

Media reporting on child homicide victims

Response to consultation Closing Tuesday 1 October 2024

1. PLEASE SHARE ANY THOUGHTS YOU HAVE ON HOW THE MEDIA CURRENTLY REPORTS ON CHILD HOMICIDES.

VSS has led the public campaign for reform of media reporting on child homicides since the beginning of 2024. As the operators of Scotland's only national service for families bereaved by crime, we are uniquely placed to contribute to this debate and have significant experience of supporting families to navigate media interest in their family tragedy.

We recognise that every family bereavement is painful, but families tell us that the loss of a child to homicide is particularly traumatic, and that media interest compounds and perpetuates their trauma (Victim Support Scotland, 2024b).

1.1 CURRENT FRAMEWORK

Currently, there is no legislation to moderate media coverage of child homicide cases. Members of the press can voluntarily adhere to [National Union of Journalist Code of Conduct](#) and the [IPSO Editor's Code of Practice](#). While there exists guidance on reporting of deaths (including suicide) and inquests, this does not specifically cover reporting of child homicides. Under the Code of Practice, the media can publish *factual information they believe is in the public interest* (IPSO, 2021). There is no requirement to balance this against the impact on the bereaved family.

1.2 COMMENT ON CURRENT REPORTING

VSS has three main areas of concern about the way in which child homicides are reported:

- a) Investigation,
- b) Tone,
- c) Content.

a) Style of press investigation

Media interest in child homicide begins to have an impact on bereaved families before any articles about their case are published. Fielding inquiries from members of the press is an unnecessary yet avoidable burden for a family in this situation, should anonymity for child homicide victims be enshrined in law.

Survivors Against Terror highlight the ‘second trauma’ (retraumatisation) that survivors of terrorist attacks experience as a result of media coverage. Of the almost 300 surveyed, 59% of survivors said they had experienced media intrusion (Survivors Against Trauma, 2021). Complaints included:

- Pestering and pressure,
- Misrepresentation,
- Invasion of privacy (ibid.).

People in our Support for Families Bereaved by Crime service report similar experiences and harm caused by the media interest in their cases (Victim Support Scotland, 2024b).

With express consent from family members, VSS can act as a liaison between bereaved families and the press, often supporting them to give interviews and aid the investigation. However, this can be interpreted by some members of the press as ongoing consent for media involvement. This causes serious harm to the victim’s family as they are forced to re-live the crime, which can hinder them from moving forward (ibid.).

b) Style of press reporting

Reporting of all crime types impacts victims and witnesses, but it can be particularly traumatising for the family of a child who dies unexpectedly as a result of crime. This is in part due to the reporting style deployed by some media outlets which can:

- Objectify the victim,
- Exploit the family,
- Report in a sensational and simplistic way (ibid.).

Immediately following a child homicide, families can be exposed to a myriad of coverage that can vary greatly in tone and include a range of graphic and unnecessary details (ibid.). Many families believe that this reporting style is in part due to the low rate of cases and the perceived levels of public interest in what is a rare and shocking event (ibid.).

British media outlets have been cited as particularly guilty of this in academic texts. David A. Green compared the coverage of the James Bulger case in the UK and the Silje Redergård case in Norway – both are child-on-child homicides from the 1990s (Green, 2007). Green noted that the British press was significantly more emotive and condemnatory, while Norwegian reporting was more reserved and balanced (ibid.). He goes on to state that because British journalists were so vociferous in their condemnation of the perpetrators, James Bulger’s murder became a cause celebre with continued interest to this day (ibid.). There has been similar coverage of cases in Scotland in recent years.

NOTE: VSS can compile a dossier of examples which can be provided to the Consultation as evidence under separate cover if desired.

c) Content of press coverage

Families supported by VSS Support for Families Bereaved by Crime service tell us that it is particularly distressing when:

- Unnecessary detail is in the public domain which is easily accessible by surviving siblings (Victim Support Scotland, 2024b).
- A photo of the deceased is placed alongside a photo of the perpetrator (ibid.).
- Additional coverage is issued on the anniversary of the death of their family member (ibid.).
- Photos of the deceased are used when reporting on updates to the perpetrator e.g., when the perpetrator moves within the prison estate (ibid.).
- Their child's last known movements are depicted on a map (ibid.).
- Media coverage is followed by blogger and vlogger content and true-crime podcasts (ibid.).

