

INFORMATION EXCHANGE AGREEMENT

BETWEEN

SCOTTISH COURT SERVICE (SCS)

AND

VICTIM INFORMATION AND ADVICE (VIA)

Created August 2003
Revised 26 January 2006
Further Revised 7 August 2007

1. Introduction:

- 1.1 The Scottish Court Service (SCS) and Crown Office and the Procurator Fiscal Service (COPFS) are key partners in the Criminal Justice System. The partnership includes working together to improve the position for victims of crime, vulnerable witnesses and next-of-kin in criminal deaths.
- 1.2 SCS aims to provide an efficient and courteous service to all court users, including victims, witnesses and bereaved nearest relatives. VIA, (which is part of COPFS) provides information and advice to victims of more serious crimes (see Appendix for categories) about the criminal justice system in general; progress in relation to their own case; and support available to them.
- 1.3 Both corporately and locally, the contribution of partnership working towards achieving common goals is recognised and actively encouraged by both agencies. Both agencies have signed up to the Scottish Strategy for Victims and have produced their own strategic plans in this important area. SCS has designed a training package for its entire staff about the needs of victims and witnesses within the court. The roll-out of the VIA service to every PF Area was completed in December 2004.
- 1.4 Both agencies recognise their responsibility (which is shared with the police) to provide information and advice in order that the safety and security of victims and witnesses is not further compromised by their involvement with the criminal justice system.
- 1.5 The demands facing both organisations are ever increasing and effective service delivery can only be achieved through the identification and adoption of key processes which seek to achieve the common goal of assisting victims of crime, vulnerable witnesses and bereaved nearest relatives.
- 1.6 This Agreement aims to build on the sound working relationships which already exist between Sheriff Court staff and VIA Offices locally and provide a performance framework to further develop partnership working leading to improved service delivery.
- 1.7 Given the need to streamline information provision for victims and to provide information promptly and accurately, it is essential that associated administrative processes are clear, effective, necessary and add value to the achievement of common goals.
- 1.8 Contact between both agencies is diverse. However, this Agreement will focus on the following key areas in relation to information provision for victims:
 - Bail - at all stages; intimation and results (including Bail Reviews) except where provided by Judiciary Office
 - Pre-Trial Proceedings
 - Trial Proceedings and Outcomes

- Bail Appeals- intimation only. Specific information requirements are noted at paragraphs 3, 4, 5 and 6
- Intimation of Appeals against custodial sentences and the granting of bail pending Appeal by the Sheriff. VIA staff should liaise with PFO colleagues locally for more detailed information about Appeals. Letters sent from Sheriff Clerks to Procurator Fiscals' Offices should remind them to notify their VIA colleagues.

2. Service Delivery Standards:

- 2.1 The Agreement sets out the desired service delivery standards to which both parties should strive to achieve.
- 2.2 It is recognised that resource constraints and the influence of third parties can influence performance. However, each organisation accepts the responsibility to achieve these agreed standards and will take all reasonable steps to implement organisational change and subsequent control measures where necessary.
- 2.3 Each organisation will designate a Manager at national level to manage this Agreement. The VIA National Team Leader and the Head of the Court Services Branch of the Field Service Directorate will do so on behalf of COPFS and SCS respectively.
- 2.4 The respective Managers will be responsible for establishing appropriate tracking mechanisms to monitor performance, communicating to and educating staff about the Agreement and regularly meeting with their counterpart to review the management and performance of the Agreement.
- 2.5 At local level the Sheriff Clerk will be the point of contact for any concerns on VIA's part. If the Sheriff Clerk is not to carry out this function then he/she will nominate another member of staff to do so and will advise the local VIA Office accordingly.
- 2.6 At local level the VIA Office will advise the Sheriff Clerk or the nominated person who will be the contact point at VIA. More than one person may be given this task. A list detailing all relevant contacts will be retained by the respective managers and will be kept within their own shared network drive where colleagues can access it. Local staff will be responsible for updating the lists with changes to the nominated person.
- 2.7 Ad hoc requests for information may be made verbally but detailed or multiple requests should be in writing and may be by fax or email.
- 2.8 VIA staff will be granted third party access to their local Sheriff Clerk's COPII system and should use this to obtain routine results. As part of COPFS, VIA staff have a right to be provided with the same routine information provided to members of the Procurator Fiscal's staff (such as Petition Court results) and, on request, provided it is practicable, should be permitted access to Court Sheets.

3. Performance Criteria -Bail:

- 3.1 Arrangements will be made between VIA and the nominated SCS person locally for the provision of information on the intimation and granting of bail, including special conditions (where appropriate), bail reviews and applications for change of domicile.
- 3.2 The arrangements made at 3.1 should ensure transfer of information is made on the day of intimation/on the day the decision is made. VIA staff are expected to contact, by telephone, victims, witnesses and bereaved next of kin in all cases (which have been referred to them by the PF) on the same day in which the accused appears from custody or by undertaking. Where VIA staff are unable to make such contact the police are instructed to do so. It is vital that VIA staff receive these results as public safety is an issue.
- 3.3 Any difficulties encountered by VIA as the result of receiving late intimation from SCS which cause VIA not to meet its performance target of bail information communication should be raised with the Sheriff Clerk or with a nominated person.
- 3.4 Any difficulties that may arise in obtaining information about special conditions (so that the complainer can be phoned immediately the decision is made in such cases) will be raised with the Sheriff Clerk or with a nominated person.

