

JUSTICE COMMITTEE

Note of meeting with victim 'Z'

Tuesday, 4 October 2016

Present: Margaret Mitchell MSP, Mairi Evans MSP, Liam McArthur MSP, Fulton MacGregor MSP, 'Z', a victim of domestic abuse, her relative and supporter, and Nicola Merrin, Victim Support Scotland

Key issues

Z's direct experience of the criminal justice system and of the Crown Office and Procurator Fiscal Service had begun when her partner had been charged and bailed for assaulting her. There had been numerous delays in bringing the case to trial. Eventually, 17 months later, he had been convicted of an assault causing injury. Z's overall experience of the court process had been very negative. She questioned whether it had been worth going through it all and felt that, as a victim, she, rather than the perpetrator, had suffered more from the case going to trial. She said it had 're-traumatised' her.

Initial contact from the COPFS had been in the form of a letter which Z had found cryptic. It had failed to explain legal terms in plain language. It had also talked in terms of Z, as the main witness, being bound to appear or risk contempt of court. Z felt this was a wrong and insensitive opening tone to adopt towards the victim of a crime.

The letter also explained the bail conditions applying to her partner. It allowed him access to the garden. Z said that it seemed astonishing to her that a person accused of domestic assault should have been allowed this access before the trial.

Z described her experience of a specialist domestic abuse and advocacy service working with victims in her area, as 'awful'. They regularly miscommunicated basic information. For example they told Z three times that bail had been lifted before the trial. This information was in fact false, but it put Z in real alarm.

Z said that VIA - the branch of the COPFS that assists victims - had also got basic information wrong. They had also, wrongly, told her that the accused's bail had been lifted during the one month delay after conviction and before sentencing. When Z called VIA to verify this information, she found that the office had closed at 4 pm meaning that she did not know the true situation until the next day. At the conclusion of the trial process, they had written to Z telling her that her ex-partner had been acquitted. Again, this was wrong and very confusing as Z had found out from other sources that it was a guilty verdict

Z said she had gone to Victim Support Scotland (VSS) later in the process. They had been 'great' and had notified her of her rights as a victim and witness that others in the justice system had appeared not to be aware of. (The VSS representative present explained that Z's case had taken place just before some of the rights under the new Victims and Witnesses (Scotland) Act 2014 had come into force but that others did apply and Z was unaware of these)

Z described the trial as a traumatic and at times bizarre experience. Contact with the procurator fiscal before the trial had been extremely brief and perfunctory. During the

trial, the fiscal got basic details of the prosecution case wrong. The defence agent had been allowed to ask a series of rambling questions without any intervention to query their relevance. A display screen used by the prosecution to lead critical evidence had not worked, leading to an adjournment. The illness of the fiscal had further delayed proceedings.

Z's view was that professionals had not exercised a duty of care towards her as a vulnerable witness during and after the court process. Highly sensitive evidence was led in court that had re-traumatised her. Even if it was necessary to have led it, Z considered that the handling of this had been poor. Information had been extracted from her under oath that, she felt, had put her personal safety at risk. Requests from Z before the trial commenced to be treated as a vulnerable witness seemed to have been treated as a nuisance and, when actioned, were done so half-heartedly. For instance, when Z requested to read her statement from the year before she felt that she was being a nuisance and so was talked out of it. A witness screen provided to enable her to give evidence without being in the line of vision of her ex-partner barely protected her, and she was not made aware of the possibility of giving evidence through CCTV link.

There was little sense of the court exercising any duty of care towards her outside of formal proceedings. For instance, during breaks in proceedings, her ex-partner was able to walk past her and stand near her inside and outside the court premises. She had found this very intimidating.

After Z's ex-partner had been convicted, there was a further 2 month delay before sentencing. At the conclusion of the trial, the judge had described the case as a 'chilling' one and one of the worst of its kind they had dealt with. Despite this Z was denied a non-harassment order against her ex-partner. Z was not clear what role, if any, the fiscal had played in advocating for such an order. It did not appear that they had done so very well. Z said that, several months later, she still did not know why an order had not been granted despite requesting this information from the COPFS and SCTS. It appeared the court administration did not know she had the right to request this information. (Following the meeting, Z forwarded to the committee clerk a letter she had just received from the court clerk stating that the reason for not granting the order was that the judge had accepted the defence's argument that her ex-partner intended to have no contact with her.)

Because an order was not granted, it was necessary for Z to obtain one in the civil courts, adding to her stress. This had required the COPFS to provide some basic information. It had been difficult to obtain this in the right form. Z felt that the COPFS had washed their hands of her after the criminal case concluded.

The ex-partner was ordered to pay a £2000 compensation order for common law assault. Z considered this a totally inadequate punishment. After the meeting, Z provided the committee clerk with further information indicating that an additional charge against her ex-partner (threatening behaviour) had been dropped without this ever being explained to her. Z said it was her best guess that this was as part of a plea bargaining process but, if so, this had never been shared with her during the court process. She was subsequently told by the by the COPFS that the charge had been dropped after hearing some evidence because the Fiscal did not believe there was sufficient corroboration for that. Z said she could not understand this and that

the decision was not properly explained to her. (No explanation was provided until she complained).

Z's initial reporting of her partner to the police had led to a friend and colleague of her ex-partner using his position to obtain sensitive information unlawfully. The COPFS decided not to proceed with a prosecution. When Z became aware of this, she requested a review of this decision. She found this a very frustrating experience requiring repeated phone calls that were almost never answered, limited sharing of information, and a large amount of bureaucracy. This compounded her overall personal view of the criminal justice system as incompetent.

Z provided further information to the committee clerk after the meeting about trying to get back her mobile phone, which had been used as evidence. She couldn't get through to the central COPFS number given by VIA, so she rang Police Scotland who emailed the production department, who in turn emailed the Crown. She was told to go and collect it from the local police station. When Z got there, they insisted on a letter from the PF but finally relented. This was a very upsetting experience as Z needed this to use as evidence for her restraining order.