

Review into the Terminology “Victim/Complainant” and Believing Victims at time of Reporting

Introduction

- 1.1 The paper below was tabled and discussed at the College of Policing Professional Committee on 28th February 2018. The paper and recommendations, including the recommended third option at 8.10 below, were supported by the Committee albeit some members expressed a preference for the first option in 8.9. It was agreed that the paper would be circulated for wider consideration through the NPCC, Superintendent’s Association and Federation as there are some strong and varying opinions on this matter. The College of Policing will then take stock of the feedback and remit it back to Professional Committee if appropriate.
- 1.2. In 2016 Sir Richard Henriques wrote a report into the Metropolitan Police Service’s handling of non-recent sex allegations against high profile offenders, Operation Midland. In his report he made a number of recommendations including two, the subject of this review. One was the use of terminology; that in investigations “complainant” should be used rather than “victim”; and the other was that “the instruction to believe a victim’s account should cease”.
- 1.3 Some months before Henriques reported, the College of Policing had convened a meeting and circulated a letter in order to provide guidance in respect of the Home Office crime recording rules. As there were continuing differences of opinion both inside and outside of policing, amplified by Henriques’ report and other high-profile failures in investigations, I was asked to review this matter by the College. The terms of reference are attached at Appendix A.
- 1.4 This is a subject that elicits a wide range of feelings and assertions and disagreement about the words used, but, underlying it, a broad consensus about the desired outcomes: That police should be accepting and welcome of allegations of crime; that people who might be vulnerable or uncertain should feel supported and confident in reporting crime; and that when a crime is brought to the police it should be responded to and investigated professionally and impartially.
- 1.5 I did not have a set view on these matters as I embarked on this review. I was open to the debates and evidence and listened carefully to many points of view. These are sensitive and multi-layered issues so I lay out in some detail in this review the principles and considerations that guided me in coming to a range of recommendations.

TERMINOLGY – VICTIM/COMPLAINANT

Background

- 2.1 In Sir Richard Henriques' report his first recommendation is that throughout the investigative and the judicial process those who make complaints should be referred to as complainants and not as victims. He has "a clear and concluded view that all complainants are not victims"ⁱ. He says the judicial process is engaged in determining whether or not a complainant is indeed a victim. He believes the false terminology gives an impression of pre-judging a complainant and affects the neutrality of an investigator.
- 2.2 This is a definition of "victim" that is predicated on the outcome of judicial process and reflects an interpretation of the Black's Law Dictionary that defines a victim as "a person harmed by a crime, tort or other wrong"ⁱⁱ. Many of those closely involved in the judicial system, especially the judiciary, support this position. It is clear, however, that the term victim is widely used in society in a less legalistic way. Dictionary definitions are more encompassing. One example, of many similar ones, describes a victim as being:
 - A person harmed, injured, or killed as a result of a crime, accident, or other event or action
 - A person who has come to feel helpless and passive in the face of misfortune or ill-treatment.ⁱⁱⁱ
- 2.3 This is not a new debate. The use of the word "victim" has increased significantly in the past 40 years as the use of "complainant" has fallen^{iv}. The recognition that those harmed by crime need support after the commission of a crime and while navigating the legal processes has meant so-called "victims'" services have grown and the rights and needs of victims have been more formally recognised in policy and legislation.
- 2.4 Additionally, some who advocate on behalf of those harmed by violent crime or sexual abuse dislike the word "victim" because of the associated implication of powerlessness and a reliance on others to put things right. The term "survivor" is often used and the police sometimes encouraged to use that term, while some will argue that they do not wish any label to be used.

Context

- 3.1 The Crown Prosecution Service (CPS) and the Ministry of Justice (MoJ) recognise a wider use of the term victim. The MoJ runs victims' services and champions the Victims Code, directed at people who might otherwise be called complainants if a narrower legalistic definition is used. Likewise, the CPS runs a Victims Right to Review for those who have not had charges laid at court. Both describe the approach they take as pragmatic. The word victim is not a legal status based on a factual determination in a court of law but a categorisation that allows access to services and support. In the context of court hearings both the MoJ the CPS said they use the term complainant as they recognise it as appropriate in that process.
- 3.2 Most (but not all) victims groups regard the debate as irrelevant and strongly support the use of the word victim, albeit a recognition that some people do not like the word for a range of reasons. It is argued that the word is all encompassing and reflects a focus on the person and the support they may need, not the crime.

