

# Victim Support Scotland supplementary evidence dated 6 November 2023

Please see a summary of the international examples of approaches to anonymity when someone has died. The policy team in the Scottish Government is working on this too so have more detail to go with these examples. There are issues with each of them, some are not comparable to the discussion we are having and Victim Support Scotland is planning to come up with our own amendment which will address these issues and key learning points from each place and a more trauma-informed approach which gives choice and control to families of children who have been killed as a result of a crime.

- **Ireland – child victims of crime**

In October 2020, a judgment in the Court of Appeal gave a strict interpretation of existing reporting restrictions in the Children Act 2001. It found that the section in question had a much broader application than previously understood - determining that reporting restrictions also applied in circumstances where the child was deceased or had turned 18.

Following the judgment, a Bill to amend the 2001 Act was promptly introduced to the Seanad Éireann and was signed into law in April 2021.

The Children (Amendment) Act 2021 provided legal certainty that reporting restrictions do not apply to deceased children (except in specific circumstances) and that they end when a victim turns 18.

Work is continuing to strike a better balance.

- **Victoria, Australia – adult victims of sexual crime**

Victoria now makes specific provision about the anonymity of deceased persons, which extends beyond their natural life. Under the new provisions, in cases involving deceased victims of sexual crime, anyone with a “sufficient interest,” apart from the person accused of the sexual offence, may apply to the court for permission to publish identifying information about a complainant.

Judges must take account of “the views of the deceased victim, if those views are known following reasonable enquiries,” before deciding whether or not to grant a request, and also ensure “the views of any family members of the deceased victim are taken into account” before deceased complainants can be identified. There is also an overriding “public interest” test.

There have been concerns raised about the approach when victims’ families have wanted to speak out and more work is underway.

- **India – adult victims of sexual crime**

Section 228A(2)(b) of the Indian Penal Code provides that identifying a deceased victim of sexual crime is prohibited, unless the “next of kin” grant authority to “the Chairman or the Secretary of recognised welfare institutions or organisations” to identify the victim.

However, there are issues with this in that the state has not recognised any such welfare institution or organisation. This has the legal consequence that it is a criminal offence in India for anyone to publicly identify the victim of a sexual offence, including next of kin, where the victim is dead and cannot consent to being identified.

In practice, victims have been identified by their families in foreign media, evading the national restrictions.

Again, there are lessons to be learned from this.