

Crime and Justice: The Experience of Older People in Northern Ireland

Commissioner's report

Translations and other formats

This document is available in other languages or formats on request.
It is also downloadable at www.copni.org



Crime and Justice: The Experience of Older People in Northern Ireland

Published by The Commissioner for Older People for Northern Ireland

May 2019

© The Commissioner for Older People for Northern Ireland copyright 2019

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence or email: psi@nationalarchives.gsi.gov.uk. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

ISBN: 978-1-9996212-6-1

Contents

Commissioner's foreword	4
Executive summary	6
Older people's experiences of crime and the criminal justice system	8
Levels of crime against older people	15
Prosecution and conviction	25
Agencies working together	32
Special measures and support	36
Speeding up the justice process	44
Sentencing	47
Conclusion and full Recommendations	49

Commissioner's foreword



Fear of crime is a common concern I hear when I meet with older people across Northern Ireland. This fear is often heightened through media coverage of crimes committed against older people.

In my Corporate Plan 'Respect, Value and Protect', I committed to examine the experiences of older victims of crime. This report outlines the findings of the first piece of research carried out on crime in Northern Ireland from the perspective of older people and those supporting them. The research sought to understand the experience of an older person throughout each stage in the process, from reporting a crime through to the investigation, prosecution and sentencing.

For this research, I wanted to hear the views of older people who have unfortunately been victims of crime, to better understand the impact it had on them, their experience of reporting that crime and their journey through the different parts of the criminal justice system. It is essential that older people in our society not only feel safe and protected from crime but have

confidence in the system and feel that they will be supported throughout.

Statistically, in Northern Ireland, older people are less likely to be victims of crime. However in cases of burglary, criminal damage and theft, older people are just as likely to report being victims of crime as other age groups. Being a victim of crime can exacerbate feelings of emotional, psychological, physical harm and financial loss for older people and so the impact of criminal activity has particular and more severe consequences for them.

This study consisted of focus groups and interviews with older people in Northern Ireland as well as with the Police Service of Northern Ireland (PSNI), Public Prosecution Service (PPS) and Victim Support NI. It examined the impact of crime, not just on the older victims but their families too, as well the response of the criminal justice system. Reporting a crime can be emotionally draining and I was particularly interested in how the needs of older people were met during this process.

This study has resulted in 24 recommendations for a number of relevant agencies including the Department of Justice, the PSNI and the Public Prosecution Service.

It is crucial that the voice of older people is heard, both in the development of policy and the implementation of changes within the criminal justice system. I look forward to engaging with the relevant agencies to take forward these recommendations so that older people are better supported and feel safer and more secure.

Finally, I would like to thank the older people who took part in this research as well as those representatives from the PSNI, the PPS and Victim Support.



Eddie Lynch
Commissioner for Older People
for Northern Ireland

Executive summary

Crime against older people is a topic that receives significant media comment, but until now has not been the subject of a targeted academic study. This report reflects the findings of an in-depth research study carried out on behalf of the Commissioner for Older People for Northern Ireland. It builds on work carried out by the Commissioner's office in 2014 which looked at crime clearance rates for crimes committed against older people.

For this report, the Commissioner sought to examine crime clearance, prosecution and conviction rates and to better understand the experiences and expectations of older people when they are victims of crime. It was also an opportunity to gain an insight into how agencies of the criminal justice system interact with, and support, older victims of crime.

Being a victim of crime can be a traumatic experience for anyone, but there are particular factors that make older people more vulnerable to the effects of crime. These include: a higher rate of fear 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; and higher rates of feelings of insecurity.

At the same time, care must be taken not to categorise all older victims as vulnerable. Some of the older people involved in this research were clear that being a victim did not define them as a person and they were keen to get on with their lives. For others, the impact can be longer lasting and this is where the criminal justice system plays a key role.

Although older people are overall less likely to be victims of crime, when it comes to crimes such as burglary, criminal damage, vehicle theft and violence without injury, the PSNI's outcomes¹ for these crimes continue to be lower for older people than for other age groups. These are crimes which intrude on what might be considered 'safe spaces' and can cause severe and lasting harm.

When older people become victims of crime, they need to be able to have confidence in the response of the statutory agencies, including the PSNI, the Public Prosecution Service and the court system. There should be appropriate support from the reporting of an incident through to conclusion and although the Commissioner is encouraged by existing inter-agency working, this study highlights that more could be done to support older victims of crime.

The experience of going to court and giving evidence can be particularly daunting for older people. This research has highlighted the need for consideration to be given to the introduction of a presumption in favour of special measures for older people, as is currently the case for other categories of victims and witnesses. Special measures include the use of screens in court, pre-recorded evidence, giving evidence in private or the use of video-link. The introduction of a presumption in favour of special measures would mean that older people would not have to identify themselves as being vulnerable or intimidated and they also would not be subject to extensive scrutiny before the courts prior to accessing special measures. A presumption would also reduce the risk of professionals failing to identify vulnerabilities necessitating special measures.

¹ 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

It is important that courtrooms and their facilities are accessible and allow an older person to maintain their dignity when giving their evidence. The research found that some of the facilities available in courts are lacking in this regard. A review of the existing court infrastructure should ensure that the needs of older people, including those with disabilities, are catered for.

There are systemic problems within the criminal justice system that have been the subject of other reports. Older people who took part in the research raised concerns about the length of time a case can take to get to court. Cases still take too long to progress through the criminal justice system in Northern Ireland. These delays can have particular consequences for older people, who are more likely to have issues with memory recall and failing physical health. Similarly, committal hearings (where a witness may have to give evidence in the Magistrates' Court and again at the Crown Court) can further delay the process, placing additional stress on older people.

Older people must be able to participate fully in the criminal justice process to have their voices heard and their experiences recognised. It is important to acknowledge that improvements have been made in terms of support provided to older people but more work is required, including enhanced collaborative working between agencies.

To that end, the Commissioner is making a number of recommendations aimed at improving the experience of older people who have been victims of crime.

CRIMINAL JUSTICE AGENCIES

Below is a brief overview of the main organisations referred to throughout this report.

Department of Justice (DOJ): responsible for the resourcing, legislative and policy framework of the justice system².

Police Service of Northern Ireland (PSNI): the main investigatory agency and usually the first point of contact for victims of crime.

Public Prosecution Service (PPS): the principal prosecuting authority in Northern Ireland. The PPS makes prosecution decisions in cases investigated by the police in Northern Ireland. It also considers cases investigated by other statutory authorities, such as HM Revenue and Customs. The PPS is led by the Director of Public Prosecutions (DPP) for Northern Ireland³.

Victim Support: a charity which helps people affected by crime.

Magistrates' Court: (including youth courts and family proceedings courts) Conduct preliminary hearings in more serious criminal cases. Hear and determine less serious criminal cases, cases involving youths and some civil and domestic cases, including family proceedings.

Crown Court: Higher court which hears all serious criminal cases.

² Northern Ireland Department of Justice, About the Department <https://www.justice-ni.gov.uk/about-departmentjustice>

³ Public Prosecution Service website, About the PPS <https://www.ppsni.gov.uk/Criminal-Justice-System-5035.html>

1. Older people's experiences of crime and the criminal justice system

The research looked at the factors that influence perceptions of crime among older people in Northern Ireland. This is an aspect of research that hasn't previously been explored in existing academic literature or evidence-based policy reports in Northern Ireland.

Older people's perception of crime, offenders and the criminal justice system is typically informed by their personal experience of victimisation, knowing someone who has been a victim or by media coverage. During the interviews and focus groups, older people spoke about crimes that had been committed in their local area:

*I heard from this one elderly woman...she said 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 that. **(focus group participant)***

An increased awareness of criminality was linked to the fact older people who have retired spend more time at home, while others became aware of incidents via word of mouth or at community groups. Older people also spoke of their concerns that their home or daily routine were being observed or monitored:

*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 [and] they'd been watching the house. **(Interviewee)***

Incidents like these can have the 'knock-on' effect of making older people alter their routines and re-think the security of their homes. This places increased pressure on older people where incidents of crime can lead to a change in behaviour and heightened anxiety:

*If I go on holiday the lights stay on...if it's a fortnight the lights stay on a fortnight, I tell 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 **(focus group participant)***

More worryingly, there was a reluctance to leave the house to attend community groups or other events because of a fear of leaving property unattended, which has the potential to increase feelings of isolation and loneliness:

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. (focus group participant)

Threat of violence

Along with fears relating to their property, older people and their families were also concerned about the potential threat of violence. This included the possibility of retaliation if they reported a crime to the police:

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. (Interviewee)

Fear of crime

A common theme among older victims of crime was the detrimental impact it had on their health and wellbeing. This took the form of increased fear, damage to physical or mental health and comparisons with how they felt before the incident:

I was really sick, and I just couldn't even think straight that this should happen again and yeah it was scary (Interviewee)

Yes I would be a lot more nervous now than I would have been years ago... (focus group participant)

One woman recounted the impact of having to relive an incident which occurred when she had seen the perpetrator in the town where she lived. She had contacted the police but didn't know the name of the man in question and nothing further happened. Seeing perpetrators subsequently, whether the victims are too worried to report the crime or when no conviction has occurred, can perpetuate fear for older people.