- 3.3 Those who represent the interests of defendants mostly support the position taken by Henriques although they recognise that the word is often used more widely and loosely. They expressed a wider concern that excessive focus on victims and the building of rapport and empathy could potentially blinker investigators to the innocence of related suspects.
- 3.4 In focus groups with police investigators all said they routinely used the word victim rather than complainant. A number understood the point being made by Henriques but all denied that such a categorisation and use of the word affected their mind-set. They felt too much was being read into the word, it was not a requirement to accept the guilt or innocence of anyone but a route for ensuring the person potentially harmed is dealt with respect and care. As one officer described it, “putting a person in the victim ‘box’ opened a pathway for a number of support processes, but it all still needed to be underpinned by a proper investigation”. Many said they would seek to ensure the person categorised as a victim is called by their name rather than the label, and they discussed the importance of ensuring the process for everyone, including suspects, is as personal as possible.
- 3.5 In the College of Policing’s Authorised Professional Practice (APP) and associated training syllabuses there is no explanation of the use of vocabulary in respect of victims, survivors or complainants other than quoting the Black’s Law Dictionary definition.

Discussion and Recommendations

- 4.1 Unlike the word “believe” which is discussed below, the word victim is not one that defines an expected state of mind, it is a categorisation. It is a categorisation that, in the way the word is commonly used in society, is broad and not contingent upon a legal finding of guilt in a court of law. Given that so few cases investigated by police will ever be determined at court, it is too restrictive to limit the use of the word to the relatively small proportion of people who would be victims by merit of having had a conviction to uphold their status.
- 4.2 In policing and the law, as in society more widely, terms are often used that put people into a category ensuring certain services or approaches are applied but not that the guilt or innocence of a person is assumed. The terms ‘victim’ or ‘suspect’ may be used for the purpose of recording crime but the guidance and standards after a crime is reported require an investigation to be conducted in an impartial and open-minded way. There is, of course, research that shows how use of language and labelling can influence behaviours⁹, and any suggestion that a complainant is pre-judged would run counter to principles of procedural justice (discussed in the section on “believing victims” below), but there is no research I have found that suggests the widespread use of the term victim has had that effect.
- 4.3 In many respects the use “complainant” is equally problematic. It is a depersonalised, somewhat ugly, legalistic word. Many who might be called a complainant vehemently deny any suggestion they are complaining about what has happened, they are looking for society to put matters right. Some have argued that the adversarial system itself

forces matters to be pre-judged as being right or wrong whatever the label. As one interviewee for this review said “I respect the fact that it (the word complainant) is used in a court process but it is an equally pejorative word and to me reflects a less humanised system”.

- 4.4 One judicial interviewee suggested that the debate about the use of the word “victim” has become more emphatic in judicial circles recently because of a concern that some police investigations are not being conducted in an appropriately impartial and even-handed way. This is exemplified by failures in disclosure of evidence and in following up relevant lines of enquiry, matters some judges’ suspect could be linked to an instruction to believe a victim (discussed in the next section).
- 4.5 In the United States, where the use of the word victim is equally widespread and has been challenged in courts, legislation has been passed in some states to formally recognise and enshrine in law the terminology and status of victim thus drawing a line under the debate^{vi}.
- 4.6 All the people interviewed were asked if they had an alternative word to either victim or complainant. None of the words suggested, such as “injured party”, “aggrieved” or “target” (as in a person who has been the target of a crime) appear suitable as an alternative.
- 4.7 **Recommendation 1: That the College of Policing and wider policing continues the general use of the word “victim” but describes, in Authorised Professional Practice and associated training material, the differing interpretations and sensitivities, thus guiding investigators to be prepared to adapt their choice of wording according to the audience and context.**
- 4.8 **Recommendation 2: That the police service, through the College of Policing and the NPCC Lead for Victims and Witnesses, supports steps taken through the Victims’ Commissioner to put the status of victim on a clearer legal footing (perhaps through a Victims’ Law), thus ensuring an official legal definition that settles the debate and clarifies its use as a categorisation for support, services and specific rights.**

THE USE OF THE WORD “BELIEVE” IN STANDARDS AND GUIDANCE

Background

- 5.1 Police have, in the past, used high levels of discretion in decisions to record a crime and commence an investigation. Additionally, for personal crime, especially sexual offences and crimes committed within a domestic setting, many barriers were put up to progressing any investigation, both by the police and the legal system of the time. This was exemplified in Roger Graef’s 1982 Channel 4 programme, *Watching the Detectives*. The consequences of that programme still echo and led to changes in the way accounts of crime are taken and responded to. But inconsistency in the discretion applied to crime recording, especially for rape and other sexual crime, continues to bedevil policing