1.3 IMPACT ON FAMILIES

Our response is focused on:

- a) Immediate impact,
- b) Impact on surviving siblings,
- c) Impact of reporting in the years to follow.

a) Immediate impact

Media interest in child homicides is at its most acute immediately following the crime. This coincides with the period during which the bereaved family is at their most vulnerable. Families tell us that they would prefer not to have had to deal with the pressure of media on top of the learning about the death of their family member (ibid.). We have commented above on the harmful impact of media inquiries and given specific examples of conduct that can exacerbate the trauma experienced by families during this time.

VSS often advocates on behalf of families bereaved by crime to moderate and amend current media reporting. This can, with the consent of the family, involve:

- Liaising with the media on their behalf,
- Issuing statements to the press,
- Engaging with media outlets to highlight specific issues,
- Liaising with IPSO to issue Private Advisory Notices when families do not wish to be contacted by the media.

Additionally, we advocate on behalf of families to *request*:

- Discontinued use of a specific photo e.g., to replace with one of the family's choice.
- Changing distressing wording e.g., that provides an overly graphic description of the crime.
- Removal of unnecessary detail e.g., full details of sentencing decisions.

The main driver for these requests is the distress of the family. These requests are not always agreed to by the media, who maintain that *'what is factual is fit to print.'*

A parent who lost their child to murder, said:

"I have had several articles and pieces of inaccurate information removed from the mainstream press and social media, but the coverage feels never-ending. Every day I am constantly reminded

about the traumatic nature of my child's death. This could all have been prevented had my child's name not automatically been released to the public when they died. It often feels like the world has more rights to my child than I do." (Victim Support Scotland, 2024a)

Importantly, our original campaign had a broader scope than traditional media reporting alone. We referenced additional channels, including social media, which can contribute to the intensity of interest immediately following a child homicide. Whilst it may be tempting to view traditional media coverage and social media content as two distinct issues, families tell us that social media content that traumatises the family often originates from publications by traditional media outlets. We have also seen evidence of this first-hand. VSS often works to have such social media content removed on a voluntary basis, and we keep records of the timeline of content being posted and the original source material. Examples include removal of content on a media outlets' website, social media platforms or YouTube channel e.g., video footage of sentencing, and true crime podcasts.

b) Impact on siblings

Families tell us that it is particularly challenging to safeguard surviving siblings (and other children in the family) from the significant media attention and volume of content following the death of a child or young person.

Families bereaved by crime tell us that this means that:

- They must closely control access to the internet for fear that their other children learn about the distressing and age-inappropriate detail of their sibling's death (Victim Support Scotland, 2024b).
- They know that this content is available to their other children's peers and that they may learn distressing and age-inappropriate detail through friends and school connections (ibid.)
- Having attended pre-trial hearings and the trial itself, they are often personally recognisable and therefore are approached by, often well-meaning, members of the public outwith their local area and cannot move on with their lives for fear of being recognised and asked about their sibling's murder (ibid.)

There is a risk of significant harm to siblings given that it is impossible to avoid media exposure when articles are currently readily available online and the internet is a daily necessity for school and work (ibid.).

A parent who lost their child to murder, said:

"When my child died as a result of murder, every detail of their life, their siblings and school was in the public domain. This was put under further microscopic detail during the trial, while the perpetrator was afforded significant privacy and protection. The media intrusion which followed my child's death further compounded the trauma I was already experiencing. My children cannot be children because of the constant fear of what the media will print next. It still goes on to this day, and I am constantly worried when and how my other children will find out more distressing details about their sibling's death." (Victim Support Scotland, 2024a)

c) Impact in the years to follow

Families tell us that the harmful effects of media coverage of their tragedy persists long after the immediate aftermath of the crime. As noted above at 1.2c), renewed coverage as the case makes its way through the criminal justice system, or on key milestones or anniversaries, has a retraumatising effect. This is especially true when explicit details about the crime are republished. Families also report the confronting effect of seeing a photograph of their child on the front page of a newspaper years after the crime.