The reality that an older person is less likely to be a victim of crime is not reflected in how fearful older people can feel. Findings from the Northern Ireland Perceptions of Crime Survey suggest that almost one in six adults aged 65-74 in Northern Ireland reported high levels of concern about being a victim of crime in their own home. This was particularly the case with burglary, with almost one in ten adults aged 60+ believing that they would be a victim of burglary in the next 12 months⁴.

⁴Northern Ireland Perceptions of Crime Survey 2016/17.

Vulnerability and Resilience

The concept of ‘vulnerability’ and ‘being vulnerable’ emerged in the interviews and focus groups. There is no set definition of what makes a person vulnerable – it can be related to a person’s age and physical state but can also be attributed to a number of other factors.

The research identified that older people are less likely to have the resilience derived from living with others or from a local support network. This will intensify as the number of older people living alone is predicted to rise with increasing life expectancy and changing population demographics. Previous research has shown that living alone is associated with heightened risk of loneliness, social isolation, ill-health and reduced resilience.

However, the older people who took part in the focus groups and interviews rejected the idea that as a group they should be generally classed as vulnerable and that they somehow lacked the resilience to cope with the trauma of being a victim of crime. Some pointed out their desire to get on with their lives, emphasising that it wasn’t just older people who can feel vulnerable:

*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 [by] constantly worrying about being burgled again. I certainly would have gone to court without any hesitation **(Interviewee)***

Older people also discussed their desire to see people brought 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. I’ve utmost respect for her that she’s seen it through to this outcome **(Interviewee – family member)***

Practitioners were also keen to emphasise that they did not believe that all older people are vulnerable or lack resilience. Nevertheless, both older participants and practitioners emphasised that in their experience as people age, they are increasingly likely to find a criminal infringement on their person or home traumatic and difficult to recover from.

Although certain factors can make older people more vulnerable to the impact of crime, care must be taken to avoid labelling all older people as vulnerable or lacking resilience, as this strips away the autonomy and individuality of people based on their age.

Media reporting

Older people reported that they received a lot of their information on crime, crime levels and the criminal justice system from the media. Media coverage influenced people's perceptions of the 'fairness' of the system, in particular the feeling that perpetrators "get off lightly":

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 PlayStations...it's a holiday home for them so I mean they're getting too much in the prisons (Interviewee)

Previous analysis of media reporting about crimes against older people found that the term 'vulnerable' was consistently used to describe older people who were victims, typically featuring direct quotations from the victims which emphasised the impact of the crime. These were usually accompanied with an image of the victim and/or their family. While reflecting the significant harm these crimes cause to older people, there is also the possibility that this type of reporting could contribute to the fear of crime.

Disproportionate coverage of crimes against older people where the victim is classed as 'vulnerable' may lead to a perception that such crimes are occurring more frequently than they actually are.

Police Service of Northern Ireland (PSNI)

Interviewees and focus group participants highlighted the good work done by the PSNI and community police officers in providing information about personal safety and home security measures. Outreach programmes and initiatives had also helped inform older people of the levels and types of crimes affecting older people in their community.

There was a varied response when discussing PSNI response times to incidents. Several interviewees recalled that the PSNI responded "quite quickly":

When we got in, we phoned the police and [they] reacted quite quickly, they were round fairly sharply to see what had happened (Interviewee)

However, a small number of interviewees said that the response from the PSNI had been slower:

Well they did come out and there's not really a lot they could do because the fella had scarpered... (Interviewee)

References were also made to a lack of a visible police presence with one focus group participant claiming that there “aren’t enough police on the ground”.

Concerns were also raised in the focus groups regarding a lack of information about the progress of investigations and the level of contact with the police:

Initially they [PSNI] came and said they would come again and then they didn’t so we weren’t over, what’s the word...impressed (Interviewee)

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 they were just not, 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 (Interviewee)

One family member of a victim of crime referred to delays in the PSNI investigation:

As a family, [it] felt to us...the system isn’t really stacked in favour of a victim because to do an 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)

However there was recognition of the practical assistance the PSNI provided, such as an incident number for insurance purposes.

One person who had been the victim of a burglary and common assault without battery regretted not having a family member with her while the PSNI was present. Based on her experiences, she felt that other older victims of crime would need to have family or another person present and have access to personal belongings:

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 (Interviewee)

This emphasises the need for the victim’s individual requirements to be respected when dealing with the aftermath of a crime.

Experience of the court process and environment

Older people who had been through the court experience typically made reference to the length of time from initial police investigations to the alleged perpetrator being brought before the court:

Well it was long, it was a long drawn out thing...there was times when I wondered what was going on because is this never going to end you know, it was a bit traumatic because it was dragging on... I just wanted to get it over and done with. (Interviewee)

The complexity of court proceedings also caused concern and the role of family members in providing reassurance proved important, for example in organising pre-court visits and arranging to speak to a prosecutor:

On the pre-court familiarisation visit...[the 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)

However, the interviews also revealed that older people were personally reluctant to ask for extra assistance, such as the pre-court visits or amplification earphones, and instead relied on family members to request this.

It was clear that family members took the lead in liaising with the PPS and NICTS (Northern Ireland Courts and Tribunal Service) regarding any special assistance that their relative needed. There was also a view from those family members interviewed 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.

Information provision

Based on their own experiences, the interviewees made a number of suggestions for improving the support provided to older victims of crime in the future. This included the use of a Victim Personal Statement⁵ to articulate the impact of a crime:

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 mean the person themselves will be able to say what's happened so it will help them... (focus group participant)

⁵A Victim Personal Statement consists of descriptions by the victim detailing how the crime has affected their lives and/or the lives of their loved ones.

One person recounted their family member's experience of having provided a Victim Personal Statement:

*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)***

Therefore the 'personal' aspect of the Victim Personal Statement seemed to be viewed positively and all of the interviewees stated they would have availed of the opportunity to complete one. The majority of interviewees felt that people who have been the victims of "horrendous crimes against them do need that right to stand up in court and say this is what you have done to my life".

Information provided by Victim Support was welcomed, but there was a feeling that this could be enhanced with additional contact:

*I think the leaflets are there...victim support play their role in sending those [leaflets] out but for me there's something around the connection about what does that actually mean? Someone needs to connect in to say this is an organisation that could help you **(Interviewee – family member)***

2. Levels of crime against older people

The risk of an older person in Northern Ireland being a victim of crime is relatively low compared to other age groups, but crime outcome rates for certain categories of crime are consistently lower for older people. These are: burglary, vehicle theft, criminal damage and violence without injury.

Recorded crime

Tables 1 and 2 show that:

- generally the rates of recorded crime against older people per 1,000 of the population are lower than those recorded for younger age groups (**table 1**).
- when older people do become victims of crime, crimes of property (including theft, burglary, vehicle theft and criminal damage) make up a much higher proportion of recorded crimes for the older victim population (**table 2**).

Table 1 shows the rates of recorded crime per 1,000 of the population for different age categories, which differs significantly across age groups. Police records⁶ 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)⁷. 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 adults⁸.

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 reducing 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.

Table 1: Rates of recorded crime by PSNI per 1,000 of the population by age of complainant (2017/18)

	Age 60-64	Age 65+	Age 20-24	All ages
Burglary	3	3	3	3
Criminal Damage	7	4	11	7
Theft – vehicle offences	2	1	3	2
Other thefts	4	3	10	5
Violence with injury (inc.murder)	2	1	18	7
Violence without injury	4	2	19	10
All offences	23	15	68	36

⁶ PSNI 2019

⁷ PSNI 2019

⁸ Campbell, 2018; Central Statistics Office, 2017; Scottish Government, 2017.

These headline figures in the police recorded statistics mask differences in the profile of the types of offences that the various age categories are reporting. 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.

Table 2: Percentage of crime recorded by PSNI by age category of the complainant falling within particular offence categories (2017/18)

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

Outcome rates

The Home Office introduced a new framework for counting crime ‘outcomes’ on 1 April 2014 and the PSNI adopted the new Home Office counting rules on 1 April 2015.

Under this new framework, all recorded crimes are assigned an outcome type. The outcomes 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 identified⁹.

To allow a comparison of outcome rate data pre-dating the 2015 reforms, the outcome rate data for this report has been calculated using the previous Home Office and PSNI approved method of taking the total number of crimes with a sanction outcome, dividing it by the number of recorded crimes for that year and multiplying by 100.

