a case file back to the PSNI for further investigation.

The lists of charges or possible charges on the investigation file presented by the police will be indictable, summary or hybrid offences. An indictable offence is dealt with in the Crown Court in front of a judge and in most cases a jury. Summary offences are dealt with in the Magistrates' Court. Hybrid offences can be dealt with in either the Magistrates' or Crown Court and it is generally for the prosecution service to decide which court to proceed in if they decide to prosecute. For some hybrid offences the offender can elect to have a trial in the Crown Court.



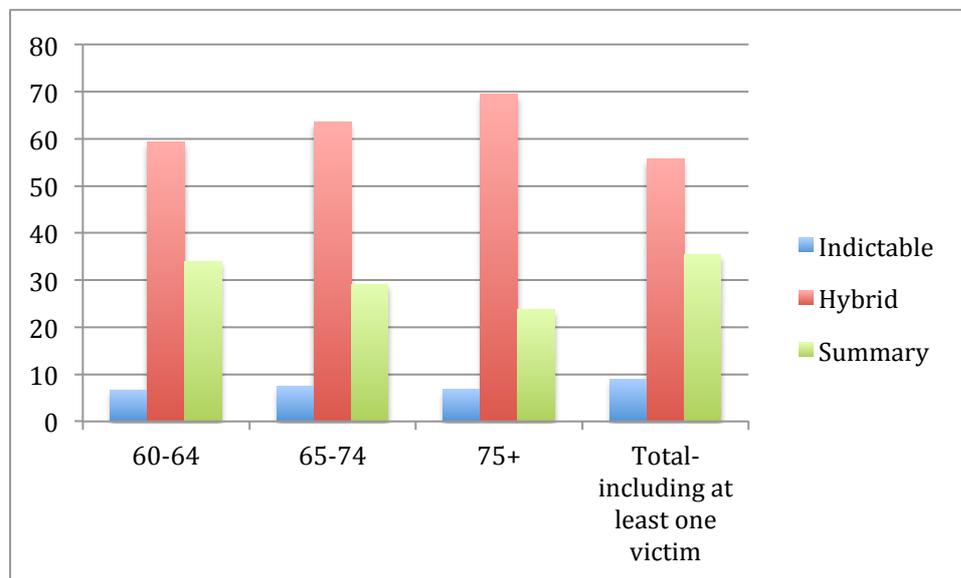
**Diagram 4.1 A Visual Diagram of the Progress of Cases from PSNI to PPS**

Table 4.1 and Figure 4.1 provides data on the ‘File Type’ which is based on the primary offence (generally the most serious offence) at the time the file was submitted to the PPS by the PSNI. For the year 2017/18, where a file involved at least one victim (as opposed to crimes where there is no designated victim e.g. public order offences) 35.3% of the cases were summary, 55.7% were hybrid and 9.0% were indictable offences. A similar breakdown is found in the figures for previous years. Such a pattern is consistent with the fact that most crimes committed and processed through the justice system are not of the most serious kind (i.e. not indictable). The figures for cases involving complainants aged 60 or above have a slightly different profile with a higher percentage of hybrid offences and a lower percentage of indictable offences in comparison to the overall figures. This is to be expected given that the more common crimes recorded by the police against people aged 60+ are

hybrid offences including theft, burglary, taking a conveyance without authority and criminal damage.

		60 – 64		65 - 74		75 and over		Total – Including at least one victim	
		No	%	No	%	No	%	No	%
Financial Year	File Type								
<b>2017/18</b>	<b>Indictable</b>	40	6.6	48	7.4	21	6.8	1,578	9.0
	<b>Hybrid</b>	362	59.4	412	63.5	213	69.4	9,754	55.7
	<b>Summary</b>	207	34.0	189	29.1	73	23.8	6,183	35.3
	<b>Total</b>	609		649		307		17,515	
<b>2016/17</b>	<b>Indictable</b>	39	6.1	39	6.1	20	5.8	1,520	8.4
	<b>Hybrid</b>	381	59.2	403	63.0	238	69.0	10,342	57.4
	<b>Summary</b>	224	34.8	198	30.9	87	25.2	6,167	34.2
	<b>Total</b>	644		640		345		18,029	
<b>2015/16</b>	<b>Indictable</b>	37	5.6	38	5.6	29	8.6	1,547	8.3
	<b>Hybrid</b>	432	65.6	450	66.0	212	63.1	11,053	59.3
	<b>Summary</b>	190	28.8	194	28.4	95	28.3	6,024	32.3
	<b>Total</b>	659		682		336		18,624	

**Table 4.1 Files Received by File Type and Victim Age Group (2017/18, 2016/17, 2015/16)**



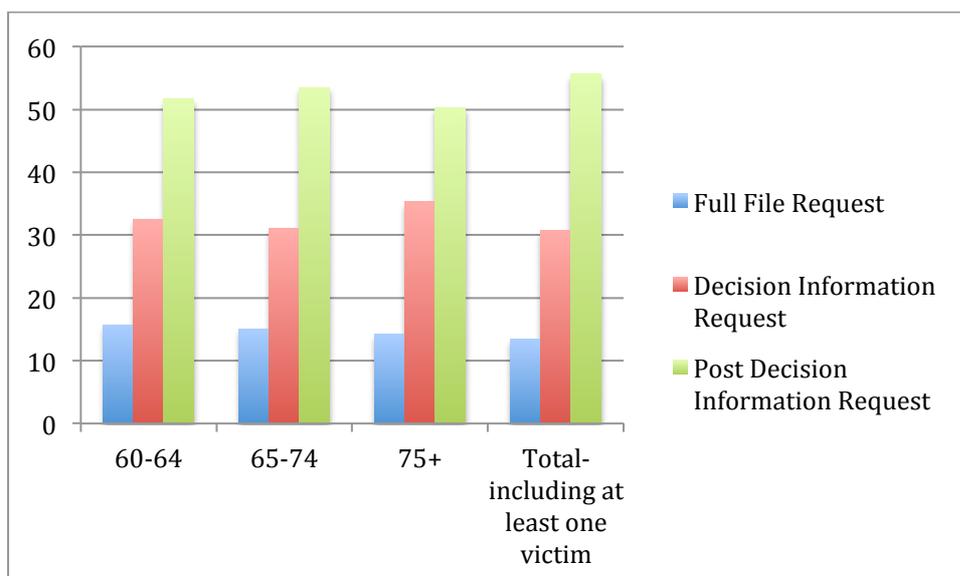
**Figure 4.1 Files Received by File Type and Complainant Age Group by Percentage (2017/18)**

If the prosecutor examining the investigation file concludes that additional evidence is required before a decision can be made as to whether to prosecute or not, a request can be

made to the police to ask them to attempt to provide the evidence. Such a request is called a Decision Information Request. If the investigation file is deficient to the extent that the prosecutor decides that it is not reasonable to issue a detailed Decision Information Request, the prosecutor can issue a No Decision Information Request which effectively sends the investigation file back to the police. The prosecution service can also request that the police provide additional evidence after a decision to prosecute has been made. Such requests are referred to as Post-Decision Information Requests. These requests are made when the prosecutor considers that additional evidence is needed at some further stage in the prosecution process (e.g. at trial). If the prosecution service on examination of the investigation file does not consider any evidence to be outstanding this is classified as a Full File Request. PPS statistics on the different types of requests are given in Table 4.2 and Figure 4.2.

		60 - 64		65 - 74		75 and over		Total-including at least one victim	
		No	%	No	%	No	%	No	%
Financial Year	Request Type								
<b>2017/18</b>	<b>Full File Request</b>	97	15.7	113	15.1	56	14.2	2,190	13.4
	<b>Decision Information Request</b>	201	32.5	233	31.1	139	35.3	5,048	30.8
	<b>Post Decision Information Request</b>	320	51.7	400	53.5	198	50.3	9,114	55.6
	<b>No Decision</b>	1	0.2	2	0.3	1	0.3	36	0.2
	<b>Total</b>	<b>619</b>		<b>748</b>		<b>394</b>		<b>16,388</b>	
<b>2016/17</b>	<b>Full File Request</b>	109	16.9	101	14.8	47	13.7	2,092	13.1
	<b>Decision Information Request</b>	200	31.0	206	30.2	130	37.8	4,961	31.1
	<b>Post Decision Information Request</b>	333	51.5	373	54.6	167	48.5	8,865	55.6
	<b>No Decision</b>	4	0.6	3	0.4		0.0	24	0.2
	<b>Total</b>	<b>646</b>		<b>683</b>		<b>344</b>		<b>15,942</b>	
<b>2015/16</b>	<b>Full File Request</b>	102	17.2	103	15.9	50	15.1	2,191	13.9
	<b>Decision Information Request</b>	154	26.0	205	31.7	111	33.5	4,908	31.2
	<b>Post Decision Information Request</b>	335	56.6	337	52.1	169	51.1	8,609	54.7
	<b>No Decision</b>	1	0.2	2	0.3	1	0.3	43	0.3
	<b>Total</b>	<b>592</b>		<b>647</b>		<b>331</b>		<b>15,751</b>	

**Table 4.2 Information Requests Submitted to Police by Request Type and Victim Age Group (2017/18, 2016/17, 2015/16)**



**Figure 4.2 Information Requests Submitted to Police by Request Type and Complainant Age Group as a percentage (2017/18) (excluding no decisions)**

These statistics on information requests issued by the PPS provide an indication of the standard of the evidence in the case files from the PSNI. To explore this further, the last five years of statistics on Decision Information Requests were examined as per Tables 4.3A-E.<sup>16</sup> The tables are showing the cases with decisions issued 2013/14 to 2017/18 where there is at least one victim (and the number and percentage where at least one Decision Information Request was Issued) by age of the victim. The final column of each table ranks the age categories from highest to lowest in terms of the percentage of cases where there is at least one Decision Information Request.<sup>17</sup>

<sup>16</sup> This Tables includes files received by PPS from police where the most serious decision on file is diversion, summary prosecution, indictable prosecution or no prosecution and where there is at least one victim.

<sup>17</sup> Files with multiple victims will result in double counting if those victims are in different age bands. For example, a case where there is a victim aged 17 and Under as well as a victim aged 65-74 will be counted in both the 17 and Under and 65-74 categories.

17/18				
Victim age bands	Number of Cases (Total Cases)	Number of Cases (DIR Cases)	Percentage	Percentage Rank (highest to lowest)
75 and Over	323	94	29.1%	1
65 – 74	657	166	25.3%	3
60 – 64	600	149	24.8%	4
55 – 59	1,048	239	22.8%	5
45 – 54	3,285	708	21.6%	8
35 – 44	3,839	859	22.4%	7
25 – 34	4,826	1,084	22.5%	6
18 – 24	3,364	868	25.8%	2

**Table 4.3A**

16/17				
Victim age bands	Number of Cases (Total Cases)	Number of Cases (DIR Cases)	Percentage	Percentage Rank (highest to lowest)
75 and Over	322	86	26.7%	2
65 – 74	630	159	25.2%	3
60 - 64	649	153	23.6%	5
55 - 59	1,017	224	22.0%	8
45 - 54	3,289	747	22.7%	7
35 - 44	3,884	895	23.0%	6
25 - 34	4,744	1,153	24.3%	4
18 – 24	3,583	961	26.8%	1

**Table 4.3B**

15/16				
Victim age bands	Number of Cases (Total Cases)	Number of Cases (DIR Cases)	Percentage	Percentage Rank (highest to lowest)
75 and Over	343	95	27.7%	1
65 - 74	652	149	22.9%	4
60 - 64	621	124	20.0%	8
55 - 59	939	220	23.4%	3
45 - 54	3,500	749	21.4%	7
35 - 44	4,165	902	21.7%	6
25 - 34	4,892	1,104	22.6%	5
18 - 24	3,909	989	25.3%	2

**Table 4.3C**

14/15				
Victim age bands	Number of Cases (Total Cases)	Number of Cases (DIR Cases)	Percentage	Percentage Rank (highest to lowest)
75 and Over	294	85	28.9%	1
65 – 74	609	142	23.3%	4
60 – 64	582	131	22.5%	7
55 – 59	907	215	23.7%	3
45 – 54	3,317	756	22.8%	6
35 – 44	3,956	923	23.3%	4
25 – 34	4,651	1,044	22.4%	8
18 – 24	3,842	957	24.9%	2

**Table 4.3D**

13/14				
Victim age bands	Number of Cases (Total Cases)	Number of Cases (DIR Cases)	Percentage	Percentage Rank (highest to lowest)
75 and Over	266	94	35.3%	1
65 – 74	565	148	26.2%	2
60 – 64	543	125	23.0%	6
55 – 59	877	177	20.2%	8
45 – 54	3,185	738	23.2%	5
35 – 44	3,747	819	21.9%	7
25 – 34	4,475	1,081	24.2%	4
18 – 24	3,898	987	25.3%	3

**Table 4.3E**

Tables 4.3A-E show that during the period 2013/14 to 2017/18 the 65-74 and 75+ age categories tended to have a higher percentage of Decision Information Requests (a prosecutor requesting additional evidence from the police prior to making a decision whether to prosecute) than most of the other adult victim age categories. Only the youngest adult age category (18-24) showed a similar pattern. The differences by age are not necessarily a negative finding. A plausible hypothesis is that prosecutors are being extra cautious about proceeding with a case involving an older complainant. They may be seeking further information in such cases so that the evidence is as strong as possible to reduce the risk of putting a potentially vulnerable complainant through the trauma of unsuccessful

court proceedings. It could also be that prosecutors are asking for further information to establish if special measures may be necessary to support the older complainant when giving evidence. Without drilling down further by exploring the case files, it is not possible to establish the reason for the difference. None of the PPS staff when interviewed identified case files involving older victims received from the PSNI as being more problematic than for other age categories. This is not to suggest that case file problems do not arise. Indeed a number of reports by the Inspectorate of Criminal Justice in Northern Ireland (2006; 2010; 2015) have identified systemic problems with the quality of case files being send by the PSNI to the PPS. Given these concerns a review of case files would help to dispel any concern that such problems are disproportionately impacting on cases involving older victims of crime. **It is therefore recommended that a review of case files where decisions have been made is undertaken where the victim was aged 65-74 and 75+ to establish why there is a higher rate of Decision Information Requests for these age groups.**

What these figures do not record is less formal contact between the PSNI and PPS. This would include for example a police officer contacting the prosecution service by telephone to ask for advice on the most appropriate charge/s to bring or on a matter relating to admissibility or quality of evidence. These conversations, which can happen at any point in the investigation, may have just as significant bearing on the outcome of a case as a more formal request. In interviews with PPS staff such discussions were reported, but no specific issues were identified as impacting on cases involving older people.

### **The Decision to Prosecute**

The key decision for the PPS to make regarding a case is whether or not to prosecute. When the police have charged a person, then prior to their first appearance in court, the prosecutor will consider the investigation file and decide whether to amend the charges. This can include withdrawing some or all of the existing charges, adding additional charges, or amending the contents of existing charges.

Prosecutions are initiated or continued where it is satisfied that the Test for Prosecution is met. The Test for Prosecution is outlined in the Code for Prosecutors (PPS, 2016). As outlined in the Code for Prosecutors, the Test for Prosecution consists of two stages (PPS, 2016, Section 4.1). First, 'the Evidential Test', which involves the prosecutor considering whether the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction and secondly, 'the Public Interest Test', which considers whether a prosecution is required in the public interest (PPS, 2016, Section 4.1). Each of these stages must be separately considered, but a decision as to whether or not a prosecution is in the public interest can only arise when first the 'evidential test' has been satisfied (PPS, 2016 section 4.2).

The role of a Public Prosecutor involves analysing and evaluating evidence and information that has been submitted. In doing so, the prosecutor must be thorough and conduct their analysis and evaluation in a critical manner (PPS, 2016, section 4.3). In applying the Test for Prosecution the Public Prosecutor must adhere to those obligations set out in the Code of Ethics of the PPS.

The Code for Prosecutors (PPS, 2016) sections 4.7-4.10 outline in more detail the Evidential Test. The code states that Public Prosecutors determine whether there is sufficient evidence to provide a reasonable prospect of conviction against each defendant on each charge (PPS, 2016, Section 4.7). According to the Code, a reasonable prospect of conviction exists if there is credible evidence which the prosecution can present before a court and upon which a jury or tribunal would, following a proper direction, reasonably be expected to find proved beyond reasonable doubt the commission of a criminal offence by the individual who is prosecuted (PPS, 2016, Section 4.8). Credible evidence is described in the Code for Prosecutors (PPS, 2016, Section 4.9) as 'evidence which is capable of belief'. It may be necessary to consult with a witness or witnesses before coming to decisions as to whether the evidence of that person is 'credible' (PPS, 2016, Section 4.9) and if it is decided that 'a witness is likely to so discredited that no court could safely act on his / her evidence', then the Prosecutor may conclude that 'there is no reasonable prospect of obtaining a conviction' (PPS, 2016, Section 4.9). If it is judged that 'a court in all the circumstances of the case could reasonably act on the evidence of a witness... then such evidence is credible and

must be taken into account' (PPS, 2016, Section 4.9). Further to this, Public Prosecutors must therefore make an assessment of the quality of the evidence (PPS, 2016, Section 4.9).

The Public Interest Test is outlined in further detail in Section 4.10-4.19 of the Code for Prosecutors. It outlines that once a Public Prosecutor is satisfied that there is sufficient evidence to provide a reasonable prospect of conviction; the next consideration is whether the public interest requires prosecution (PPS, 2016, Section 4.10). The Code acknowledges that '[i]t is not the rule that all offences for which there is sufficient evidence must be prosecuted – prosecutors must exercise their discretion as to whether a prosecution is required in the public interest' (PPS, 2016, Section 4.10).

Section 4.13 of the Code for Prosecutors (PPS, 2016) outlines some of the Public Interest Considerations for prosecution which may be relevant and require to be considered by a prosecutor when determining where the public interest lies in any particular case. These considerations include several which are particularly pertinent to crimes against older people:

(ii) where the suspect was in a position of authority or trust and the offence is an abuse of that position...

(viii) where the offence was motivated by hostility against a person because of their race, ethnicity, sexual orientation, disability, religion, political beliefs, age or the like...

(xii) where the victim of the offence, or their family, has been put in fear, or suffered personal attack, damage or disturbance', stating that, 'The more vulnerable the victim the greater the aggravation'.

(xiii) where there is a marked difference between the actual or mental ages of the suspect and the victim and the suspect took advantage of this;

(xiv) where there is any element of exploitation;

The Code for Prosecutors (PPS, 2016, Section 4.14) also contains a list of considerations against prosecution with the following of particular relevance to crimes against older people:

(vi) where a prosecution is likely to have a detrimental effect on the physical or mental health of a victim or witness particularly where they have been put in fear;

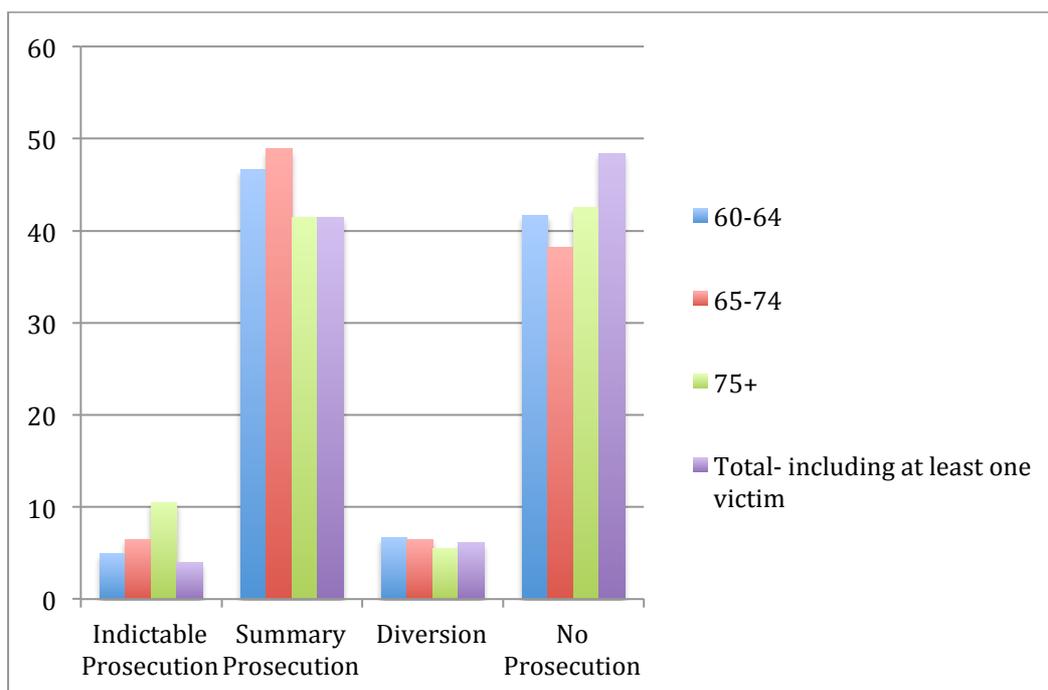
(vii) where the defendant is elderly or where the defendant is a child or a young person; where the defendant was at the time of the offence or trial suffering from significant mental or physical ill-health.

As noted in the Code, these considerations both for and against prosecution are not comprehensive or exhaustive and the public interest considerations will vary from case to case (PPS, 2016, Section 4.15).

Table 4.4 and Figure 4.3 provide a breakdown of PPS statistics on the decision to prosecute. For 2017/18, 45.5% of cases where there was a decision made the decision was to prosecute. A further 6.1% of such cases were diverted (this is discussed in the following section). In 48.4% of cases with a decision, the decision was made not to prosecute nor divert (what will be referred to as the no prosecution rate). For cases with decisions involving complainants aged 60 and over the no prosecution rate was lower in 2017/18 and also in 2016/17 and in 2015/16 than the rate for all ages in those years.

		60 - 64		65 – 74		75 and over		Total Including at least victim	– at one
		No	%	No	%	No	%	No	%
Financial Year	Most Serious Decision on File								
<b>2017/18</b>	<b>Indictable prosecution</b>	30	4.9	43	6.5	34	10.5	724	4.0
	<b>Summary prosecution</b>	286	46.7	325	48.9	135	41.5	7,466	41.5
	<b>Diversion</b>	41	6.7	43	6.5	18	5.5	1,096	6.1
	<b>No Prosecution</b>	255	41.7	254	38.2	138	42.5	8,723	48.4
	<b>Total</b>	<b>612</b>		<b>665</b>		<b>325</b>		<b>18,009</b>	
<b>2016/17</b>	<b>Indictable prosecution</b>	49	7.4	41	6.4	27	8.1	818	4.6
	<b>Summary prosecution</b>	304	46.1	304	47.4	129	38.7	7,542	42.4
	<b>Diversion</b>	50	7.6	48	7.5	27	8.1	1,174	6.6
	<b>No Prosecution</b>	256	38.8	248	38.7	150	45.0	8,249	46.4
	<b>Total</b>	<b>659</b>		<b>641</b>		<b>333</b>		<b>17,783</b>	
<b>2015/16</b>	<b>Indictable prosecution</b>	47	7.4	55	8.3	37	10.7	938	5.0
	<b>Summary prosecution</b>	299	47.3	309	46.7	138	40.0	8,182	44.0
	<b>Diversion</b>	38	6.0	43	6.5	17	4.9	1,238	6.7
	<b>No Prosecution</b>	248	39.2	255	38.5	153	44.3	8,234	44.3
	<b>Total</b>	<b>632</b>		<b>662</b>		<b>345</b>		<b>18,592</b>	

Table 4.4 Prosecutorial Decisions Issued by Decision Type (2017/18; 2016/17; 2015/16)



**Figure 4.3 Prosecutorial Decisions Issued by Decision Type by Age of Complainant as a Percentage (2017/18)**

In cases with decisions where the complainant was identified as being 75+ there was a higher rate of no prosecutions in comparison to the other older age categories in 2017/18. Exploring the last five years of data (see Table 4.5) the Age 75+ category has had a noticeably higher no prosecution rate than the other older people age categories over the period. Given the profile of crimes committed against those aged 75+ is likely to be similar to that committed against the 60-64 and 65-74 age groups it is concerning that a consistently higher no prosecution rate is found in the oldest age category. **It is recommended that a review of case files be undertaken to establish why there is a higher no prosecution rate for crimes involving complainants aged 75+ in comparison to the 60-64 and 65-74 age groups.**

Year	Age 60-64	Age 65-74	Age 75+
2017/18	41.7%	38.2%	42.5%
2016/17	38.8%	38.7%	45.0%
2015/16	39.2%	38.5%	44.3%
2014/15	36.0%	38.0%	43.5%
2013/14	34.0%	33.2%	35.9%

**Table 4.5 Rates of No Prosecution Decision Rates for period 2013/14 – 2017/18**

In interviews prosecutors were keen to emphasise that the victim being over a certain age would not impact on their decision as to whether or not to prosecute:

I've noticed no difference in the number of no prosecutions that we would issue for domestic burglaries with older people than we would with anybody else, I've noticed no difference in my own experience. ... If we were to get a file in, say a burglary file, and the victim was older we would never issue a no prosecution without pursuing or encouraging police to pursue all you know we'll get a file and if there's a statement missing that we think might prove it we'll seek the statement and we'll write to police and say in order for us to consider the case or in order for us to pursue prosecution we're going to require X and we'll write you need a statement from Joe Soap, you need a statement from Mary Sudds, is there any CCTV, what about this? So we will encourage them to go and fill the gaps where there has been cases that come into us, but we are going to otherwise have no prosecute so we do really try. It's not a case of the file comes in and think there's nothing on it and you throw it out, you do either call Decision Information Requests or Post Decision Information Requests so at that stage we've got Decision Information Requests where we will push them to give us what we need to have enough to prosecute if we think the case is there.