4. Performance Criteria – Pre-Trial Proceedings

- 4.1 The Sheriff Clerk will arrange for information required by VIA on the dates set for Intermediate Diets, First Diets, First Hearings and Trial Diets to be conveyed to VIA promptly, preferably on the day the date is set but in all other cases by the close of the next working day.
- 4.2 The Sheriff Clerk will arrange for information required by VIA on Accelerated diets to be conveyed to VIA as soon as possible but in all cases no later than 24 hours from the time when the diet is accelerated in court.
- 4.3 The Sheriff Clerk will arrange for information required by VIA on Adjournments to be communicated to VIA promptly, preferably on the day the date is set but in all other cases by the close of the next working day.
- 4.4 Any difficulties that may arise in obtaining information about court dates will be raised with the Sheriff Clerk or with a nominated person.

5. Performance Criteria – Trial Proceedings

- 5.1 VIA will give as much notice as possible to a court official or member of the Witness Service where a victim or witness has special needs relating to access to the court building, internal mobility, separate waiting room, or communication in court.
- 5.2 The Sheriff Clerk will arrange for the court's decisions in relation to conviction and sentence to be conveyed to VIA promptly, preferably on the day the decision is made but in all other cases by the close of the next working day.
- 5.3 Special arrangements may be made with the Sheriff Clerk in relation to high profile or sensitive cases to ensure that the victim/witness receives information about the outcome as soon as possible.
- 5.4 Any difficulties that may arise in relation to these matters will be raised with the Sheriff Clerk or with a nominated person.

6. Performance Criteria – Bail Appeals:

- 6.1 The Sheriff Clerk will arrange for information on applications for bail appeals to be communicated to VIA as soon as possible.

7. Joint Training:

- 7.1 VIA nominated persons and Sheriff Clerks will explore the possibility of job shadowing or input to induction training for new staff locally in both agencies and for existing members of staff moving into VIA/SCS related posts. Consideration should be given to exchanging training packs and guidance that exists to enhance the knowledge of staff and improve the level of service delivery to victims, witnesses and bereaved next of kin. Where possible, VIA staff should arrange to deliver presentations to SCS colleagues and participate in Doors Open Days if asked.

8. Sentencing Statements

- 8.1 Elizabeth Cutting, SCS Public Information Officer for the Judiciary, will provide the VIA National Team with a copy of any sentencing remarks that are made available by a Sheriff or Judge. The VIA National Team will issue a copy of the sentencing statement to the appropriate VIA High Court or Case Officer for discussion with the victim or bereaved nearest relative in accordance with VIA guidance.
- 8.2 In any case where a VIA Officer considers that a sentencing statement may be of assistance to a victim or bereaved nearest relative following conviction, they should immediately advise the VIA National Team who will forward the request to Elizabeth Cutting for consideration in advance of the date set for sentencing

9. **Implementation:**

- 9.1 The terms of the original VIA / SCS Information Exchange Agreement became effective on 1 October 2003 and were subsequently revised on 26 January 2006 and 7 August 2007. **This revised Agreement is to take effect from 13 August 2007. It will be regularly reviewed in the light of changes to procedure or practice.**
- 9.2 Meetings will be held locally between VIA and SCS staff at least once a quarter to monitor current arrangements and raise any concerns formally. A note of each meeting will be sent to SCS and to VIA at national level.

Signed:

John P. P.

Date:

7 August 2007.

Signed:

Paul Spence

Date:

7 August 2007

APPENDIX

REMIT FOR REFERRALS

On initial case processing, or as soon as relevant criteria are apparent, whichever is sooner, the following must be referred to VIA, under the first referral heading that relates to the case:

1. The **next of kin** in cases involving **deaths**:
 - *which are reported for consideration of **criminal proceedings**;*
 - *where a **Fatal Accident Inquiry** is to be held;*
 - *where there will be, or there are likely to be, **significant further inquiries**; or*
 - *where in all the circumstances it is agreed that referral is appropriate.*
2. **Victims** in all cases where the nature of the charge(s) is indicative of **solemn** proceedings:
 - Homicide
 - RTA death
 - Sexual offence
 - Domestic abuse
 - Racial aggravation/motivation
 - Other solemn case with identifiable victim

Exception to this is where a case is to proceed on indictment due to the status/history of the accused, as opposed to the nature and circumstances of the offence. For example, no referral to VIA is expected in a case of theft if on petition by reason of the accused's record and/or the volume of the charges only.

3. **Victims** in cases of **domestic abuse** (partners and ex-partners).
4. **Victims** in cases:
 - i. with a **racial or religious aggravation**; or
 - ii. where it is known to the Procurator Fiscal that the **victim perceives** the offences to be motivated by **racial or religious prejudice**.
5. **Victims** in cases involving **sexual offences**.
6. **Child witness** in any case.
7. **Child victim** in any case, who is not also a witness.
8. **Other victim or witness with additional needs**, in any case. Additional needs may be anticipated due to an individual's circumstances or personal characteristics:
 - **asylum seekers**
 - **dependents abusing parents/carers, or by parents/carers abusing adult dependents**
 - **English not as a first language**
 - **learning difficulties**
 - **mental health issues**
 - **physical disabilities**
 - **sexual orientation/gender identity (Lesbian, Gay, Bisexual, Transgender)**
 - **terrified of accused and/or of reprisals**
 - **other**