2. PLEASE SHARE ANY THOUGHTS YOU HAVE ON ANY ACTION THAT COULD BE TAKEN TO AMEND THE CURRENT POSITION ON MEDIA REPORTING OF CHILD HOMICIDES.

2.1 OBJECTIVES

When considering this question, VSS has the following objectives:

- a) Protection of the rights of the deceased child providing parity with child perpetrators.
- b) Increased choice and control for bereaved families.
- c) Reduction of trauma to bereaved families.

2.2 RECOMMENDATIONS

Based on internal feedback sessions, we believe these objectives can be advanced by:

- a) Automatic right to anonymity for children who die as a result of crime. We say here 'die as a result of crime' as there are instances when criminal activity is clear but not yet established in court.
- b) The family having the right to waive anonymity should they so choose.
- c) Introduction of a victim-centred and trauma-informed media Code of Conduct, in addition to enshrining anonymity provisions in law.

Families tell us that they see a need for recommendations a) and b) to be underpinned by legislative change.

a) Automatic right to anonymity

Children should not lose their right to privacy, enshrined by Article 16 of the UNCRC, because they die as a result of crime (The United Nations, 2016).

A parent who lost their child to murder, said:

"I do not think it is right that children lose their rights when they die from crime. If the Scottish Government cares about the next generation, they will make these changes we are all calling for." (Victim Support Scotland, 2024a)

A family member of another child homicide victim told us:

"Although this type of crime is rare, it still happens. The family, surviving siblings, and even the victim, have a right to privacy so they can comprehend what happened without media intrusion and inaccurate information. All victims should be protected, in life and in death. The anonymity laws must be extended to children who die as a result of crime." (Victim Support Scotland, 2024c)

There is existing precedent to support this approach. In cases of a missing person who is then found alive, and in instances where there is a sexual offence, a victim's identity can be removed and/or withheld (BBC, 2023).

We would advocate for this in cases of child homicide. Reporting of the case can continue, but without linking the detail to an individual's name or key identifying features. This is particularly important in cases of filicide (The Conversation, 2021).

b) Waiving anonymity

VSS advocates for the choice and control over how the homicide of a child is reported to sit firmly with the family (Victim Support Scotland, 2024b). This could be achieved with an automatic right to anonymity with the option to waive should the family wish to do so. We have explored this further in questions 13 and 14.

c) Trauma-informed reporting

Despite an international increase in trauma-informed reporting, evidenced by literature like Trauma Reporting: A Journalists guide to Covering Sensitive Stories (Healey, 2019) this approach is not adopted by all outlets in Scotland.

VSS does not aim to censor the press. We do wish to see a move towards more trauma-informed reporting, and we advocate for child anonymity provisions as a central tenet of this approach.

When asked about trauma-informed reporting, Ed Yong, staff writer at The Atlantic said:

"If you respect the sources as people, then you can avoid the trap of treating them as these macabre circus acts for people to gawk at." (Nieman Foundation, 2022)

As noted above, currently there is no specific protocol in the IPSO Editors' Code of Practice or the National Union of Journalists Code of Conduct regarding children who die as a result of crime. This can be contrasted with media reports on a crime with a sexual element, where the victim's identity is protected (IPSO, 2021).

Where there is a crime with a sexual element and the child also dies as a result of that crime, then the child loses their right to anonymity. This results in details of a crime being made available that would not have been disclosed if the child had survived. Families tell us this feels particularly dehumanising and disrespectful (Victim Support Scotland, 2024b).

IPSO publishes a record of upheld complaints on their website, which includes instances of English media outlets that failed to anonymise reporting of children in sexual cases from 2021 and 2015. When asked to comment, IPSO stressed that it is less common to receive upheld complaints around media coverage of children in sexual cases, as members of the press generally comply with the guidance set out.

This suggests that extending the guidance to include provision to preserve the anonymity of child homicide victims may have a mitigating effect on the status quo. However, this must be balanced against families' concerns that the rarity of child homicide cases is often cited as a justification for increased public interest, and by extension, media attention. For this reason, we repeat our call for the right to anonymity to be enshrined in law.