***PPS Prosecutor***

I don't think [age] would impact on my decision from reading the evidence because it would obviously just be applying the prosecution test because it's just applied across the board...When I'm reading the evidence before I take my decision I don't think I would put that much weight on [age] because I would just be applying the evidential test to see if there was enough to prosecute. ***PPS Prosecutor***

The prosecution service provides a breakdown of the statistics on the reasons given for a no prosecution decision. A summary of the data is provided in Table 4.6. The statistics show that the vast majority of the decisions not to prosecute were based on the case in question not passing the evidential test. As Table 4.6 shows this holds true for cases involving those aged 60+. The statistics show that it is the strength of evidence available in a case which will play the key role in determining whether a case proceeds to prosecution or not.

		60 – 64		65 - 74		75 and over	
		No.	%	No.	%	No.	%
Financial Year	Reason for no prosecution						
<b>2017/18</b>	<b>Did not pass the evidential test</b>	251	98.4	252	98.8	137	99.3
	<b>Did not pass the public interest test</b>	4	1.6	3	1.2	1	0.7
	<b>Total</b>	<b>255</b>		<b>255</b>		<b>138</b>	
<b>2016/17</b>	<b>Did not pass the evidential test</b>	249	97.3	246	98.8	146	97.3
	<b>Did not pass the public interest test</b>	7	2.7	3	1.2	4	2.7
	<b>Total</b>	<b>256</b>		<b>249</b>		<b>150</b>	
<b>2015/16</b>	<b>Did not pass the evidential test</b>	242	97.2	248	96.9	143	92.9
	<b>Did not pass the public interest test</b>	7	2.8	8	3.1	11	7.1
	<b>Total</b>	<b>249</b>		<b>256</b>		<b>154</b>	

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**Table 4.6: Prosecutorial Decisions Issued - Reasons for No Prosecution by Victim Age Group (2017/18; 2016/17; 2015/16)**

It is policy of the PPS to provide victims with reasons in all cases where a decision is made not to prosecute (PPS, 2016, Sections 4.66-4.69). Section 4.66 of the Code acknowledges that the giving of reasons for not prosecuting is a complex issue, with typically the reason being a technical one for not prosecuting in many cases. The Code also states that a balance needs to be struck between the proper interest of victims and witnesses and other concerns ‘including, but not limited to, damage to the reputation or other injustice to an individual, the danger of infringing upon the presumption of innocence or other human rights and the risk of jeopardising the safety of individuals’ (PPS, 2016, Section 4.66). Victims have a right to request a review of a decision not to prosecute (PPS, 2016, Sections 4.59-4.65).

## Diversions

The prosecution service have a number of alternatives to prosecution which they can divert an offender towards depending on the circumstances of the case. These include having the

police issue a caution (a formal reprimand which is recorded on the person’s criminal record for six years in the case of an adult or 30 months in the case of a young person) or an informed warning (which is recorded on the person’s criminal record for 12 months). The prosecution service may also decide to divert a case involving a young person to a diversionary youth conference. Under the Justice (Northern Ireland) Act 2015 prosecutors will also have the option of issuing prosecutorial fines as an alternative to prosecution (although this provision has not yet been enacted). To divert a case an offender must first admit that they committed the offence. The statistics contained in Table 4.7 show higher rates of the use of diversions in cases involving those aged 60+ in comparison to the general caseload for four of the last five years of statistics.

Year	Age 60+	All Cases (involving at least one victim)
2017/18	6.4%	6.1%
2016/17	7.9%	6.6%
2015/16	6.0%	6.7%
2014/15	7.0%	6.8%
2013/14	9.1%	8.3%

**Table 4.7 Percentage of Cases involving a decision for diversion – all cases (involving at least one victim) and cases involving a victim aged 60 or over 2013/14-2017/18**

The findings appear to run counter to the views expressed in an interview with a senior prosecutor:

You're less likely to get a diversion if the incident is an older victim or a vulnerable victim..., it's seen as a reason not to divert, the only exception would be with the victim's consent so we are obliged as prosecutors if we are considering diversion to contact the injured party and seek their views and I would be very surprised if any prosecutor would go against the victim and get a diversion really if the victim is a vulnerable older victim because our code, our ethos is to pursue them. **PPS Prosecutor**

The differences in the statistics may be down to the fact that the profile of offences in cases reaching this stage involving older people as victims are different from the profile of offences for cases involving all ages, i.e. that those offences are more likely to result in a diversion. To better understand these figures a review of case files would be necessary. **It is**

**recommended that a review of case files be conducted to explore why cases involving older victims of crime are more likely to end in diversions.**

## The Choice of Venue

Depending on the charges, a case may be tried in either the Magistrates' Court (referred to as a summary prosecution) or the Crown Court (referred to as an indictable prosecution). The Magistrates' Court in Northern Ireland has restricted sentencing powers with the maximum sentence a District Judge can pass being twelve months for a single offence and eighteen months if sentence for more multiple convictions.<sup>18</sup> Indictable offences are tried in the Crown Court (this includes offences such as murder and rape). Summary offences are tried in the Magistrates' Court (this includes offences such as common (minor) assaults and less serious driving offences). Hybrid offences can be tried in either the Magistrates' or the Crown Court (these includes offences such as burglary and criminal damage). The choice of venue is important as a decision to try the case in the Magistrates' Court will restrict the level of sentence that can be imposed upon conviction. For most hybrid offences the prosecutor will decide in which court the case will be tried. The Code of Practice for Prosecutors states that in making the decision as to venue the prosecutor will 'consider whether the Magistrates' Court has sufficient sentencing power to reflect the gravity of the offence' (PPS, 2016, Section 4.44). In interviews with prosecutors the age of the victim could influence the choice of venue in hybrid cases:

[Vulnerability] can be an aggravating factor I would say and in terms of that judges I do think sentence harder for those people that suffer from vulnerability per se and those people that are over 60 and more likely to suffer from some form of vulnerability. In which case then we have to bear that in mind when we're picking a venue so whether we send it to the Magistrates' Court or the Crown Court that would be something we would consider. I think yes we don't consider it in terms of the decision [to prosecute] but further down the line [age] might have an impact on venue and then the applications that need to be made to make sure the case proceeds. **PPS Prosecutor**

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<sup>18</sup> Criminal damage has a maximum sentence of 2 years in the Magistrates' Court – see Art 3 of the Criminal Damage (NI) Order 1977.

The fact that [the victim] was older sent it to the Crown Court because we felt that the sentencing powers of the Magistrates' Court probably weren't sufficient to deal with the sentence that the judge would have to give in that sort of case because she was particularly vulnerable. **PPS Prosecutor**

Simply the age [of the victim] would not dictate how or where we prosecute but it is something that we obviously consider amongst all the other factors of the case. **PPS Prosecutor**

For a minority of hybrid offences the defendant has input into the choice of venue. One of the more common offences which older people are victims of is burglary. This offence carries a maximum penalty of 10 years if from a building other than a dwelling and 14 years imprisonment if it is from a dwelling.<sup>19</sup> This is an offence which is triable eitherway so can be heard in either the Magistrates' Court or Crown Court. According to the Magistrates' Sentencing Guidelines, applying the Magistrates' Court (NI) Order 1981 Art 46(4), burglary should be tried summarily (ie. in the Magistrates' Court) with the consent of the accused unless the burglary comprising the commission of, or an intention to commit, an offence which is punishable only on conviction on indictment, or where the burglary is of a dwelling and any person in the dwelling was subjected to violence or the threat of violence. The repercussions of this statutory guidance are that burglaries will generally be tried in the Magistrates' Court in cases where the occupier was out or unaware of the intruder or where they were aware, but no violence is threatened or inflicted by the intruder, that is unless the defendant opts for the Crown Court. The issues of choice of venue and sentencing are revisited in the next chapter.

## Conviction Rates

The PPS publish statistics on the outcome of cases which have gone to court. Statistics are available for both the Crown Court, where the most serious cases are brought and the

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<sup>19</sup> Theft Act (NI) 1969, s.7

Magistrates' and Youth Court where generally less serious charges are brought.<sup>20</sup> The statistics categorise cases that were proceeded against in the courts into three categories based on whether they resulted in at least one conviction, an acquittal of the defendant or other outcome. The category of 'other' includes where the defendant has died and where all charges are withdrawn by the prosecution service. Based on this data a conviction rate is calculated. This rate is the number of persons convicted of at least one charge as a percentage of all persons dealt with through the courts during that period.

The data for the Crown Court relevant to those aged 60+ is provided in Table 4.8 and represented in graphical form in Figure 4.4. Relatively few cases involving complainants aged 60+ are dealt with in the Crown Court with only 106 cases involving older complainants resulting in a recorded outcome for the year 2017/18.

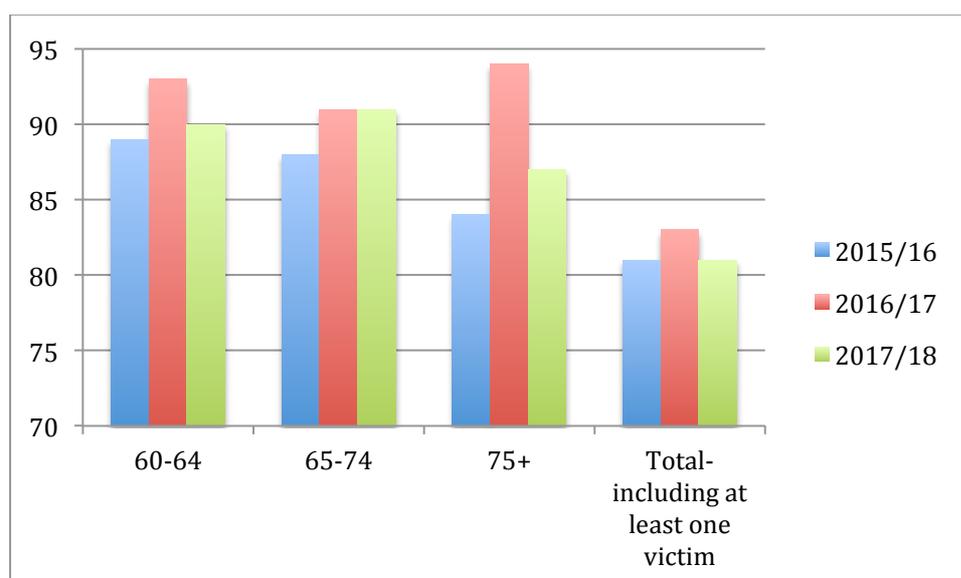
The data for 2017/18, 2016/17 and 2015/16 shows the conviction rates for the three age group categories for cases identified as involving victims aged 60+ to be higher than the rate for all cases (i.e. those where victims were younger than 60 or those where the victims' age was not identified). Overall, this would tentatively suggest (see caveats discussion later in the chapter) that once a case reaches the stage of a Crown Court outcome, crimes with older people as complainants are more likely to result in a conviction in comparison to the overall conviction rate in the Crown Court.

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<sup>20</sup> Although in cases where defendants are under 18 serious cases excluding homicide can be dealt with in the Youth Court – rape for example.

		60 – 64		65 - 74		75 and over		Total- including at least one victim	
		No.	%	No.	%	No.	%	No.	%
Financial Year	Most Serious Outcome on File								
<b>2017/18</b>	<b>Convicted of at least one offence</b>	35	89.7	43	91.5	34	87.2	599	80.7
	<b>Acquitted</b>	4	10.3	4	8.5	5	12.8	140	18.9
	<b>Other</b>	0	0.0	0	0.0	0	0.0	3	0.4
	<b>Total</b>	<b>39</b>		<b>47</b>		<b>39</b>		<b>742</b>	
	<b>Conviction Rate (%)</b>	<b>90%</b>		<b>91%</b>		<b>87%</b>		<b>81%</b>	
<b>2016/17</b>	<b>Convicted of at least one offence</b>	56	93.3	61	91.0	33	94.3	903	83.2
	<b>Acquitted</b>	4	6.7	6	9.0	2	5.7	179	16.5
	<b>Other</b>	0	0.0	0	0.0	0	0.0	3	0.3
	<b>Total</b>	<b>60</b>		<b>67</b>		<b>35</b>		<b>1,085</b>	
	<b>Conviction Rate (%)</b>	<b>93%</b>		<b>91%</b>		<b>94%</b>		<b>83%</b>	
<b>2015/16</b>	<b>Convicted of at least one offence</b>	24	88.9	29	87.9	16	84.2	426	81.5
	<b>Acquitted</b>	3	11.1	3	9.1	3	15.8	87	16.6
	<b>Other</b>	0	0.0	1	3.0	0	0.0	10	1.9
	<b>Total</b>	<b>27</b>		<b>33</b>		<b>19</b>		<b>523</b>	
	<b>Conviction Rate (%)</b>	<b>89%</b>		<b>88%</b>		<b>84%</b>		<b>81%</b>	

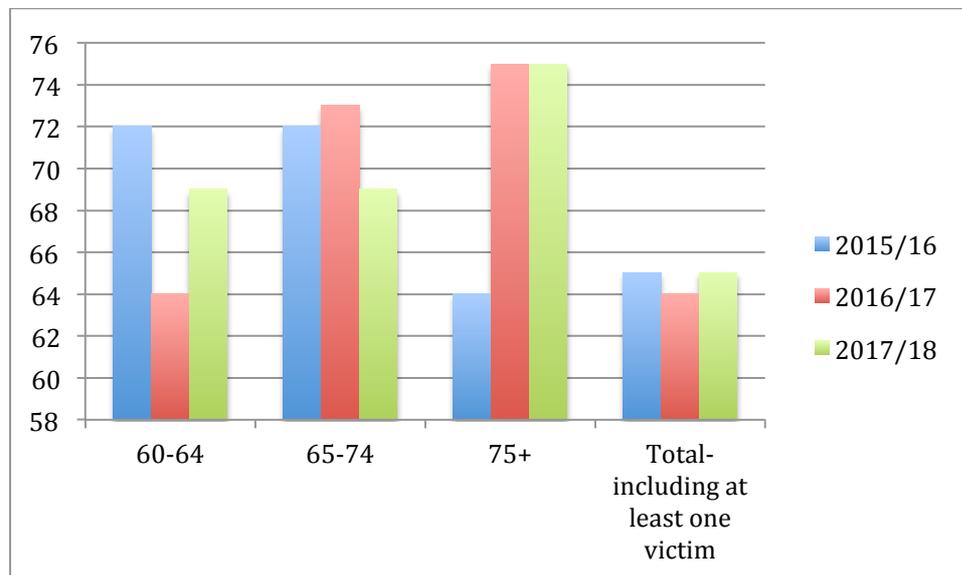
**Table 4.8 Crown Court Outcomes by Victim Age Group (2017/18; 2016/17; 2015/16)**



**Figure 4.4 Crown Court Conviction Rate by Complainant Age Group (2015/16; 2016/17; 2017/18)**

The data for the Magistrates' and Youth Court relevant to those aged 60+ is provided in Table 4.09 and represented in graphical form in Figure 4.5. The vast majority of cases involving complainants aged 60+ which progress to the court stage do so in the Magistrates' Court. Some will also be dealt with in the Youth Court in those minority of cases where the defendant was 10-17 years of age. The PPS figures do not disaggregate the Magistrates' and Youth Court figures in terms of conviction rates. 690 cases involving older complainants resulted in a recorded outcome in the Magistrates' and Youth Court for the year 2017/18.

The data for 2017/18, 2016/17 and 2015/16 shows the conviction rate for those cases where the complainants are aged 60+ to be higher than the rate for all cases where there was at least one victim in the Magistrates' and Youth Court. We can tentatively conclude (see caveats discussion later in the chapter) that once a case reaches the stage of a Magistrate and Youth Court outcome, crimes involving older people as complainants are more likely to result in a conviction in comparison to the overall conviction rate in those courts.



**Figure 4.5 Magistrates' and Youth Court Conviction Rate by Complainant Age Group (2015/16; 2016/17; 2017/18)**

		60 - 64		65 - 74		75 and over		Total – Including at least one victim	
		No.	%	No.	%	No.	%	No.	%
Financial Year	Most Serious Outcome on File								
<b>2017/18</b>	<b>Convicted of at least one offence</b>	195	68.9	214	69.0	93	75.0	4,910	64.7
	<b>Acquitted</b>	26	9.2	30	9.7	9	7.3	1,002	13.2
	<b>Other</b>	62	21.9	66	21.3	22	17.7	1,675	22.1
	<b>Total</b>	<b>283</b>		<b>310</b>		<b>124</b>		<b>7,587</b>	
	<b>Conviction Rate (%)</b>	<b>69%</b>		<b>69%</b>		<b>75%</b>		<b>65%</b>	
<b>2016/17</b>	<b>Convicted of at least one offence</b>	216	64.1	231	73.3	102	75.0	5,192	63.8
	<b>Acquitted</b>	35	10.4	26	8.3	12	8.8	1,089	13.4
	<b>Other</b>	86	25.5	58	18.4	22	16.2	1,853	22.8
	<b>Total</b>	<b>337</b>		<b>315</b>		<b>136</b>		<b>8,134</b>	
	<b>Conviction Rate (%)</b>	<b>64%</b>		<b>73%</b>		<b>75%</b>		<b>64%</b>	
<b>2015/16</b>	<b>Convicted of at least one offence</b>	233	72.4	221	72.2	91	63.6	5,506	65.4
	<b>Acquitted</b>	36	11.2	26	8.5	15	10.5	1,058	12.6
	<b>Other</b>	53	16.5	59	19.3	37	25.9	1,853	22.0
	<b>Total</b>	<b>322</b>		<b>306</b>		<b>143</b>		<b>8,417</b>	
	<b>Conviction Rate (%)</b>	<b>72%</b>		<b>72%</b>		<b>64%</b>		<b>65%</b>	

**Table 4.9 Magistrates' and Youth Court Outcomes by Victim Age Group (2017/18; 2016/17; 2015/16)**

The statistics on conviction rates should provide reassurance to older people who are victims of crime that once their case gets to the stage of a court deciding on guilt that they are just as likely, if not more likely, to have their case result in a conviction of the offender. There are various possible explanations as why the rate may differ. This includes the types of crimes that older people tend to be victims of being potentially more likely to end in a conviction; that when it comes to older victims of crime only stronger cases make it to trial stage (the PSNI and PPS statistics lend some support to this); that judges and juries are more likely to convict in cases where the victim is an older person. Without analysis of case files one can only speculate. These statistics although positive are only tentative and should not be used to suggest that more could not be done to improve the experience of victims of crime at the court stage of proceedings as they do not tell us anything about how victims perceive participation in the court stage of the criminal justice process.

## Publication of PPS Statistics on Crime Against Older People

The authors of this report are grateful for the co-operation of the PPS in producing the statistics that are found in this chapter. Although the PPS regularly publish statistics on their work, they do not publish data by the age of the victim. The explanation for not doing so is that there are issues with the reliability of such data and with the way in which it is currently recorded. PPS are aware that there is a level of missing and incorrect data within its age data. Unfortunately, PPS currently has no mechanism to cross-validate age data on its Case Management System (CMS).

The majority of cases involve a single victim. However where there are multiple victims and offences on a file, at present data is not held in such a manner to allow PPS to link victims to relevant offences, and in turn to link victims to prosecution decisions and outcomes for each of these offences. For example, a case could include a victim aged 70 or over, as well as a number of victims under 60. In this instance there may be a decision to prosecute for an offence relating to the older victim and for statistical purposes the case would be counted as having a decision to prosecute involving a 70+ victim. However, the decision to prosecute may not have related to that particular victim, but to one of the other victims in a different age group. Nevertheless the case would still be counted as a decision to prosecute in the 70+ category. Similar difficulties apply at outcome stage, and the case could be counted with an outcome of conviction in the age group 70+ when in fact the conviction related to another victim - the offences related to the older victim having resulted in an acquittal or indeed a direction not to prosecute.

The authors for this report acknowledge that overcoming these data difficulties to improve accuracy will take time and resources, including potential changes to software. However, producing accurate data by age of victim should be a goal as it increases transparency and assists in future policymaking. **It is therefore recommended that the PPS draw up an action plan to enable them to be able to include as part of their regular statistical publications statistics on victim age. In the interim the PPS should provide the Commissioner for Older People for Northern Ireland with annual statistical returns by age based on this chapter (including the necessary caveats).**

Whilst publishing the above data will certainly serve to shine additional light on the PPS approach to cases involving older victims, it is recommended that this be taken a stage further by adopting an approach applied by the CPS in England and Wales (CPS, 2018). The CPS in England and Wales designate particular types of crimes as ‘crimes against older people.’ These are not based purely on the age of the victim but also other accompanying factors:

- where there is a relationship and an expectation of trust e.g. assault/theft by a carer or family member;
- where the offence is specifically targeted at the old person because they are perceived as being vulnerable or an ‘easy target’ e.g. a distraction burglary or a mugging;
- where the offence is not initially related to the older person’s age but later becomes so e.g. a burglary where the burglar does not know the age of the householder but later exploits the situation on discovering that the householder is an older person;
- where offences appear to be in part, or wholly motivated by hostility based on age, or perceived age e.g. an assault, harassment or antisocial behaviour involving derogatory statements associated with the victim’s age; and
- where an offender deliberately targets an older person because of his/her hostility towards older people this will amount to an aggravating factor as will targeting anyone who is vulnerable.

Having flagged these crimes in their database as ‘crimes against older people’ the CPS then monitor the gender of the victims in such cases, the types of offences, rates of conviction, the rate of guilty pleas and the proportion of cases failing due to victim issues. The statistics are published regularly and are broken down by region. Trends over time are examined encouraging improved practice in the handling of such cases. Presumably the flagging of such cases also serves as a prompt to prosecutors to be aware of particular issues that may arise in such cases. **It is recommended that the PPS in association with the PSNI examine the feasibility of adopting a similar approach to flagging up cases as ‘crimes against older people’.**

## Awareness of the PPS

Whilst awareness of the role of the PSNI within the criminal justice system was high with the participants in the interviews and focus groups with older people, knowledge of the PPS was significantly lower. Even for those who had been victims of crime if their case had not progressed to the court stage there was sometimes a lack of awareness of the existence of the PPS, never mind its functions. The PPS are not outward facing in the same way as the PSNI due to the differing functions so it is natural that awareness of the PPS would be lower. However, it might be beneficial for the PPS to raise awareness of their role with the general public in Northern Ireland as this would mean that when the public do encounter the organisation when they are victims of or witnesses to crime, they have a better idea of what to expect. Only recently has the PPS established a social media presence in contrast to their counterparts in England and Wales, and Scotland.<sup>21</sup> The CPS in England and Wales have a package of interactive classroom lessons for young people on their website although they appear not to have any dedicated resources for older age groups. **Whilst PPS resources are limited the implementation of an outreach programme or public engagement strategy may prove beneficial. If such a strategy is to be introduced the PPS should work with key stakeholder groups representing the diversity of our society including those representing older people.**

## Conclusions and Recommendations

The PPS have an important role to play in the treatment of older victims by the criminal justice system despite the fact that awareness of their role as an agency amongst older people does not appear to be high. The PPS evaluate the evidence given to them by the PSNI, decide whether or not a case will be prosecuted, which court to do so in, and take responsibility for any subsequent prosecution in court. In this role they are guided by the Code of Practice for Prosecutors and the PPS Victims and Witnesses Policy. These documents do not specifically address crimes against older people. This is different to

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<sup>21</sup> The PPS launched a Twitter account on 11<sup>th</sup> February 2019. The handle is @thePPSNI.

