With regards to your call for evidence into the role and purpose of the Crown Office and Procurator Fiscal Service we would like to provide the following evidence based on the experiences of the women, children and young people we have supported.

It is at times difficult to identify where responsibility lies for issues that our service users experience in relation to the criminal justice system. Whether the issues highlighted below lie with the COPFS or with the Scottish Court Service isn’t always clear cut.

The overwhelming response received from those we spoke to about this consultation was that they felt the system traumatised them or increased the negative impact they experienced.

Where a defendant pleads guilty the COPFS and the criminal justice system is pretty effective, cases where a guilty plea is received are dealt with quickly. The main issue in relation to guilty pleas is that once this has been accepted the defence solicitor is able to provide a version of events which is not challenged by the PF, this then is reported by the local press. The defence offered by the solicitor very much feeds into the abusers narrative that the victim is responsible for what has happened, seeing this reported in papers can feed into that sense of responsibility. For women who have been in this position they say that they often feel disempowered and voiceless, as though even though the crime happened to them they have no place within the process.

Where women wish to withdraw their statement we have an agreement with the COPFS locally that they will ask women to make contact with our service to talk them through their options, this has been helpful in letting women know what support is available.

Where the efficiency/effectiveness falls down is when cases have to go to trial. A number of women stated that they did not feel that the PF who was trying their case had an adequate grasp of their case. One woman reported how she had been cited to attend court after an assault by her partner which she had recorded on her mobile. When she attended court after having been physically sick outside the court due to her ex’s family standing outside the court the PF decided there was not a sufficiency of evidence to proceed. It appeared that the PF had not reviewed the case prior to that morning in court as they had not asked for the mobile footage to be gathered by the police and hadn’t seen this; the woman was put through the stress of having to attend for no reason no apology for this was forthcoming.

Another issue raised by all the service users we spoke to was about them being given dates to attend court and these then being cancelled either with them being sent away from court on the day or very close to the trial date. For a number of those
we work with this happened on at least 3 occasions prior to the case going ahead. The information provided about why trials don't go ahead or why trial dates change is absolutely non-existent this is extremely distressing for women. One woman we are supporting was due to appear in court in February 2016 in relation to telecommunication offences but this was put off at the last minute to date she has still not been told what is happening and whether the case will be proceeding, she has recently written to the pf asking for the case to be stopped as she just wants the situation to be over.

One women we spoke to said she felt the court process was ‘long, harrowing, depressing, frustrating and intimidating’.

All women we spoke to about this consultation mentioned that they felt there was a general lack of communication about the process, that there was an assumption that people knew what going to court involved. All of those we spoke to about their experiences felt as though after the initial appearance from custody there was a complete vacuum of information while they may have received information about bail conditions they weren’t clear about what charges the accused faced, what happened when charges where pled down or why when cases went to court witnesses weren’t called or why they weren’t asked for certain pieces of information. For many of those we spoke to they felt that they had no greater role in the court than being another piece of evidence despite them being the person the crime had happened to.

A number of the women we spoke to had been involved in cases relating to sexual assaults/rape the the time that it took from them giving statements to the police and a decision being made about whether to proceed was about 2 years, during this time there was no update provided about what was happening or even when a decision could be expected by even when the PF was approached by support workers information was not forthcoming, having this hanging over their heads was very difficult for the women involved.

The way High Court cases are scheduled with floating court dates causes a lot of distress as there is a two week period when women are due to attend court with limited information about what will happen and things constantly changing. Women have to travel to either Edinburgh, Glasgow or Aberdeen for these cases, places which they don’t know and where they have no support this can add to an already very stressful situation, particularly when they have never actually met anyone who is involved in trying the case ‘one woman had to actually get up and make the QC involved in her case shake hands with her and introduce themselves’.

Women reported feeling that the questioning by VIAS to justify special measures was inappropriate given the nature of the offences (recent changes in procedure have changed this in relation to screens). The pressure to actually appear in the court from (police, pf, vias) did not take into account the impact of being in the same room as the defendant. A number said they had been actively put off asking to give evidence by video conferencing one having been told 'the sheriff will not allow it as the case doesn’t warrant it' meaning that what had happened to her wasn’t serious enough this left this woman feeling as though what had happened didn’t count.
Those who were provided with a screen in general felt this was inadequate ‘like something used in a hospital, flimsy and offered no protection at all’, another woman reported ‘that the screen did not cover all of the public gallery and they were able to be intimidated by the offenders family and friends’.

Women also felt that the pf was not ‘on their side’ or ‘in their corner’ and that they had no one within the court room who was there for them, even those who had a supporter felt that this didn’t particularly help as while the people who carry out this role were nice they didn’t know them and had no relationship with them, those who gave evidence felt it was a very lonely place to be. Those we spoke with felt that no one intervened when there was what they felt was inappropriate questioning which demeaned them or their character. They stated that through questioning both by the PF and the defence solicitor that they felt they were on trial.

A number of women voiced their surprise that before the case started they did not get to meet the pf and if they did it was a very quick meeting and they still felt confused by what would happen. One woman stated “I thought the pf would meet with me but he didn’t and he didn’t even introduce himself to me”. It felt to many women that there was a lack of understanding about how alien this whole process was to those who had never been in a court before or had only seen court proceedings on the tv.

Women report to often feeling as though their role as victim is no more important than that of any other piece of evidence and did not feel as though the process of going through court was worth it or something they would wish to do again.

We hope this evidence is helpful to you, if you require any further information please do not hesitate to get in touch with us.

Heather Williams
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