Clear and consistent media guidelines will reduce the risk of families being exposed to retraumatizing news coverage and press-led social media content (Victim Support Scotland, 2024b). Existing provisions in the IPSO Editor’s Code of Practice for children in cases involving sexual assault should be extended to include children who die as a result of crime. Further steps should be taken to prevent the exploitation of families who have already experienced devastating loss, and who require time to grieve in private, away from public view (ibid.).

The National Union of Journalists Code of Conduct clearly advises that a journalist “does nothing to intrude into anybody’s private life, grief or distress unless justified by overriding consideration of the public interest”. However, this is often the argument made when covering child homicide cases.

We stress that enhancing guidance should be done as well as enshrining anonymity in law – not in lieu of – to ensure consistent compliance (Victim Support Scotland, 2024a).

2.3 FURTHER CONSIDERATIONS

Jigsaw identification through public death certificates

Additionally, we are aware that at the Ministerial Roundtable there was a discussion regarding the media being able to uncover the identity of children who die as a result of crime through death certificates. It is important to distinguish between restrictions on reporting, and restrictions on knowledge. We do not seek to limit what journalists are capable of discovering through investigation. Where we want to see restrictions is on what can be reported. That said, there may be merit in considering the introduction of a short form death certificate, similar to the short form birth certificates produced for adopted people through the Adoption Register, to be implemented and uploaded to the National Records of Scotland. A full death certificate would still be created and issued to the family, but this could be excluded from the public record until 100 years have passed. This kind of measure would be possible and proportionate given the low rate of children who die as a result of crime.

3. TO WHAT EXTENT DO YOU THINK AN EXTENSION OF ANONYMITY TO DECEASED CHILD VICTIMS WOULD AFFECT FAMILY AND FRIENDS WANTING TO TALK PUBLICLY ABOUT THEIR LOSS?

We do not believe the extension of anonymity to deceased child victims would limit family and friends' ability to talk about their loss, nor do we wish to create a system that would do so (Victim Support Scotland, 2024b).

We want bereaved families to have choice and control over how their loss is reported. This is why VSS endorses an automatic right to anonymity, enshrined in law, with an option to waive should the family wish to do so.

We do not believe extensions of anonymity to children who die as a result of crime would necessarily censor families (ibid.). We believe that legislation to moderate reporting on child homicide cases would put choice and control in the hands of family members.

There are many examples of survivors of rape, sexual assault and domestic abuse speaking publicly about their experience while still protecting their anonymity e.g., through the use of pseudonyms, anonymised interviews, and awareness campaigns. We also have direct experience of supporting families bereaved by crime raise to awareness of their case through anonymised interviews and media engagement.

Media contacts have made the argument that this proposed legislation would not allow for families who wish to campaign in memory of their child. VSS does not share this view, and we maintain that is exactly why a waiver needs to be in place. A waiver would allow families who wish to launch public campaigns to do so whilst naming the child who died as a result of crime. We believe it is paramount that families are given the time and space to decide what is best for them – including surviving siblings (Victim Support Scotland, 2024b). Families often tell us they feel exploited in their time of grief to divulge intimate details to satiate response to the press and public desire for true crime content – something that they often later regret. The public's appetite for information cannot outweigh a family's (ibid.). Ensuring child homicide victim's anonymity would help provide space for families to grieve in private and process information at their own pace (ibid.).

We acknowledge that in some cases, the family will be known in the local community (especially on islands and in rural areas) however this does not negate the need to take steps to limit national coverage.

We highlight here the research undertaken on international examples as provided by Professor Andrew Tickell. The main concern raised was regarding:

Criminalisation of surviving relatives who want to talk publicly about their kin, criminalising the conduct of ordinary well-meaning people, and extending legal protections to people who may not merit them:

- VSS does not wish to criminalise people in their time of grief who inadvertently breach anonymity restrictions. We do not believe this approach would serve any party as it would further overwhelm family members in times of distress and add pressure on to the already over stretched criminal justice system.