- 5.2 In respect of rape, in 2002 the Metropolitan Police issued a Police Notice that said “It is the policy of the Metropolitan Police to accept any allegation made by any victim in the first instance as being truthful.”^{vii} This has been repeated and adopted by other forces.
- 5.3 The HMIC inspection into crime recording in 2014 found an alarming number of crimes that had not been recorded as such. They recommended, in respect of recording crime, “the presumption that the victim should always be believed should be institutionalised”^{viii}. This referred to recording of all crime albeit they were particularly concerned about allegations of rape and other sexual offences.
- 5.4 In 2015 this recommendation was incorporated into the Home Office counting rules for recorded crime. In the preamble to the crime recording standard the following was added: “The Standard directs a victim focused approach to crime recording. The intention is that victims are believed and benefit from statutory entitlements under the Code of Practice for Victims of Crime”^{ix}.
- 5.5 In April 2015 Dame Elish Angiolini reported on rape investigation and prosecution in London^x. She said it was questionable whether a policy of institutionalised belief is appropriate. She felt that rather than labelling the approach as belief it is more appropriate for investigators to demonstrate respect, impartiality, empathy and to maintain an open mind. She felt that in the first instance officers should proceed as per the original 2002 police notice, assuming truthfulness on the initial allegation. She said believing the complainant may prejudice the impartiality of the officer’s role and lead to their failing to recognise or give weight to other evidence inconsistent with the complainant’s account.
- 5.6 Following the HMIC report and Dame Elish’s report, the then Metropolitan Police commissioner Sir Bernard Hogan-Howe commented on Radio 4’s Today Programme that the term belief has confused matters. He emphasised the need to be empathetic, open minded and that the evidence must be tested. He described a danger that, with the advice going around, there is a tendency to think the police will always believe any complaint and that such a stance is not wise for any good investigator.
- 5.7 In response to this interview the Chief HMI, Sir Tom Winsor made clear that the 2014 inspection concerned the administrative act of recording a crime^{xi}. He described the need to dispel presumptions of disbelief and said police must proceed with an open mind. In response, Sir Bernard accepted that HMIC were referring to an institutionalised belief at the time of recording but said the presumption of belief is open to being misinterpreted. He said that that recording crime at the earliest possible moment “means the report has been ‘accepted’. An analysis of belief does not add to the fact that the allegation is now to be investigated”.
- 5.8 As there was no explicit national police standard or guidance in respect of this matter Alex Marshall, the CEO of the College of Policing sought to clarify matters by convening a roundtable event in 2016. This led to a letter from the College to police forces saying that the current standards and guidance are clear: “At the point when someone makes an allegation of crime, the police should believe the account given and a crime report

should be completed. If, at the time of reporting, there is credible evidence to the contrary that determines no crime was committed then the matter should be recorded as an incident^{xii}. His letter described the expectation that such an approach is followed by a thorough, impartial, investigation of the facts and allegations made. It has been termed a “two-phase” approach. Alex Marshall provided context by extracting guidance from four separate sources, albeit none of these provide definitions, explanation of the terminology or detail of what is expected from officers.

- 5.9 In April 2017 Sir Richard Henriques was asked to review the work of Operation Midland, the enquiry into historic child abuse conducted by the Metropolitan Police into high profile suspects. His review looked at the policy of belief and recommended that the “instruction to believe a “victim’s” account should cease.

Context

- 6.1 There is little disagreement that police cultures of disbelief as well as an avoidance of pursuing what some officers’ saw as unsolvable crimes, undermined confidence in bringing matters to the police and criminal justice system for investigation and resolution. Excessive discretion in crime recording led to what used to be described as “cuffing” crimes, finding ways to prevent crimes being recorded or diverting them so an investigation was not necessary.
- 6.2 Despite advances in recording practices, it was clear (from the HMIC 2014 Inspection and other reviews) that crimes were still being written off before recording and investigation. This led to the emphasis on the frame of mind required in the initial acceptance of the report, that it would be “believed”, the allegation would be unconditionally and positively recorded as a crime unless there is evidence to the contrary immediately available.
- 6.3 There is a growing public awareness and increasing press references to a policing policy of believing the victim, often following high profile cases where defendants have been acquitted of serious offences. The suggestion made is that the police approached such investigations with a mind-set of belief rather than one of objectivity and impartiality.
- 6.4 In interviewing people for this review, it is clear there are significantly differing perspectives on these matters. There is a strong view that the police service has made enormous strides in building the confidence of victims and any indication that the police might be retreating from a policy that involves the word “believe” will send the wrong message to people who may wish to come forward. It is frequently described as a pendulum that has moved from scepticism to belief; allowing it to swing back would undermine the progress that has been achieved. Some argue that the work in institutionalising belief has still not gone far enough.
- 6.5 There is an equally strong view that “believing” is not what the police should be committing themselves to doing. Any suggestion that the police have a mind-set and or potential bias, even if confined to the earliest part of an investigation, is wrong and that

it is not the role of police to believe or not, but to start and continue an investigation in an open-minded way and present facts to any criminal justice decision maker.

- 6.6 It is positive, however, that on both sides of this argument there is common agreement that barriers should not be put up to prevent crimes being recorded and that support for victims is important. It is necessary to build a rapport, show empathy, avoid scepticism and external signs of disbelief, thus ensuring people are listened to and treated professionally.

Consultation and Evidence

- 7.1 I have listened to the thoughts and perspectives of a wide range of organisations and people, listed in Appendix B. Additionally, I have reviewed some of the academic evidence in respect of victims and belief, and have conducted focus groups with officers and staff.

