

Making the justice system better for victims What did you tell us?

Easy Read

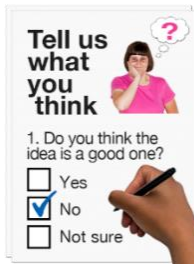
Making the justice system better for victims



What did you tell us?



Introduction



A consultation is when the Scottish Government asks people for their views before important changes are made.

The Scottish Government had a consultation from 12 May to 19 August 2022 about making the **justice system** better for **victims**.

The **justice system** means the people and organisations that deal with crime including the police and courts.

A **victim** is a person who has been harmed as a result of a **crime**.

A **crime** happens when someone does something that breaks the law.

This document tells you about the main findings from the consultation.

These findings come from what **respondents** said.

Respondents are people who answered the consultation – mostly online.

24 people and 45 organisations responded.

1 in 3 replies were from victim and witness support organisations.



Other organisations that responded included:

- legal organisations
- law enforcement (police)
- children and young people's organisations
- local authorities (councils)
- voluntary organisations (charities)
- academics (justice and law experts)



A **proposal** is what we are suggesting could happen to make the justice system better for victims.

There was support for almost all the **proposals**.

There were mixed views about some of the proposals too.

Having a Victims' Commissioner



The Scottish Government thinks that there should be a Victims' Commissioner in Scotland.

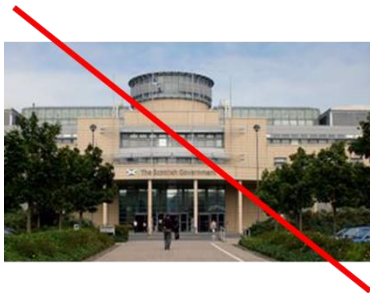
This is a person who makes sure that the justice system works well for victims.



There was support for having a Victims' Commissioner.

Some respondents said it would be important for the Victims' Commissioner to be accessible for all victims.

This includes disabled people.



Respondents said that the Victims' Commissioner should:

- be in law and be **independent** - not part of the Scottish Government
- that there should be different ways to report information to them
- be a way to hear the views and experiences of victims
- promote good ways of working for organisations in the justice system



There was a mix of views about the Victims' Commissioner being involved in individual cases.

Some respondents said this should not happen.



They said the Victim's Commissioner should look at issues across the justice system and not just in individual cases.



Other respondents said:

- it might help the Commissioner to learn about bigger issues like how the justice system works
- some people might expect the Victims' Commissioner to get involved in their case



Some respondents had concerns about the powers the Victims' Commissioner would have and what work they would do.



These concerns included:

- that work already being done by victims' organisations must not be repeated by the Victims' Commissioner
- that victims should not be forced to take part in investigations carried out by the Victims' Commissioner



Working in a trauma-informed and person-centred way



Trauma can happen to people after a bad or frightening event.

Trauma can make people:

- feel sad or upset
- feel scared
- have nightmares or bad memories
- drink alcohol or use drugs to help cope with how they are feeling



The Scottish Government thinks that organisations in the justice system should be **trauma informed**.



This means organisations:

- understand how trauma can make victims feel
- understand how trauma can make victims behave



Trauma informed also means that victims:

- are listened to
- get the right information at the right time
- feel safe
- are treated with kindness

There was support for new laws and changes to make the justice system:



- trauma informed and person centred
- more accessible and easier to take part in
- fair to both victims and the **accused**
- a person who is charged with committing a crime

Some respondents thought there should be a law and guidance on working in a trauma-informed way.



They said:



- it must be clear what 'trauma-informed practice' means
- it would need extra money and training
- the Scottish Government should link into work already being done to make the justice system more trauma informed



Some respondents wanted to know what checks would be done on:



- who had done trauma informed training
- if and how it was being used
- what would happen if staff did not work in a trauma-informed way

There were mixed views in relation to **virtual trials** held online so victims do not have to be in court in person.



Some respondents thought virtual trials were good because they:

- help people have less trauma
- are more accessible
- keep victims apart from the accused



Some respondents said people must have a choice about having a virtual trial and must not be made to use them.



There was support for **Ground Rules Hearings** to be available to all child and vulnerable witnesses

Ground Rules Hearings happen in some High Court cases.



These are hearings to help the court make sure the victim is treated fairly at trial.

A **hearing** is a formal meeting where a court makes a decision.



There were mixed views about **court scheduling** and how to make it work in a trauma-informed way

Court scheduling is how it is decided when a case comes to court.



Some respondents said that there are too many delays and victims do not know when their court date will be.

They thought existing laws did not help to make this better.

Some respondents thought it would be difficult to have any system that would make this better.

There was agreement that information sharing could be better.



There were not many suggestions about how to do this.

Some respondents said it was important that people give **consent** - agreement to share their information.

Special measures to support people in civil cases



The **civil court** is different to the criminal court.

It does not decide if a person has broken the law.

It helps to sort out disagreements or arguments between people.

It can stop a person from contacting someone they have harmed.



