

Lady Chief Justice Office

Consultation on Practice Direction for Criminal Case Management in the Magistrates' Court

**Response from the Commissioner Designate
for Victims of Crime for Northern Ireland**

January 2026

1. General Comments

- 1.1 The Commissioner Designate for Victims of Crime appreciates the opportunity to provide input into this consultation on an updated Practice Direction for Case Management in the Magistrates' Court.
- 1.2 The Commissioner Designate welcomes the updates to elements of the Practice Direction which pertain to the rights and wellbeing of victims of crime, including by providing clarity to how the balance between the rights of defendants and those of complainants may be struck when considering the disclosure of third party materials. This Practice Direction also represents a significant step towards fulfilling Recommendation 1 from CVOC's 2023 report, 'A Second Assault', which called for non-legislative practice changes, guidance and training to ensure that current practice around TPM disclosure adhered to existing law and policy.
- 1.3 This Practice Direction provides a very useful guide for all parties involved in criminal cases at Magistrates' Court. The Commissioner Designate would also encourage the drafting and adoption of associated checklists to help support the Judiciary in the management of the cases in line with the contents of this detailed direction.

2. Specific Comments

- 2.1 The Commissioner Designate is encouraged that section 1.2 of the Practice Direction highlights 'respecting the interests of witnesses and victims and keeping them informed of the progress of the case' as an overarching requirement of dealing with criminal cases. This inclusion reflects the entitlements of victims and witnesses as set out under the Victims and Witness Charter.
- 2.2 In section 2.2 (h) of the document relating to sentencing, the Commissioner Designate recommends the reconsideration of language referring to 'credit' in relation to a reduction of sentence following a guilty plea by the defendant. The Commissioner would strongly discourage use of the word 'credit' on account of the connotations, albeit unintended, that victims may infer from the use of this word and the negative impact this may have on them. It is suggested that replacing with the word 'reduction' may impart the same meaning in a more

neutral manner and is reflective of more recent practice by the Judiciary in this regard.

- 2.3 Under section 2.8, which outlines what the court may require a party to identify in order to manage the trial, it would be helpful to include within this list the need to outline any third party material to be sought or relied upon at the earliest opportunity.
- 2.4 The Commissioner Designate warmly welcomes the clarification at section 7.4 regarding the two-week timeframe to enable complainants to be informed of the request for TPM and have the opportunity to object or make representations. This emphasis is reflective of the work undertaken by the Disclosure Working Group, of which a representative from the Lady Chief Justice's office was a contributing member, to identify and action practice improvements to better comply with existing law and policy.
- 2.5 The detail within the protocol for vulnerable witnesses in the Magistrates' Court under Annex A is very positive.
- 2.6 At A2.1, it may be useful to reference the Victim and Witness Charters given their relevance to how vulnerable victims and witnesses should be treated and given that the entitlements therein are enshrined in legislation.
- 2.7 Under section A4.4, which outlines the steps to be taken when making an application to adjourn a contest involving vulnerable witness(es), the Commissioner very much welcomes the strong message that such adjournments should be exceptional, and the reasons should be robustly interrogated before granting. The additional requirement to make applications in sexual offences cases in writing and to be received no less than 72 hours before the hearing further acknowledges the severe and traumatic impact that adjournments and delays to trial dates have on victims of crime, which in many cases causes significant distress and can lead to withdrawal from the process. Such safeguards are invaluable to ensure that adjournments are avoided in such cases where vulnerable victims and witnesses are involved.
- 2.8 The Third Party Material Disclosure application form at Annex C is a useful template to ensure procedure is followed and all relevant information is sought in the appropriate manner. The requirement for specificity when making an application as to the type, nature and date range of documents being requested is very helpful and will hopefully aid in limiting the practice of making blanket

requests for documents regardless of their relevance to the case and in conflict with the privacy rights of complainants. The Commissioner would caution that the inclusion of the alternative option may be unduly relied upon by those making applications given existing custom and practice which has developed to seek a broad swathe of materials without specificity or adequate consideration of relevance. It may therefore be advisable to seek a way to mitigate this risk to ensure that the Practice Direction and the template at Annex A have the desired effect in terms of changes in practice when applying for TPM disclosure.

- 2.9 The Commissioner Designate notes feedback from third parties and solicitors which indicate that disclosure of materials has mistakenly, in the past, been shared with the defence solicitor rather than the court itself. It may therefore be useful at Annex E, in the section **in bold** to specify 'no documents should be disclosed to the court until such times as an order issues from the court'. Any other additions that could be made to help avoid any such misunderstanding would be welcome.

If you would like to discuss any of these points in further detail, please contact the office via:

Tel: 028 9052 6607

Email: policy@cvocni.org