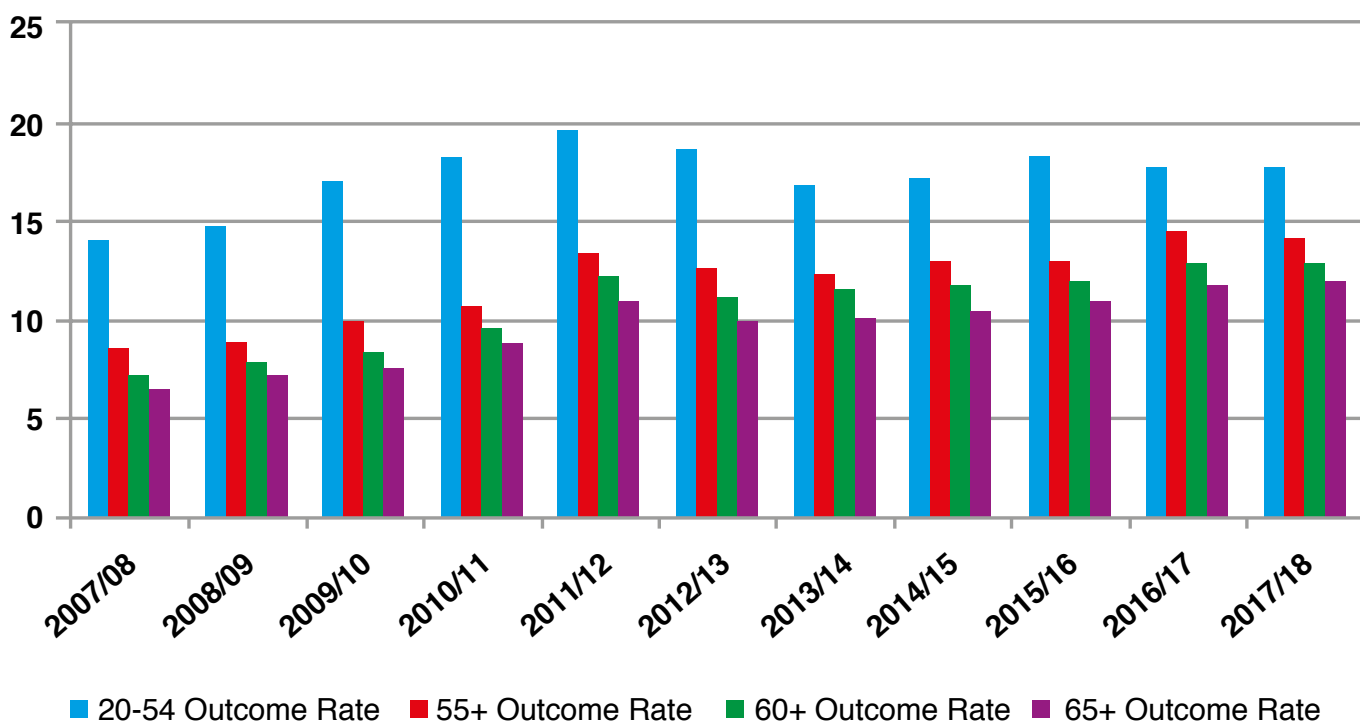
The PSNI should be commended for publishing crime outcome **rate** statistics by age of the complainant – the only police service in the UK or Ireland to do so.

It’s concerning that crime outcome rates are not as favourable for older people compared to their younger counterparts. There’s a strong, negative correlation between age and outcome rate over the period 2007/08 to 2017/18.

⁹In total, 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 Ireland justice system

Figure 1 contrasts the annual outcome rate of a combined 20-54 age group with three older age categories of 55+, 60+ and 65+. It shows the 20-54 age group as having a consistently higher outcome rate than the other age groups across 11 years, albeit by varying amounts. Among the three older age groups the outcome rates drop as we progress up the age categories. The 65+ age category always recorded the lowest outcome rate:

Figure 1: Outcome rates for crimes where a person was the victim for various age categories 2007/8-2017/18



Over an 11 year period, the PSNI recorded lower outcome rates for older people for:

- burglary
- criminal damage
- vehicle theft; and
- violence without injury

These categories are explored overleaf.

Burglary

The category of crime where the difference in rate has raised the greatest concern over the years is burglary. Burglary is defined as where a person enters any building as a trespasser with the 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 burglaries 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 burglaries for those aged 60-64 and those aged 65+ was the same at 3 per 1,000 of the population. Burglary offences make up a significantly higher proportion of recorded crimes for older people than younger 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%.

Table 3: Outcomes Rates for Burglary 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	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	6.3	2.7	3.4
2014/15	8.5	6.5	5.9	5.7	2.6	2.8
2013/14	9.7	6.7	6.5	5.8	3.1	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	5.8	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

Some of the key points to note are:

- When outcome rates are broken down by age a rate of 10.5% is found for recorded crimes where the complainant was aged 20-54 in 2017/18.
- A rate of 8.0% is found for those crimes in which the complainant was recorded as being aged 60+, and 7.9% where the complainant was aged 65+.
- There was a 2.6% percentage point difference between the 20-54 and 65+ age groups.

-
- 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 to 2017/18.

It was these previous figures which caused the inaugural Commissioner for Older People to urge the Northern Ireland Policing Board to set targets to improve the outcome rate for older victims of burglary. Targets were subsequently included in the 2016/17 Policing Plan, but were not included in the 2017/18 Policing Plan.

The specific targets set relating to older people were:

- Increase the outcome rate for domestic burglary in which older people are victims by 2% points.
- Reduce the number of offences committed against older people by 2%¹⁰.

It is notable that in the year 2016/17 there was no difference in the outcome rate between the 20-54 age group and those aged 60+ and a 0.6 percentage point difference between the 20-54 group and those aged 65+.

The following year, when there were no targets regarding older people in the Policing Plan, the difference in the outcome rates between the 20-54 and 60+ age groups and the 20-54 and 65+ age groups increased.

Recommendation 12

The Northern Ireland Policing Board should immediately re-introduce specific outcome rate targets for crimes where complainants are aged 60+ and retain same in all future Policing Plans.

¹⁰Northern Ireland Policing Plan 2016/17.

Vehicle related theft

Vehicle related theft 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 related) involving complainants aged 60+. The number of recorded incidences of theft (vehicle related) 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 related) for those aged 60-64 was 2 per 1,000 of the population and 1 per 1,000 of the population for those aged 65+. The figure for all ages was 2 per 1,000 of the population. Rates for this category of offences are, of course, in part determined by levels of vehicle ownership. Theft (vehicle related) offences make up approximately the same proportion of recorded crimes for older people as younger adults (in 2016/17 20-54: 7%, 55+: 7%, 60+: 7% and 65+: 7%). 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%.

Table 4: Outcome rates for vehicle related theft offences by age of complainant (2007/08 to 2017/18)

Year	Outcome rate (20-54)%	Outcome rate (54+)%	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	14.3	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

Key points to note include:

- When outcome rates are broken down by age a rate of 22.6% is found for recorded crimes where the complainant was aged 20-54 in 2017/18.
- 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 vehicle theft offences in 2017/18 in comparison to the 20-54 age category.
- 2017/18 marked the largest difference in the last 11 years between the younger and older adult complainant populations in terms of the outcome rate in this category of offences.
- Over the last 11 years, the 20-54 outcome rate has been statistically significantly higher than the 60+ and 65+ age categories.

Criminal damage

In 2017/18 there were 1,899 recorded cases of criminal damage involving complainants aged 60+. This 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%.

Table 5: Outcome rates for criminal damage by age of complainant (2007/08 to 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	11.4	10.1	8.8	7.9	2.6	3.5
2015/16	12.1	10.2	9.9	9.5	2.2	2.6
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

Key points include:

- When outcome rates are broken down by age a rate of 11.6% is found for recorded crimes where the complainant was aged 20-54 in 2017/18.

- 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 11 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 10 of those 11 years.
- Analysis of the PSNI statistics for 2007/08 – 2017/18 shows that 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.

Violence without injury

Violence without injury 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 last 11 years¹¹. It is within the older age categories that the largest increases in police records on violence without injury have occurred. The overall outcome rate for violence without injury offences in 2017/18 was 20.1%.