7.2 Interpretation of the Standards and Guidance

- 7.2.1 Alex Marshall's letter says: "At the point when someone makes an allegation of crime the police should believe the account given and a crime report should be completed".
- 7.2.2 What is meant by believe? A common dictionary definition is "accepting a matter as true in the absence of proof". I have heard a range of views of what it means in practice. At one end of the spectrum the word is an ideological matter, one of faith, which has been characterised as blind acceptance and at the other end of the spectrum it is described as a conditional matter, it being more likely than not.
- 7.2.3 There is also a range of views about the word "account". The crime recording guidance is based on an allegation being believed for recording purposes and the Marshall letter says "at the point when someone makes an allegation of crime, the police should believe the account given..." It appears, but is not totally explicit, that Alex Marshall is referring to an account as the initial phone call or approach to the police where the allegation is first articulated. A number of people interpret it as the point in time someone is, in effect, interviewed in order to take their more detailed account of what happened.
- 7.2.4 This is more than a semantic distinction as the different views on this matter can affect the approach taken by investigators. Sir Richard Henriques referred in his report to the various accounts made by "Nick" the complainant and questioned which of his five accounts over six months would be seen as the one that should be believed. It has been suggested to me by a number of interviewees that the "account" must include the first interviews; it is the time a victim most needs to feel believed and it is where the exact type of crime is identified. Others will say that the first interview account is a key stage in the investigation and having a mind-set of believing the victim is wrong and unethical. When investigators were asked in focus groups I heard a range of opinions about what is the "account", with a number of officers saying they understood it as meaning all the accounts of the victim should be believed.

- 7.2.5 There is no guidance in policing as to how “believe” and “account” should be interpreted in practice. The Authorised Professional Practice (APP) does not address the matter and the training outcomes and syllabus for both investigators (the PIP levels) and public protection do not deal with it. The word “account” is commonly used in APP and training materials in the context of an interview or statement, not in the making of an initial allegation for recording purposes.
- 7.2.6 I held focus groups in three different forces involving, in total, 55 operational police officers and staff including investigators, response officers, staff who took initial crime reports and victim care staff. I circulated a questionnaire beforehand testing what they understood of the current standards and guidance in respect of believing victims at time of reporting and the Home Office counting rules and then I held discussion groups exploring the issues.
- 7.2.7 This was a relatively informal process but there were consistent findings across all three forces. No one knew about the distinctions in the College of Policing letter. This is not necessarily a concern as the letter from Alex Marshall was to clarify the issue not establish a new standard. What was of more concern is that officers and staff had extremely wide and differing views about what was professionally expected. Divergent views were expressed about what believing a victim meant, when it applied, and what was therefore required in terms of conducting an investigation. No one talked in terms of the initial account or made a clear distinction between believing for recording and believing during the investigation. Many talked about believing the victim throughout the course of an investigation although most of them said they would still aim to keep an open mind.
- 7.2.8 In the exchange of letters on this matter, described above, Sir Tom Winsor expressed a concern that some of the public discussion on the matter might increase the risk of misunderstanding and uncertainty. Most members of the focus groups, in fact, were unaware of the public debate and said they interpreted what was required from local instructions, supervision and training.
- 7.2.9 What was encouraging in the focus groups was a general acceptance that they should accept allegations for investigation, they should not be exhibiting disbelief or scepticism and that they had a responsibility to treat people with care and respect. Ultimately officers and staff must make sense of difficult, messy and often dysfunctional human interactions and all guidance and instruction needs to be supported by values and humanity. I was greatly encouraged by the values that obviously underpinned a lot of what the focus groups discussed.

7.3 Academic Evidence

- 7.3.1 The evidence shows that a fear of disbelief or being blamed for what has happened is a barrier to people coming forward and reporting their crimes, especially for sexual offences or more personal crime^{xiii}. A large proportion of victims of abuse or sexual offences do not tell anyone about the crime for a long time, if indeed ever. When surveyed one of the main reasons for not doing so is a fear of disbelief. Fear of not

being believed or taken seriously, or being blamed for what has happened, is a common thread. This is not confined to the police but includes other people in the lives of victims; families, friends, associates and the criminal justice system^{xiv}.