England and Wales where the CPS have an additional policy guide to assist them in dealing with such crimes.

The PPS do record data on the age of complainants, but are not currently making statistics based on this available as part of their regular statistical publications due to concerns around the accuracy of the data. In the interests of transparency it is recommended that they work on improving the accuracy of the data to allow them to publish. The PPS could, and arguably should, consider going further than this by learning from best practice across these islands by adopting a similar approach to the CPS of flagging up particular crimes as 'crimes against older people' to encourage effective monitoring of such cases.

An analysis of prosecution data provided by the PPS to the authors finds some differences between older and younger groups of complainants when it comes to prosecutorial decision-making and the processing of cases. For cases involving complainants aged 60+ the PPS were more likely to decide to prosecute and more likely to obtain a conviction than for the adult complainant population as a whole. However, according to the statistics, in relation to the decision to prosecute, where complainants were aged 75+ the PPS were less likely to decide to proceed in comparison to cases where the complainant was aged 60-64 or 65-74. The age 65-74 and 75+ category also had a higher percentage of Decision Information Requests than the overall caseload. This means prosecutors were more likely to formally request further information from the PSNI on cases involving complainants aged 65-74 and 75+ than younger adults before making a decision as to whether or not to prosecute. The PPS statistics also showed a higher rate of the use of diversions as an alternative to prosecution in cases involving older victims in comparison to other adults. This chapter considered explanations for these various differences. Without analysis of case files it is difficult on the limited data that is available to fully explore the extent to which age might influence the handling cases by the PPS and such a research study would be of value.

The next chapter examines ways of improving outcome rates and the experience of older people who are victims of crime. The PPS have an important role to play in regard to both in partnership with other agencies and their work will be discussed further in the following chapter.

## RECOMMENDATIONS

- It is recommended that the PPS, using the CPS document and recent consultation as a template, work with older persons and other relevant stakeholders to design and publish specific policy guidance on the handling of cases involving older people.
- It is recommended that a review of case files be undertaken to better understand the following indicative findings from the data: files where the victim was aged 65-74 and 75+ having a higher rate of Decision Information Requests than the general cohort; a higher no prosecution rate for crimes involving complainants aged 75+ in comparison to the 60-64 and 65-74 age groups; and files with decisions involving older victims of crime being more likely to end in diversion decisions than the general cohort.
- It recommended that the PPS draw up an action plan to enable them to be able to include as part of their regular statistical publications statistics on victim age. In the interim, it is recommended that the PPS provide the Commissioner for Older People for Northern Ireland with annual statistical returns by age based on this chapter (including the necessary caveats).
- It is recommended that the PPS in association with the PSNI examine the feasibility of adopting a similar approach to the CPS of flagging up cases as 'crimes against older people.'
- Whilst PPS resources are limited, the implementation of an outreach programme or public engagement strategy may prove beneficial. If such a strategy is to be introduced the PPS should work with key stakeholder groups representing the diversity of our society including those representing older people.

## **Chapter Five Improving Outcomes and Supporting Older People who are Victims of Crime**

This chapter examines ways of improving outcomes for older victims of crime and enhancing the support they receive from the key agencies of the criminal justice system. The chapter is based on findings from the interviews and focus groups as well as previous studies and reports which have examined how best to support victims as they move through the justice system. A number of recommendations are made in light of the discussion of the findings.

### **Communicating with Victims**

When someone becomes a victim of crime, they will make a decision as to whether or not to report the crime, if they opt to do so then they open a channel of communication between themselves and the agencies of the criminal justice system. The first agency a victim will usually engage with is the PSNI. The victim can report the crime to the PSNI via telephone, at the station, or online. Once a crime has been reported the PSNI should provide the victim with a crime reference number, the name and contact details of the investigating officer and where they are stationed, and a victim of crime information leaflet (Victim Charter 2015: 10). The leaflet 'explain[s] the criminal justice process, how to claim compensation, support available to [the victim] (including what special measures are) and contact details for support organisations (including specialist support services)' (Victim Charter 2015: 10).

The PSNI will also conduct a needs assessment to assess what support and assistance may be needed if the victim is to give evidence (Victim Charter 2015: 10). The PSNI should pass on details of help and support available to victims including those of Victim Support NI and may signpost them to other agencies that they deem appropriate such as social work. The PSNI should automatically pass the victim's details on to Victim Support NI unless the victim has requested that they do not do so.

The PSNI will, if appropriate, investigate the crime and they will communicate further with the victim. This will often include taking a statement from the victim. This statement will

usually be a written statement, but may in some cases be video-recorded. If the victim has difficulties communicating in English they are entitled to free access to interpretation services including if required sign language. If there is an active investigation the PSNI will then communicate with the victim to keep them up-to-date on the progress of their case.

If the case file is passed to the PPS, then the Victim and Witness Care Unit will engage with the victim. This unit is staffed jointly by the PPS and the PSNI. The role of the unit is 'information provision, information gathering' as a member of staff described it during the research. The Victim and Witness Care Unit will keep the victim up-to-date with the progress on their case until the conclusion of any proceedings including any appeals. This will include up-dates on key decisions made by the PPS including the decision to prosecute. The victim is designated a named case officer who the victim can communicate with at any point in the case. The Victim and Witness Care Unit will conduct a needs assessment with the victim to assess whether any additional support needs are to be put in place, including an application for special measures. If the case is to be prosecuted the Victim and Witness Care Unit will pass on information about how to complete a Victim Personal Statement. If the offender is sentenced to six months or more of imprisonment the Victim and Witness Care Unit will send the victim details of the relevant post-conviction victim information scheme. The Victim and Witness Care Unit is a relatively recent innovation becoming fully operational in 2014. Its work has been praised by the Criminal Justice Inspectorate of Northern Ireland (2015) for improving the provision of information to victims. As the unit is still within its infancy it would be worth exploring the extent to which the level of engagement of older people with the unit compares to other age groups. It was stated by representatives from the unit that they do not at the moment log all contact between a case officer and a victim, making a study of differences in level of engagement by demographics difficult. **It is recommended that consideration be given to instigating a recording practice which allows data on levels of engagement with the Victim and Witness Care Unit by different demographic groups to be gathered and published to inform research and practice.**

The Victim and Witness Care Unit has now rolled out an electronic victim information portal called the 'Track My Crime' Portal which one of the officers described in the following terms:

They've been developing a victim information portal which essentially is an extension of the services of the victim witness care unit, now it won't replace anything which we do but for example they're only essentially piloting this over the next month or two but it will allow victims to register through an online portal where we will then be able to provide them with updates on the case. Now we wouldn't necessarily tell them at this stage that a decision has been taken and this is what the decision is, we might have to set the scene and say a decision has been taken by your prosecutor and you'll be notified in the coming days. We're very conscious that this can never replace any direct contact with individual case officers due to issues around accessibility and things like that, so that's one area we're looking to take forward over the coming months. The indication from research we've carried out is that the uptake on this should be fairly high. ***Representative from Victim and Witness Care Unit***

Increasing opportunities for victims to access information on the progress of their case is to be welcomed. It is also welcome that the intention is not to substitute the portal for more traditional forms of communication. It is important that victims can continue to choose their preferred method for communicating with the Victim and Witness Care Unit.

If the case reaches the stage of going to court, the PPS prosecutor will usually speak directly with the victim on the day of the trial (sooner in some more complex cases) and provide a further up-date for them and answer any last minute queries that the victim may have. This will include up-dates on pleas and any amendments to the charges and special measures provisions. These meetings can be very useful for reducing anxiety in victims. One older person interviewed for the study spoke of how the approach and time taken by the prosecuting barrister helped to inform her of the process and what to expect:

The barrister that took me round the court she was... very good and very thorough and gave me an insight into what court looked like, I never had been in a courtroom before

and it gave me an insight into what it looked like and where you sit and how you address the judge and all this. ***Older Victim of Crime Interviewee 9***

Family members described the importance of organising pre-court visits and providing the older person with the opportunity to speak to the prosecutor prior to the court date:

On the pre-court familiarisation visit... she [prosecutor] said the defence barrister may put some questions to her but that she just needed to answer as honestly as possible. She didn't fill mum with any fear. She was very empowering, at the end of the pre-court familiarisation she was saying you're great, and you'll be fine, you know, all positive statements. ***Interviewee – Family Member***

Prosecutors spoke of the importance victims and they attach to such meetings, but explained that they often feel pressed for time on the day of the trial:

[O]n the day [it] can be quite rushed where you're not really provided enough time by the judge to consult with your witnesses and then they might feel that you've sort of neglected your duty but the problem is there's a huge list and there's a couple of cases and there could be upwards of over ten witnesses and you're not provided with adequate time to really sit down. I don't know whether you know you can sort of feel like you're rushing someone and I know that they probably might get the perception that you're not really interested or you don't have time for them but that's obviously not the case because you've prepared the case and you're ready to run it but there's not that much time afforded really.

***PPS Prosecutor***

As the prosecutor in the quotation above identifies, rushing the victim through what might be an important and daunting discussion for them risks leaving the victim feeling that the prosecutor is not interested in them or their views. The criminal justice system has suffered from significant reductions in resources in recent years, which places additional pressures on courts and prosecutors to process cases quickly. Prosecutors can find themselves in a dilemma, criticised for spending too much time conferring with victims and witnesses or criticised for not spending sufficient time with them. There are no easy solutions to this problem. The Victim and Witness Care Unit and Victim Support NI can both assist by seeking

to address as best they can in advance any queries that victims and witnesses might have. However, there will be some queries that only a prosecutor will be able to address (including issues which arise on the day such as a late guilty plea, acceptance of a bind over, or the alteration of charges) and it is therefore important that courts allow prosecutors adequate time to speak with victims and witnesses.

In cases where there is a decision to prosecute, or where the original charges are substantially altered, or the case results in an acquittal or a conviction on a less serious charge, victims can request a meeting with the prosecutor to provide additional information.

If the victim chooses to engage with Victim Support NI, they will receive communication from their community liaison staff who can offer emotional and practical support in the aftermath of the crime. If the case reaches the stage of going to court Victim Support NI court liaison will engage with the victim offering them the opportunity to visit the court beforehand, to answer any questions about the experience of going to court and to conduct a further needs assessment to see what the victim may need in place if they attend court (this includes the provision of special measures). The role of supportive individuals including family members and Victim Support staff was very important in reassuring older people who were giving evidence in court:

I gave into it then but at the beginning I didn't like the idea of going to court at all and I didn't know... I didn't like the idea of it at all but then [daughter's name] brought a lady out to show me round the court, she said she would show me and put my mind at ease.

***Older Victim of Crime Interviewee 7***

Victim Support NI will also offer to assist the victim in completing a Victim Personal Statement if the victim wishes to do so.<sup>22</sup> If the victim attends court during the proceedings Victim Support NI will offer further support to the victim answering questions about the proceedings as well as offering emotional and practical support.

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<sup>22</sup> Victim Personal Statements are discussed later in the chapter.

According to the Victim Charter (2015) agencies should avoid employing overly complex language in any communication, in particular avoiding the unnecessary use of legal terminology. Where legal terminology is used, explanations should be provided. Where victims might have characteristics which impair their understanding, agencies should adjust how they communicate to aid victim understanding. (Victim Charter 2015: 18)

Criminal justice agencies also engage in outreach work which involves communicating with communities through various methods. For the PSNI important aspects of their work are reassurance and prevention of crime which involves reaching out not just to victims of crime, but to all within society as potential victims of crime. The PSNI officers involved in the research project spoke of a number of initiatives to reduce the risk of older people becoming victim to crime. In engaging in this work police officers spoke of the need to be mindful that older people were less likely to be reached via social media and more likely to be reached by traditional methods:

How to get the message out to older people? There's a lot of emphasis now been put on social media. A fair percentage of them don't use it. All we're getting now is, 'Push this out on Facebook and Twitter and all.' None of them use it. They all read, so it has to be done more through the written press or radio or television because they watch television... They're all sitting reading the local papers and things like that. So that's how you get the message out really. ***PSNI Focus Group Participant***

Whilst being careful to avoid parodying or pigeon-holing all people over a certain age, it is important to be mindful of target audiences when deciding on the methods of communication to be used and to use a mix of appropriate methods.

As part of the crime prevention and reassurance strategy officers spoke of visiting neighbours when a house in the locality had been targeted by burglars. This PSNI strategy is well-intentioned and may assist in reducing the likelihood of further victims in that area, however, it is also important that those designing and implementing such approaches are mindful of the difficult balance of providing reassurance whilst avoiding increasing fear of crime. An issue that was identified in chapter two.

## Identifying Vulnerabilities and Support Needs

Identifying any victim vulnerabilities and support needs is key to delivering justice. Victims should have equal access to justice despite any vulnerabilities and feel able to participate at every stage in the criminal justice system. Criminal justice agencies should make reasonable adjustments to support victims who have additional needs. According to the Victim Charter (2015: 22):

Not everyone is affected by crime in the same way and for some people the impact is greater than for others. You may need extra help to give evidence to the police or at court or to meet special needs that you have. You are entitled to a timely individual assessment by the police and by the Victim and Witness Care Unit (if the case progresses to prosecution) to identify such needs, necessary support or special measures related to this. The purpose of this would be to determine whether, and to what extent, you would benefit from additional support or 'special measures' when giving evidence to the police or at court. The extent of the assessment, including its nature, length and content may be adapted according to the severity of the crime, its apparent harm or impact on you and your individual needs.

By identifying vulnerabilities additional support needs can be put in place as appropriate including the video-recording of statements, the use of special measures in court, the prioritisation of cases to reduce delay, the provision of emotional and psychological support and preventative measures to reduce the risk of repeat victimisation.

It was evident from a number of older interviewees that they were personally resistant to asking for "extra assistance" and rather they relied on close family members to request or arrange such assistance, like a pre-court familiarisation visit or amplification earphones. Family members described how they informed the court service and the PPS of the needs of their relatives in advance, in particular any special requirements:

I was conscious... mum's hard of hearing, if she was hearing the questions properly. I was saying to the prosecutor, they would need to turn and face her this way because of

slight sight impairment; I was bringing those needs to the fore. *Interviewee – Family Member*

Family members felt that the particular needs of the older person should be assessed in advance of the court date and should be met in a sensitive and swift manner. Not all older victims of crime will have family members to support them in their journey through the criminal justice system. It is important therefore that practitioners are not only able to identify vulnerabilities, but also support older victims in gaining the appropriate assistance and special measures to enable them to partake of the justice system without undue trauma or distress.

The definition of ‘vulnerability’ most commonly relied upon in the criminal justice system is that contained in legislation governing the use of special measures in court. This legislation states that victims and witnesses will be considered to be ‘vulnerable’ by the courts for the purposes of special measures provisions (discussed in the next section of this chapter) if they fall into one of the following categories: they have a mental disorder, significant impairment of intelligence and social functioning; and/or physical disability or physical disorder (Criminal Evidence (Northern Ireland) Order 1999 art. 4).

Victims and witnesses are also eligible to be considered for ‘special measures’ if they are classified as ‘intimidated’. To be classified as ‘intimidated’ the quality of evidence a victim or witness would likely to be reduced because of fear or distress in relation to giving evidence (art. 5). The following factors should be taken into consideration in judging whether someone is intimidated (art. 5):

- the nature and alleged circumstances of the offence to which the proceedings relate;
- the age of the witness;
- such of the following matters as appear to the court to be relevant, namely—
  - the social and cultural background and ethnic origins of the witness,
  - the domestic and employment circumstances of the witness, and
  - any religious beliefs or political opinions of the witness;
- any behaviour towards the witness on the part of—

- the accused,
  - members of the family or associates of the accused, or
  - any other person who is likely to be an accused or a witness in the proceedings.
- In determining that question the court must in addition consider any views expressed by the witness.

These legal definitions are familiar to the courts, but are not necessarily readily understandable to other criminal justice practitioners or the general public. It is therefore important that further elaboration of what is meant by these terms is available to practitioners and the general public. The PPS have a document for witnesses entitled ‘Special Measures at Court for Vulnerable and Intimidated Witnesses’ which is available on their website.<sup>23</sup> The leaflet states that it contains information ‘about ‘special measures’, what they are and how they may help you to give your best evidence at court.’ The document explains the various special measures in a clear and concise manner without recourse to unnecessary legal jargon. The leaflet is considerably less clear when it comes to the definition of a ‘vulnerable’ or ‘intimidated’. Only the legal definition of each term is given. So for ‘vulnerable’ the leaflet states that for adults to be categorised as vulnerable ‘the quality of your evidence is likely to be reduced because you have: a ‘mental disorder’; a ‘significant impairment of intelligence and social functioning’; a ‘physical disability’ or a ‘physical disorder’. No further elaboration is provided.

The recently updated PPS Victim and Witness Policy (2017: 16) does not elaborate on the legal definition of ‘vulnerable’ although it does provide further guidance on the ‘intimidated’ category. For the latter category it provides examples of the types of evidence that would support an application for special measures. Relevant examples include that the victim is a ‘frail and older person’, ‘is making allegations against professionals or carers’; ‘is a victim of exploitation’; ‘has been harassed, bullied or victimised’; and ‘has experienced domestic violence’. These examples might not have been immediately obvious to a lay person as falling within the definition of intimidated. This elaboration is therefore to be welcomed.

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<sup>23</sup><http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf>

The Victim Charter (2015: 22-29) refers to special measures and does elaborate beyond the statutory text on what is meant by a vulnerable or intimidated witness. In relation to a vulnerable victim it states that 'the quality of your evidence is likely to be affected because you have: mental health issues; learning or communication difficulties; a neurological disorder; or a physical disability (2015: 23) This explanation at least uses language which people with relevant conditions and their carers or guardians would be more familiar with. The explanation for an intimidated victim is very similar to the PPS Victim and Witness Policy (Victim Charter, 2015: 24; PPS 2017)

**It is recommended that all literature sent to victims and witnesses and that is available online, adopt the explanations given in Victims' Charter and PPS Victim and Witness Policy for an intimidated witness. It is further recommended that the DOJ, PSNI, PPS work with stakeholders such as the COPNI to provide further elaboration in documentation of what is meant by a 'vulnerable victim or witness'.**

The criminal justice system of Northern Ireland as with other jurisdictions on these islands has had a mixed record of success when it comes to identifying vulnerable and intimidated individuals, with failings in identification with adults being an issue of particular concern. A Home Office study conducted in England and Wales in 2006 identified 24% of witnesses as being either vulnerable or intimidated in contrast to the 3-6% identified as such by the criminal justice system (Burton *et al.*, 2006). In 2012, the Criminal Justice Inspectorate of Northern Ireland reported the following:

It is apparent from some studies that, even on conservative estimates, fewer than half of all vulnerable and intimidated witnesses are identified as such by the criminal justice system agencies. Inspectors found similar identification difficulties in the Northern Ireland context. While the identification of some categories of vulnerable and intimidated witnesses is relatively straightforward (for example children and victims of sexual offences), other vulnerable and intimidated witnesses do not have obvious indicators and accurate identification can depend on training and/or the experience of criminal justice system professionals. (CJINI, 2012: vii)

The Inspectorate (2012; 2015) has spoken of a 'hierarchy of identification' with child witnesses and victims of sexual offences more likely to be identified as vulnerable than adult

victims of other crimes. As older people are more likely to suffer from vulnerabilities than adults of other ages, any failings in identification processes are disproportionately more likely to impact on this group.

In August 2016, a report by Her Majesties Inspectorate of Constabulary reported that in the year to March 2015 the PSNI flagged 2% of its cases as having a vulnerable victim. This contrasted with 10.7% in England and Wales. Such a large discrepancy is a major issue of concern. It is unlikely that Northern Irish victims of crime are more than five times less likely to be vulnerable than their English and Welsh counterparts. According to the HMIC report the PSNI adopted a new definition of vulnerability in January 2016 which defines vulnerability as 'a term used to describe a person who is in need of special care, support or protection because of age, disability or risk of abuse or neglect.' The HMIC reports that as of July the definition had yet to be shared with officers or staff (HMIC, 2016: 9). The report states that:

Given the extent of vulnerability identified by officers in our review of investigation files it is likely that the scale of vulnerability [identified by the PSNI] is an underestimate possibly arising from officers' inconsistent understanding and use of a function on the PSNI's crime recording system, by which they record whether a victim of crime is vulnerable (HMIC, 2016: 10).

According to the Victim Charter (2015) needs assessments should be conducted with victims at various stages in the criminal justice process. The PSNI should conduct the initial needs assessment with the victim. In 2012 report the Criminal Justice Inspectorate for Northern Ireland raised a number of concerns about the identification by the police of victims and witnesses with vulnerabilities:

Inspectors found there are real and practical difficulties in the identification of certain categories of VIWs. Part of the difficulty Police Officers face in identifying VIWs is that there is no formalised, agreed or accepted process to do so. At a practical level, there is no agreed risk assessment tool that could provide operational front line Officers with the help to make appropriate identifications. In many cases the identification of VIWs turns on the training and experience of individual Officers. (CJINI 2012: 28)

The Criminal Justice Inspectorate of Northern Ireland also identified issues with a lack of sufficient training for PSNI officers when it comes to identifying vulnerabilities:

For other types of cases [i.e involving adults] where there may be underlying mental or physical disability or impairment, Officers find it difficult to make the kinds of identification necessary. Many did not have the levels of training or awareness necessary to do so. Officers spoken to by Inspectors, for example, expressed concerns about probing and asking questions of witnesses to find out if there were any vulnerabilities. In the area of intimidation Officers were largely reliant on self-identification and with the exception of specialist Officers (in for example the PSNI's Serious Crime Branch), demonstrated a lack of awareness of both the indicators and of the implications of intimidation.

The lack of police awareness amongst Response Officers in particular can mean that they are unable to help witnesses make informed choices about the best route to follow in the use of special measures or to signpost specialist support and assistance. Once again this can have an impact in a number of different ways from the adequacy of the special measures applied, and therefore the best evidence available, and ultimately the outcome of the case. It can also impact negatively on the confidence of victims and witnesses to proceed with cases. (CJINI 2012: 24-25)

A follow up report by the Inspectorate (2015) did identify that additional training of PSNI officers has been put in place although the efficacy of this remains to be seen. During the course of this project a number of practitioners in the PSNI and other agencies spoke of difficulties of identifying vulnerabilities in cases involving older people. This included separating out what might be classified as 'typical signs of aging' from underlying conditions which increase levels of vulnerability. **It is recommended that PSNI and PPS training on identification of vulnerabilities and intimidation incorporate particular training on how best to do so in cases involving older people.**

The PSNI has also made available to staff a list of prompts to assist those conducting interviews in identifying vulnerable and intimidated witnesses. It is assumed that the list of

prompts is similar to that available to Police Officers in England and Wales.<sup>24</sup> The prompts encourage interviewing officers to not only listen to what the victim or witness is saying, but also to observe behaviour and individual characteristics in assessing levels of vulnerability and intimidation.

