

JUSTICE COMMITTEE

Note of teleconference with victim 'Y'

Tuesday, 4 October 2016

Members in attendance – Mary Fee MSP, Ben Macpherson MSP, Douglas Ross MSP

Key issues

Support from the Domestic Abuse Taskforce was very good, but once the case was handed over to the Crown Office things became “confusing”, ‘Y’ was “not well informed” about what to expect. This made the whole process seem “alien” and made her feel “alone, confused and frustrated”.

In general there was a lack of communication, information and support provided before, during and after the court case. There was also a lack of understanding of ‘Y’s’ feelings of fear and the stress of not having the process explained to her and therefore not knowing what to expect. There was a lack of continuity with key staff and no recognition of the importance of building a relationship of trust and being supported throughout the process.

Before the court case

The process was not explained and as a result ‘Y’ did not know what to expect and felt unprepared for the trial. ‘Y’ felt it that to be “forewarned is to be forearmed”, but she wasn’t.

As this was a “floating trial”¹ there were constant changes to the court date over a 2 week period. The almost daily phone calls created a “massive amount of stress” to her and to her witnesses, who were confused about what was happening and were asking her to explain why the dates kept changing.

‘Y’ met with the Procurator Fiscal (PF) before the court case and was promised that a number of things would take place before the trial:

- she would meet once more with the PF when they would take a precognition; and
- she would be able to look around the court to familiarise herself with it

Both of these would have been beneficial in preparing ‘Y’, but neither happened, with no explanation given. It would have been particularly helpful to have seen the courtroom, as this would have made her aware of how small it was and of just how close the accused would be to her whilst she was giving evidence. If ‘Y’ had known this beforehand she would have requested to provide video evidence instead.

‘Y’ was put into a room on her own to read her statement. ‘Y’ found it very distressing to relive her experience on her own in this way. This brought on a panic attack.

¹ A Floating Trial – this is a trial due to start within a specific period (usually 2 weeks) but which has not been allocated to any particular High Court.

During the trial

'Y' was advised by everyone that she dealt with to go to court and let the jury see her. This involved travelling to Edinburgh. She did not know where the court was, how to get to it or know her way around Edinburgh. This was stressful and more support should be provided for those travelling to a different location to attend court.

Special measures were provided in the form of a screen. It was only a cloth screen, which was unexpected and as the accused was very close to her on the other side of the screen, it did not provide much protection. 'Y' felt intimidated.

'Y' had not known beforehand that there would be a camera pointing directly at her face, so that the accused would be able to see her as she gave evidence.

'Y' felt that no consideration was given to just how scared she would be being in court and in close proximity to someone whom she had a restraining order against for a number of years. Due to this fear she was not able to give evidence to the best of her ability. Video evidence or evidence by Skype would have been a better alternative, as would seeing the court beforehand to gain an understanding of how small the space was and being given the opportunity to decide at that point whether she felt able to provide evidence under those circumstances.

'Y' did not see a VIAS person beforehand, but was told that the person would be in court.

'Y' had been informed that on day 1 of the trial the police would give evidence, but when she arrived in court she was told that she was to give evidence that day instead. 'Y' felt "shocked" and "was not prepared" to give evidence. 'Y' had been informed that she would meet her QC in Edinburgh and that he would go over what would happen in court. This did not happen. 'Y' was waiting in a room to meet the QC, when a number of people entered. The QC did not introduce himself and he did not go over what would happen in court.

A number of 'Y's witnesses were not called to give evidence and no explanation was given to her, or them, for this decision.

The defence solicitor

'Y' described her experience of giving evidence as a "horrific experience that traumatised" her. This was in large part due to the aggressive nature of the questioning by the defence solicitor who "tore me to shreds", said that she was "lying" and "humiliated" her. This reduced her to tears. 'Y' looked to her QC and the judge to intervene, but they did not, which shocked her. The VIAS person had attended court on the first day that 'Y' gave evidence and provided much needed support, but was not there the next day, as it was her day off.

There were about 30 people in the courtroom and 'Y' felt that it was "me against the world" and "very intimidated".

The prosecutor

'Y's' QC did not inspire confidence as he got some of the facts of the case wrong and "didn't seem to have a clue what he was doing". He seemed disengaged. If he

had met with 'Y' beforehand to go over the evidence this would have helped. 'Y' felt that the accused had better representation.

After the court case

After she had finished giving evidence she was told to go for lunch. Whilst at lunch 'Y' received a telephone call and was told to go home. 'Y' questioned this, but was not given any explanation for this decision.

Two of 'Y's' close relatives gave evidence and were distraught afterwards. There was no support provided to them. To see them in such a state was traumatic for her.

'Y' had to wait a number of days to find out the verdict. A VIAS person called and ran through the charges in a matter of fact way – informing 'Y' whether the accused was found guilty, not guilty or not proven for each charge. A number of charges were “not proven”, but no explanation was given about what that meant. This was an upsetting phone call and 'Y' felt that this information should be given face-to-face.

After the court case had concluded there was no further correspondence from the Crown Office or any offer of support. When 'Y' did call to speak to someone previously assigned to the case she was informed that as it was no longer “a live case” she was not allowed to speak to the person. 'Y' was not asked to provide any feedback on her experience and felt that being given the opportunity to provide feedback on the service would help to improve it for others.

The Scottish Prison Service wrote to 'Y' “out of the blue” to say that the person was being considered for early release and would be tagged. 'Y' then received a further letter with the release date. Scottish Womens' Aid assisted her greatly in coming to terms with this news. Y' feels unsafe now that the person has been released.

Views on the Crown Office

'Y's' impression was that staff were working “under extreme pressure” and that it seemed a bit of a “one man band” dealing with lists of witnesses, their travel etc. This meant that, despite best efforts, there was a lack of personal attention. It is important to build up trust with the person dealing with your. A meeting with a member of court staff before the trial would have been beneficial, as would dealing with the same person throughout.

What would improve the process?

There should be a family court system to deal with historical cases of domestic abuse. The court system should match the level of service provided by the Domestic Abuse Taskforce – there is no point in one without the other. Such a court should include people with experience and knowledge of the subject matter and there should be continuity of the people dealing with victims and witnesses. This should include jurors with experience of domestic abuse, so that the issues are not alien to them.

When dealing with historical cases where there is police knowledge and a number of witness statements, the court case should be more of a formality, as it is not “a case out of the blue” where little is known.