- 7.3.2 The police are, of course, key gatekeepers in opening an investigation and progressing towards justice or resolution so it is important how they are perceived in the process. On the whole fear of disbelief is frequently cited in the context of facing scepticism, challenge and rejection. What is less commonly explored is whether that translates into an expectation of a victim that they will be believed. One academic in commenting on the current approach observes that there is “a false assumption that the antidote to the insidious problem of police disbelief is its polar opposite”^{xv}. Victims commonly express a wish for the crimes being taken seriously^{xvi} and properly investigated but there is less research that describes what victims or potential victims expect the police mind-set to be and what they view the police role as being.
- 7.3.3 Additionally, victims surveyed do not distinguish between the taking of a first account and the remainder of the investigation. In fact, it is apparent in the various reports and surveys that the fear of not being believed extends to the whole process of investigation, to court and beyond the criminal justice system, way outside the limited context of the current policing standards and guidance in respect of the reporting process and early account.
- 7.3.4 Victims are not the sole participants in a process of investigation. Research has shown that the overall legitimacy of the police in the eyes of both participants and observers rests on procedural justice^{xvii}. This is a legitimacy largely fostered by the perception of police fairness, people thinking officers will treat them with respect, make their decisions fairly and take time to explain them, and be friendly and approachable. The research shows that fair police decision-making and positive public interaction is not only important in their own right but crucial to the way police operate and their overall effectiveness^{xviii}.
- 7.3.5 Victims commonly talk about wanting to be taken seriously. Clearly being serious about the allegation rather than dismissive is important but there are a range of actions or approaches can have the effect of leaving a victim feeling supported or undermined, shaping their feeling about whether they are believed or disbelieved. Dr Elly Hanson extracted these in an overview of the research on belief and describes them as “validating actions”. These are:
- Taking the allegation seriously
 - Empathic listening and warmth
 - Conducting a thorough investigation
 - Assessing safety and taking action where ongoing abuse or intimidation is described
 - Attention towards the victims emotional and physical welfare
 - Statements that convey knowledge of the crime type and non-acceptance of the crime.

The so called “validating actions”, described above, overlap with words and actions that promote respect, trust and acceptance, reflecting the principles of procedural justice.

Elements of the above approaches are covered in various parts of APP and training material produced by the College of Policing but are not collectively and consistently addressed.

7.3.6 These actions are important in setting the right tone for victims and are not contingent upon investigators having a mind-set of belief. But there are a number of internal stances that can influence behaviours. For example, it has been found that police officers who more strongly believed that many, if not most, rape allegations were false had less knowledge of effective victim interviewing^{xix}. Also, some research has shown police may treat victims in a less validating fashion when there is a less chance of a successful prosecution because, for example, the perpetrator has not been identified^{xx}. This may be because such an approach will save resources rather than a lack of belief in the victims account but it is an internal stance that will affect the way the investigation is approached. Similarly, when officers ask detailed questions their motive can be misinterpreted. Some victims perceive such questioning as reflecting a disbelieving stance but careful explanation of the process can help prevent them drawing such an inference^{xxi}.

7.3.7 Thus, regardless of whether we change the word “believed” in the crime recording rules if we wish to address the anxieties of victims about the whole process of reporting and investigation then we will have to look at our response in a more sophisticated way. As Dr Elly Hanson comments:

“Although officer’s beliefs cannot and should not be mandated (especially in relation to particular victim accounts) they are likely to make changes to their perspectives on the basis of guidance and training that, for example, promotes self-reflection, and educates about the dynamics and impact of abuse. This then, in tandem with more action-focused guidance, is likely to have a knock-on effect upon practice.”

7.4 Wider Examination of the Problem

7.4.1 In the course of this review, I have been introduced to a number of examples of failures in criminal investigations where a mind-set may have had a role to play in blinkering the investigators to wider relevant evidence. What is difficult, if not impossible, to prove is whether the failures were caused by a particular mind-set, a lack of knowledge, insufficient capacity, poor processes or incompetence.

7.4.2 There is no doubt that there has been a substantial increase in the recording and investigation of complex cases^{xxii}. One interviewee described it as “an industrialisation” of non-recent and current sexual abuse investigations. The sheer scale of digital material in many individual cases dwarves the handful of relevant documents that might have been examined and disclosed during an investigation only five years ago. There is a widespread concern that the overall skill levels, digital forensic capacity and quantity of experienced investigators have not matched the growth of demand.

7.4.3 In respect of crime recording, all police respondents, especially the focus groups, described a substantial change in culture in respect of accepting crimes for recording.

The push initiated by HMIC in the 2014 inspection has had a substantial impact and their original set of recommendations have made a difference.

7.4.4 In the course of discussions with officers and staff most (but not all) said they were not chased to meet targets, thus distorting behaviours. A few, however, commented they felt they were being judged on outcomes, especially convictions, in rape and sexual allegations. Some complained how difficult it was to take a crime off the books if they judged it false, so called “no-criming”. This has been addressed in some forces by removing any expectation on officers to do so and the tone of the focus group in the force where that had been made absolutely explicit was much more accepting of the crime recording regime and how it operated.

7.5 Consultation

7.5.1 There is near unanimity among the legal profession that requiring the police to believe the allegation at the onset of an investigation is wrong. This is reflected in Sir Richard Henriques’s recommendation but is a common view held among most of those I consulted who had a legal background, especially the judiciary and the Senior Presiding Judge for England and Wales, but also practicing solicitors, and others closely engaged in the CJS. One High Court Judge pointed out that the police, while a gatekeeper, were not the only player in the system. He felt that taking a stance of believing a complainant, even for the purposes of recording a crime, was wrong in principle. He said the police should not feel they are the ones to put the wrongs of the system or society right by adopting a flawed approach.