The Inspectorate also identified in its 2012 report that information on victims' vulnerabilities and needs were not always passed on by the PSNI to the PPS. A failure to pass on such information means that there is a risk that additional support mechanisms to assist a victim giving evidence in court, such as special measures, will not be put in place. Since this report a number of changes have been brought about to lessen the risks of such information not being communicated correctly (CJINI, 2015). Police files submitted to the PPS now include a Prosecutor Information Form and a Structured Outline of Case Form. These documents, particularly the Prosecution Information Form, allow the police to flag up key information to the prosecutor including information on victim and witness vulnerabilities and suitability for special measures. Prosecutors interviewed for the study had mixed views on the extent to which these forms were being completed accurately when it came to the identification of vulnerable and intimidated witnesses:

In an ideal situation the police should be flagging that up at the inception, so soon as we get a file it should be there in the outline of case, or we have the Prosecution Information Form for the witnesses and their particular needs are identified. The police should be flagging up that this victim is 70 years old and suffers from X, Y and Z and may require special measures or may require a hearsay application. **PPS Prosecutor**

We now have what's called a SOC and a PIF: a structured outline of case and a prosecutor information form. Both of those have ample opportunity for the police to identify particular vulnerabilities; particular special needs. ..Sometimes it just doesn't happen. Sometimes when get to court it's abundantly clear that a witness is vulnerable and should be getting statutory support, rather than me just trying to reassure them and holding their hand on the morning of any contest. **PPS Prosecutor**

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<sup>24</sup> <http://www.docslides.com/luanne-stotts/vulnerable-and-intimidated-witnesses>

If vulnerabilities or intimidation have been identified by the PSNI, it is important that this is communicated correctly through the relevant documentation.

If the case progresses to the prosecution stage, the Victim and Witness Care Unit will conduct a further needs assessment. Victim Support NI will also conduct a needs assessment with the victim assuming that the victim engages with the service. Having up to three agencies conducting needs assessments does risk duplication, but should in theory reduce the risk of any support needs being missed. It also provides an opportunity to identify where the circumstances of a victim change during the course of the progress of their case (which may be a considerable period of time) or where victim initially hides their vulnerabilities, points identified by the Criminal Justice Inspectorate for Northern Ireland:

[I]t is also apparent that early identification is not always possible for a number of other very logical reasons. Among these are the fact that some vulnerabilities may be hidden and some witnesses may indeed mask their own vulnerabilities. Furthermore, a witness's circumstances may change. This might include, for example, the occurrence of intimidation at any stage after initial police contact. Hence the need for special measures may only become apparent as the trial date approaches. (CJINI 2012, p.30)

It does not appear from the literature or this research study that the three agencies each approach needs assessments in the same way meaning there may be a lack of consistency of approach between and even within organisations. This may complicate matters when agencies are communicating with one another about victim needs.

One method of encouraging consistency and reducing the risk of miscommunication between agencies is for a common tool to be used to record vulnerabilities and support needs. Victim vulnerability matrices are tools that are used in a number of jurisdictions to aid practitioners to consistently identify and record where a victim may have vulnerabilities that may require additional support needs (Donoghue, 2013). One of the key advantages of a matrix is that they are straightforward and relatively quick to complete. The PSNI has recently introduced a victim vulnerability matrix in cases of hate and signal crime (PSNI Hate Crime/Incidents 01/2016). The matrix is reproduced in this report in Annex A. From an older victim's perspective it is welcome to see that identifiable vulnerabilities include the

following categories 'older person', 'living alone', 'long term illness' and 'disability'. The overall rating system in this matrix involves producing a score based on the probability of risk multiplied by the impact of the crime/incident on the victim plus the community impact. This system allows for a high risk of vulnerability score to be returned even in cases where the initial crime itself may to an outsider appear to be relatively minor, but where the impact on the victim is nonetheless serious. The matrix includes guidance for PSNI officers in how to handle the case depending on the vulnerability risk score.

Given the increased risks of vulnerability or intimidation that older people have it is worth considering the introduction of a risk of vulnerability and intimidation matrix in cases involving victims over a certain age. Such a matrix could include identifiable vulnerabilities including – living alone, lack of family support, repeat victimisation, high fear of crime, memory recall issues, a degenerative condition, physical disability, mental health issues, difficulties communicating, evidence of intimidation. As with the PSNI hate crime matrix the impact of the crime on the victim would also be recorded a score as would the impact on the community. The impact on the community score would be particularly useful in cases involving older people because as was identified in chapter two a crime against an older person in a neighbourhood can increase fear amongst other older people in that locality. The use of a vulnerability matrix avoids the need for the victim to identify themselves as vulnerable or intimidated as the practitioners are instead scoring the characteristics of the victim and the circumstances that the victim finds themselves in. A recent report by HM Crown Prosecution Service Inspectorate in England and Wales stated the following on this matter:

People may come to the attention of the police service with a combination of different vulnerabilities – some apparent and some not... Vulnerability may be linked to age, a health condition, or disability. In many cases people are not inherently vulnerable, but may be made vulnerable by their circumstances. Individuals may be vulnerable in a given context and not in another (HMIC, *The Welfare of Vulnerable People In Custody: 4444*).

The report highlights that categorising ‘vulnerability’ is complex, and there can exist a number of different circumstances which together result in an individual being classed as ‘vulnerable’ due to circumstances, rather than inherently. The benefit of a victim vulnerability matrix is that it can assist in identifying the many different forms of vulnerability and in the production of an overall score it can reflect how different vulnerabilities present in a case can compound one another to increase overall vulnerability. For example an older person may live alone, have a heightened fear of crime and be the victim of a crime where the offender is someone who was in a position of trust. Once completed the completed matrix sheet including score can be recorded and passed on to other agencies in the criminal justice system to encourage greater consistency of approach in identifying support needs. **It is therefore recommended that consideration be given to the introduction of a victim vulnerability matrix for older victims of crime with the matrix being used by agencies across the criminal justice system to encourage the better identification of victims’ needs and the measures that should be put in place to support them.**

### **Multi-Agency Collaborative Working to Identify and Support Vulnerable Victims**

Multi-agency collaborative working has been shown to be important in improving the identification and support given to vulnerable victims (Home Office, 2014). The Policing Plan 2016/17 called for the PSNI to ‘implement and assess the impact of interventions to support service to the most vulnerable in partnership with others’ (p.5). In response to this the PSNI piloted an initiative known as the Support Hub (originally known as the Concern Hub) (NIPB 2017). Concern Hubs have been available for a number of years in Scotland.<sup>25</sup> In Northern Ireland the first hub was launched in the Derry City and Strabane District in August 2016.<sup>26</sup> In 2017 hubs were established in the Antrim and Newtownabbey District and in Mid and

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<sup>25</sup><https://www.south-ayrshire.gov.uk/health-social-care-partnership/documents/item%20%20-%20police%20concerns%20hub%20161215.pdf>

<sup>26</sup> For a video of the operation of the Concern Hub in Derry and Strabane see: <https://www.youtube.com/watch?v=i6lcu43icfY>

East Antrim District.<sup>27</sup> The aims of the hubs is to 'bring key professionals together to facilitate early, better quality information sharing, decision making to work together to improve a vulnerable person's situation.'<sup>28</sup> During meetings of the hub cases are discussed and actions agreed to reduce vulnerability. Partners of the hub include the PSNI, the policing and community safety partnership, the health and social care trust, the Housing Executive, the local authority, the Probation Board, the Education Authority and Youth Justice Agency. The Derry and Strabane Concern Hub identified older people subject to repeat incidents as one group susceptible to vulnerability (PSNI, 2016b). The PSNI has committed to conducting evaluations of the Support Hubs to enable them to roll them out across Northern Ireland something which the Policing Board supports (NIPB, 2017).

**It is recommended that the Commissioner for Older People for Northern Ireland liaise with the PSNI to ascertain the extent to which the new hubs are improving the identification and support of older vulnerable victims of crime and how they might improve their ability to do so.**

In addition to the newly established Support hubs, since 2010 Adult Safeguarding Partnerships have been in existence in Northern Ireland (NIO 2010). The Northern Ireland Adult Safeguarding Partnership (NIASP) oversees five Local Adult Safeguarding Partnerships (LASPs) (one in each health trust). The Adult Safeguarding Partnerships were established to provide leadership and direction to the relevant statutory agencies when it comes to matters of safeguarding vulnerable adults. Membership of the partnerships include health and social care trusts, the PSNI, the Probation Board of Northern Ireland, the Housing Executive, local authorities, providers of sheltered accommodation and voluntary, community and private sector groups working in the adult safeguarding arena (NIO, 2010). The definition of a vulnerable adult for the purposes of the partnerships is:

a person aged 18 years or over who is, or may be, in need of community care services or is resident in a continuing care facility by reason of mental or other disability, age or illness or

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<sup>27</sup><https://www.psni.police.uk/globalassets/inside-the-psni/our-policies-and-procedures/equality-diversity--good-relations/section-75-june-2017/section-75-screening---pwc-project-concern-hub.pdf>;  
<https://www.midandeantrim.gov.uk/news/new-support-hub-040917>

<sup>28</sup><https://www.psni.police.uk/globalassets/inside-the-psni/our-policies-and-procedures/equality-diversity--good-relations/section-75-june-2017/section-75-screening---pwc-project-concern-hub.pdf>

who is, or may be, unable to take care of him or herself or unable to protect him or herself against significant harm or exploitation. (NIO 2010, p2)

Older people who are victims of crime do not necessarily fall within this definition, although they are the age group most likely to do so. This includes those who are subject to elder abuse by carers or family members or those who are targeted because of their frailty:

Perpetrators of abuse or neglect are often people who are trusted and relied on by an older person, such as family members or care staff. Safeguarding is not limited to situations where there is a breach of trust as it includes situations such as risk of exposure to scams. It is important to be aware that anyone can commit abuse or neglect. Women over the age of 70 who are dependent, frail and alone are particularly vulnerable to abuse, which takes multiple forms. Action on Elder Abuse has found a prevalence of psychological abuse, usually through intimidation or coercion linked to financial abuse (AgeUK, 2017, p.8).

The role of the NIASP and the LASPs includes developing policies and procedures to encourage best practice when it comes to safeguarding vulnerable adults; monitoring and evaluating how well local services work together to do so; encouraging and developing good working relationships between different services, professionals and community voluntary and private sector groups; developing and facilitating training on best practice in adult safeguarding; promoting public awareness of adult abuse or neglect and the availability of adult safeguarding and protection services (NIO, 2010).

Another multi-agency partnership arrangement of relevance to older victims of crime is the MARAC (Multi-Agency Risk Assessment Conference) used in cases of high-risk domestic abuse, stalking and 'honour' based violence. At these multi-agency meetings representatives from a range of agencies including the PSNI, health and social care trust, the housing executive, probation and Independent Domestic Violence Advisors discuss specific cases, sharing relevant information and co-ordinating an action plan to protect the victim.<sup>29</sup> Cases are referred by practitioners who are encouraged to complete a risk identification

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<sup>29</sup><http://www.safelives.org.uk/sites/default/files/resources/MARAC%20FAQs%20General%20FINAL.pdf>

checklist to identify relevant cases.<sup>30</sup> Research has shown that that MARACs are an effective mechanism for improving multi-agency collaborative work to identify and support vulnerable victims (Robinson 2004). There is though a gap in the literature when it comes to evidence to support the effectiveness of MARACs when it comes to older people (Robbins et al. 2014).

## Special Measures

The Criminal Evidence (Northern Ireland) Order 1999 sets out a number of ‘special measures’ that a judge can order be put in place to assist vulnerable or intimidated victims and witnesses to give their best evidence. These measures include:

- Playing of video-recorded interviews in court where police have video recorded the evidence from the victim or witness beforehand. This special measure is discussed in its own section of this chapter entitled ‘recording of investigative interviews with victims – achieving best evidence’.
- Evidence given behind a screen or curtain in court. The screen or curtain is positioned so as to shield the victim or witness from seeing the defendant.
- Evidence delivered via live video link. This avoids the victim or witness having to be in the courtroom and in some cases even the court building when giving evidence.
- Evidence in private. This involves clearing the court of all but essential staff in sexual cases or where there has been or may be intimidation.
- The removal of wigs and gowns in the courtroom. This is commonly used in cases involving those under 18.
- Communication aids. These are used to assist witnesses who have difficulties communicating.
- Registered intermediaries. These are communication specialists who assist witnesses who have difficulty understanding and/or giving answers. Registered intermediaries are discussed in a later section of this chapter.

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<sup>30</sup><http://www.safelives.org.uk/sites/default/files/resources/NI%20Dash%20without%20guidance%20FINAL.pdf>

## Eligibility for Special Measures

To be eligible to apply for special measures a victim or witnesses must fall into one of the categories prescribed by the Criminal Evidence (Northern Ireland) Order 1999. Victims and witnesses under the age of 18 are automatically eligible for consideration for special measures. In cases involving a child as a witness, there is a presumption that the court must give a special measures direction to allow for the witness to provide their evidence via either video recording or a live video link. Victims in cases of sexual offences are also automatically eligible to apply for special measures. More recently victims of slavery or human trafficking offences were also added to the list of those automatically eligible to apply for special measures (Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 Section 24). For victims and witnesses over the age of 18, in cases not involving sexual, modern slavery or human trafficking offences, they must be a 'vulnerable' and/or 'intimidated' witness to be eligible to apply for special measures. Eligibility does not guarantee that a special measures request will be granted. The court will need to assess whether the vulnerability is likely to affect the quality of evidence given by the victim or witness (art. 4). Quality is defined in the legislation as relating to completeness, coherence and accuracy including the ability to give answers which address the questions put to the witness and can be understood both individually and collectively (Art. 4).

There is no presumption that an older person is eligible for special measures. Many people over the age of 60 will not fall into the vulnerable or intimidated categories. This is not problematic for those who feel able and wish to give their evidence in court. However, as people advance in years they are disproportionately more likely to have a vulnerability that would make them eligible for special measures. It is important therefore that any relevant vulnerabilities or fear or distress are identified and if they are found that the older person is asked if they wish for an application for special measures to be made by the PPS. Some individuals who may be identified as having a vulnerability or as suffering from fear or distress may not wish to avail themselves of special measures and such preferences should be respected. The procedure for identifying vulnerability and/or intimidation are set out in the Victim Charter (2015) and PPS Victim and Witness Policy (2017).

In discussing the procedure followed in relation to cases involving older people PPS practitioners and staff from the Victim and Witness Care Unit were keen to emphasise that no assumption would be made that older people were necessarily vulnerable or intimidated and that they would assess their suitability for special measures as they would other adults. Some practitioners adopted an approach of increased vigilance with older witnesses because they were viewed as more likely to fall into either the vulnerable or intimidated categories than other age groups. Other practitioners adopted an age-blind approach where the age of the victim was not considered relevant, assuming they were aged 18 or over, for fear of being perceived to discriminate. The risk of an age-blind approach in relation to special measures is that it fails to take into consideration the heightened levels of vulnerability in the older population and therefore the increased likelihood that it will be in the best interests of an older complainant to give their evidence with the assistance of special measures.

The risk of failing to identify those who are in need of special measures is real and a report by the Inspectorate for Criminal Justice in Northern Ireland in 2012 identified systematic failings, which meant that not all who were eligible and in need of special measures were being provided with access to them. The Inspectorate warned that:

It must be regarded as self-evident that the consequences of the failure to identify the witness as being vulnerable or intimidated, and the failure to address the issue of special measures, are potentially stark. This could ultimately result in unsuccessful prosecutions and thus impact on public protection. (CJINI, 2012:5)

In 2015, in a follow-on report the inspectorate praised recent improvements in the provision of special measures, including the work of the new Victim and Witness Care Unit and the use of Prosecution Information Forms to help identify vulnerable and/or intimidated victims and witnesses. Whilst these initiatives are very welcome, vulnerabilities will not always be identified and the appropriate special measures will not therefore be put in place in all cases where they are needed.

The establishment of a clear policy and procedure to be followed is important. The Victim Charter (2015: p.X) states the following on the procedure to be followed in relation to special measures applications:

When your needs are assessed by a service provider, and you are identified as being eligible for additional support or special measures, they will discuss with you what 'special measures' may be available if they think that you might benefit from these. Once assessed an application for special measures can be made, if appropriate. It is the judge who decides whether special measures should be granted. Once granted you are entitled to receive them. If you are vulnerable or intimidated, or have other particular needs identified as a result of the individual assessment and the service provider considers that you would benefit from special measures when giving evidence at court (due to your vulnerability to secondary and repeat victimisation, intimidation or retaliation) you are entitled to have: the Public Prosecution Service apply to the court for special measures (if you are considered eligible and you want to use them to give your evidence) and explain these to you; the Victim and Witness Care Unit inform you whether or not special measures have been granted; and the Public Prosecution Service ask the court to give the case priority.

The PPS Victims and Witnesses Policy (2017: 15) includes the following on special measures:

Victims over 18 are not automatically eligible to apply for special measures, unless the complaint relates to a sexual offence, human trafficking or slavery. Regardless of age, however, if a victim believes they may be vulnerable or intimidated, they should inform their VWCU Case Officer as soon as possible so that consideration may be given to making an application for special measures.

The Victim and Witness policy (2017) from the PPS accurately identifies that special measures are not automatic and eligibility must be established. Sometimes there will be cases where a victim or witness requests special measures but they are deemed ineligible either by the PPS or the Court. This can lead to disappointment and heightened anxiety among victims and witnesses which in some cases might even mean that the victim withdraws their support for the process. In interviews prosecutors were keen to emphasise that special measures are not within their gift:

They're not ours to give and that's our biggest problem... There is no part of me in my role that would not love to give special measures to everybody that wanted them because they are genuinely very, very effective but they're not ours to give. **PPS Prosecutor**

The judge will be the final arbiter of any application. For the years 2009/10 through to 2011/12 only 60% of applications made for special measures to the courts in Northern Ireland were granted (Bunting *et al.*, 2013: 46). However, prosecutors have an important role to play in deciding whether or not to make a special measures application. Some prosecutors view special measures as a double-edged sword particularly in regard to evidence given via video-link.

#### Videolink

During interviews with PPS staff, they were positive about the benefits of evidence via video-link in what they deemed to be appropriate cases involving older people, but also emphasised the potential benefits of an older person providing evidence in court where they are able to do so:

There's not a witness that I've ever met that wouldn't benefit from special measures in some capacity, they are a very effective measure. In terms of impact they definitely do sort of stifle it a bit. If you have a 75 or 80 year old that is as sharp as a tack and willing to go to court you will never get a better impact in terms of a judge or jury. **PPS Prosecutor**

As a prosecutor I would prefer to have my victims and witnesses give evidence in court because quite often in respect of older victims and witnesses the emotion with which they deliver evidence can be very compelling on a jury which is sometimes lost if it's over a video feed ... I think the best evidence is always in person in court, if it's not always possible then we have to look at the best possible way of giving that evidence and if that means the person is more comfortable and will give better evidence from behind a screen over live link or whatever that is the way we'll always go but where it's possible I would always seek to have it in court. **PPS Prosecutor**

A number of previous studies in Northern Ireland in recent years have identified a perceived reluctance on the part of some prosecutors to have evidence delivered via video-link (Bunting *et al.*, 2013; ICJNI, 2012) for fear that the impact of the evidence on the judge and jury is diminished.

The Inspectorate for Criminal Justice in Northern Ireland (2012: .49) has expressed concern that the perception held amongst some practitioners that evidence delivered via video-link is less credible or has less impact means that there is a reluctance to use this special measure:

Inspectors considered that there remains within the legal professions some doubt about the efficacy of the use of special measures. This stems principally from the long accepted principle which is that witnesses must give evidence in an open court, except in extraordinary circumstances. This is a tension which can lead to some victims, victims groups and others perceiving a reluctance on the part of some legal professionals to use special measures. Inspectors concluded that the issue of resistance or reluctance on the part of the criminal justice system to use special measures is largely perceptual and not borne out by strong evidence of negative outcomes.

Research (Cooper and Roberts, 2005) that analysed Crown Prosecution Service data on special measures found that the granting of special measures in cases involving vulnerable or intimidated adults actually helped to secure convictions and encouraged earlier guilty pleas. Special measures also reduced the risk that the case would collapse before reaching a conclusion suggesting that victims were more willing to give evidence if special measures were in place. Research from Ellison and Munro (2014) on the impact of special measures on mock juror deliberations in rape cases found that there was no clear preference amongst jurors for 'in-court versus out of court conditions.' The research found little evidence to support the assertion that the emotional impact of evidence is greater when evidence is given in-court rather than via video-link.

Likewise there was little evidence to substantiate the belief that the credibility of a witness is undermined by the use of special measures. Whilst it was found that some jurors expressed less sympathy for a victim providing evidence via video-link, others actually

expressed greater sympathy for victims in such cases, suggesting that the overall impact is negligible (Ellison and Munro 2014). Research conducted in Australia by Taylor and Joudu (2005) came to similar conclusions. An important caveat identified in the Australian study was that the researchers speculated that the quality of the video-link may potentially impact on juror perceptions.

Other practitioners involved raised concerns about perceived reluctance on the part of some prosecutors in Northern Ireland to use special measures. A PSNI officer expressed this viewpoint in the following manner:

It's very difficult to get special measures through the PPS....I have more and more people coming to me now and asking - just victims in general asking for special measures because they're fearful of seeing this person for the first time again since their attack or since whatever has happened. *PSNI Focus Group Participant*

Likewise a representative from Victim Support NI expressed their concerns as follows:

I think it depends from area to area. It depends really on prosecutors. If prosecutors are in favour of using special measures then they will make loads of applications and they will encourage people to use them. If they're not in favour of it and they think a witness gives much better evidence sitting face-to-face with a judge or face-to-face with a jury, they will try to persuade a witness to go away from making the application. You still see it in your witness rooms where they've come in and said, 'Listen, I think it's best if you go into the court and give evidence in court. You can see emotions better and they get to see your face.' It's not necessarily in the best interest of the victim or witness. *Victim Support Practitioner*

There is therefore evidence from this study and other recent studies that special measures applications are not always being made in cases in Northern Ireland in which it is perceived that they would benefit the victim or witness. **It is recommended that further research be conducted to explore how prosecutors in Northern Ireland make the decision as to whether or not to make an application for special measures, particularly in cases involving older people.**

The potential benefits of delivering evidence via video-link, according to the participants in this study, are that victims are more likely to agree to give evidence in the first place, when they do give evidence they are less anxious, more relaxed, are able to better listen to the questions and respond more fully to them.

There was some concern from practitioners that those giving evidence via video-link could feel somewhat disconnected from the proceedings in the court:

The thing about videolink is you're a little bit remote and that's obviously good if you want to be remote but some people want to be in and see exactly what's going on so I think it's about tailoring the need. **PPS Prosecutor**

There is a downside in that some women and particularly in sexual offences will tell you there's a disconnect. It's like watching television. This is the impression they get; they're disconnected from the whole process. **Victim Support Practitioner**

This feeling of a disconnect was reported to be compounded in some cases by a refusal by the judge to let the victim sit in the courtroom after giving their evidence.

