

LAW REFORM AND SEXUAL OFFENCES

SIMON POWER*

Good morning and thank you for inviting me to speak at your workshop today.

I'd like to acknowledge my fellow MPs, and members of the judiciary, criminal bar, Government departments, NGOs, and the Law Commission for attending this workshop.

As you'll be aware, I have decided to retire from politics at the election, so this will be one of the last times I speak to the sexual violence sector. I have to say that I have thoroughly enjoyed working with you over the past two-and-a-half years as Minister of Justice. I want to put it on record that I'm immensely proud of the work the Government has done in the sexual violence space, and more broadly to put victims at the heart of the criminal justice system. After all, a society is often judged by how well they treat their most vulnerable.

With that in mind, my starting point for justice sector reform has always been to look at the system from the point of view of those who find themselves in it through no fault of their own. It deeply worries me that only about 10 per cent of sexual offences are reported. That suggests that the approximately 2,000 offences that are reported each year are just the tip of the iceberg. Of the 2,000, only 31 per cent result in charges being laid and only 13 per cent result in a conviction.

What those figures tell us is that we must do better for victims of sexual violence.

One way we do better is to find ways to take the fear out of court processes, so that victims of sexual violence are not frightened to lay a complaint, or withdraw it due to delays. We need to make it so people who complete the court process do not leave feeling re-brutalised by it. Sexual violence is devastating enough as it is.

It's also an area which is not well understood, which is why I'm so grateful for the report from the Taskforce for Action on Sexual Violence. That report has been, and will continue to be, a rich source of information for the Government. It's the most comprehensive roadmap on sexual violence prevention and services that we've ever seen.

Our response to date has focused on areas we believe best progress can be made, and has included:

- The Ministry of Justice re-prioritising \$1 million of funding over two years for sexual violence prevention education programmes.
- More than a million dollars from the Community Response Fund for sexual violence services.
- A cross-agency stocktake of government expenditure.
- Three years of funding for the Survivor Advocate role.

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- New Adult Sexual Assault Guidelines from the Police.
- Funding for TOAH-NNEST to enable it to continue its role as co-ordinator for the sexual violence sector.
- Using money raised from the \$50 Offender Levy to pay for sexual violence services, including a \$500 grant for expenses incurred as a result of sexual violence, new information resources, and rolling out 18 specialist sexual violence court advisers.

I'm pleased that early reports suggest the court advisers are being used by almost 90 per cent of sexual violence victims. I'm also pleased to be able to tell you that because revenue collection from the \$50 Offender Levy is ahead of forecasts, I will soon be in a position to announce further services for victims of sexual violence.

Later this week I will also be announcing changes stemming from the review of victims' rights. Those changes will enhance victims' rights in criminal justice processes and ensure that government agencies are more responsive and accountable to the needs of victims.

It's also important that sexual violence victims receive timely access to justice. They will be one of many groups that will benefit from the Criminal Procedure (Reform and Modernisation) Bill which is designed to speed up and simplify criminal processes. That bill is due to report back from select committee in July and I intend having it passed into law before the election.

At this point, I want to send a clear message that the announcement that I'm retiring from politics at the election is not code for – I'm winding down. Rather, I'm winding up. For example, I'm still determined to explore alternative pre-trial and trial processes for child witnesses. To inform this work and how it could possibly be expanded to victims of sexual violence in the future, the Government has also asked the Law Commission to do some work on it.

I note that the Law Commission is collaborating with Professor Jeremy Finn, Associate Professor Elisabeth McDonald, and Dr Yvette Tinsley, whose work is the reason we are here today.

Improving the experience of children in the criminal justice system is my first priority. And when you realise that a truly shocking 40 per cent of victims who use the new sexual violence court adviser service in the Northern region are under the age of 15, then you can see why I regard this work as absolutely essential.

Children are among our most vulnerable members of society and they deserve special protection. As Minister of Justice, it's unacceptable to me that child witnesses are waiting an average of 15 months for their cases to be concluded in the courts. That is a long time in the life of anyone, let alone a child.

It deeply concerns me that, according to the AUT child witness study, 65 per cent of children were accused of lying by the defence, 30 per cent wept while testifying, and more than 70 per cent did not understand a question posed by a defence lawyer. That report goes on to indicate that the adversarial process, and in particular cross-examination, can actually undermine the

quality of evidence given by vulnerable victims and witnesses. And, as that report noted, concerns about the treatment of child witnesses are not a new phenomenon – they date back to at least the 1960s.

The irony is that in recent years we have been remarkably flexible in relaxing our laws of evidence and formal procedure to benefit offenders. But when it comes to adapting them to benefit those who are in the criminal justice system through no fault of their own, there is fierce opposition. I've said it before, and I'll say it again, legal tradition is not a good enough reason not to change. And, if the system will not reform from within, I will drive it from the outside.

To make progress in the area of alternative pre-trial and trial processes for child victims, I asked the Ministry of Justice to examine the following options:

- Pre-recording a child's entire evidence, including their cross-examination, prior to the trial.
- Introducing trained experts to undertake the cross-examination and re-examination of children.
- Providing additional information to legal professionals on effective ways of questioning children.

I'm looking forward to when officials report back to me in May with options for reform. Before I finish, I would again like to thank you for the constructive way in which you've engaged with me during my time as Minister of Justice. Together we have come a long way, but as always, there's still more work to be done.