7.5.2 Victims advocate groups have varied views. One organisation consulted had a publicly shared view on this subject: “Victims of abuse need to know that they will be listened to and taken seriously. This is not the same as being automatically believed. No victim can or should be guaranteed that their testimony will be assumed to be the truth”^{xxiii}. One organisation was clear that the police should be avoiding disbelief and scepticism, while the third felt that believing a victim is important throughout the investigative process. Groups that represent the interests of defendants are clear that it is unfair to have an approach of believing the victim even for reporting as it immediately creates a biased mind-set.

7.5.3 The representative of the Police and Crime Commissioners was very strongly in support of retaining the concept of belief in reporting and saw no problem if it extended into the wider interactions that an investigator has with a victim. She, along with a number of others I interviewed, felt that as it could not be proven that a mind-set of belief had the effect of negatively influencing the outcome then we should not change our approach.

7.5.4 It was suggested by two interviewees during the course of this review that the medical profession builds trust because they believe their patients. Having discussed this with doctors, nurses and two Professional Bodies in medicine I could find no evidence of such an ethos. They emphasise listening and respecting the patient’s account. Some apply, as one GP described it, an “assumption of truthfulness when they walk in the door, tested as the consultation commences”.

Discussion and Recommendations

- 8.1 The core of this matter stems from the Crime Recording Rules. They currently say “the intention is that victims are believed...” In this section I lay out three options in respect of the wording, although I have come to a clear conclusion for change reflected in my recommendation. There are two additional recommendations drawn from my wider research. I lay out my key considerations below to promote the broadest debate and allow Professional Committee or others to reach a conclusion based on their collective judgement.
- 8.2 In making recommendations about change I have had three outcomes in mind:
- Maintaining and enhancing progress in encouraging people to come forward and report crime, especially those who are vulnerable or hurt.
 - Ensuring that disbelief is not a factor in deterring people to come forward
 - Maintaining trust by demonstrating the approach to crime recording and investigation is unbiased, impartial, fair, and respectful to both victims and suspects
- 8.3 The distinction between taking an account for the administrative act of recording a crime and the taking of a victim’s account as part of the investigation is poorly understood and there is confusion among investigators and staff over exactly what is to be believed and how far belief should extend. If the College retains the status quo then it is essential it is clarified and explained to the profession exactly what is expected.
- 8.4 Listening to the debates I realised that, in trying to explain or defend the current position, people were making artificial distinctions within a complex set of complementary and overlapping activities. The process of recording allegations, taking accounts and investigating crimes is not, and should not be seen as, a clinical division of separate activities. It is not at all surprising that, for officers and staff, “believe” and “belief” have leaked into the wider investigative environment. Good investigative practice involving active listening, open-mindedness and impartiality should apply from the very earliest stages even the first act of listening to an individual’s account of what has happened. The recording gap can be addressed by instruction to adhere to existing crime recording rules, not by an instruction to believe. In any case mandating a mind-set is problematic, some say unethical. A professional body should focus on laying out and mandating expected behaviours not mind-sets.
- 8.5 The external perception that the police have a policy requiring investigators to adopt a mind-set of belief has gained traction. Many external observers, like internal staff, do not understand the distinction being made between recording and the subsequent investigations. While this could be more comprehensively explained to the outside world (and will need to be if the College retains the status quo), the legitimacy of policing is based on all in the community seeing it as fair.
- 8.6 I could not conclusively identify evidence that crime investigations had been distorted by a mind-set caused by officers or staff believing accounts (however that is defined) but it is also not possible to prove the opposite. The most common public expectation is that

the police will treat people with respect and professionally and impartially investigate the allegation. This is what the police service must work on. Maintaining a stance involving believing victim accounts, however limited, has potential to undermine the legitimacy of the process. Policing must be seen as fair by all involved in the legal process as well as wider society.

- 8.7 If the word “believe” is changed in the crime recording standard there is a significant risk that headlines could appear that say police have stopped believing victims, and this might have an impact on the confidence of people who may be reluctant to report their crimes as well as sending the wrong message to our staff. However, anyone who examines closely what is being proposed will realise this has nothing to do with the police taking a disbelieving stance, quite the opposite, and any press or publicity that frames the change in a misleading and negative way can be firmly challenged.
- 8.8 Throughout the review a number of people have suggested returning to the original wording of the 2002 Metropolitan Police Notice that an allegation should be initially treated as if truthful, something Dame Elish Angionlini comments upon. This has merit as it is not an instruction about mind-set but one of approach, however some people argue that such a phrase is also open to interpretation and may confuse matters. After consideration I believe that the related APP and training material, if sufficiently comprehensive about the appropriate professional behaviours (addressing the factors described in 7.3.5 above), can ensure a supportive and accepting approach.
- 8.9 The College of Policing has three options:-
- that the word “believe” is retained in the counting rules but provide significantly more clarity in APP, internal police training and external communications, about how “believe” and “account” should be interpreted and what is expected;
 - propose a change to the counting rules removing “believe” but replacing it with a phrase that talks about any allegation being initially “treated as being truthful”, with associated explanation in APP and training materials that this is not about a mind-set but an accepting, informed and open-minded approach;
 - propose a change removing the word “believe” but reinforce that fact that any crime will be treated seriously. In taking matters seriously it means that the investigation commences immediately, accounts and investigation will not be conducted in a frame of mind of “belief” or “non-belief”, but in a supportive and open-minded way, with active listening and a full explanation to the person making the allegation about the impartial and independent role of police and the way they will be supported in providing the best evidence to support any possible legal proceedings.