Sometimes when they use special measures, because they've got video link they're not allowed to enter the open court to hear the rest of the evidence. I think that's where sometimes the disconnect happens. **Victim Support Practitioner**

Depending on the judge. It's very much depending on the judge. Some judges take the view that they take the order to the exact letter....They say, 'If you're so vulnerable, how can you give evidence in a video link and then come and sit in the back of the court?' Other judges will take a view that, 'No, it's for the duration of evidence only,' and will let them sit at the back of the court, but they're in the minority. **Victim Support Practitioner**

The standard rules of evidence state that a victim can sit in the courtroom and listen to proceedings after they have given evidence. There is no law or regulation which requires that those victims who give evidence via videolink should be treated any differently in this

regard. It is therefore surprising to hear that some judges are reportedly refusing victims access to the courtroom after they given evidence via videolink. A participant from Victim Support stated that excluding victims from the courtroom in such cases can leave victims feeling disconnected and distressed:

That's where the sort of disconnect comes because they don't know what's going on. They're not hearing and they're not seeing what's happening in the court, even though it's their case. 'I don't know what's going on.' And you're relying on police and the prosecutors coming back or ourselves coming back to give you the information about, 'This is the stage we're at now. This witness has given their evidence. The jury's gone out,' and we're feeding them back the information. They could come maybe here for days and just sit in this witness room waiting for somebody to come back and tell them about a case that's personal to them, and it's about them and people are talking about them and discussing them and they can't be there. So that's whenever the disconnect with using the video link comes into place. *Victim Support Practitioner*

It was also reported that in some cases the prosecutor would advise victims not to sit in the courtroom after giving their evidence via video-link for fear of a retrial:

But then the prosecutor will also sometimes say to witnesses about if they were thinking about maybe going in, they would say to them, 'We have to also be aware that if we go to a re-trial stage, you've now gone into court, the defence can make an application to override the previous application where you got your special measures, because you came into the court.' *Victim Support Practitioner*

It may be that some judges are interpreting the provisions on special measures applications to mean that a person must be too vulnerable or fearful or distressed to sit in the courtroom. The test is whether or not the court considers that the completeness, coherence and accuracy (the 'quality') of evidence given by the witness is likely to be diminished by reason of those circumstances. Therefore it is perfectly plausible for a witness to be too vulnerable or fearful or distressed to give evidence in open court but still feel able to sit and listen to the proceedings following the giving of their evidence. To unnecessarily prohibit a victim from attending proceedings is to undermine the openness of the justice system. **It is**

**therefore recommended that all members of the judiciary receive additional guidance on the right of victims and witnesses to sit in the courtroom following their video-link evidence.**

## Screens

An alternative special measure to evidence via video-link is for the victim or witness to give evidence in the courtroom behind a curtain or screen. The curtain or screen will shield the witness from sight of the defendant. The witness must be visible to and must be able to see the judge, jury and legal counsel from both the prosecution and defence. A number of prosecutors spoke about the potential benefits of the use of screens:

A lot of older people are not overly au fait with technology and so rather than giving their evidence by way of a video link they prefer to simply have screens. We have curtains in the court in [town X] and we have screens in [our local court] which we can provide to assist victims and witnesses in giving their evidence. *PPS Prosecutor*

Given the reluctance that some prosecutors have expressed about the use of video-link evidence, it would be thought that screens would be a commonly used alternative. However, research by the Inspectorate of Criminal Justice for Northern Ireland (2012: 5) found that between 2007-09 there were only 150 applications for the use of screens in contrast to 1,799 for evidence via video-link. Part of the reason for the discrepancy appears to be down to practical concerns around the use of screens as described in the Inspectorate's report:

During fieldwork Inspectors heard evidence of some concerns regarding the use of screens. Indeed one legal practitioner postulated that he would object to the use of screens in every case since this might be seen to prejudice the defendant. Some other concerns of the practical arrangements in the use of screens was also apparent. This ranged from issues such as a witness being seen coming into court, to the practicalities of getting a witness into court and behind screens without compromising that witness in any other way. On occasion, that meant clearing the court to allow the witness to come into the screened area

without being seen. The practicalities of the screening process were thus largely concerning the logistics of getting a witness to and from the witness box. (CJINI 2012: 15)

This study on older people as victims of crime found similar concerns expressed about the practical arrangements for the use of screens with one practitioner describing the state of screen in some courts in Northern Ireland as 'diabolical'. The use of makeshift arrangements such 'concertina type old-fashioned hospital wheel-along screens, about six foot high' was viewed by some practitioners as undermining the dignity of witnesses who make use of them.

The Inspectorate of Criminal Justice for Northern Ireland (2012:,17) report also found that witnesses were not always allowed to make an informed decision in relation to choosing between videolink and screen. Similar concerns were raised in this study on older people as victims of crime.

**It is recommended that there be a review of the provision of screens in the criminal courts of Northern Ireland with a view to remedying any deficiencies found and that criminal justice practitioners be trained to ensure that they provide sufficient information to enable victims and witnesses to make an informed choice between screens and video-link in appropriate cases.**

#### **Communicating to Victims About Special Measures and Managing Victims' Expectations**

It is important that victims are advised appropriately about special measures including information on how each special measure functions; the eligibility criteria for special measures; how that eligibility criteria is assessed; and how applications are made for special measures to be put in place. All of this information is necessary if victims and other witnesses are to make an informed decision as to whether to request that an application be made on their behalf.

The PPS have a document for witnesses entitled 'Special Measures at Court for Vulnerable and Intimidated Witnesses' which is available on their website.<sup>31</sup> The Victim Charter (2015:,22-29) refers to special measures and does elaborate somewhat on what is meant by a vulnerable or intimidated witness.

Whilst getting the documentation correct is important it is also vital that practitioners who are tasked with advising victims and witnesses and identifying those who might be in need of special measures are informed and adequately trained. A number of agencies have a role in this regard. This includes the PSNI, the Victim and Witness Care Unit, the PPS and Victim Support NI. As the first point of contact the PSNI are an important agency as they have the opportunity to meet and talk to the victim and explain special measures. The Chief Inspectorate for Criminal Justice in Northern Ireland reported (2012:23) that:

In practice, special measures are not being identified at the early stages and many Officers do not have sufficient understanding of special measures to explain these appropriately to victims and witnesses.

The study by Bunting *et al.* (2013) identified similar problems. In the Inspectorate's 2012 report it was recorded that the PSNI were planning on providing officers with additional training to improve knowledge and understanding of special measures. Training has become even more important in recent years as police officers are now spending less time in courts and so are less familiar with court proceedings including special measures. This was a concern identified in a recent inspection report in England and Wales:

It is increasingly the case that many police officers will not have been inside a courtroom or given evidence. As such, they are increasingly distant from the wider criminal justice system for which they are the gatekeepers. It is clearly essential that officers have an understanding of their role in the criminal justice process, both to ensure that justice is done and to provide vulnerable victims and witnesses with the support they require to give their best evidence. (HMIC, 2015:10)

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<sup>31</sup><http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Special%20Measures%20Leaflet.pdf>

PSNI officers now also provide victims with written documentation which includes information on special measures.<sup>32</sup> A further opportunity to communicate with victims about special measures arises when the Victim and Witness Care Unit becomes involved and then again if and when the victim engages with Victim Support NI. Practitioners have a delicate balance to strike. They need to explain special measures and identify potential vulnerabilities whilst at the same time not giving victims an unrealistic expectation that special measures will automatically be granted. A number of practitioners raised the issue of the risks of expectations being raised through poor communication:

What they shouldn't be doing when they see a victim is saying they're going to get special measures or that it's a really good case for special measures; they should explain the process and say that the prosecution can apply for special measures. That it would involve X, Y and Z and it would be properly granted on evidence. They should be asking the victim in the case whether there are any reasons that they can think of where the quality of their evidence would be diminished by them giving evidence in court and whether evidence given by live link would improve that. **PPS Prosecutor**

It's about managing victim's expectations around this and nobody should be promising anybody special measures because at the end of the day it's not our decision. **Victim and Witnesses Care Unit Representative**

PPS participants identified the need to manage the expectations of victims from the outset regarding the likelihood of obtaining special measures and the potential benefits and drawbacks of them. In the quotation below a prosecutor recounts how miscommunication on special measures can lead to distress and frustration for victims on the day of the trial:

Sometimes that will be flagged up by the victim from this care unit; that the victim would like special measures. That message may not necessarily be passed to me, so when I actually meet the victim in the morning they'll be saying, 'I'll be in a different room, won't I?' I'll say, 'No, you won't, I haven't got a special measures application and I don't see any grounds for it.' At that point, on the morning of the trial, they'll obviously be very disappointed and frustrated with that. I haven't had a case where they've decided not to go

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<sup>32</sup><https://www.justice-ni.gov.uk/sites/default/files/publications/doj/information-for-victims-of-crime.PDF>

ahead due to that, but that's obviously a potential if they're going to court with the expectation that they'll have a screen up or something like that. If that isn't put in place and they've no grounds to make that application then they may refuse to continue to cooperate with the prosecution. **PPS Prosecutor**

It is important that all communications in whatever format provide accurate information to allow a victim or witness to make an informed decision on whether or not they wish to ask for an application for special measures to be made on their behalf. It is also important that realistic expectations are set on the likelihood of success and that victims and witnesses are kept informed of any decisions made about any such application.

### Creating a Presumption in Favour of Special Measures for Crimes Against Older People

'Vulnerability' and 'intimidation' are contested concepts both in law and in society. There are cases where the label of vulnerable or intimidated is rejected by older victims of crime even where the law may categorise them as such and where their evidence would be better with the benefit of special measures. This problem is compounded where older people receive information which does not adequately explain the concepts of vulnerability and intimidation and their relationship to special measures. There will also be cases where older people might consider themselves in need of special measures, but criminal justice practitioners whether the police, prosecutors or the judiciary in their application of the law do not agree. One need only look at the high number of rejected applications for special measures for evidence of such a discrepancy (Bunting *et al.*, 2013). There will also be cases where obvious vulnerabilities or evidence of intimidation are missed by practitioners. Bunting *et al.* (2013) speak of a 'hierarchy of identification' in Northern Ireland where vulnerable adults in particular are less likely to have their vulnerabilities identified and responded to appropriately. More recent reports have found that this failure of identification remains a feature of the Justice System of Northern Ireland (HMIC 2016). As older people are more likely to suffer from recognised vulnerabilities any problems in identifying those in need of special measures risks having a disproportionate impact on this age group.

Improving practitioners' ability to identify vulnerabilities and how the criminal justice process communicates with older people about special measures is clearly important. Another method of reducing the likelihood of special measures directions not being issued in appropriate in cases involving older people is to introduce a presumption that those above a certain age be eligible to apply for special measures or at least certain types of special measures. If such a presumption were in place people above a certain age would be eligible to apply for special measures but they could still if they wish choose to opt to give their evidence in court without the aid of such measures.

A presumption (referred to as the primary rule) exists for those under the age of 18 which states that a court must give a special measures direction (video-link or pre-recorded statements) to such a witness (Criminal Evidence (Northern Ireland) Order 1999 art4.). This primary rule is subject to a number of exceptions. One of the exceptions is that the person under 18 wishes to give evidence in court and the court is satisfied that this would not diminish the quality of the witness' evidence. Another presumption applies in relation to adults who are complainants in sexual offence, modern slavery or human trafficking cases (art.5). In England and Wales a third presumption applies to witnesses in cases involving gun and knife crime cases (Coroners and Justice Act 2009 s17). In relation to both adult presumptions the witness can opt out of the special measures if they wish. In Scotland, the Victims and Witnesses Act (Scotland) 2014 extended the definition of vulnerable witnesses in criminal proceedings to include witnesses under 18, complainants of sexual offences, domestic abuse, human trafficking and stalking granting them an automatic entitlement to apply to use standard special measures.

The participating practitioners from Victim Support NI were very much in support of the introduction of a presumption for those above a certain age:

That would be a definite benefit. That really would. The person would have an option then. They would have some control. 'I want to do this,' or, 'I want to do that.' This is about control, regaining control. From personal experience, having seen it here, older people do tend to do well in video link scenario, in special measures scenario. **Victim Support Practitioner**

Anything that gives them an opportunity to come into court, go in and give their evidence as best they can, should only be encouraged and if that's that we put a guideline in for age and that they're automatically entitled, and that we can reassure them, 'Whenever you come, if you want to use special measures it's here and this is what it looks like,' and let them come along and see it, and encourage them to stay involved. It can only be beneficial.

***Victim Support Practitioner***

If such a presumption was in place practitioners would still engage in dialogue with older people and provide them with information on the relative merits of giving evidence with or without special measures, but ultimately the older person would have the choice as to whether to utilise them or not.

The introduction of such a presumption would mean that older people at that age, or above, would not have to identify themselves as vulnerable or intimidated, nor would they have to be subject to scrutiny before the courts prior to accessing special measures:

If you were introducing an [age] category and you fall into the category that can use the special measures, you're not saying, 'You're vulnerable because you're vulnerable. We're going to put you in a video link room.' Instead you are saying, 'this is the category that you fall into [because of your age], how do you feel about maybe using special measures? Here's what that means.'

***Victim Support Practitioner***

Prosecutors were less enthusiastic about such a change to the law with the majority opposed to it and relying on the rationale of being age-blind by avoiding assumptions of vulnerability as in the quotation below:

I'm not sure if I agree with that. I mean you have what's called a primary rule, which means you have a presumption in favour of young witnesses giving their evidence because there's legislation in force to protect young people, even in the youth court with young offenders. You have the primary rule to protect them by virtue of their young age and that they haven't fully developed and reached the age of maturity. I don't think you can apply the same logic to those who have advanced over 70 years old, in that there's an automatic

presumption there that the quality of their evidence would be improved by virtue of them giving evidence in a separate room or anything. If there are difficulties for instance because of any sort of mental or physical impairment due to their old age, you can apply under a separate ground for special measures. **PPS Prosecutor**

Being an older person is not akin to being under 18 in this context, therefore it may be more appropriate to think of any presumption created for older people as being more akin to the other adult presumptions (ie. those for victims of sexual, human trafficking or slavery offences and victims and witnesses in gun and knife crime cases (England and Wales) and victims of stalking and domestic violence (Scotland)).

An alternative approach would be to have a presumption where the crime is designated as a 'crime against older people'. As discussed in chapter three, this is a category of crime used in England and Wales by the Crown Prosecution Service (CPS, 2014:39). It includes crimes:

- where there is a relationship and an expectation of trust e.g. assault/theft by a carer or family member;
- where the offence is specifically targeted at the old person because they are perceived as being vulnerable or an 'easy target' e.g. a distraction burglary or a mugging;
- where the offence is not initially related to the older person's age but later becomes so e.g. a burglary where the burglar does not know the age of the householder but later exploits the situation on discovering that the householder is an older person;
- where offences appear to be in part, or wholly motivated by hostility based on age, or perceived age e.g. an assault, harassment or antisocial behaviour involving derogatory statements associated with the victim's age; and
- where an offender deliberately targets an older person because of his/her hostility towards older people this will amount to an aggravating factor as will targeting anyone who is vulnerable.

These are all types of crime where the older person is placed in a particular vulnerable position and more exposed to the risk of intimidation, fear and distress.

**It is recommended that there be consideration given to the introduction of a form of presumption in favour of special measures for older people or crimes categorised as crimes against older people.**

### **Suitability of Courtroom Facilities**

For those victims and witnesses who are going to give their evidence in the courtroom it is vital that the facilities permit those with disabilities to give their evidence in a manner which does not disadvantage them in comparison to able-bodied witnesses. The Victim Charter (2015) does not directly address the issue of the standard of facilities in courtrooms for those with additional support needs, however, the PPS Victims and Witnesses policy (2017: 18) states the following in this regard:

When the trial date is set the VWCU Case Officer can make arrangements, on request, for the following supports to be put in place which may help to make attendance at court less stressful: that all appropriate arrangements are in place if the victim has a disability in order to allow access a court building and to provide their evidence at trial.

In the interviews with the Victim Support representatives, a number of issues of concern were raised about court facilities in Northern Ireland. These issues relate specifically to access to the witness box and the systems which aid those who have impaired hearing. In relation to access to the witness box one of the Victim Support Representatives stated the following:

This building doesn't really comply to the Disability Discrimination Act 1994, because there are at least four steps to each witness box in the Crown Court, which some of our witnesses do have problems negotiating.... It takes them quite a while to negotiate the four steps up into the witness box. Judiciary aren't always patient, which is another issue, which then forces police to bring a potentially vulnerable witness, to leave them sitting outside court where they could be subjected to intimidation by the defendants. ***Victim Support Practitioner***

Even in cases where an adaption has been made to the witness box to allow those with disabilities to access it, concern was raised that this was done in a manner which undermined the dignity of the victim or witness:

Even when they have made an adaption to the building for it, it's like you have to rise in order for these things to be put in place to get the witness into the witness box. It's mainly a loss of dignity because you're putting them into obvious things that have been adapted and changed and they're not getting treated as the same type of person who is able-bodied coming to the court. So then they've lost a bit of their dignity because of the way they're being treated to actually even get to a witness box. **Victim Support Practitioner**

We have ramps where they remove sections of the witness box and there's a big ramp and it starts near the back of the courtroom and it goes right up to the witness box, and it's obvious. It's not subtle. It's like planks. It's obvious that it's been put in-place... Really there should be something at a lower level that you just are getting the same perspective as anybody else coming into the witness box to give your evidence. There should be something put in place that it's not obvious or out of place the way you're giving your evidence. **Victim Support Practitioner**

Giving evidence in court can be a sufficiently intimidating experience for witnesses particularly for those who have been victims of crime, it is therefore important that those with disabilities are not put at a disadvantage by being made to feel that their dignity is being in anyway undermined.

For those who are hearing impaired courts in Northern Ireland are fitted with hearing aid induction loops and other systems to aid them. However, the Victim Support Representatives reported that these systems were not always subtle meaning that some witnesses was required to wear a device which is clearly visible to others in the courtroom:

Then sometimes they'll even have difficulty hearing. They'll not necessarily say, because they don't want to be seen or treated different than somebody else. In the [A] courthouse you have to put in earphones and it's so obvious that you're wearing them. It's drawing attention to the fact that they have a hearing difficulty. Again, there's an embarrassment

element sometimes, they don't want to speak up and say, so they're not getting a full experience of hearing everything because they don't want to, but there could be things done that are more subtle, like some sort of ear system that is hidden so that they're treated the same as any other witness coming through the door. **Victim Support Practitioner**

One of the family members of an older victim of crime talked of their experience of using the hearing loop system in court:

The woman from Victim Support... had come with amplification earphones. She thought it would be better for mummy to hear the proceedings in court. But of course it was turned up way too high so we're in the middle of court and my mum started to ask me something in this really loud voice whilst the magistrate was dealing with something else. Everybody sort of turned and looked at us. It is an example where they were trying to find everything possible to make it as easy as possible an experience as it could have been for my mum... Maybe if we had been given the earphones outside and tested them. Those are the sort of things that need to be taken into consideration... in advance. **Interviewee – Family Member**

As the quotations above allude to a risk of using equipment which is not subtle is that those witnesses who need it may not ask for it for fear of being seen to be different or vulnerable. This means that they may struggle to hear questions put to them which makes it difficult for witnesses when giving evidence.

Anything which adds to the stress of victims when giving evidence risks undermining the quality of the evidence that they provide which undermines a principle of our criminal justice system that it should facilitate as far as practical the ability of witnesses to give their best evidence.

**Issues around mobility and hearing impairment are disproportionately more likely to impact on older people. It is therefore recommended an audit of the suitability of court infrastructure should be conducted followed by the making of necessary changes.**

## Pre-Recording of Interviews with Victims – Achieving Best Evidence

In the investigation of a crime, the PSNI may record a video statement from any witness under the age of 18 or an adult victim or witness who they regard as vulnerable or intimidated. These recordings are commonly referred to as ABEs (Achieving Best Evidence). The Victim Charter (2015: 24) states the following on this procedure:

If you are a vulnerable or intimidated witness (which includes children and young people), or are identified as having particular needs, you are **entitled to..** have the police offer to audio-video record your statement in criminal investigations, to make it easier for you to tell the police what happened. This may also mean that you do not have to repeat this in court, where the recording is used as evidence in criminal proceedings. Final decisions on whether or not the video recording may be used as evidence will be a matter for the judge. You may ask to give live evidence at court if you would prefer not to make a video statement. In some cases a written statement may be more appropriate. A written statement may be taken at your home, or another suitable location, should you ask for this is and the police agree it is feasible.

If a video recorded statement is available, the PPS will decide whether the victim or witness meets the criteria for a request to be made to the judge for the recording be admitted at the trial and used as the victim or witness's evidence in chief. In such circumstances the recording has the same legal status as the victim or witness's oral testimony (Criminal Evidence (Northern Ireland) Order 1999 art. 15). Where the video is admitted in court the victim or witness is still required to attend either in person or via live video-link to undergo cross-examination and if necessary re-examination (art. 15). The recording can be admitted in court in the absence of the victim or witness only in specified circumstances:

- The death of the victim or witness;
- By reason of bodily or mental condition he or she is unable to attend as a witness;
- The victim or witness is outside the UK and it is not reasonably practicable to secure their attendance;
- The witness has not been found despite taking such steps as are reasonably practicable to locate them.

- The victim or witness refuses to give oral testimony through fear of death, injury or other harm being caused to them.

Even where one or more of these circumstances are present the judge still maintains discretion as to whether or not to allow the admission of the video-recorded interview (art. 15). The principal reason for not admitting such a recording is that the judge considers that it would not be in the interests of justice because it would unfairly prejudice the defendant (art. 15). PPS participants in the study had experienced cases where judges had refused to admit video-recordings in such circumstances.

Defence counsel may make use of the video-recording to identify any inconsistencies between the recording and subsequent statements or testimony in court by the witness. Defence counsel may do so, even where the prosecution have opted not to use the recording as evidence in chief.

Where the PSNI are passing an investigation file to the PPS they will include the video-recording. According to the Inspectorate 'a video recorded interview.. functions as a tangible reminder to Prosecutors that the witness may be eligible for special measures. It is therefore something of a gateway to the other measures available. (2012: 17). This was a point made by a number of the PPS staff when interviewed for the study:

They're very good to get a feel for a witness, a victim, they're very good because you're able to see and hear and to be honest in terms of identifying just how the extent of the vulnerability, you'll get a much greater indication seeing it yourself than reading it off like a police statement or they're good for us just to have an insight as to how things work and it means we can get things ready in advance of the trial if we're going to get that far. **PPS Prosecutor**

The Department of Justice has issued detailed guidance on how and when video-recorded interviews should be conducted (DOJ 2012). This includes requiring interviewers to plan and conduct the interviews in a manner which takes into consideration the abilities and needs of the victim or witness. The guidance requires that 'attention should be paid at all times to

issues of age, disability, gender, race, culture, religion and language.’‘Frail older person[s]’ are specifically mentioned as falling within the category of vulnerable witnesses who might benefit from the use of ABEs. The guidelines also mention older persons in relation to dementia:

Witnesses, particularly some older witnesses, may also have dementia, which can cause cognitive impairment. A psycho geriatrician, psychiatrist, or clinical psychologist with experience of working with older people should be asked to assess their ability to give reliable evidence and the effect such a procedure might have on their health and mental welfare. For witnesses with dementia, it will be important to gather evidence as quickly as possible given the degenerative nature of the condition. Consideration should be given at an early stage to the use of video recorded evidence and all agencies should be alert to the negative impact of delay in such cases. Investigators and interviewers should also be aware that, although less prevalent, there are forms of dementia that can affect people under the age of 65 years. Particular care and preparation needs to be taken in relation to interviewing persons who have dementia. Specialist training and support, such as the advocates employed by the Alzheimer’s Society, should be sought for interviewers working with persons with dementia. (DOJ 2012: 115).

Given the length of time it can take for a case to reach the trial stage, a victim or witness with a degenerative condition particularly one that has an impact on memory recall or the ability to communicate may benefit greatly from a video-recorded statement. If, and when, a case reaches the trial stage victims and witnesses are entitled to view a copy of their video-recorded statement before giving evidence in court. This can be a useful aid in refreshing the victim or witness’s memory prior to the trial. Given the advantages of video-recorded statements it is important that they are available to all victims and witnesses who would be eligible and might benefit from them. PPS participants were positive about the ability of the PSNI to identify and conduct ABE interviews as in the quotations below:

The police are quite good at identifying cases that would require an ABE. If anything they would record ABEs in cases and we would go back and do the opposite. **PPS Prosecutor**

I think the police are pretty good at identifying people who should be ABE interviewed. **PPS Prosecutor**

During the focus group with the PSNI officers, participants raised a number of issues which in their experience impede the taking of video-recorded statements with adults. This including the following from one officer:

A lot of older folk need to be ABE'd rather than just a statement. It's very difficult to get somebody to ABE for you, because even if you're the investigating officer, you're not necessarily ABE-trained. I am, thankfully, but it just means there's so little people that you can ask or request to do that, and it's a long process. And you have to have the person assessed, so even if you're ABE-trained, which I am, I can't assess the person to see whether or not what type of ABE they need. So it's a minefield. ***PSNI Focus Group Participant***

The above statement encouraged other officers in the group to raise their concerns:

We would like...portable equipment, because a lot of the time you have to go to a care suite. ***PSNI Focus Group Participant***

We have portable [equipment] in [X ]but it's always broken. So you end up having to go to [Y] to do that. Even trying to get somebody to do it for you, with the referral system, trained officers, because at the minute if you're trying to get somebody to an ABE interview for you, it's very much based on their goodwill and their workload. So it comes at the bottom of the list, basically, below IPRs and below everything else the officer has to do until they eventually get to whatever the request has been from someone else.. ***PSNI Focus Group Participant***

The opinions of the police officers provide anecdotal evidence that there are problems with equipment and suitable staff availability in some localities that are hindering the conducting and processing of ABEs. These findings echo a Criminal Justice Inspectorate of Northern Ireland (2012) report which found there to be 'patchy' awareness of the DOJ's guidance on ABEs amongst some police officers and that guidance on how to conduct interviews was not always adhered to in practice. Another study conducted (Bunting *et al.*, 2013) also reported that some practitioners' expressed concern about the availability of suitably trained staff and resources. Given that older people are more likely to have vulnerabilities than other age categories, these problems risk having a disproportionate impact on older victims of crime. **It is therefore recommended that the PSNI conduct an audit of human and equipment**

**resources on the taking and processing of video-recorded statements with additional resources and training put in place if necessary.**

### **Pre-Recorded Cross-Examination and Re-Examination**

There are two special measures in the 1999 Order relating to the pre-recording of evidence. The first is the use of pre-recorded statements as evidence in chief (already discussed). The 1999 Order also contains a provision not yet in force to allow for video recorded cross-examination and re-examination (art. 16). This involves the pre-recording of a victim or witness being examined and cross-examined by both the prosecutor and defence counsel at some time prior to the trial date in front of the judge. This would avoid the victim or witness having to wait to undergo examination at the trial. According to a Ministry of Justice report in 2016 (p.1) it is envisaged:

that such a measure would mak[e] it easier for vulnerable/intimidated witnesses to recall/recount events clearly by reducing the length of time to cross-examination [and] improv[e] the experience for witnesses (e.g. less stressful/traumatic/accessing the full range of support earlier).