Special measures are when people get extra support to help them give evidence in court.

This can be:

- using a screen so the victim does not see the perpetrator
- giving evidence from a different building on a TV link



Proposals about special measures were supported including:

- courts should be able to stop the person who has caused harm from questioning a vulnerable person
- special measures should be used in civil court cases





Some respondents were worried it could be difficult to provide special measures if there is not enough time, money or equipment.

Review of defence statements



If the accused says they did not commit the crime then there will be a trial.

The accused has to tell the court what their defence is before the trial happens.

This is called a **defence statement**.

Many respondents agreed that:

- current laws around defence statements do not work well
- there should be a review of defence statements to make this better



Anonymity for complainers in sexual offence cases



A **right to anonymity** means that it is against the law to publish information that identifies the victim.

A right to anonymity helps protect victims' privacy.

Privacy mean keeping something private – no-one else knows about it.



Information that identifies the victim includes:

- their name or where they live
- where they work
- photographs of them



This means that it will be against the law to include this information in reports about the case, including reports:

- in newspapers
- on TV, radio and on websites
- on social media



There was agreement that a right to anonymity for victims in sexual offence cases was a good change.



Respondents said that:

- the right to anonymity should start when an allegation of sexual offence is made
- it should apply to a wide range of offences, and apply to children and young people
- it is important to make sure that a person understands any decision they take to end anonymity
- anonymity should always be a person's choice and should never be forced





There was some disagreement about the court being able to end anonymity in individual cases.

Some respondents said decisions about when it should end should be made on a case-by-case basis.



Respondents could not decide about suitable penalties for people who breach anonymity.

There was agreement that penalties would be a good thing.



Some respondents said penalties should be serious enough to help stop people breaching anonymity but also must be fair.

Victim's right to have a lawyer



There are rules about victims' **privacy** in sexual offence cases.

The rules say that the court decides if certain types of evidence are allowed to be released.

This includes evidence about:

- who the victim has had a sexual relationship with in the past
- bad things that the victim might have done



The Scottish Government asked if victims in sexual offence cases should have a lawyer to help them with these rules.

This is called **independent legal representation** or **ILR**.

There was support for an automatic right to ILR.

Respondents said this would:

- strengthen victims' rights
- make the process fairer for victims
- help victims understand the court process
- make sure that the court is told what victims' views are



Some respondents said that **legal aid** should be used to pay for ILR.

This means that ILR would not cost the victim money.



Some respondents were worried that:

- the process for ILR would mean cases take longer to get through the court
- the proposals for ILR were too limited



Some respondents thought ILR should be used at more parts of the process and not just for the rules about victims' privacy.

New specialist criminal court dealing with serious sexual offences



There was support for a specialist court to deal with serious sexual offences, including rape and attempted rape.

Respondents said:

- people working in the court should have special training about trauma and about sexual offences
- a specialist court might mean that cases get dealt with more quickly
- a specialist court should mean that victims have a less traumatic experience

There were different views about whether the court should be a new court or if it should be part of the High Court and Sheriff Court.

Some respondents said there should be **no sentencing limits** in the specialist court.

No sentencing limit means the new court would have the same powers as the High Court and could give out long prison sentences.

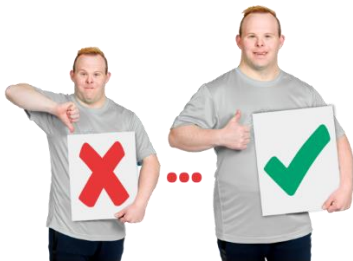


Some respondents were concerned that:

- a new court might not be accessible for some people
- a new court would be seen as less important than the High Court
- there might not be enough money, time or staff to make sure the new court worked well



Some respondents said that there should be improvements made to all courts rather than having a specialist court.



Single judge trials for serious sexual offence cases

Serious sexual offences are crimes like rape and attempted rape.

A **jury** is a group of people who listen to what is said in court during a trial.

The jury decides if the accused person committed the crime.

A **juror** is a member of the jury.





The consultation asked people what they thought about judges making decisions in serious sexual offence cases instead of juries.



Some respondents thought that there were problems with jury trials for serious sexual offence cases.

These included:

- jury trials were traumatic for victims
- jurors might not understand complicated legal matters
- jurors might believe **myths** that it was the victim's fault that they were raped



A **myth** is something that is not true.



Some respondents thought that jury trials should continue to be used for serious sexual offence cases.

They said that this was a fair system.

They said getting rid of juries would not make the system better.



There were mixed opinions about using a judge instead of a jury for serious sexual offence cases.



There was some support for testing to see if this worked.

Some people thought that it might be too difficult to test this.

There was agreement there needs to be improvements in serious sexual offence cases.



This includes:

- more done to help people understand how serious sexual offences can affect victims
- more done to stop people believing myths about serious sexual offence victims
- better training for people dealing with serious sexual offence cases
- more **diversity** among the people who make decisions in serious sexual offence cases



Diversity means people from different backgrounds.



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