Table 6: Outcome rates for violence without injury by age of complainant (2007/08 to 2017/18)

Year	Outcome rate (20-54)%	Outcome rate (54+)%	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	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

Key points to note include:

- When outcome rates are broken down by age a rate of 21.9% was reported for recorded crimes where the complainant was aged 20-54 in 2017/18.
- Outcome rates for those aged 60+ and 65+ were 20.2% and 19.1% respectively.
- In 10 of the last 11 years the 65+ age group has had a lower crime outcome rate than the 20-54 age group in this offence category.
- However, the 60+ and 65+ age groups had the next lowest average outcome rates for this category, lower than for the age brackets falling within the 30-59 age ranges.
- Taking the 11 years as a whole the research shows that for recorded crimes of violence without injury where the complainant was aged 60+ or 65+ there is a clearly observable pattern of a lower crime outcome rate than those cases where the complainant was aged 30-59.

Explaining outcome rates for older people

Why are police outcome rates for older people not as favourable when compared to other age groups?

The research found that there may be a number of contributory factors, including the likelihood that older people might be more reluctant to participate in the criminal justice system beyond reporting a crime to the police. Practitioners reported 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:

- Reluctance to give evidence in court. This can be exacerbated by the fact that older people are more likely to be a victim of a crime where they know the offender because they are a family member, neighbour or carer.
- The offender may know where they live. This is particularly the case in 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.
- Police reported that in their experience there is a greater tendency among older people to delay reporting certain types of crime, either because the person does not immediately realise that they have been the victim of a crime or because when they do they are too embarrassed to report it.

¹¹ This increase is in part due to changes in counting method in 2009/10 which expanded the range of crimes falling into this category.

A PSNI focus group participant explained that for the victim, the experience can stay with them long after the case has been dealt with:

One point we need to remember is it's not just the getting to court and whether we get 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)

Lower outcome rates may also be partially explained by problems with gathering evidence. Practitioners identified a number of issues that can make gathering sufficient evidence more difficult in cases involving older victims. As people get older, they are more likely to have issues with sensory impairment, memory recall and communication. This can impact on their ability to provide witness testimony necessary to meet the standards required to secure a conviction.

3. Prosecution and conviction

The Public Prosecution Service (PPS)

The PPS is the prosecution service for Northern Ireland. It is independent of both the PSNI and Government. The PPS evaluates the evidence given to it by the PSNI, decides whether or not a case will be prosecuted and takes responsibility for any subsequent prosecution in court. In 2017/18, the PPS had 1,493 passed to them by the PSNI where the victim was aged 60+. In many instances, the PPS also has a role in deciding upon the venue for prosecution, either the Magistrates' or Crown Court. The PPS decides whether to apply to the court for special measures to support vulnerable witnesses.

The work of the PPS is guided by a number of policy documents including the Code of Practice for Prosecutors, which includes a Code of Ethics, and the PPS, Victims and Witness Policy. No reference is made in any of the documents to older people as victims and witnesses. During consultation on the 2017 Victims and Witness Policy, the Commissioner for Older People recommended that explicit reference be made to the needs of older people in the documentation. This was rejected 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'¹².

The PPS emphasised during this research that it was keen to avoid a 'hierarchy of victims' and being seen to automatically label older people as vulnerable. But the research found that 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 are 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.

Therefore, the 'age-blind' approach taken by the PPS risks a failure to acknowledge vulnerabilities and may lead to missed opportunities to put appropriate support mechanisms in place.

The PPS position contrasts with that of the Crown Prosecution Service (CPS) in England and Wales, which has produced a specific policy document for prosecutors to follow when dealing with crimes against older people. The guidance sets out how the CPS deals with such crimes and details how it supports older people who are victims and witnesses of crime. The document was produced in consultation with older people and representative organisations, along with academics. The recognition of the need to ensure that older people have 'equal access to justice' is at the centre of the policy and ensures that the CPS approach to crimes against older people is distinct to how it addresses other crimes.

¹² PPS Victim and Witness Policy, Summary of Consultation Responses, June 2017

The introduction of a similar policy document in Northern Ireland would have a number of benefits:

- Older people and other stakeholders would have the opportunity to have input into the approach taken by the PPS
- A separate document would reassure older people that their needs and concerns are being recognised by the PPS
- It would provide an accessible source of information for older people on what they can expect from the PPS as a victim of crime; and
- It would help PPS staff in responding to cases involving older people.

Recommendation 3

The PPS [using the Crown Prosecution Service (CPS) document 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.

The CPS goes further than its policy guidance by designating certain types of crime as ‘crimes against older people’. These are not based solely on the age of the victim but include other 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 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 this will amount to an aggravating factor, as will targeting anyone who is vulnerable.

Once these crimes are flagged as ‘crimes against older people’, the CPS then monitors the gender of the victims, the types of offences, conviction rates, rate of guilty pleas and the proportion of cases failing due to issues with the victim. The statistics are published on a regular basis and trends are examined to improve the handling of such cases.

Recommendation 4

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.’

The decision to prosecute

The key decision for the PPS to make regarding a case is whether or not to prosecute. A decision to prosecute can only be made where the prosecutor is satisfied that the test for prosecution has been met. The PPS website states that:

“This decision is based on two key principles:

- Whether the evidence which can be presented in court is sufficient to provide a reasonable prospect of conviction - ‘the Evidential Test’; and
- Whether a prosecution is required in the Public Interest - ‘the Public Interest Test’.

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 the evidential test has been satisfied¹³.”

Some of the public interest considerations in the PPS Code of Practice for Prosecutors are relevant to older people. For example:

- Where the suspect was in a position of authority or trust and the offence is an abuse of that position; and
- 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.

The Code also contains considerations that might lead to a decision **not** to prosecute, with the following having particular relevance to older people:

- 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; and
- 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.

The PPS can request additional information on a file sent to it by the PSNI before making a decision on whether or not to prosecute. This is called a ‘Decision Information Request’. 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 than most of the other adult victim age categories. Only the youngest adult age category (18-24) showed a similar pattern.

¹³ <https://www.ppsni.gov.uk/Prosecution-Decisions-6768.html>

Prosecution and conviction rates

For 2017/18, 47.3% of cases resulted in a decision to prosecute. A further 6.1% of cases were diverted (diversions are discussed later in this chapter). In 46.8% of cases a decision was made not to prosecute or divert.

In cases 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, the age 75+ category has had a noticeably higher no prosecution rate than the other older people age categories over the period. Given that 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.

Table 7: Rates of no prosecution decision by age group

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%

Statistics from the PPS show that the vast majority of decisions not to prosecute were due to a failure to pass the evidential test. (In 2017/18: 98.4% for 60-64; 98.8% for 65-74; and 99% for 75+).

Convictions

Figure 2 shows the percentage conviction rate for the **Crown Court** by age of victim for 2017/18, 2016/17 and 2015/16.

Figure 2: Crown Court conviction rate by complainant age group (2017/18, 2016/17 and 2015/16)

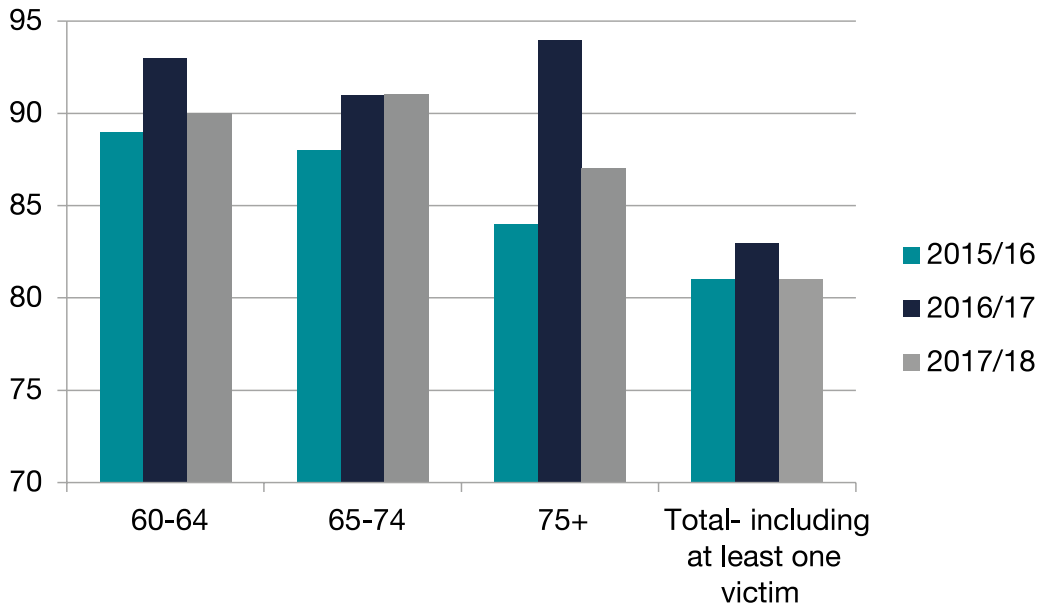
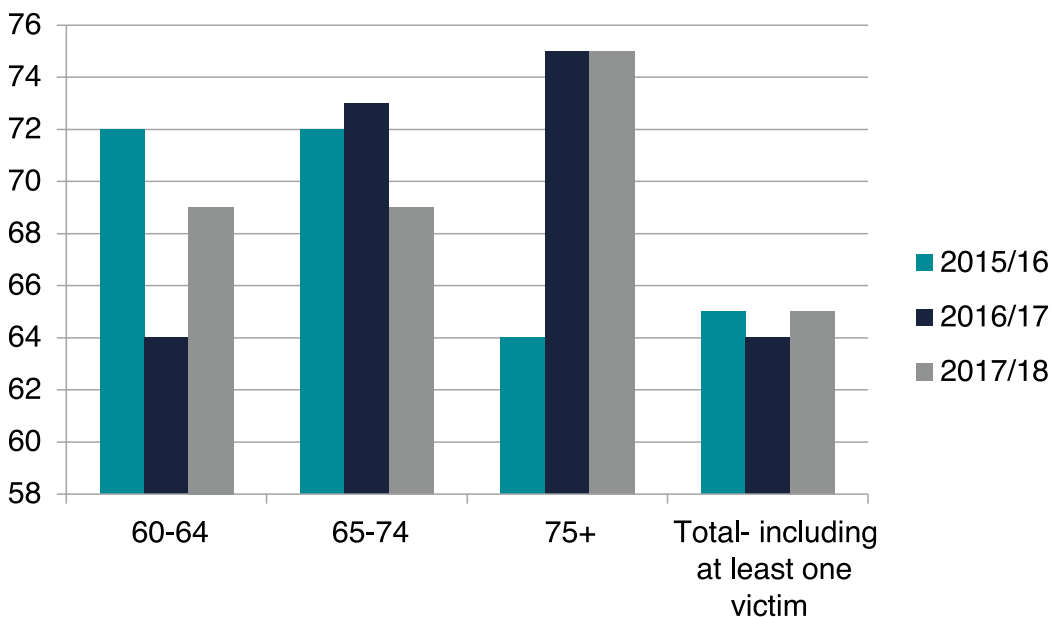