At the time of writing this provision has not been enacted in Northern Ireland. The DOJ stated in its Victims and Witness Action Plan 2017-2020 that it intended that a pilot would be conducted in Belfast Crown Court in 2017/18. Then, subject to the outcome of an evaluation, the scheme would be extended to all Crown Courts in Northern Ireland. The action plan also states that following the evaluation consideration will be given to the possibility of extending the scheme to other court tiers. However, the pilot has been delayed and as 1<sup>th</sup> April 2019 it is yet to commence.

England and Wales has a similar provision in its legislation which has not yet been brought fully into force either. However, a pilot scheme was run in three courts in England in 2014-16 with victims who are under the age of 16 or adult victims of sexual offences (Ministry of Justice, 2016). An evaluation of the pilot scheme was largely positive (Ministry of Justice, 2016). In response the Justice Secretary announced in 2017 plans to roll out the scheme

across Crown Courts throughout England and Wales (Cooper and Mattison, 2018). This has been delayed due to technological issues, with plans now to roll out the scheme more gradually (Cooper and Mattison, 2018; Gillen, 2018).

A Scottish Court Service review team witnessed the pilot in England and Wales reporting positively on it and advocating that a similar approach be adopted in Scotland:

If it is accepted that the experience of appearing at Court is potentially harmful to young and vulnerable witnesses, not least because the trial may occur many months after the initial report, then every step should be taken – consistent with fairness to the accused – to avoid that harm occurring... This means that cross-examination or its equivalent should also take place in advance of the trial, again as soon as is reasonably possible, to minimise the potential harm to the witness, and to maximise the quality of the evidence that is elicited. [I]t appears from the English and Australian examples that it is possible to devise a structured and systematic approach within the adversarial tradition to accommodate the full pre-recording of such evidence. Furthermore, it seems that these new procedures have been implemented with the broad support, or at least acceptance, of all participants in the legal system including defence agents and advocates. There has not been any significant challenge to these processes on the grounds that they are inherently unfair, although the English pilot is still relatively young. (Scottish Court Service, 2015: 26)

The Scottish Court Service report (2015: 18-20) summarizes the procedure followed in England and Wales in the pilot cases as well as a similar scheme which has run for some years in Australia. The Scottish Government consulted on the introduction of pre-recorded evidence in their justice system in 2017. Following this the programme for government 2017/18 announced the Scottish government's intention to introduce legislation to create a new rule in favour of children (defined as those under 18) having their evidence pre-recorded in advance of trial in the most serious of cases.

In interviews with PPS staff there was support from some, if resources were permitting, to introduce video recorded (re)examination and cross-examination evidence in courts in Northern Ireland in suitable cases. The potential benefits for older persons were identified in interviews with the PPS staff:

I think for say rape victims who are elderly in care homes or things like that that they would be cross examined at the same time as they do their ABE if that were possible or a very short gap between that and then that's in the bag and then probably even if the trial is two years later and maybe they've died in the meantime or they're now definitely not fit to be cross-examined you could just play that combination of their evidence in chief and cross examination. *PPS Prosecutor*

That could be useful, particularly if for some reason there's more delay or things are likely to deteriorate. *PPS Prosecutor*

There are a number of degenerative medical conditions and disabilities, which are more common in older people, for which the availability of video recorded (re)examinations and cross-examinations would potentially be of real benefit in ensuring that best evidence is presented. This is particularly important given the issue identified of undue delays in the justice system of Northern Ireland. The Inspectorate of Criminal Justice in Northern Ireland outlined the perceived advantages of such a special measure in a report in 2012:

The advantages of video recorded cross-examination include reducing the stress involved when a witness has to come to court to give evidence, and minimising the delay between evidence in chief and cross-examination. The witness is also not affected by postponement or adjournments in the trial itself. The matters with which the witness will be expected to deal will be the same as those dealt with in cross-examination at the trial in the normal way. Witnesses who have had their cross-examination video recorded will (other than in exceptional cases where it is necessary to put further questions at a later stage) be able to put the experience behind them and take advantage of therapy, without the risk of a claim being made that this has distorted their evidence. (CJINI 2012: 18)

A number of prosecutors raised concern about procedural issues around disclosure of evidence if such a special measure was to be put in place, however schemes in other jurisdictions have been able to adapt to cope with these concerns. The Inspectorate for Criminal Justice in Northern Ireland acknowledged that procedural problems would arise but still considered that pre-recorded cross-examination could work in the interests of victims and of justice:

Even when implemented procedural constraints, such as the rules governing disclosure of material to the defence, may lead to such cross-examinations being conducted some time after the evidence in chief is recorded. Research in other jurisdictions suggests that the availability of pre-recorded cross-examination may still have the advantage that the witness's evidence is completed significantly earlier than if it were given at trial. (CJINI, 2012:18)

In 2018, Sir John Gillen issued his preliminary report into the law and procedures in serious sexual offences in Northern Ireland. In this report whilst acknowledging the concerns of some practitioners he advocated in favour of the introduction of the admission of pre-recorded cross-examination in Northern Ireland:

Pre-recorded cross-examination is an idea whose time has come, in my opinion. It is being rolled out in the rest of the UK, and the legislation admitting it to Northern Ireland should be commenced.

It is part of the necessary changing face of law and procedures to encourage complainants to come forward and give their evidence in circumstances that are more likely to elicit the truth than at present. It tackles head-on a system where delays and intimidating court atmospheres are not conducive to true justice (Gillen, 2018: 105-106)

**Given the largely positive experience in other jurisdictions of allowing vulnerable victims to pre-record their examination and cross-examination, it is recommended that a pilot scheme be introduced to courts in Northern Ireland as soon as possible. Furthermore, that consideration be given to permitting its use for vulnerable adult victims for all categories of crime, not just sexual offences. Such a scheme is likely to be of particular benefit to older victims of crime who are experiencing progressive deterioration in mental or physical health.**

### **Registered Intermediaries**

For older people and others who have difficulties communicating there now exists in Northern Ireland a Registered Intermediary scheme. The purpose of the scheme is as follows:

If victims are not able to be interviewed or suspects cannot give a proper account of events, it can make it more difficult to investigate crimes and manage cases in court. In some instances, offending behaviour may go unchallenged, putting others at risk, or the rights of the defendant may not be fully upheld - neither scenario is acceptable in a modern justice system. It is right, therefore, that people with complex communication difficulties are given a voice and the opportunity to tell their story. They can now be helped to do this following the introduction of Registered Intermediaries (RIs), who are communication specialists, into the criminal justice process. (DOJ, 2015:3)

Following the devolution of justice in April 2010, the Department of Justice in its Victim and Witness Strategic Action Plan 2010-11 stated that it would develop a model for the provision of intermediaries for vulnerable victims and witnesses (DOJ, 2015: 5). What followed was the Northern Ireland Registered Intermediary Scheme pilot, launched in May 2013. In the first instance the pilot was limited to indictable cases being heard in the Crown Courts in Belfast and was then extended to all Crown Courts across Northern Ireland (DOJ, 2015).

Registered Intermediaries are designed to be 'neutral, impartial, objective and transparent' (DOJ 2015:6) and play a facilitation role between the vulnerable person and other aspects of the criminal justice system and processes. Typically, Registered Intermediaries come from speech and language therapy and social work disciplines (DOJ 2015: 5). They are aware of legal professional privilege, are bound by the Code of Practice and Code of Ethics and there is an existing complaints procedure (DOJ, p.5).

If a person is identified as being vulnerable and has existing communication difficulties by an 'End-user', such as a police officer, PPS prosecutor or by a defence solicitor, then an application should be made to the Department of Justice's Secretariat (DOJ, Online Source). In relation to the examination of a vulnerable person through an intermediary Articles 17 and 21BA of the Criminal Evidence (Northern Ireland) Order 1999, as amended by the Justice Act (Northern Ireland) 2011 are of particular significance:

- Article 17: application for an intermediary may be made where it is considered that their use is likely to improve the quality (completeness, coherence and accuracy) of the evidence given by the witness.
- Article 21BA: application for an intermediary may be made where their use will enable the defendant to participate effectively in the proceedings as a witness giving oral evidence in court and ensure a fair trial.

Registered Intermediaries conduct an assessment of an individual's communication abilities, needs and requirements. Following the assessment process, the Registered Intermediary presents the police officer with a report orally or in writing, in order to plan for the interview.

Following the police investigative stage, the Registered Intermediary presents a written report to the court, which outlines the needs and requirement of the vulnerable person who has been assessed. Reports from schools, doctors and other bodies can be included in the presentation of materials to the court. The report will contain advice for the judge and legal advocates on how to appropriately communicate with the vulnerable person in the court setting.

The evaluation report of the Registered Intermediary pilot scheme was produced by the Department of Justice's Victims and Witnesses Branch on behalf of the Registered Intermediaries Project Team and the Vulnerable Individuals Steering Group. Following publication of the pilot evaluation report in relation to Registered Intermediaries, comments by the then NI Justice Minister, praised the Scheme and noted: 'the positive impact of the .... Schemes in assisting vulnerable victims, witnesses and defendants in communicating more effectively' (Online resource, 24 June 2014).

The evaluation presents the statistical figures in relation to the number of requests, outlining that during the 18-month pilot the majority of requests were made by police officers, with a total of 260 requests for Registered Intermediaries made. 200 of the requests were for victims, 16 for prosecution witnesses, 32 for suspects and 12 for

defendants (DOJ, January 2015, Annex A). An age breakdown was provided for those under 18, but no similar breakdown was provided for those aged 18 years and over. The Department of Justice has subsequently released data to the authors of this report on use of registered intermediaries for those aged 60+. Details of the conditions that warranted the use of an intermediary are given below for all cases (17) in 2017/18 involving a person aged 60+.

Age	Condition	Offence Category
90	Dementia	Sexual Assault
85	Anxiety Disorder	Fraud theft
81	Dementia (Alzheimers)	Fraud
79	Dementia	Causing serious physical harm to a vulnerable person
78	Alzheimers	Rape
68	Dementia	Fraud
67	Language Delay/Disorder	Allegation of rape
66	Mental Health Issues	Fraud
65	Mental Health Issues	Rape
65	SLD, Depression	Indecent Assault
65	MMLD	Indecent assault
65	Depression and Anxiety	Sexual assault
62	Hard of Hearing	Sexual Assault
62	Mental Health and Memory Issues	Assault
62	Physical Disability - Parkinsons disease	Theft
60	ASD, Hearing Loss	Rape
60	Asphasia	Common assault

**Table 5.1: Registered Intermediaries Use for those Aged 60+ in 2017/18 in Northern Ireland**

The evaluation of the pilot concludes that there exists ‘clear evidence’ that the schemes can provide vulnerable people with ‘a voice’, ‘protection’ and ‘access to justice’ and that the Registered Intermediaries in light of their training, professionalism and expertise have demonstrated ‘why they should be an integral part of the justice process’ (DOJ 2015: 4).

Participants for this study on older people as victims of crime were positive about the potential benefits of Registered Intermediaries.

I think they are very beneficial, whenever they are done in the right way, because we’ve had a couple... I do see that the defence and prosecution and the judge did adjust their mannerisms and the way that they were asking witnesses the questions and they adjusted the questions to meet their person’s level of understanding, and they were more patient

and it definitely was a different environment for the person giving their evidence. So in that way it was good. ***Victim Support Practitioner***

I [welcome] anything that can help a vulnerable victim or witness to give the best of themselves; to feel that they couldn't have done anymore, rather than to feel frustrated or angry that they weren't properly understood or didn't have the opportunity to get across their best evidence. ***PPS Prosecutor***

Quite honestly they could be the difference between an acquittal and a conviction. If they can assist the victim or witness to give coherent evidence that can be understood by the jury or the judge who's hearing the case it can make all the difference. ***PPS Prosecutor***

In outlining the limitations of the pilot Scheme, the evaluation states that 'with limited experience at court, the full potential of the Registered Intermediary Schemes has not yet been demonstrated' (DOJ, 2015: 4). A further phase of the pilot was undertaken from April 2015 for 12 months' in order to 'inform key decisions in relation to the future direction of the RI Schemes' (DOJ, 2015: 4). As part of the process, the evaluation proposed that 'hybrid cases in the Crown Court [should be brought] within the scope of the next phase of the pilot' (DOJ, 2015: 4). The evaluation of the second phase was published in July 2016 reporting that:

It is clear since the last review of the RI Scheme in January 2015 that the RI role continues to be essential in assisting vulnerable persons with significant communication problems during their engagement with the criminal justice process and is very well-regarded by all those who come into contact with it. (DOJ, 2016: 13)

The evaluation of phase two also recommended that:

As the RI Scheme is progressing well at the investigative stage and at Crown Court, it is recommended that consideration is given to formally extending the Scheme to magistrates' courts. (DOJ, 2016: 13)

Registered Intermediaries are now available for contested hearings in the Magistrates' Courts. Given that the majority of cases where older people are victims of crime are heard in the Magistrates' Court expanding the scheme to cover such cases is of benefit to older people with communication difficulties.

### **Avoidable Delays in the Process**

When criminal justice does not perform effectively it can have a significant impact upon the lives of those involved: victims, defendants, witnesses and their families. A key feature of how the system in Northern Ireland has operated has been a failure to complete cases within reasonable timescales. (Northern Ireland Audit Office, 2018: 2)

While much work has been done by the DoJ and the agencies of the justice system, both individually and collectively, CJJ work has demonstrated that the problem of avoidable delay continues to be intractable. The reality for many victims and witnesses is that far too many cases are taking considerable periods of time in the justice system, and many of these same victims point to similar cases in the justice system in England and Wales where the contrast is that justice is delivered much more promptly. (CJINI, 2015:11)

Avoidable delays in the processing of cases in the Northern Irish Justice system have been a constant source of complaint. Reports by the Criminal Justice Inspectorate in Northern Ireland in 2006, 2010 and 2015 and the National Audit Office in 2015 and 2018 found that avoidable delays are endemic and excessive. Crown Court cases in Northern Ireland typically take more than 500 days from the date an offence is reported until a verdict is delivered (Northern Ireland Audit office, 2018). Around 12 per cent of Crown Court cases in Northern Ireland take in excess of 1,000 days to complete (Northern Ireland Audit Office, 2018).

In 2017/18, the median time taken for a case to be disposed, at all courts, from the date the offence was reported, was 162 days (Graham, 2018). However, there is significant difference between the length of time cases take to progress in the Crown Court as opposed to the Magistrates' Court with significantly longer times recorded in the former (see Table 5.2). In 2017/18, the median time taken for a case to be disposed at court from the date the

offence was reported, in relation to charge cases disposed at Crown Court, was 427 days. In the same year, the median time taken for a case to be disposed at court from the date the offence was reported, in relation to summons cases disposed at Crown Court, was 802 days. This means that summons cases in the Crown Court are on average taking over two years to come to a conclusion. This is an inordinately long time to ask witnesses to wait for justice and the figures show that the problem is getting worse not better.

Court	Summons Cases	Charge Cases
Magistrates' Court	198 days	69 days
Crown Court	802 days	427 days

**Table 5.2: Median time taken for cases to be disposed of in the courts in Northern Ireland from the date the offence was committed in 2017/18 (DOJ figures: Graham, 2018)**

The figures in Northern Ireland compare unfavourably to those of England and Wales (Northern Ireland Audit Office, 2018). Figures for England and Wales show that in 2015 the median length of time between the reporting of a crime and a case being disposed of in the Crown Court was 343 days. In the Magistrates' Court in England and Wales the median length of time was 155 days.

Court	Days
Magistrates' Court	155 days
Crown Court	343 days

**Table 5.3: Median time taken for cases to be disposed of in the courts in England and Wales from the date the offence was committed in Year ending Sept 2015 (National Audit Office figures)**

As the DOJ (Graham, 2018: 4) report states:

the criminal justice system in Northern Ireland is slower than in England and Wales. Although our systems are somewhat different, there is a clear need to take steps to tackle avoidable delay... the speed of the system matters to victims and witnesses, their families and communities.

Avoidable delays can cause problem for victims, witnesses and the community at large. Where an offender is not in custody, delays provide offenders with opportunities to commit further crime. Where for example an offender has been charged with committing burglaries

in in part to sustain a drug addiction, being on bail may not be sufficient deterrent from committing further such acts. Where victims know their offenders, delays may allow for prolonged pressure to be applied to withdraw allegations. Some victims do not achieve closure until the case reaches a conclusion meaning that delayed proceedings can prolong distress. This is particularly problematic where victims are vulnerable and/or the crime has had a particularly serious impact on emotional or psychological wellbeing. For some victims, who have come to terms with the affect the crime had on them prior to a delayed trial, the proceedings may cause secondary victimisation when they are forced to revisit the incident in court. Undue delays may undermine confidence in the justice system causing victims and witnesses to have a reluctance to participate in a case or to report crime in the future. Where victims and witnesses are expected to give evidence in court, the longer the case takes to come to trial the greater the likelihood of problems in memory recall. All of these issues may have a particularly detrimental effect on older people who have been victims of crime meaning that delays in such cases should be avoided where possible. The prosecutors in particular spoke at their frustration at the impact that the delay can have on older victims and witnesses:

I've had a number of cases where when we started the case and [the victims] they were very elderly and maybe in a care home or whatever and then by the time it come to the trial there's no way they could have come to court..... I really strongly feel that the process needs to be streamlined, not just for elderly victims but for every participant in the process even the defendants. It's so lengthy and there's so many stages...which they don't have in England and Wales.. **PPS Prosecutor**

In the various reports issued by the Inspectorate for Criminal Justice for Northern Ireland (2015) and the Northern Ireland Audit Office (2018) reforms to reduce unnecessary delays have been proposed. Many of these reforms have been implemented but significant problems remain. Further changes have been proposed including greater multi-agency working between the PSNI and PPS and better preparation of case files by the PSNI to reduce delays (CJINI, 2015; National Audit Office, 2018). In response to the on-going issues, the Department of Justice issued a consultation in December 2015, proposing statutory time

limits for cases.<sup>33</sup> This followed a previous consultation in 2013 which had found support for such a measures as well three official reports recommending the introduction of statutory time limits.<sup>34</sup>

Given the on-going problems with delays in the criminal justice system and the potential for them to adversely impact on older victims of crime, **it is recommended that the Commissioner for Older People for Northern Ireland support measures to reduce delays in the justice system in Northern Ireland proposed by the CJINI and the National Audit Office. Proposals for the introduction of statutory time limits for all cases should be explored including the possibility of establishing a lower statutory time-limit for cases involving older people who are victims of crime.**

### Committal Hearings

A significant source of contention was the use of committal hearings. Committal hearings are a stage in the court process which have been abolished in England and Wales. These hearings are held in cases where the accused has been charged with an indictable offence where the trial will be held in the Crown Court. The purpose of these hearings, which are conducted in the Magistrates' Court, is to establish if the accused has a prima facie case to answer. Usually these hearings do not involve oral testimony from witnesses, but the defence can request that witnesses be called to give oral evidence. If a witness gives evidence at a committal hearing they will still have to give evidence at any subsequent trial in the Crown Court. A number of prosecutors voiced the opinion that these hearings were being inappropriately used particularly in cases involving vulnerable victims or witnesses:

I think it feeds through as well where you have a witness with a potential vulnerability even from the point of view from a committal to the Crown Court the defence may well tactfully decide to opt for the investigation committal hearing and call that witness to force them to turn up and give evidence at an early stage because they will ultimately then have to do it again of course come the [trial] which then puts them through that mill twice. [These

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<sup>33</sup> <https://www.dojni.gov.uk/consultations/statutory-time-limits-consultation>

<sup>34</sup> <https://www.dojni.gov.uk/consultations/statutory-time-limits-consultation>

problems] just do not exist in England and Wales. I personally feel that the criminal justice system in England and Wales is much better set up to deal with a lot of the issues. **PPS Prosecutor**

The defence definitely use it, they absolutely use, the minute they are flagged as a vulnerability and age issues then they definitely use it, they do try and slow things down. You'll end up having like committals which otherwise you wouldn't, forcing them to come to court early which is very lousy, really lousy and is probably our biggest thing, if I had one wish as a prosecutor it would be do away with committals. We [should] just have the same way as they do in England because they're abused by the defence repeatedly. I'm not saying that there's never been a legitimate case for them but at the same time by and large my experience is that they are abused and it's one way that they certainly would use them if they're made aware of the outset that there is problems with our injured party, definitely.

**PPS Prosecutor**

In 2012 the Department of Justice consulted on restricting the use of committal hearings and ending the taking of oral evidence and cross-examination of witnesses at such hearings. In 2014, the then Justice Minister in introducing a Bill to reform criminal procedure, spoke of the need to end the practice of witnesses having to give oral testimony in committal proceedings:

The practice of hearing oral evidence, particularly cross-examination, can have a significant impact on victims and witnesses who may have to give sometimes traumatic evidence more than once. I do not accept that the hardship faced by victims and witnesses in those circumstances is in the interests of justice. In addition, oral evidence hearings can be very lengthy, with hearings typically lasting one or two days, and problems are often experienced in organising witnesses to attend, which can lead to adjournments and, consequently, increased delay. **David Ford, Minister for Justice, 2014.**

However the eventual legislation which was passed, the Justice Act 2015, failed to abolish the giving of oral testimony, instead only restricting it in a limited number of cases. This means that the potentially negative consequences that flow from committal hearings for victims and witnesses remain as does the risk of misuse. The DOJ's Victim and Witness Action Plan 2017-2020 acknowledges the failure to tackle the issue by committing to

bringing 'forward legislation to reform the committal process, and implement the changes resulting from this, so that victims of crime are not required to give evidence ahead of trial.' However, such a change would be subject to ministerial, executive and ultimately assembly approval so without a functioning executive there is no time-frame for such a change to be introduced. **It is recommended that legislative reform to committal hearings be introduced as soon as is feasible to protect victims and witnesses from any additional potential trauma or delay.**

### **Giving Victims a Voice: Victim Personal Statements, Victim Impact Reports and Community Impact Statements**

The processes of the modern day criminal justice system have resulted in victims being in a secondary position. The nature of the adversarial systems in countries such as the UK and Ireland, typically place the victim as a passive participant. Studies of victims and their experiences have illustrated how victims' grievances are as much with these procedures of the criminal justice system, particularly their lack of involvement in the decision making process, as with the supposed injustice of the outcome (Erez, 1991: 2). In particular what has emerged from such studies is that '[T]he most important grievance mentioned by victims was their lack of 'standing' and voice in the proceedings' (Erez, 1991: 1).

#### **Victim Personal Statements**

The Victim Personal Statement, sometimes referred to as the victim impact statement, is one criminal justice mechanism that is designed to give victims a voice. It consists of descriptions by the victim detailing how the crime has affected their lives and/or the lives of their loved ones (Strickland, 2004: 53). Erez (1991: 1) has described the use of Victim Personal Statements as 'a significant initiative which embraces concerns about the rights of victims in a manner consistent with existing legal principles'.

The Victim Personal Statement is designed to be a 'highly nuanced', 'individual narrative' (Booth, 2015), which has been 'organised' and 'structured', to ensure that 'the court is

aware of important information concerning the effect of the crime on the victim' (Erez, 1991: 1). Booth (2015) notes its dual function of operating as both 'an informational device' or method in the sentencing stage and also 'an expressive mechanism for crime victims'.