I recommend the third option, below.

- 8.10 Recommendation 3: The College of Policing and NPCC should approach the Home Office to amend the crime recording counting rules to remove the words “The intention that victims are believed” to “The intention is that victims can be confident**

they will be listened to and their crime taken seriously". If accepted the College of Policing APP and training materials should be reviewed to support this approach.

8.11 In the course of this review I have looked at the APP and College of Policing guidance and training materials. I was looking at the extent to which this body of material addressed the expected behaviours and knowledge of investigators in overcoming a victim's fear of disbelief and other barriers to recording and investigating crime. There is some excellent material, especially in the more recent vulnerability, domestic abuse and sexual assault APP and training, but standards and guidance across the board are not consistent in addressing these points, and the training is not consistently delivered across forces.

8.12 In looking at the APP and training materials the following are areas that that could be more consistently embedded and delivered:

- What it means for any investigation to be conducted with professional empathy and an open-minded approach including ways to challenge assumptions and encourage reflective practice
- An understanding of the impact of crime on victims, especially victims of abuse and sexual crime, and what this may mean in respect of accounts and evidence
- Guidance on how accounts (including initial accounts) can be clarified, tested and appropriately challenged in the most supportive and explanatory way possible
- An understanding for all investigators of the evidence base of false reporting and other factors that can subconsciously influence them in being less welcoming of criminal allegations

In the course of this review a number of participants (victims' groups as well as officers and staff) offered to assist in reviewing the training materials to assess the extent to which it is victim focused and procedurally fair.

8.13 Recommendation 4: The College of Policing consider how the aspects described above in 8.12 could be embedded across all APP and training to ensure it is victim focused and procedurally fair for both victims and suspects. The College of Policing should consider with the NPCC and HMICFRS how greater consistency can be achieved in the delivery of investigative training and standards across forces.

8.14 In defending the use of the word "believe" some people are concerned about any form of reversion to the "bad old days" of rejecting allegations and failing to take a crime seriously. Having observed, through the focus groups, some extremely positive attitudes I am not convinced the culture will spring back in the absence of one word, especially if the training, APP, and the application of the Victims Code are reviewed to ensure the required behaviours are maintained. HMICFRS will continue to maintain a focus on crime recording but there are wider steps that could be taken to help ensure consistency in the service provided to victims.

8.15 I was introduced to the work of Ombudsmen in different sectors and also the proposals of the Victims' Commissioner for victims' advocates. The police complaints system is an extremely poor mechanism for seeking resolution of victims' concerns and the police

service could play a part in shaping alternative mechanisms for responding to issues raised by victims.

8.16 Recommendation 5: The NPCC Lead for Victims and Witnesses engages with the Ministry of Justice and Victims' Commissioner and considers how appropriate compliance with the Victims Code and proposals (such as Victim Advocates) could be progressed to ensure victims can ensure their crime is being taken seriously and dealt with in a reasonable and appropriate way.

Rob Beckley

Assistant Commissioner

February 2018

ⁱ <http://news.met.police.uk/documents/report-independent-review-of-metropolitan-police-services-handling-of-non-recent-sexual-offence-investigations-61510>, page 7

ⁱⁱ Black's Law Dictionary, 2009 Edition

ⁱⁱⁱ <https://en.oxforddictionaries.com/definition/victim>

^{iv}

https://books.google.com/ngrams/graph?year_start=1800&year_end=2008&corpus=15&smoothing=7&case_insensitive=on&content=victim&direct_url=t4%3B%2Cvictim%3B%2Cc0%3B%2Cs0%3B%3Bvictim%3B%2Cc0%3B%3BVictim%3B%2Cc0;

https://books.google.com/ngrams/graph?year_start=1800&year_end=2008&corpus=15&smoothing=7&case_insensitive=on&content=complainant&direct_url=t4%3B%2Ccomplainant%3B%2Cc0%3B%2Cs0%3B%3Bcomplainant%3B%2Cc0%3B%3BComplainant%3B%2Cc0

^v https://en.wikipedia.org/wiki/Labeling_theory

^{vi} <https://law.lclark.edu/live/files/21940-use-of-the-term-victim-in-crim-proc11th-edpdf>

^{vii} https://www.met.police.uk/globalassets/foi-media/disclosure_2016/may_2016/information-rights-unit---a-copy-of-special-notice-11-02

^{viii} <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/crime-recording-making-the-victim-count.pdf> p90