Figure 3 shows the percentage conviction rate for the **Magistrates' and Youth Court** by age of victim for 2017/18, 2016/17 and 2015/16.

Figure 3: Magistrates' and Youth Court % conviction rate by complainant age group (2017/18 and 2016/17 and 2015/16)



The data for 2017/18, 2016/17 and 2015/16 shows the percentage 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 Crown Court, Magistrates' Court and Youth Court. This would tentatively suggest that once a case reaches the stage of a court outcome, cases involving older victims of crime are no less likely, and might even be more likely, to achieve a conviction in comparison to other age groups.

Diversions

The PPS can choose an alternative to prosecution depending on the circumstances of the case. These include:

- A police caution
- An informed warning
- Diversions involving a young person to a diversionary youth conference.

In four of the five years from 2013/14 to 2017/18, slightly higher rates for diversions were recorded for cases involving victims aged 60+ compared to the general caseload.

Table 8: Number of cases involving a decision for diversion 2013/14 to 2017/18

Year	Age 60+	All cases
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%

Recommendation 11

A review of case files should be undertaken to further explore the following findings:

- a higher rate of decision information requests in cases where the victim was aged 65-74 and 75+
- a higher no prosecution rate for crimes involving complaints 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.

Although the PPS regularly publishes statistics on its work, it does not publish data by the age of the victim. The Commissioner and research team are grateful for its assistance in making the data available for the purposes of this report. The PPS advised the researchers that there are issues around the reliability of age data, including the fact that complainant age is not recorded in all cases, but the Commissioner would welcome statistics by complainant age published with any caveats as required.

Recommendation 10

The PPS should prioritise taking action to be able to include as part of its regular statistical publications, statistics relating to caseload and complainant age. The age of the complainant should be recorded in all cases. Until this is available, the PPS should provide COPNI with annual statistical returns by age.

Choice of venue

Depending on the offence, a case may be tried either in the Magistrates' Court or the Crown Court:

- **The Magistrates' Court:** deals with summary offences which include minor assaults and less serious driving offences. Sentences are restricted, with a maximum of 12 months for a single offence and 18 months for multiple offences.
- **The Crown Court:** deals with more serious offences including rape and murder.

Hybrid offences, such as burglary and criminal damage, can be tried in either court and in most cases the prosecutor will make the decision as to the choice of venue.

The Code of Practice for Prosecutors states that in determining the venue, the prosecutor will take into account "*whether the Magistrates' Court has sufficient sentencing power to reflect the gravity of the offence*"¹⁴.

The research interviews with prosecutors revealed that age is taken into account when deciding on the choice of venue:

The fact that [the victim] was older sent it to the Crown Court because we felt that the sentencing powers of the Magistrate 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)

Relatively few cases involving complainants aged 60+ are dealt with in the Crown Court – there were only 125 in 2017/18 with a recorded outcome, meaning at least one conviction, an acquittal or other outcome (e.g. where the defendant has died).

The vast majority of cases involving older people are heard in the Magistrates' Court. 717 cases involving older people resulted in a recorded outcome in the Magistrates' Court in 2017/18.

¹⁴ PPS 2016, Section 4.44

4. Agencies working together to support older people

Navigating the criminal justice system can be traumatic for victims of crime and can lead to secondary victimisation - where victims suffer further stress or trauma as a result of their participation in the justice system. It is crucial that any vulnerabilities are identified at the earliest possible stage so that appropriate support can be given to older people.

Identifying vulnerabilities

Adults in Northern Ireland are much less likely to be identified by the police as vulnerable compared to those in England and Wales. In August 2016, a report by Her Majesty's Inspectorate of Constabulary (HMIC) 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. It's unlikely that victims of crime in Northern Ireland are more than five times less likely to be vulnerable than those in England and Wales.

If a case progresses to prosecution stage then there are potentially up to three agencies conducting needs assessments – the PSNI, the Victim and Witness Care Unit and (if the victim chooses to engage with them) Victim Support NI. This perhaps carries a risk of duplication of work but at the same time it reduces the likelihood of support requirements being missed. This is especially important as not all vulnerabilities might be obvious early on in the process and victims can mask vulnerabilities, a point made by the Criminal Justice Inspection Northern Ireland (CJINI). CJINI also pointed out that: *“...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”*¹⁵.

However, there appeared to be a lack of a consistent approach between, and even within, agencies when assessing needs which may complicate matters when agencies are communicating with one another about victim needs.

Given the potential for overlap, there may be scope for streamlining and coordinating these needs assessments for the benefit of the victim. One potential method identified by the research is the development of a vulnerability matrix for victims over a certain age. The PSNI already has such a tool for use in cases of hate and signal crime (a 'signal crime' can be defined as any criminal incident that causes change in the public's behaviour and/or beliefs' *PSNI Service Instruction, 2017*). Identifiable vulnerabilities relating to older people within the existing matrix include 'older person', 'living alone' 'long term illness' and 'disability'. The existing matrix allows for a high risk of vulnerability score to be returned even in cases where the initial crime itself may appear to be relatively minor to an outsider, but where the impact on the victim is nonetheless serious. There is also accompanying guidance for PSNI officers in how to handle the case depending on the vulnerability risk score.

¹⁵ Criminal Justice Inspection Northern Ireland (2012) *The Use of Special Measures in the Criminal Justice System in Northern Ireland*.

The benefit of the 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. This could be shared with other agencies to encourage greater consistency of approach in identifying support needs.

Recommendation 5

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' needs and the measures that should be put in place to support them.

Police Service of Northern Ireland (PSNI)

The PSNI communicates with victims throughout its investigation and will provide victims with a victim of crime information leaflet which sets out support mechanisms, including how to claim for compensation and contact details for support organisations.

In 2016 the PSNI piloted the Support Hub initiative, which aims to “bring key professionals together to facilitate early, better quality information sharing, decision making to work together to improve a vulnerable person’s situation”. The Hub consists of partners including the PSNI, the Policing and Community Safety Partnership (PCSP), the Health and Social Care Trust, the Housing Executive, the local council, the Probation Board, the Education Authority and the Youth Justice Agency. The pilot scheme in Derry City and Strabane District identified older people subject to repeat incidents as one group susceptible to vulnerability.

The 2017/18 Policing Plan tasked the police to “improve service to the most vulnerable across PSNI policing districts through the implementation of Support Hubs in collaboration with PCSPs (Policing and Community Safety Partnerships) and other partners” and *“improve the service to vulnerable groups in collaboration with partners in relation to:...older people”*. Disappointingly, Support Hubs are not yet available in all policing districts throughout Northern Ireland.

Recommendation 9

Support Hubs, which bring together key professionals to support victims of crime, should be rolled-out across Northern Ireland.