From the legal perspective, through Victim Personal Statements the court can receive details of 'harm' caused by the offence and also be made aware of the consequences of the perpetrator's actions for the purposes of sentencing, as well as offering the victim an opportunity, space and time to present their feelings, explain how the crime and the aftermath has impacted upon their lives (Booth, 2015: abstract).

Victim Personal Statements in some form or another have been submitted to courts in Northern Ireland since the 1980s (Moffett, 2016:479). However, their application was patchy with the level of use recorded as low and used mainly in cases involving sexual offences or those of a violent nature (O'Connell, 2013). In an effort to increase use the Department of Justice introduced a formalised scheme in 2014 and subsequently placed Victim Personal Statements on a statutory footing through the Justice Act 2015. According to Moffett (2016: 479):

The rationale for this reform comes from EU Directive 2012/29, which requires states to provide for the victim's "right to be heard" in the criminal justice system whether verbally or through writing as part of its move to ensuring that the courts hear about the direct impact the incident/incidents of crime have had on victims, prior to sentencing.

A 2016 review of police case files by HMIC found that from victims identified as vulnerable only half had been given the opportunity to complete a Victim Personal Statement (HMIC, 2016: 18).

Participants for this study on older people as victims of crime were positive about the potential benefits of the use of Victim Personal Statements in giving victims a voice:

I had one Victim Personal Statement before the court, it was a neighbour dispute and an older complainant, I think he was in his 70s. [He] had been assaulted by a neighbour and

knocked out. [H]e had provided a Victim Personal Statement just about the psychological effects of it, he is in fear in his own home and he's lost confidence. That goes before the judge [when] sentencing so I think they are useful because the statement, even if it's a guilty plea and they don't ever have to come and give evidence an evidential statement doesn't really provide the full impact of the effect that the crime has had on someone. **PPS Prosecutor**

That's part of the problem, that a lot of witnesses do tend to have is that they feel – the disconnect in that it's not about them. It's about what happened to them, which has been separated. If, for example, you were listening to a sentencing in a crown case, they'll often talk about the crime, they'll often talk about the defendant, but they won't talk about the person. This is where I feel that the victim impact and the Victim Personal Statements are very beneficial. It's ... a voice or a chance to say, 'This is the way I feel. This is what happened to me.' It's like taking a wee bit of ownership back. **Victim Support Practitioner**

Older people who participated in the research also voiced support for Victim Personal Statements:

For the victim is always left and then you're talking about the criminal but what about the victim [and] what they go through? In my view [a Victim Personal Statement] would be brilliant. **Older Person Focus Group Participant**

You're expressing your feelings. You're not feeling as if well it happened to me and that's the end of it because it's not the end of it. As everybody says [the victim] was left terrified... There's a whole impact. **Older Person Focus Group Participant**

One interviewee's personal experience of having provided a Victim Personal Statement was insightful:

The police came out and explained a bit about victim impact... even the catharsis of putting your story on paper, like my mum read it over and over again before it was sent in and there was times she'd come back and say she didn't say about that she wasn't sleeping, that she needed to put that in. She was very clear of the purpose of it and that she wanted it factually recorded how she was feeling. **Interviewee – Family Member**

An older victim of crime felt that if the statement was directed by the victim it would be “more accurate” than a police statement, stating that if it was in their own words “rather than how somebody else [having] translated” their experience, it would consist of a fuller and “more accurate” account of their experience and the impact of their victimisation. A focus group participant felt that:

I think that would be very important especially for prosecution because a crime is a crime but when you see the person and their life has been destroyed then it's, I meant the person themselves will be able to say what's happened so it will help them and the person that's done it [understand how they]... distress[ed] someone so much. **Older Person Focus Group Participant**

Therefore the “personal” aspect of the Victim Personal Statement seemed to be one very positive aspect and all of the interviewees stated that they would have availed of the option to complete a Victim Personal Statement.

National and International evaluations of victim impact/personal statements, such as the Leverick *et al.* (2007) study in Scotland have included interviews and consultations with key stakeholders involved in the victim impact statement process: including police, prosecutors, the defence council, the judiciary and magistracy, victims' service agencies, witness assistance services and victims of crime. Such reports have tended to find broad support for victim impact/personal statements amongst victims of crime, victims' service agencies and criminal justice practitioners. That is not to say that the mechanism is a panacea. Difficulties such as low response rates from victims, resistance among some members of the judiciary and unrealistically heightened expectations of influence on the process can lead to dissatisfaction among some victims (Sanders *et al.* 2001).

In Northern Ireland, Victim Personal Statements involve either Victim Support NI or the NSPCC (for child victims) or PSNI family liaison officers (in cases of bereaved families) assisting victims in making written statements detailing the personal effect and impact of the crime on their lives. The statements provide victims with the opportunity to present in

their words how the crime has impacted upon them physically, emotionally, socially, financially and in any other way.

If the PPS decide to prosecute someone for a crime the Victim and Witness Care Unit will write to the victim or bereaved family member or family representative (if known to the PPS), outlining that a decision to prosecute has been made and the letter will be accompanied by a leaflet providing information on the Victim Personal Statements process. The victim or bereaved family member or family representative are then advised to contact Victim Support NI, NSPCC Young Witness Service (if the victim is a young person) or the PSNI family liaison officer (in cases of bereaved families) who will advise them on making a Victim Personal Statement and assist them with the completion of the statement. There was some discussion amongst practitioners as to when the best time is to ask a victim to complete a statement as in this quotation from a PSNI officer:

Really at the time when you go out to take the statement from the person or response or whoever has taken the statement from the person, at that stage you don't know what the impact is really. It could be a couple of weeks later before it actually impacts on them, 'This happened to me. I can't believe this happened.' Because at the time they're so caught up in everything that has gone on that it's maybe after everything has settled a wee bit that they realise the impact it's actually had on them. *PSNI Focus Group Participant*

There was some concern expressed that some victims were missing out on the opportunity to complete a Victim Personal Statement in some Magistrates' Court cases because there is not always a gap between a conviction or plea and the sentencing stage:

There's an issue round that at the moment in terms of exactly at what stage they're being gathered, not such a big problem for Crown Court cases because Crown Court cases will always adjourn and after the finding of guilt or a plea of guilty for the pre-sentence report or whatever so there will be that period of three or maybe four weeks were a Victim Personal Statement can be ascertained from the victim, the difficulty arises in Magistrates' Court cases where some Magistrates' Court cases they can be found guilty, sentenced on

the day, and if there's no Victim Personal Statement available to the court on the day then an opportunity is lost. ***Victims and Witnesses Care Unit Representative***

In Magistrates' Courts it is therefore important that Victim Personal Statements are collected early enough in the process to ensure that any victim who wishes to submit one is able to do so.

Practitioners reported that judicial practice varies as to whether or not to acknowledge in court that a Victim Personal Statement has been submitted:

Sometimes the judge may touch on them in court and he'll read possibly bits of them out. I think sometimes it's to let the people understand that he's read it and he's aware of the impact that it's had on them. Other times they'll just say, 'I've received a personal statement, obviously due to the content of it I don't want to read it out in open court, but I am aware of the impact that it's had.' ***Victim Support Practitioner***

You will get ones that you don't know whether they've seen it or not. It's very much down to the different judges, the way they're practised, their individual approach to them. ***Victim Support Practitioner***

By acknowledging the statement, even if not discussing the details, the presiding judge is able to send an important signal to the victim that the impact of the crime upon them has been taken into consideration and that their voice has not gone unheard.

### **Victim Impact Reports**

Victim Impact Reports are a formalised medical report into the impact of a crime on a victim. A judge can order a report prior to sentencing. The reports are conducted by psychologists or psychiatrists. According to Moffett (2016: 480):

Victims are unable to provide any direct comment or opinion on a Victim Impact Report, but it usually includes some testimony they gave to the expert who assessed them. In a number of cases Victim Impact Reports and Victim Personal Statement are submitted

together and are treated as complementary in order that the court can gain a full picture from both a medical and personal perspective of the victim's harm.

Both Victim Impact Reports and Victim Personal Statements can provide potentially useful information on the impact of a crime on a victim. They also allow the victim to feel that the harm caused to them by the crime has been taken into consideration by the court. Given the potentially serious impact of crime on older people it is important that both schemes are operated in a manner which maximises the input from older people. The 2016 report by HMIC found that only half of vulnerable victims were recorded in case files as having been offered the opportunity complete a Victim Personal Statement. It is important the level of use of statements is monitored. **It is therefore recommended that the Department of Justice collect and publish data on the profile of victims who are making use of Victim Personal Statements and Victim Impact Reports with the data broken down by demographic characteristics including age and gender.**

### Community Impact Statements

Certain crimes can have a detrimental impact beyond the immediate victim causing harm to neighbourhoods and communities. For example, recent high profile burglary cases on the homes of older people in Northern Ireland are likely to have caused increased anxiety and fear amongst the older population of those localities. Community Impact Statement are a new attempt to capture the wider impacts of crime on communities. According to the DOJ these statements are designed to

set out the harm caused and the impact on the community as an indirect victim. This could include social, financial, physical environment, economic or other specific impacts or concerns.<sup>35</sup>

If the case goes to court, and the person is found or pleads guilty, the Community Impact Statement, much like a Victim Personal Statement, will be seen by the defendant, defence

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<sup>35</sup> <https://www.nidirect.gov.uk/articles/community-impact-statements>

counsel, the prosecutor and the judge. Little is known about their level of use or their impact in Northern Ireland or indeed in other jurisdictions. **It is recommended that the Commissioner for Older People for Northern Ireland consult with the DOJ on the potential utility of Community Impact Statements for crimes that have a wider impact on the older population.**

## Victim Advocates

The National Center on Victims of Crime defines a Victims Advocate as:

‘professionals trained to support victims of crime... [to] offer victims information, emotional support, and help finding resources and filling out paperwork. Sometimes, advocates go to court with victims. Advocates may also contact organizations, such as criminal justice or social service agencies, to get help or information for victims. Some advocates staff crisis hotlines, run support groups, or provide in-person counseling. Victim advocates may also be called victim service providers, victim/witness coordinators, or victim/witness specialists’.<sup>36</sup>

The Centre also outlines a number of responsibilities that typically an advocate’s role will include:

- Providing information on victimization;
- Providing information on crime prevention;
- Providing information on victims' legal rights and protections;
- Providing information on the criminal justice process;
- Providing emotional support to victims;
- Helping victims with safety planning;
- Helping victims with victim compensation applications;
- Helping victims submit comments to courts and parole boards;
- Intervening with creditors, landlords, and employers on behalf of victims;

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<sup>36</sup><https://victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/what-is-a-victim-advocate->

- Helping victims find shelter and transportation;
- Providing referrals for other services for victims; Helping to arrange funerals; and
- Notifying victims of inmates' release or escape.<sup>37</sup>

A number of victim advocacy schemes have been established in recent years on these islands. In 2005, the Home Office through the Domestic Violence National Action Plan committed to funding Independent Domestic Violence Advocates posts in all specialist domestic violence courts in England and Wales (Coy and Kelly, 2011). An evaluation of the operation of the scheme in London found that:

Service users were more confident about their knowledge of services, dealing with the criminal justice system and their legal rights: evidence of advocacy in practice, empowerment through knowledge and securing entitlements that contribute to enhanced safety. Service users also regarded IDVAs as more helpful, supportive, non-judgemental and specialised than other services from which they had sought help. What was most valued were core components of the IDVA model: pro-activity; being enabled to recognise and name violence; listening; safety planning; being given information about rights and options; and liaison with other agencies. (Coy and Kelly, 2011: 108)

The roles of the advocates include: creating safety plans and undertaking risk assessments, accompanying clients to court or arranging pre-trial visits, supporting clients to give evidence and write victim impact statements; requesting special measures; helping clients to access refuge accommodation; helping clients to increase security in their property so that they can continue to live safely at home; providing emotional support and referring victims to counselling or mental health services; Liaising with social workers on child protection issues.<sup>38</sup>

In Northern Ireland an advocacy service has been established for victims of hate crime. Victim Support NI has a Hate Crime Advocacy Coordinator whose role includes 'monitoring

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<sup>37</sup><https://victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/what-is-a-victim-advocate->

<sup>38</sup><http://www.refuge.org.uk/what-we-do/our-services/independent-domestic-violence-advocacy/>

and promoting the delivery of hate crime advocacy services by community sector organisations (currently Leonard Cheshire Disability/The Rainbow Project/Northern Ireland Council for Ethnic Minorities/Ballymena Inter-Ethnic Forum) against the agreed conditions on funding'.<sup>39</sup> Each minority group has its designated advocate. For example the Rainbow Project hosts a LGB&T advocacy officer. The role of this officer includes providing one to one support for victims of LGB&T hate crime/incidents across Northern Ireland, developing awareness within PSNI of LGB&T hate and signal crime and its impact, surveying the experiences and satisfaction of clients including the completion of Victim Satisfaction Surveys regarding police engagement and advocacy services, informing future PSNI policies and practices to ensure they reflect the needs of the LGB&T communities, and identifying any information and service "gaps" which need to be addressed by the PSNI. The LGB&T officer is charged with increasing the number of reported homophobic and transphobic hate crime/incidents to the police.<sup>40</sup>

The Older People's Commissioner for Wales published a scoping study in 2010 of the various forms of advocacy services that exists in Wales for older people. Whilst advocacy services were found to exist in relation to many aspects of older people's lives in Wales, no dedicated older people's advocacy provision was identified in relation to the criminal justice system. Nor does there currently appear to be such a scheme in any of part of these islands.

Given the findings of this research study on older people and crime in Northern Ireland there may well be grounds for an older person victim advocacy scheme. A dedicated victim advocate for older people in Northern Ireland could offer one-to-one support for older people who are victims of crime; encourage older people to report crime and to participate in the criminal justice system; support clients as they navigate through the criminal justice system including in seeking applications for special measures and in producing Victim Personal Statements. They could signpost clients to relevant support services. They could help develop awareness across the criminal justice sector of the impact of crimes on older people and help in the development of appropriate policies and procedures. **It is therefore**

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<sup>39</sup> Hate Crime Co-Ordinator Job Description (April 2016). Victim Support NI.

<sup>40</sup> <http://www.communityni.org/job/lgbt-advocacy-officer#.V6JUMYT0fOQ>

recommended that consideration be given to introducing an older person's victim advocacy scheme in Northern Ireland.

## Sentencing

For a lot of the older people who participated in the research obtaining justice involved seeing the perpetrator convicted and appropriately sentenced. A theme that emerged from the interviews and focus groups with older people was a perception that sentencing of crimes involving older victims does not reflect the harm caused in such cases.

It would have satisfied me if he had have got a couple of years in jail... that they'd done something, like he'd got some punishment, after all he broke in here and he stole things I've never seen again. *Older Victim of Crime Interviewee 1*

Well I know another man which was caught with whatever and he was fined I think £300 and that was it. I think he got off very light, it's a prison sentence he should have got. *Older Victim of Crime Interviewee 7*

What would reassure me would be that adequate sentences were given out to people as a deterrent. *Older Victim of Crime Interviewee 4*

The lack of a successful outcome was one element which a number of the interviewees felt they had still thought about repeatedly following the incident:

I still think about it and I think to myself he got off Scot free. *Older Victim of Crime Interviewee 1*

Had I any remote hope of anybody being caught or anybody being brought to justice for it, absolutely not, I knew it was all a big waste of time and that's all I can tell you about that burglary. *Older Victim of Crime Interviewee 4*

This also fed into perceptions of the criminal justice as ineffective, with several interviewees stating that punishments are not a deterrent:

They're not even afraid they're too lenient with them, they're too lenient. ***Older Person Focus Group Participant***

They're not getting hard enough punishment. ***Older Victim of Crime Interviewee 1***

In relation to young people as perceived perpetrators, a small number of interviewees felt that the criminal justice process and special arrangements result in it being “waste of time” for older victims of crime, as one interviewee stated:

I would have thought it would have been a waste of time, I would have gone but what they have got, a slap on the wrist from the social workers, no. ***Older Victim of Crime Interviewee 4***

In contrast, one of the focus group participants suggested that “restorative justice” practice “would sort of get victims and the perpetrator to meet and I think sometimes maybe sort of the perpetrator meets the victim and realises the effect that it's had on them” (Focus Group Participant). They argued that this approach could result in the perpetrator hearing the full impact of their actions.

During the interviews and focus groups with practitioners a minority of participants raised concerns about the appropriateness of sentences passed in Northern Ireland with some suggesting that sentencing is not always reflective of the harm caused to victims particularly those who are vulnerable including older victims.

I definitely think that our judiciary and our legislators should be looking at putting increased tariffs on these young people, especially when they're targeting our elderly. I for one will be elderly in not many years. I would like to think that there's people out there that are looking out for me. ***PSNI Focus Group Participant***

[W]e would see the age of the victim when they are in much later years as an aggravated feature in the case especially whenever they are an elderly person living in a rural setting and things like that where they feel isolated, where for instance they are ill or there's other vulnerabilities, that all compounds it. I'm just not so sure that that's always reflected in sentencing but probably no more so than other features aren't reflected properly reflected in sentencing. *PPS Prosecutor*

These quotations may be largely anecdotal, however, they were from practitioners with first hand and recent experience of court proceedings. It is worth therefore exploring the issue further.

The criminal courts of Northern Ireland have their own sentencing framework, which is distinct from the remainder of the UK and Ireland. Following a conviction after a guilty plea or verdict, the courts will pass sentence on the offender. There may be a delay in passing sentence whilst the judge waits to receive additional relevant evidence to make his or her decision such as a pre-sentencing report (which provides information on the offender. This is necessary in a case where the judge is considering imposing either a community sentence or custodial sentence) or Victim Personal Statement or Victim Impact Reports. The sentence passed will depend on a number of factors including the nature of the offence/s; the character of the defendant (including the presence of any previous criminal convictions and evidence of genuine remorse or lack thereof); the level of harm caused including the impact on the victim; premeditation or lack thereof; mitigating circumstances such as the age or health of the offender; the presence or absence of evidence of the offender targeting vulnerable individuals or demonstrating hostility based on the victim's membership (or perceived membership) of a racial group, religious group, sexual orientation group or disability of the victim. Most offences carry a maximum penalty which a court can impose, although it will be rare that such a sentence will be passed.

Indictable only offences are tried in the Crown Court. Summary offences are tried in the Magistrates' Court. Either way (hybrid) offences can be tried in either the Magistrates' Court or the Crown Court with the decision as to venue usually in the hands of the PPS. The Magistrates' Court in Northern Ireland have restricted sentencing powers with the

maximum sentence a District Judge can pass being either six months or twelve months for a single offence (with the exception of criminal damage)<sup>41</sup> and eighteen months if sentencing for multiple convictions. In the Magistrates' Court in England and Wales following a conviction if the magistrates believe they have inadequate sentencing powers available to them they can send the case to the Crown Court for sentencing, this option is not available post-conviction in Northern Ireland. The choice of venue for either way offences is therefore even more important than it would be in England and Wales.

The Judicial Studies Board for Northern Ireland publishes comprehensive sentencing guidelines for the Magistrates' Court. These guidelines do not have the force of law, however judges are expected to take them into consideration. A court may depart from the guidelines 'where, in the individual circumstances of the offence or the offender, the interests of justice require and will give reasons for so doing so'.<sup>42</sup> A failure to take into consideration the sentencing guidelines increases the likelihood of a successful appeal against any sentence. There is no comprehensive set of sentencing guidelines for Crown Court judges to follow in Northern Ireland. Instead the Lord Chief Justice's Sentencing Group considers judgments from the Court of Appeal or first instance judgments of the Crown Court and advises the Judicial Studies Board as to their suitability for inclusion on the Judicial Studies Board Sentencing Guidelines and Guidance website. This approach contrasts with the situation in England and Wales in which there has been established a Sentencing Council which is tasked with drawing up detailed sentencing guidance for both the Magistrates' Court and Crown Court.

The Judicial Studies Board of Northern Ireland has one listed sentencing guideline in relation to crimes against older people. This is the case of R v Edward Cambridge 2015 NICA 4. The case involved sentencing for a violent householder robbery, but presumably given its designation as a 'Attacks on the Elderly Sentencing Guideline' the case has wider applicability in sentencing cases involving older victims of crime. The guideline states that a factor that will tend to lead to a presumption of an increased sentence will be increasing

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<sup>41</sup> Criminal damage has a maximum sentence of 2 years in the Magistrates' Court – see Art 3 of the Criminal Damage (NI) Order 1977.

<sup>42</sup>[http://www.jsbni.com/Publications/sentencing-guides-magistrates-court/Documents/Templates/Introduction%20and%20general%20principles%20\(Final\).pdf](http://www.jsbni.com/Publications/sentencing-guides-magistrates-court/Documents/Templates/Introduction%20and%20general%20principles%20(Final).pdf) pg.1

age, vulnerability, or infirmity of the victim. Aggravating factors listed in the case include: an especially serious, physical or psychological effect on the victim even if unintended; deliberate targeting of vulnerable victim(s); a sustained assault or repeated assaults on the same victim; the location of the offence (for example, in an isolated place).

Given the concern among older victims and older people in general as well as some practitioners that crimes against older people do not receive sufficient penalties at the sentencing stage particularly in relation to burglaries, **it is recommended that research should be conducted to explore the types and lengths of sentences imposed in cases of domestic burglary particularly those involving older people and vulnerable victims.**

The nature of sentencing guidelines in Northern Ireland is that they are not accessible in an easy to understand format for members of the public. Older people are therefore not aware of their existence or content. This lack of accessible information is likely to be contributing to a perception of an inadequate approach to sentencing in cases involving older victims of crime. **It is recommended that the Judicial Studies Board and the Lord Chief Justice's Sentencing Group work with the COPNI to identify how to raise awareness amongst the older population of the relevant sentencing guideline and the process of sentencing more generally.**

## Conclusions and Recommendations

Navigating the criminal justice system can be traumatic for victims of crime and lead to the phenomenon of secondary victimisation. Justice is only served if all victims, including older people, can participate fully within the criminal justice process in order to have their voices heard and their experiences recognised without suffering undue distress. There is no doubt that the Criminal Justice System in Northern Ireland has made significant improvements in recent years in how it supports victims, but much remains to be done. This research study is not the first to identify many of these issues although the focus on the impact on older victims of crime is unique. At the various stages of the process changes could be made to improve the experience of older victims of crime.

## RECOMMENDATIONS

This chapter contains a number of recommendations for modest reforms which the researchers believe will be able to help bring about positive change. These recommendations are based on the views of participants including victims of crime, older people, PSNI officers and members of the PPS. The recommendations are:

- It is recommended that consideration be given to instigating a recording practice which allows data on levels of engagement with the Victim and Witness Care Unit by different demographic groups to be gathered and published to inform research and practice.
- It is recommended that all literature sent to victims and witnesses and that which is available online adopt the explanations given in the Victim Charter for an intimidated witness. It is further recommended that the DOJ, PSNI, PPS work with stakeholders such as the COPNI to provide further elaboration in documentation of what is meant by a 'vulnerable victim or witness'.
- It is recommended that PSNI and PPS training on identification of vulnerabilities and intimidation incorporate particular training on how best to do so in cases involving older people.
- It is recommended that consideration be given to the introduction of a victim vulnerability matrix for older victims of crime with the matrix being used by agencies across the criminal justice system to encourage the better identification of victims' needs and the measures that should be put in place to support them.
- It is recommended that further research be conducted to explore how prosecutors in Northern Ireland make the decision as to whether or not to make an application for special measures, particularly in cases involving older people.
- It is recommended that all members of the judiciary receive additional guidance on the right of victims and witnesses to sit in the courtroom following their video-link evidence.