^{ix} <https://www.gov.uk/government/publications/counting-rules-for-recorded-crime> p3

^x <https://www.cps.gov.uk/publication/report-independent-review-investigation-and-prosecution-rape-london-rt-hon-dame-elish> para 220-222

^{xi} https://www.met.police.uk/globalassets/foi-media/disclosure_2016/december_2016/information-rights-unit---copies-of-all-correspondence-between-sir-bernard-hogan-howe-and-sir-thomas-winsor-over-the-past-year

^{xii} Media statement supporting the letter: http://www.college.police.uk/News/College-news/Pages/College_comments_on_belief_of_victims_.aspx

^{xiii} Much of this section is drawn from a review of evidence about belief by Dr Elly Hanson completed for the police and also sources identified in the course of the review. Dr Hanson will be publishing on this topic in due course.

^{xiv} <https://www.justiceinspectorates.gov.uk/hmicfrs/publications/nspcc-report-would-they-actually-have-believed-me/>;

https://www.victimsupport.org.uk/sites/default/files/VS_Survivor%E2%80%99s%20justice.pdf

^{xv} <http://www.police-foundation.org.uk/2016/04/shoring-up-the-foundations-victim-belief-revisited/>

^{xvi} <https://www.victimsupport.org.uk/sites/default/files/Victim%20of%20the%20System%20report.pdf>;

^{xvii} https://en.wikipedia.org/wiki/Procedural_justice

^{xviii} http://whatworks.college.police.uk/Research/Documents/Fair_Cop_Briefing_Note.pdf

^{xix} Rich and Seffrin, 2012, Police Interviews of sexual assault reporters: do attitudes matter? Violence and victims, 27(2), 263-279

^{xx} Patterson, D (2011). The Linkage between secondary victimization by law enforcement and rape outcomes. Journal of Interpersonal Violence, 26(2), 328-347

^{xxi} Greeson, M R, Campbell, R, & Fehler Cabral, G. (2016). Nobody deserves this: Adolescent sexual assault victims' perceptions of disbelief and victim blame from police. Journal of Community Psychology, 44(1) 90-110

^{xxii} For example:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017>

^{xxiii} NSPCC Press Release

APPENDIX A

Terms of Reference for a Review into Believing the Victim and the Victim/Complainant Terminology

A review to consider two matters. The first is the standards and guidance that exist in policing in respect of believing victims, and the second is the use by police, during the recording and investigative process, of the term "victim" rather than "complainant". These two matters were highlighted by Sir Richard Henriques in his review of the Metropolitan Police Service's handling of non-recent allegations in respect of persons of public prominence (Operation Midland).

Commissioned by the College of Policing for Report to the Professional Committee.

- Identify what is laid out or advised about "believing a victim", at the time of recording a crime and during an investigation, in APP or other sources owned by the College, HMICFS, NPCC leads, or any other relevant body. Likewise assess the provenance and use of the term "victim" as opposed to "complainant" and any guidance in respect to the use of such terminology
- Review the extent of the evidence base (of all types) that has a bearing on these matters
- Take stock of the views of people and organisations with an interest in this matter. This will include professional views within policing (College leads, NPCC business areas, HMICFRS, forces, PCCs and the NCA); victim and offender advocate groups; CPS and the legal profession; others with a legitimate perspective.
- From the above steps, identify the key points of contention and debate
- Assess and weigh up the evidence and the differing perspectives, including the risks and challenges of maintaining the status quo, of making any change, or of delaying a decision.
- Make any recommendations including, if applicable, considerations in respect of implementation

Estimated time scale of three months, to include research, meetings with interested parties and discussions with practitioners.

Rob Beckley

Assistant Commissioner

Organisations and Individuals Consulted during this Review:

College of Policing Crime Faculty and Training Staff

College of Policing Evidence and Research Team

Focus Groups of Police Officers and Staff in

- Avon and Somerset Constabulary
- Metropolitan Police Service
- Durham Constabulary

Interviews and discussions with Chief Constables and Senior Officers

NPCC Portfolio Leads

Operation Hydrant

National Crime Agency

POLKA Community, National Detectives Forum

Dame Vera Baird, Police and Crime Commissioner for Northumbria

Victim Support

NSPCC

SafeLives

Educational Action Challenging Homophobia (EACH)

Baroness Helen Newlove, Victims' Commissioner

Margaret Gardener, False Allegations Support Organisation

Wendy Williams, HMI, Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services

Home Office Safeguarding Unit

Home Office National Crime Registrar

Ministry of Justice Policy Leads

Crown Prosecution Service, Policy and Media Leads

Senior Presiding Judge, England and Wales

His Honour Judge Christopher Prince, Presiding Judge Durham

Group discussion with Liverpool based Judges at the Judges Lodgings

Richard Atkinson, Tuckers Solicitors, Chair, Law Society Criminal Law Committee

Royal College of General Practitioners

British Medical Association

Dr Elly Hanson

Portsmouth University

The Police Foundation

Cardiff University Innocence Project