Victim and Witness Care Unit

If a file is passed to the PPS by the PSNI, the Victim and Witness Care Unit will then engage with the victim. This Unit is staffed jointly by the PSNI and PPS. It keeps the victim up-to-date with the progress of their case until its conclusion, including any appeals. Some of the features of the Unit include:

- Conducting a needs assessment with the victim to assess whether any additional support should be put in place, including an application for special measures.

-
- Telling the victim how to complete a victim personal statement.
 - In the case of a sentence of six months or more, the victim will be sent details of the relevant post-conviction information scheme.

The Unit is also trialling an electronic portal where victims can log on and receive updates on the progress of their case, but this is not intended to replace face-to-face contact.

The Victim and Witness Care Unit became fully operational in 2014. It does not currently record the age of those individuals it has contact with. The Commissioner would be keen to understand the level of engagement the Unit has with older people compared to other age groups.

Recommendation 13

Consideration should 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.

Public Prosecution Service (PPS)

Files submitted by the PSNI to the PPS now include a 'Prosecutor Information Form' and a 'Structured Outline of Case Form'. These documents allow the police to flag up key information to the prosecution 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 as 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 we 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)

Recommendation 8

PSNI and PPS training on identification of vulnerabilities and intimidation should incorporate particular training on how best to do so in cases involving older people.

If a case reaches court, the PPS prosecutor will usually speak with the victim on the day of the trial and answer any questions that they might have.

Although the Victim and Witness Care Unit can try to provide as much information as possible, there are some issues, such as a late guilty plea, that only a prosecutor will be able to address.

The prosecutors engaged in the research valued the opportunity to speak to victims but pointed out that they can be pressed for time on the day of the trial, which risks leaving the victim with the impression that they are not being listened to:

[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)

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 away from court to provide them with additional information.

Successive funding cuts have placed greater pressure on prosecutors and courts to process cases more quickly and this puts prosecutors in a difficult situation in seeking to reassure victims while also trying to progress a case.

5. Special measures and support

Special measures are mechanisms to help victims and witnesses give their best evidence by aiming to reduce the stress and anxiety involved in appearing in the witness box. Special measures include:

- Playing of video-recorded interviews in court where police have video-recorded the evidence from the victim or witness beforehand.
- Evidence given behind a screen or curtain in court. The screen or curtain is positioned so the victim or witness cannot be seen by the defendant.
- Evidence delivered via 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 – involves clearing the court of all but essential staff in sexual offences cases or where there has or may be intimidation.
- The removal of wigs and gowns in the courtroom. This is commonly used in cases involving those aged 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.

If a person is deemed eligible, the PPS may make an application to the court and the Victims and Witness Care Unit will inform the person if special measures have been granted by the judge.

Who is eligible for special measures?

Not all victims and witnesses are entitled to avail of special measures, although certain categories of people are automatically entitled to them (this is known as presumption):

- victims and witnesses under the age of 18;
- victims in cases of sexual offences; and
- victims of slavery or human trafficking¹⁶

They are also available for adult victims and witnesses in non-sexual offences cases who fall into the categories of ‘vulnerable’ and/or ‘intimidated’, but this is not an automatic entitlement. It is ultimately for the judge to decide whether such victims or witnesses should receive special measures.

The terms ‘vulnerable’ and ‘intimidated’ have specific meanings in relation to victims and witnesses and the definitions are set out in the Criminal Evidence (Northern Ireland) Order 1999.

¹⁶ This category was added by the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 Section 24.

The 1999 Order states that a person will be considered **vulnerable** if they have:

- a mental disorder, significant impairment of intelligence and social functioning;
- a physical disability or physical disorder.

A person can be classed as **intimidated** if:

- the quality of the evidence of a victim or witness would likely be reduced because of fear or distress in relation to giving evidence.

One of the factors that must be taken into consideration by the court when judging whether someone is intimidated is the age of the witness.

Although the legal definitions of ‘vulnerable’ and ‘intimidated’ are familiar to the courts, this may not be the case with other agencies and the general public. As the classification of a victim as either ‘vulnerable’ or ‘intimidated’ serves as a gateway to accessing additional support mechanisms, it is vital that practitioners readily understand these terms and how to identify victims who fall into either category. 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.

The Victim Charter (2015) provides more information on what is meant by a ‘vulnerable’ victim. It outlines that the quality of evidence is likely to be affected because a person has:

- mental health issues
- learning or communication difficulties
- a neurological disorder
- a physical disability.

Both the Victim Charter and the PPS’s Victim and Witness Policy provide further guidance on what constitutes ‘intimidated.’ Examples of the criteria that could lead to an application for special measures are provided. Examples relevant to older people 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; or
- has experienced domestic violence

The Victim Charter also states that agencies should avoid using overly complex language in any communication, in particular avoiding the unnecessary use of legal terminology. Where legal terminology is used, explanations should be provided. Unfortunately, the research found that this is not the case in respect of all communications.

Recommendation 7

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 DOJ, PSNI, PPS should work with stakeholders such as the Commissioner for Older People for Northern Ireland (COPNI) to provide further elaboration in documentation of what is meant by a 'vulnerable victim or witness'.

Older people and special measures

Currently there is no presumption that an older person is eligible for special measures and of course many people over the age of 60 will not fall into the categories of 'vulnerable' or 'intimidated'. Some older people will reject these labels and will not wish to avail of special measures, even where the law may categorise them as such and considers their evidence may be enhanced with the benefit of special measures. But as the research points out, it is the fact that older people are disproportionately more likely to have a vulnerability that would make them eligible for special measures which makes it crucial to identify those needs.

The introduction of such a presumption of special measures would mean that older people would not have to identify themselves as, vulnerable, or, intimidated, nor would they have to be subject to the same level of scrutiny before the courts prior to accessing special measures. Furthermore, a presumption in favour of special measures for older people would reduce the risk of a failure to identify vulnerabilities necessitating the use of special measures. Failure to identify vulnerabilities at an early stage could impact the quality of an older person's evidence and their willingness to continue with the court process.

Prosecutors cautioned against equating older people with, for example, young people who haven't fully matured and require special protection. An alternative approach would be to use a presumption when a crime is classified as a 'crime against older people'. This is a category of crime used in England and Wales by the CPS and includes, but is not limited to, crimes where there has been a breach of trust, where an older person has been specifically targeted because of their perceived vulnerability and where offences appear to be motivated by hostility based on age.

PPS practitioners and staff from the Victim and Witness Care Unit advised that they would not presume that older people were 'vulnerable' or 'intimidated' and that they would be assessed on the same basis as other adults. Others included in the research stated that they would have an increased vigilance with older witnesses given their increased likelihood of falling into the 'vulnerable' and/or 'intimidated' categories. Some practitioners took an age-blind approach for adults over the age of 18 in case they were seen to discriminate, but this risks failing to identify vulnerabilities in the older population.

A 2012 report from the Criminal Justice Inspectorate NI (CJINI) found that not all who were eligible and in need of special measures were being provided with access to them. A subsequent report in 2015 did note improvements, but there remains a perception among some practitioners that prosecutors are reluctant to apply for special measures:

I think it depends from area to area...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...jury, they will try to persuade a witness to go away from making the application... (Participant from Victim Support).

A refusal to grant special measures 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 the years 2009/10 to 2011/12 it was found that only 60% of applications made for special measures to the courts in Northern Ireland were granted¹⁷.

Recommendation 17

Consideration should be given to the introduction of a form of presumption in favour of special measures for crimes against older people.

Effectiveness of special measures

The research looked more closely at some of the special measures and how their use could impact on older victims and witnesses giving evidence. It spoke to practitioners, including the PSNI and PPS, about their use.

Video-link

PPS staff interviewed for the research highlighted both the potential benefits and drawbacks relating to video-link evidence. Prosecutors would prefer that victims and witnesses gave evidence in court as they felt it made more of an impact on the jury. CJINI previously expressed concern that there is a perception that video-link evidence might be less credible or impactful, which is not supported by evidence.

For example, research from 2014¹⁸ looking at 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.

It is important that special measures applications are based on the eligibility of the individual, not on the perception of the prosecutor as to the desirability of in-court evidence.

Screens

Another special measure is for the victim or witness to give evidence in the courtroom behind a curtain or screen, which shields the witness from the defendant. The witness must be able to see and be visible to the judge, jury and legal counsel for both the prosecution and defence.

¹⁷ Bunting, L. Hayes, D. and Clifford, G. (2013) *Special Measures for Vulnerable Witnesses in Northern Ireland*. Belfast: DOJ.

¹⁸ Ellison L. and Munro V. E. (2014) 'A 'Special' Delivery? Exploring the Impact of Screens, Live-Links and Video-Recorded Evidence on Mock Juror Deliberation in Rape Trials', *Social and Legal Studies* Volume 23(1) pages 3-29.