- It is recommended that an audit of the usability and suitability of court infrastructure and technology for those victims and witnesses with disabilities should be conducted with any identified failings being remedied.
- It is recommended that all relevant criminal justice practitioners are adequately trained to ensure that they provide sufficient information to enable victims and witnesses to make an informed choice between screens/curtains and video-link in appropriate cases.
- It is recommended that there be consideration given to the introduction of a form of presumption in favour of special measures for older people.
- It is recommended that the PSNI conduct an audit of human and equipment resources on the taking and processing of video-recorded statements with additional resources and training put in place if necessary.
- It is recommended that a pilot scheme allowing vulnerable victims to pre-record their examination and cross-examination be introduced to courts in Northern Ireland as soon as possible. Furthermore, that consideration be given to permitting its use for vulnerable adult victims for all categories of crime, not just sexual offences. Such a scheme is likely to be of particular benefit to older victims of crime who are experiencing progressive deterioration in mental or physical health.
- It is recommended that legislative reform to committal hearings be introduced as soon as is feasible to protect victims and witnesses from any additional potential trauma or delay.
- It is recommended that the Commissioner for Older People for Northern Ireland support measures to reduce delay in the Criminal Justice system including the possibility of introducing of statutory time limits for all cases. If introduced, further research should be conducted to establish if a lower statutory time-limit should be in place for cases involving crimes against older people.
- It is recommended that the Department of Justice collect and publish data on the profile of victims who are making use of Victim Personal Statements and Victim Impact Reports with the data broken down by demographic characteristics including age and gender.

- It is recommended that the Commissioner for Older People for Northern Ireland consult with the DOJ on the potential utility of Community Impact Statements for crimes that have a wider impact on the older population.
- It is recommended that consideration be given to introducing an older person's victim advocacy scheme in Northern Ireland.
- It is recommended that research should be conducted to explore the types and lengths of sentences imposed in cases of domestic burglary particularly those involving older people and vulnerable victims.
- It is recommended that the Judicial Studies Board and the Lord Chief Justice's Sentencing Group work with the COPNI to identify how to raise awareness amongst the older population of the sentencing guideline and the process of sentencing more generally.

## Chapter Six Conclusions and Recommendations

The risk of an older person being a victim of crime is falling and is lower than for individuals under the age of 60. Furthermore, the risk of an older person in Northern Ireland being a victim of crime is lower than in England and Wales. These are points that should provide a level of reassurance to older people who fear falling victim to crime. However, when older people do become victims of crime it is important that they have the confidence to report it in the knowledge that the authorities will do all that is reasonably within their gift to identify the perpetrators and bring them to justice. In doing so, the authorities should ensure older victims of crime have the opportunity to participate in the criminal justice system in a manner which causes as minimal a level of further distress as possible whilst having recognition of the harm caused to them by the crime. In some cases this is precisely what happens. However, for many crimes against older people the likelihood of a successful resolution to the case is small, and furthermore PSNI statistics show that for the more common categories of offence the likelihood that a case will reach a successful resolution is lower for victims aged 60 and over in comparison to those who are younger. Improving the crime outcome rate for older people would be a demonstration of the criminal justice system in Northern Ireland's adherence to the principles that all victims should be treated with dignity and given equal access to justice irrespective of age. This report has sought to explore the reasons for this and to recommend how to improve the experience of older victims of crime when they engage with the justice system.

### The Experiences of Older People as Victims of Crime

Older people have been neglected in research-based studies on victims. The interviews and focus groups with older people, including those who have experienced victimisation first-hand, provide key and unique insights into older peoples' experiences of crime and the criminal justice system. As the findings in this study demonstrate, older peoples' perceptions of crime and the criminal justice system are typically based on their personal experience of being a victim of crime; their thoughts on knowing someone who has been a victim of crime; the presence of family members who are concerned on behalf of older

relatives; agency outreach and media reporting of crimes. The personal experiences of older victims of crime and their families illustrate the distress and anxiety often faced by older people in the aftermath of being a victim of crime.

Older people are more likely to have characteristics and circumstances that increase the potential impact of being a victim of crime. This includes higher rates of fear of crime, higher rates of physical disability, a greater prevalence of conditions affecting memory recall, greater likelihood of living alone and the absence of a family support network. The types of crimes that older people are victims of are more likely to involve intrusions into what should be safe spaces including homes and cars. The trauma caused by intrusions into these safe spaces (e.g through burglary, online crime, or criminal damage) can be heightened for older people because they as a group on average spend more time than others in their homes. Not all of these characteristics and circumstances will be present in every case involving an older person, however the cumulative impact of a number of these being present means that the impact of crime may be heightened and that the older person would benefit from additional support measures being in place when engaging with the criminal justice system. This study recommends that the existing debate on victims' rights in Northern Ireland needs to be readdressed to encompass this reality.

### Examining the Statistics

This study's examination of PSNI outcome rate statistics show that for the most common categories of crime the likelihood of a case having a successful outcome, from a police perspective, is lower for older victims of crime than for other adult age categories. This has been a trend over the last decade. Four of the categories of crime affected are burglary, criminal damage and vehicular theft and violence against the person (no injury). These categories make up a disproportionately higher proportion of crime for those aged 60+ than for other ages. It is concerning that such a consistent pattern in relation to these more commonly experienced categories of crime are found.

There are a number of factors that appear to be contributing to lower crime outcome rates for older victims in comparison to younger adults. This includes the modus operandi of crimes that deliberately target older people including elder abuse and distraction burglaries that make it difficult to gather sufficient evidence to prosecute. The research findings suggest that older people are also more likely to be reluctant to want to pursue a report through to prosecution because of fear of the experience of giving evidence in court and/or the risk of reprisals for doing so. The fact that the crimes that older people report are often either crimes where the perpetrator knows them (e.g. breaches of relationships of trust) or knows where they live (distraction burglaries or criminal damage of property) means that fear of repercussions of pursuing a case are understandable. The long reported failings of the criminal justice system of Northern Ireland in identifying vulnerability and providing adequate support to vulnerable and/or intimidated adults disproportionately impacts on older victims. Whilst not all older people are vulnerable or need additional support journeying through the justice system, the older population has higher rates of vulnerability due to higher levels of mental and physical ill-health, higher rates of living alone and increased likelihood of a lack of a support network. Another recognised shortcoming of the justice system of Northern Ireland is delays in the processing of cases. Such delays disproportionately impact on older and vulnerable victims of crime.

It has not been possible to contrast the PSNI statistics with those of any other jurisdiction as Northern Ireland is the only jurisdiction which publishes outcome rate statistics by age. Therefore it could be that the problems identified in Northern Ireland are common on these islands, but that only in Northern Ireland are we capable of identifying them. Being able to identify and monitor the extent of any variance in outcome rate by age is the first step in being able to tackle it and so the PSNI and their statisticians should be given credit in this regard. The PSNI and the Policing Board acknowledge that the statistics on age raise legitimate concerns and in response targets have been set in previous years and efforts are being made to improve matters.

PSNI outcome rate statistics only use data from recorded crimes, so only crimes that a victim reports will impact on the statistics. Victim surveys have consistently shown significant underreporting of crime in Northern Ireland. Some victims will not desire a

criminal justice resolution to their case, but for those who would and do not report the crime for other reasons, their cases have an unsuccessful resolution which remains unidentified in the PSNI statistics. Therefore in discussing how to improve outcome rates, consideration needs to be given to how to improve levels of reporting.

PSNI outcome rate statistics judge a case as having a sanction (positive) outcome if it results in a charge/summons, caution, penalty notice or other discretionary disposal. The statistics only monitor cases prior to reaching the court stage of the justice system. Therefore sanction outcomes include cases which may ultimately result in a trial not proceeding or an acquittal. This distinction may not be readily understood by the general public who might understandably interpret published data on sanction outcome rates as meaning those cases that resulted in a formal sanction issued by a court.

The discrepancy in police outcome rates by age of victim identified mean that older victims are less likely to have their case reach the prosecution stage than other adults. Statistics provided by the PPS allowed the researchers to explore the extent to which any difference in the experience of older victims at the investigation stage was also in evidence once cases reached the PPS and the courts. This is the first time that PPS statistics broken down by the age of the victim have been published. What the statistics indicate is that cases involving victims aged 60+ are no less likely than other age categories to return a guilty verdict from a court. Such findings are very welcome and should provide reassurance to older people whose cases reach the stage of being passed to the PPS and subsequently to the courts. There were though some aspects of the statistics which warrant further analysis. This includes a higher rate of Decision Information Requests in cases involving those aged 75+ cases; a higher no prosecution rate for crimes involving complainants aged 75+ in comparison to the 60-64 and 65-74 age groups; and a higher diversion rate for older people in comparison to the figures for all ages. Further discrepancies by age of victim at the prosecution stage compound the problem found at the investigative stage.

It is also important to note that the policy and practice of the PPS impacts indirectly on the police outcome rates. This is because the PSNI naturally take into consideration prosecution policy when deciding whether or not to refer a case to the PPS, the strength of evidence

required to do so and the charges to bring. Furthermore, when it comes to special measures to support a vulnerable victim or witness, the PSNI will be aware that whatever recommendations they make it will ultimately be for the prosecutor to make the application to the court.

To improve the outcome rate this study has examined ways to improve the experience of older people who are victims of crime, to increase confidence in the justice system, and aid older victims to give their best evidence.

### Older People as Vulnerable or Intimidated Victims

The provision of additional support mechanisms in our criminal justice system are for the most part based on the categorisation of a victim as being 'vulnerable' and/or 'intimidated'. This system of categorisation is based on legislation governing special measures where only those adults who fall within the 'vulnerable' or 'intimidated' categories are eligible for additional support when giving evidence in court. This research study has identified a number of problems with this form of categorisation.

First, it requires that practitioners understand the categories and can identify if someone falls within one of them, this is not always the case meaning that victims do not always receive the additional support that they need.

Second, victims of crime are required to accept being labelled as either 'vulnerable' and/or 'intimidated' in order to receive additional support and in some cases to provide supporting evidence that they fall within at least one of these categories. 'Vulnerable' or 'intimidated' can have connotations of being 'frail' or 'weak', labels which older people can understandably be averse to identifying with particularly given prejudices and stereotypes around these issues that older people face in society because of their age. The legal definition of 'vulnerability', which is mentioned in some of the literature which victims of crime receive, compounds this problem with reference to terms such as 'significant impairment of intelligence and social functioning'. Some older people are reluctant to

accept these labels even where they would objectively fall within the legal categories because they do not in every day life consider themselves to be vulnerable or intimidated. Requiring older people to accept such labels to access additional support can further undermine their confidence and self-worth. At the same time, practitioners must be watchful that they do not assume that because an older person is uncomfortable with the label of 'vulnerable' or 'intimidated' that this means that would not wish for and benefit from additional support being put in place. This research study has made a number of recommendations to help practitioners navigate this dilemma.

### The Criminal Justice System's Response to Older People Being Victims of Crime

In recent years the criminal justice system in Northern Ireland has recognised the need to do more to improve the experience of victims. Positive changes have been implemented to improve how the agencies of the criminal justice system communicate with victims and how they identify those who need additional support. Victims with recognised vulnerabilities should now receive additional support to aid them in giving evidence to the police or to the courts through the use of special measures. Through Victim Personal Statements victims now have the opportunity to explain to the courts the impact that the crime has had upon them. It is to be welcomed that the criminal justice system in Northern Ireland is moving in the direction of being more victim-conscious.

The researchers found no evidence of deliberate discrimination against older people by any of the agencies of the criminal justice system. Indeed the potentially serious impact of crime on older people was recognised by all who participated in the research. What this research study has identified is areas where improvements can be made. These improvements are primarily in relation to older people who are victims of crime as this was the remit of the project, however, many of the suggested improvements would also benefit other victims and non-victim witnesses of crime. The issues facing older victims of crime are often not unique to this age group, because older people do not necessarily experience crime differently to others. However, older people are more likely to have characteristics and circumstances which make them more vulnerable when they are victims of crime. It is

important that agencies recognise this when seeking to identify whether vulnerabilities are present and when assessing what additional support may be needed. A common refrain from practitioners was that they adopt an age-blind approach to the issue of victim vulnerability. This philosophy was borne out of a desire not to have a hierarchy of victims and to avoid being seen to be discriminating against older people by making assumptions about level of vulnerability or intimidation. However, the fundamental problem with an age-blind approach, which is similar to that of the discredited colour-blind approach to race, is that it risks missing the underlying inequalities and barriers that older people may face.

The approach of the Criminal Justice System in Northern Ireland can be contrasted with the approach of the CPS in England and Wales which explicitly acknowledges in its policies that older victims of crime are more likely to be victims of particular types of crime that can leave them more vulnerable and are more likely to have additional support needs when engaging with the criminal justice system. Being aware of these issues does not make the policy of the CPS discriminatory rather it grounds itself in the reality of the lived experience of many older victims of crime.

This research study identified deficiencies at various stages of the criminal justice system which disproportionately negatively impact on the experience of older victims of crime in Northern Ireland. This includes significant delays in the processing of cases which can bring prolonged suffering to a victim and risk the deterioration of a victim's health prior to the case reaching its conclusion. There are issues with the quality and availability of measures designed to support a vulnerable or intimidated victim in providing evidence to the police or to a court. There is a perceived reluctance on the part of some practitioners to make use of support mechanisms particularly in court through the use of special measures. The quality of advice to victims about special measures and other support could be improved upon. Agencies could also improve upon the processes they use to identify vulnerable or intimidated victims.

## Recommendations

An extensive number of recommendations have been made in this report, all of which are listed below. The reason that the list is lengthy is that the researchers have identified possible reforms and issues for further consideration at each of the various different stages of the criminal justice process. Only two of the recommendations would require changes to primary legislation. The majority of the recommendations concern reforms to policy or practice with some relating to the need for further research. Most of the reforms would not require significant additional resources. Some of the recommendations may turn out not to be feasible for one reason or another, but it is intended that at the very least that all the recommendations encourage a debate as to how the treatment and experience of older people in our criminal justice system can be improved.

### **The Voice of Older People in the Criminal Justice System**

- This research has demonstrated that although older people are not homogenous, there are common aspects to the experience of older victims of crime which agencies of the criminal justice system should be aware. Therefore, criminal justice agencies should engage in regular dialogue with older people and their representatives to ensure that their voices inform future reforms.
- Community Impact Statements, which are available in Northern Ireland but rarely used, are designed to capture the impact of a crime on the wider community. It is recommended that the Commissioner for Older People for Northern Ireland consult with stakeholders on the potential utility of Community Impact Statements as a mechanism for bringing to the attention of the justice system the wider impact some crimes can have on the older population of a locality.

### **The Impact of Crime on Older People**

- The legacy of the conflict continues to impact on some older victims of crime, in particular, in relation to victims' fear of intimidation from criminals following their interactions with the police. This is something of which policymakers, police and other branches of the criminal justice system in Northern Ireland need to be aware.

- This research has identified the significant short and medium term negative impacts that being a victim of crime can have on older people. Further research should be conducted to explore the long-term effects that being a victim of crime can have on the health and well-being of older people. The findings of such research would help inform the approach taken to supporting such victims.

### **Improving Transparency and Accountability**

- PSNI statistics are a valuable source of information on the handling of cases involving older victims of crime. The PSNI should continue to publish statistics on levels of recorded crime and outcome rate by age of the complainant. These statistics should be published in accessible formats so that the general public including older people can easily understand them.
- Given continuing evidence of lower crime outcome rates for older victims of crime in comparison to other age groups, the Policing Board of Northern Ireland should reintroduce outcome rate targets for crimes committed against older people.
- The PPS should draw up an action plan to enable them to be able to include as part of their regular statistical publications statistics on victim age. In the interim, the PPS should provide the Commissioner for Older People for Northern Ireland with annual statistical returns by age based on this research (including the necessary caveats).
- There were some aspects of the PPS statistics which warrant further analysis. It is recommended that a review of case files be undertaken to better understand the following indicative findings from the data: files where the victim was aged 65-74 and 75+ having a higher rate of Decision Information Requests than the general cohort; a higher no prosecution rate for crimes involving complainants aged 75+ in comparison to the 60-64 and 65-74 age groups; and files with decisions involving older victims of crime being more likely to end in diversion decisions than the general cohort.
- The PPS in association with the PSNI should examine the feasibility of adopting a similar approach to the CPS of flagging up cases as ‘crimes against older people.’ This would assist in tracking such cases as they progress through the justice system helping to identify relevant vulnerabilities to the criminal justice agencies. It would

also allow statistics to be published which would provide greater information on the handling of cases where older people are particularly likely to be vulnerable.

- The Victim and Witness Care Unit should introduce a recording practice which allows data on levels of engagement by different demographic groups of victims and witnesses to be gathered and published to inform research and practice.
- The PPS, using the CPS document and recent consultation as a template, should work with older persons and other relevant stakeholders to design and publish specific policy guidance on the handling of cases involving older people.
- Given concerns raised about the willingness of some prosecutors to apply for special measures to support vulnerable victims, further research be conducted to explore how prosecutors in Northern Ireland make the decision as to whether or not to make an application for special measures, particularly in cases involving older people.
- Whilst PPS resources are limited, the implementation of an outreach programme or public engagement strategy may prove beneficial. If such a strategy is to be introduced the PPS should work with key stakeholder groups representing the diversity of our society including those representing older people.
- The Department of Justice should collect and publish data on the profile of victims who are making use of Victim Personal Statements and Victim Impact Reports with the data broken down by demographic characteristics including age and gender.
- There was concern among older victims and older people in general as well as some practitioners that crimes against older people do not receive sufficient penalties at the sentencing stage particularly in relation to burglaries. Further research should be conducted to explore the types and lengths of sentences imposed in cases of domestic burglary particularly those involving older people and vulnerable victims.
- The Judicial Studies Board and the Lord Chief Justice's Sentencing Group should work with the Commissioner for Older People for Northern Ireland to identify how to raise awareness amongst the older population of the sentencing guideline and the process of sentencing more generally.

### **Improving the Identification of Vulnerable Victims of Crime in the Older Population**

- The PSNI and PPS training on identification of vulnerabilities and intimidation incorporate should include specific training on how best to do so in cases involving older people.
- Consideration should be given to the introduction of a victim vulnerability matrix for older victims of crime with the matrix being used by agencies across the criminal justice system to encourage the better identification of victims' vulnerabilities and needs.
- All literature sent to victims and witnesses and that which is available online should adopt the explanations given in the Victim Charter for an intimidated witness. The PSNI and PPS work with stakeholders such as the COPNI to provide further elaboration in documentation of what is meant by a 'vulnerable victim or witness'.
- The Commissioner for Older People for Northern Ireland should liaise with the PSNI to ascertain the extent to which the new Support Hubs are improving the identification and support of older vulnerable victims of crime and how they might improve their ability to do so.
- Given systemic failings in the identification of vulnerability in adult victims in Northern Ireland consideration given to the introduction of a form of presumption in favour of special measures for crimes against older people.

### **Improving the Experience of Older Victims of Crime When Participating in the Justice System**

- Failings in technology and court architecture make it difficult for people with disabilities to participate in a dignified manner in the trial process. An audit of the suitability of court infrastructure should be conducted followed by the making of necessary changes.
- Video recorded police statements can be of particular value to older victims, yet this research has identified issues which can prolong the taking of such statements. This includes a shortage of relevant technology and of suitably trained staff. The PSNI should conduct an audit of human and equipment resources on the taking and

processing of video-recorded statements with additional resources and training put in place if necessary.

- Criminal justice practitioners should receive additional training to provide sufficient information to enable victims and witnesses to make an informed choice between the various forms of special measures in appropriate cases.
- All members of the judiciary receive additional guidance on the right of victims and witnesses to sit in the courtroom following their video-link evidence.
- A proposed pilot scheme allowing vulnerable victims to pre-record their examination and cross-examination be introduced to courts in Northern Ireland as soon as possible. Furthermore, that consideration be given to permitting its use for vulnerable adult victims for all categories of crime, not just sexual offences. Such a scheme is likely to be of particular benefit to older victims of crime who are experiencing progressive deterioration in mental or physical health.
- This research has identified the negative impact that committal hearings can have on older victims of crime. Legislative reform to committal hearings should be introduced as soon as is feasible to protect victims and witnesses from the potential delay and trauma associated with such hearings.
- The Commissioner for Older People for Northern Ireland should support measures to reduce delay in the Criminal Justice system including the possibility of introducing of statutory time limits for all cases. If introduced, further research should be conducted to establish if a lower statutory time-limit should be in place for cases involving older people who are victims of crime.
- Consideration should be given to introducing an older person's victim advocacy scheme in Northern Ireland as exists for other groups within society.

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# PSNI Hate Crime Vulnerability Matrix

## APPENDIX 'C' VULNERABILITY RISK ASSESSMENT MATRIX



Name of Injured Party: \_\_\_\_\_ DOB \_\_\_\_\_ Reference Number: \_\_\_\_\_  
 Address: \_\_\_\_\_ NICHE Number \_\_\_\_\_

This scorecard should be used as a **guide**, and in combination with your own judgement to help ascertain what support and protection is required in any given situation. All action taken as a result of your assessment should be discussed with the complainant to ensure it meets their needs.

Vulnerability Index – Tick as appropriate

<input type="checkbox"/> Sectarianism	<input type="checkbox"/> Racism	<input type="checkbox"/> Homophobic	<input type="checkbox"/> Religious/Faith	<input type="checkbox"/> Transphobic	<input type="checkbox"/> Disability
<input type="checkbox"/> Learning Mental illness	<input type="checkbox"/> Physical	<input type="checkbox"/> Sensory	<input type="checkbox"/> Long Term illness	<input type="checkbox"/> Refused	
<input type="checkbox"/> Domestic	<input type="checkbox"/> Older Person	<input type="checkbox"/> Young Person-Child	<input type="checkbox"/> Living Alone	<input type="checkbox"/> Interface	<input type="checkbox"/> Interpreter

Circumstances			
Victim and Suspect known to each other		Victim awareness	
History of intimidation/harassment		Victims/Community Knowledge	
Repeat Victim		Timescale of another incident immediate	
Suspect/Group identified		Victim perception	
Venue of incident identified		Possibility of further incident	
Others in Victims' Group likely to be targeted		Suspect intent/motivation	
Additional vulnerabilities identified		Victim currently/previously witness in criminal investigation	

Rating Score = Probability of Risk x Impact + Community Impact =

Probability of Risk		Impact of Consequences			
Very Unlikely	1	Minor	1	Victim appears unconcerned	
Unlikely	2	Appreciable	2	Victim in fear	
Possible	3	Major	3	Normal life affected	
Likely	4	Severe	4	Severe disruption /potential psychological injury	
Very Likely	5	Catastrophic	5	Threat to life	
<b>Community Impact</b>					
Minor	1	Local media interest			
Appreciable	2	Community tension / property damage			
Major	3	Retaliatory attacks minority groups			
Severe	4	Vigilantism Loss of public confidence			
Catastrophic	5	Major public disorder			
				<b>Rating</b>	<b>Score</b>
				LOW (0-10)	
				MEDIUM (11-19)	
				HIGH (20-30)	

**LOW – (0-10)**

AO to follow protocols as per investigation standards and provide crime prevention advice, reassurance; support and signposting.

Victim to be updated as per investigation requirements (10 days).

AO to record details in DEA RM log.

Duty Sergeant to authorise closure with audit of rationale included in OEL entry on NICHE entitled "HSC RA Closure".

**MEDIUM (11-19)**

AO to follow protocols as per investigation standards and provide crime prevention advice, reassurance; support and signposting.

Victim to be updated as per investigation requirements (10 days).

AO to record details in DEA RM log.

Action Plan relating to proactive measures to be implemented and audited on OEL, to reduce risk.

Duty Inspector to authorise closure with audit of rationale included in OEL entry entitled "HSC RA Closure".

**HIGH (20-30)**

AO to follow protocols as per investigation standards and provide crime prevention advice, reassurance; support and signposting.

Victim to be updated as per investigation requirements (10 days).

AO to record details in DEA RM log.

Duty Officer to be informed as soon as practicable by LPT Insp/AO.

Action Plan relating to proactive measures to be agreed and implemented to reduce risk to be implemented and audited on OEL.

Report will be subject to DMM until risk is reduced. Ownership remains with IO and supervising officers unless otherwise directed by DMM. Investigation plan to be completed on OEL by IO and work-flowed to lead HSCO.

OEL Entry title "HSCO Update" to be used by lead HSCO to record action taken. Senior Risk Officer to

authorise closure with audit of rationale included in OEL entry entitled "HSC RA Closure".

Further historical; vulnerability; support; information

**Conclusion** including rationale for decisions made \* please include risk and protective factors and your justification for any changes to your overall assessment score\*

Officer/Staff Completing- Name/ Rank/Grade/Number:

Date:

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**END OF REPORT**