The uptake of screens in Northern Ireland is comparatively low - between 2007-09 there were only 150 applications for the use of screens compared to 1,799 for evidence via video-link.

The research heard that some screens had the potential to undermine the dignity of witnesses, for example the use of hospital-type wheel along screens. One practitioner described the state of screens in some courts as ‘diabolical’.

Pre-recording of interviews – Achieving Best Evidence (ABE)

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 ABE (Achieving Best Evidence) interviews.

The video interview is passed to the PPS with the investigation file and it can act as a gateway to other special measures. Guidance from the Department of Justice from 2012 includes a requirement that interviewers plan and conduct the interviews in a manner which takes into consideration the abilities and needs of the victim or witness. It states that “attention should be paid at all times to issues of age, disability, gender, race, culture, religion and language”¹⁹. “Frail older persons” are specifically mentioned as falling within the category of vulnerable witnesses who might benefit from the use of ABE interviews.

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.

However, the availability of appropriate staff and equipment was raised by PSNI focus group participants as problematic:

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 do an ABE interview for you, it’s very much based on their goodwill and their workload... (PSNI focus group participant).

Recommendation 23

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.

Pre-recorded cross-examination and re-examination

Article 16 of the Criminal Evidence (Northern Ireland) Order 1999 is not yet in force, but it allows for video recorded cross-examination and re-examination. This means the pre-recorded cross-examination and re-examination of a victim or witness by a prosecutor and defence counsel prior to the trial. This avoids the need for the victim or witness to attend at the trial for the purposes of cross-examination and re-examination and also means they won’t be as affected by postponements or adjournments in the trial. The DOJ committed to piloting this special measure in 2017/18 at Belfast

¹⁹Department of Justice, *Achieving Best Evidence in Criminal Proceedings Guidance on interviewing victims and witnesses, the use of special measures, and the provision of pre-trial therapy*, 2012

Crown Court but to date this has not commenced. The Commissioner notes that Sir John Gillen²⁰ has called for the introduction of pre-recorded cross-examination and re-examination in his review of sexual offences and further that successful pilots have been undertaken in England and Wales.

Prosecutors felt that the availability of this mechanism could be a positive step for older victims of crime:

I think for...victims who are elderly in care homes or things like that...they would be cross-examined at the same time as they do their ABE if that were possible...and then probably if the trial is two years later [and] 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).

Recommendation 18

A pilot scheme on the introduction of pre-recorded cross-examination and re-examination should be introduced. The evaluation of such a pilot should monitor the age of any vulnerable adults participating.

Registered Intermediaries

The Registered Intermediary scheme exists for people who have communication difficulties.

According to the DOJ, Registered Intermediaries are designed to be “neutral, impartial, objective and transparent”²¹ and play a facilitation role between the vulnerable person and other aspects of the criminal justice system and processes. Registered Intermediaries are usually drawn from speech and language therapy and social work disciplines.

Registered Intermediaries are now available in the Magistrates’ Court and this will benefit older people with communication difficulties, given that the majority of cases where older people are victims of crime are heard in the Magistrates’ Court.

Other forms of support

Victim advocates

Victim advocates are “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 organisations, such as criminal justice or social service agencies, to get help or information for victims...”²².

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 and promoting the delivery of hate crime advocacy services by community sector organisations...against the agreed conditions on funding’²³.

²⁰ Preliminary report into the law and procedures in serious sexual offences in Northern Ireland.

²¹ DOJ 2015:6

²² <https://victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/what-is-a-victim-advocate->

²³ Hate Crime Co-Ordinator Job Description (April 2016). Victim Support NI.

A dedicated older person advocate could serve a number of purposes including:

- offering one-to-one support for older people who are victims of crime;
- encouraging older people to report crime and to participate in the criminal justice system;
- supporting clients as they navigate through the criminal justice system, including in seeking applications for special measures and in producing victim personal statements;
- signposting clients to relevant support services;
- helping to 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.

Recommendation 6

Consideration should be given to introducing an older person's victim advocacy scheme in Northern Ireland.

Suitability of courtroom facilities

The PPS Victims and Witness Policy (2017) addresses the issue of accessibility of court venues:

"When the trial date is set the WVCU 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 (to) a court building and to provide their evidence at trial."

Interviews with representatives from Victim Support raised concerns about court facilities in Northern Ireland, specifically about access to the witness box and hearing aid systems. One Victim Support representative stated:

This building doesn't really comply (with) the Disability Discrimination Act 1995, because there are at least four steps to each witness box in the Crown Court, which some of our witnesses do have problems negotiating... (Victim Support representative).

Where adaptations are made, these were perceived to potentially undermine the dignity of those giving evidence, for example in relation to devices for people who are hearing impaired:

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... (Victim Support representative).

Accessibility and the suitability of courtrooms stood out as areas where improvements could be made. It was found that where ramps were required to provide access to witness boxes it drew undue attention to a witness and further that hearing impaired witnesses were forced to use equipment that drew attention to their disability. Anything which adds to the stress of victims when giving evidence risks undermining the quality of the evidence they provide. This 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.

Recommendation 24

A review of the existing court infrastructure should take place to ensure that the needs of older people, including those requiring assistance, are catered for. The review should address issues such as:

- mobility
- hearing aid equipment
- access to the witness box
- physical screens

6. Speeding up the justice process

There are systemic problems within the criminal justice process, already acknowledged in other reports, that can have a particularly detrimental effect on older people. These mainly centre on the issue of avoidable delay, a matter which has long been highlighted as a problem in Northern Ireland.

Avoidable delay

The processing of criminal cases in Northern Ireland takes more time compared to England and Wales. Successive reports from CJINI found that avoidable delays are endemic and excessive. In 2015 the CJINI commented:

While much work has been done by the DOJ and the agencies of the justice system, both individually and collectively, CJ 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 promptly²⁴.

The difference in the length of time cases take to progress to the Crown Court compared to the Magistrates' Court is striking, as is the difference between the progression of cases instigated by a charge and by a summons.

Table 9: Median time taken for cases to be disposed of in the courts in Northern Ireland from the date the offence was committed in 2016/17

Court	Summons Cases	Charge Cases
Magistrates' Court	193 days	71 days
Crown Court	704 days	476 days

DOJ figures for 2017/18 show that delay is getting worse in relation to summons cases in both the Magistrates' Court (198 days) and, in particular, the Crown Court (802 days).

Some improvement has been made for charge cases – 69 days for the Magistrates' Court and 427 days for the Crown Court²⁵.

These figures are in marked contrast to England and Wales, where 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.

²⁴ Criminal Justice Inspection Northern Ireland, (2015) *The Care And Treatment Of Victims And Witnesses In The Criminal Justice System In Northern Ireland, Incorporating The Use Of Special Measures A Follow-Up Review Of Inspection Recommendations* (Belfast: CJINI).

²⁵ Department of Justice, *Processing Time for Criminal Cases Dealt With at Courts in Northern Ireland, 2017/18, 2018*

Avoidable delays can cause problems 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 victims know their offenders, delays may allow for prolonged pressure to be applied to withdraw allegations.
- Proceedings may cause secondary victimisation when the victim is 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.
- When it comes to giving evidence, the longer the case takes to come to trial the greater the likelihood of problems in memory recall.

All of these issues could have a particularly detrimental effect on older people, with prosecutors in particular expressing frustration:

I've had a number of cases where when we started the case... (the victims were very elderly and maybe in a care home...and then by the time it (came) 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 for the defendants. It's so lengthy and there's so many stages...which they don't have in England and Wales..... (PPS Prosecutor).

The 'speeding up' of the criminal justice system had been a priority for the DOJ since the devolution of justice in 2010. A previous Justice Minister was committed to addressing the issue of avoidable delay and had proposed the introduction of Statutory Time Limits (STLs), initially in the Youth Court. The DOJ issued public consultations on the introduction of STLs in 2013 and again in 2016. Unfortunately, the introduction of this important mechanism to address unavoidable delay remains outstanding. Indeed, the draft Programme for Government (2016) failed to commit to their introduction.

The Commissioner reiterates the views of previous reviews and inspections that appropriate STLs must be introduced to effectively address the issue of avoidable delay in NI's criminal justice system.

Recommendation 19

Statutory Time Limits for all cases should be introduced. Once 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.

Committal hearings

Committal hearings are used to establish if an accused person has a prima facie case to answer. They are held in Magistrates' Courts where the accused has been charged with an indictable offence and is to be tried in a Crown Court. Committal hearings do not usually involve oral testimony from witnesses, but this can be requested. If this happens, the victim or witness will have to give evidence twice, as they will still have to take the witness stand at the Crown Court trial. The Justice Act (Northern Ireland) 2015 did restrict the instances where oral evidence may be given at a committal hearing, but it did not abolish the practice. The DOJ's Victim and Witness Action Plan 2017-20 contains a commitment to bring *"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, in the absence of a functioning Northern Ireland Executive and Assembly this reform has not progressed.

Recommendation 20

Legislative reform of committal hearings should be introduced as soon as is feasible to protect victims and witnesses and reduce unnecessary distress.

7. Sentencing

Victim Personal Statements, Victim Impact Reports and Community Impact Statements

It is important that victims of crime are given a voice within the criminal justice process so that they can effectively communicate the impact that the crime has had on their lives.

Victim Personal Statements have been in existence for a number of years, but were put on a statutory footing via the Justice Act (Northern Ireland) 2015. They contain descriptions by the victim of how the crime has affected their lives and the lives of their loved ones. It makes the court aware of the harm inflicted and the consequences of the perpetrator's actions for the purposes of sentencing.

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. The letter will be accompanied by a leaflet providing information on the Victim Personal Statement process. Help is available with the completion of the statement.

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.

Unfortunately, a 2016 report by HMIC found that only half of vulnerable victims were recorded in case files as having been offered the opportunity to complete a Victim Personal Statement.²⁶

Victim Impact Reports are a formalised medical report regarding the impact of a crime on a victim which a judge can order prior to sentencing. The reports are conducted by psychologists or psychiatrists. The victims themselves cannot comment on the report, although they will usually contain some testimony recorded by the assessor.

Recommendation 1

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.

The data should be broken down by demographic characteristics including age and gender.

²⁶ Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, An inspection of the Police Service of Northern Ireland 1–5 February 2016, August 2016

Community Impact Statements are a new attempt to capture the wider impacts of crime on communities and set out the “social, financial, physical environment, economic or other specific impacts or concerns”²⁷, although to date, little is known about their up-take or impact.

Recommendation 2

The Department of Justice (DOJ) should engage with the Commissioner for Older People for Northern Ireland (COPNI) on the potential utility of Community Impact Statements for crimes that have a wider impact on the older population.

Length of sentences

The research has reflected a perception among some participants that sentences can be ‘too light’ in relation to the offence. In reality, judges take into account a range of factors when handing down sentences.

Nevertheless, a minority of practitioners interviewed for the research suggested that sentences did not always reflect the harm done to victims, particularly those who are vulnerable, including older victims:

(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 in sentencing. (PPS Prosecutor).

In England and Wales and Scotland, courts must abide by the guidelines issued by the respective Sentencing Councils. No such council exists in Northern Ireland but the Judicial Studies Board for Northern Ireland publishes sentencing guidelines for the Magistrates’ Court. Judges are not bound by these, but they are expected to take them into consideration and will usually provide a rationale for not doing so. Any departure from the guidelines could increase the chances of a successful appeal against any sentence.

In the Crown Court, there is no comprehensive set of sentencing guidelines for judges to follow in Northern Ireland. Instead the Court of Appeal, when issuing a judgment in a case, can issue guidelines of general application in relation to aspects of sentencing.

Recommendation 16

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.

²⁷ nidirect, Community Impact Statements

8. Conclusion and full recommendations

All victims, including older people, must be able to participate fully in the criminal justice process, to have their voices heard and their experiences acknowledged. Improvements have been made in terms of the support provided to victims and witnesses but more work is required, including enhanced collaborative working between agencies.

This research has provided valuable and unique insight by talking to older people directly about how crime and the fear of crime impacts their lives. It provides some insight into how older people react to and deal with the consequences of crime, displaying both vulnerability and resilience.

While older people are less likely to be victims of crime in Northern Ireland, they are disproportionately more likely to be negatively impacted as a result of those crimes. It continues to be a source of concern that outcome rates for crimes such as burglary, criminal damage, vehicle theft and violence without injury are not as high for older people as they are for other age groups.

Criminal justice agencies must show a willingness to adopt best practice from other jurisdictions. This should be reflected in guidance and policy documents as well as the provision of information disaggregated by age.

The older population in Northern Ireland continues to grow and the delivery of services must keep pace with what will be a significant demographic change in the coming years. This will require tailoring those services to the specific needs of different population groups, rather than a 'one size fits all approach'. The practical reforms proposed in this report must lead to improvements in terms of how the criminal justice system better supports older victims of crime.

Recommendations

The Commissioner is making 24 recommendations to those agencies working across the criminal justice system. Many of these recommendations are aimed at making administrative and procedural reforms while others are more wide-ranging and reflect recommendations made in other reports and reviews.

Draft recommendations by agency

PPS	DOJ	PSNI	Judiciary	NICTS	Law Society	Bar Council	NI Policing Board
12	9	8	2	1	1	1	1

The voice of older people

	Recommendation	Agency
1	<p>The Department of Justice (DOJ) should collect and publish data on the profile of victims who are making use of:</p> <ul style="list-style-type: none"> • Victim Personal Statements; and • Victim Impact Reports. <p>The data should be broken down by demographic characteristics including age and gender.</p>	DOJ/PSNI
2	<p>The DOJ should engage with the Commissioner for Older People for Northern Ireland (COPNI) on the potential utility of Community Impact Statements for crimes that have a wider impact on the older population.</p>	DOJ/PSNI

Supporting older victims and witnesses

	Recommendation	Agency
3	<p>The Public Prosecution Service (PPS), using the Crime Prosecution Service (CPS) document 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.</p>	PPS
4	<p>The PPS in association with the PSNI, should examine the feasibility of adopting a similar approach to the Crown Prosecution Service (CPS) of flagging up cases as 'crimes against older people.'</p>	PPS/PSNI
5	<p>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' needs and the measures that should be put in place to support them.</p>	PPS/PSNI

	Recommendation	Agency
6	Consideration should be given to introducing an older person's victim advocacy scheme in Northern Ireland.	DOJ
7	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. Additionally, the DOJ, PSNI, PPS should work with stakeholders such as the Commissioner for Older People for Northern Ireland (COPNI) to provide further elaboration in documentation of what is meant by a 'vulnerable victim or witness'.	DOJ/PPS/PSNI
8	PSNI and PPS training on identification of vulnerabilities and intimidation should incorporate particular training on how best to do so in cases involving older people.	PSNI/PPS
9	Support Hubs, which bring together key professionals to support victims of crime, should be rolled-out across Northern Ireland.	PSNI

Enhancing transparency and improving outcomes

	Recommendation	Agency
10	The PPS should prioritise taking action to be able to include as part of its regular statistical publications, statistics relating to caseload and complainant age. The age of the complainant should be recorded in all cases. Until this is available, the PPS should provide COPNI with annual statistical returns by age.	PPS
11	A review of case files should be undertaken to further explore the following findings: <ul style="list-style-type: none"> • a higher rate of decision information requests in cases involving those aged 75+; • a higher no prosecution rate for crimes involving complaints 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. 	PPS

	Recommendation	Agency
12	The Northern Ireland Policing Board should immediately re-introduce specific outcome rate targets for crimes where complainants are aged 60+ and retain same in all future Policing Plans.	NI Policing Board
13	Consideration should 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.	PPS
14	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.	PPS
15	Further research should 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.	PPS
16	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.	DOJ

Helping older people to give their best evidence

	Recommendation	Agency
17	Consideration should be given to the introduction of a form of presumption in favour of special measures for crimes against older people.	DOJ
18	A pilot scheme on the introduction of pre-recorded cross-examination and re-examination should be introduced. The evaluation of such a pilot should monitor the age of any vulnerable adults participating.	DOJ/PPS/ PSNI/ Judiciary
19	Statutory Time Limits for all cases should be introduced. Once 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.	DOJ

	Recommendation	Agency
20	Legislative reform of committal hearings should be introduced as soon as is feasible to protect victims and witnesses and reduce unnecessary distress.	DOJ
21	All members of the judiciary should be reminded of the right of victims and witnesses to sit in the courtroom following their video-link evidence.	Judiciary
22	Criminal justice practitioners should be trained to provide sufficient information to enable victims and witnesses to make an informed choice between screens and video-link in appropriate cases.	PPS/Law Society/ Bar Council
23	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.	PSNI
24	A review of the existing court infrastructure should take place to ensure that the needs of older people, including those requiring assistance, are catered for. The review should address issues such as: <ul style="list-style-type: none"> ● mobility ● hearing aid equipment ● access to the witness box ● physical screens 	NICTS

Notes

A series of horizontal dotted lines for writing notes.



Commissioner for **Older People**
for Northern Ireland

Equality House
7-9 Shaftesbury Square
Belfast BT2 7DP

T: 028 90 890 892

E: info@copni.org

www.copni.org



@copni

ISBN: 978-1-9996212-6-1