Given that 62% of children who are victims of homicide are killed by their parents (Scottish Government, 2024a), this would create an automatic right to anonymity for these perpetrators:

- As Scotland's national victim support organisation our primary goal is to support victims of crime in life and in death. Ensuring the anonymity of children who die as a result of crime, and protecting the wellbeing of surviving siblings, takes precedent over any concerns around perpetrators inadvertently benefiting from anonymity measures being extended. Additionally, there are already measures in place to protect people under the age of 18 who commit crime (BBC, 2018), therefore, there is precedent from protecting perpetrators anonymity in extenuating circumstances.

Assumes that all families would want anonymity:

- While people supported by our services tell us they are in favour of anonymity (Victim Support Scotland, 2024b), we recognise that every family is unique and processes trauma differently. That is why VSS supports an automatic right to anonymity with the option to waive should the family chose to do so.

Assumes automatic anonymity:

- In order to provide protections families might want, VSS maintains that it is better to provide automatic anonymity with the right to waive. Families bereaved by crime we have engaged with express a preference to have the opportunity to consider sharing their child's identity away from public attention, and until a point at which they may consider waiving anonymity. Our engagement with people we support and feedback session with staff and volunteers shows that there is significant support for automatic anonymity in child homicide cases (Victim Support Scotland, 2024b).

While Dr Tickell highlights some concerns with international examples, we believe Scotland can learn from other jurisdictions and develop legislation that best serves children who die as a result of crime, their families, and Scots Law.

4. DO YOU CONSIDER THAT AN EXTENSION TO ANONYMITY WOULD HAVE AN IMPACT ON THE ABILITY OF THE POLICE TO INVESTIGATE A CRIME?

No. Protecting child homicide victims' anonymity would not impact on the ability of the police to investigate a crime of homicide. Through the support we offer victims and witnesses, and our knowledge of how crimes are investigated, we know that in any investigation there may be information that the Police cannot make public. We consider that the same principle can be extended to the identity of child homicide victims.

At the Ministerial Round Table in February 2024, a question was raised regarding protocols for a child who is a missing person. In such cases, we support appropriate information sharing that would aid an investigation to find and locate the child. Fundamentally, information should only be shared if it would advance ongoing investigations.

In the case of a missing child, the child's name is shared widely during the time in which they are a missing person. When they are found alive, references to that individual can be redacted from news sources, due to the crime involving a sexual element. We believe the same approach can and should apply in cases where the child dies as a result of crime, regardless of whether or not there is a sexual element. This also demonstrates the ability to limit the widespread identification of the victim and their family by the general public outside of the local community.

It is important to highlight that the identity of children who are victims of a sexual crimes are protected and it is not considered that this impedes police investigations. Further, media outlets do not report on sexual crimes where incest is involved. We believe that if the Police can successfully investigate sexual crimes while protecting anonymity, the same can be done for child homicide cases.

VSS has further considered where public appeals for information which include the victim's details are used to further the investigation. This decision would sit with the Senior Investigating Officer and implemented through Family Liaison Officers linking in directly with the family. Our understanding is that public appeals for information are used in instances where the person is initially a missing person, or where it is unclear that the death is due to a criminal act. VSS can provide details of these under a separate cover if desired.

5. DO YOU CONSIDER THAT AN EXTENSION TO ANONYMITY WOULD HAVE AN IMPACT ON FREEDOM OF EXPRESSION?

It is unclear whether this question is intended to address the freedom of the press, or the family's right to freedom of expression, or both. The latter is discussed in question 3 and so we have focused here on the former.

Freedom of the press

We have no reason to believe that the extension of anonymity to children who die as a result of crime would have any meaningful impact on press freedom, which must already be balanced against other rights and freedoms and meet the public interest test (Victim Support Scotland, 2024b).

Following UNCRC incorporation in 2024, all children (under the age of 18) in Scotland have a right to privacy and dignity in accordance with UNCRC Article 3 ensuring the best interests of the child, and Article 19 protection from violence and abuse (The United Nations, 2016). Further to this, Getting it right for every child (GIRFEC) states that the Scottish Government wants all children and young people to be treated with kindness, dignity and respect, and to have their rights upheld at all times (Scottish Government, 2022). We strongly believe that children should not lose these rights because they have died as a result of crime.

Currently, the media does not have unrestricted press freedom. They can voluntarily follow the National Union of Journalists Code of Conduct, Components of Newsworthiness, IPSO Editors' Code of Practice, and more specialist rules such as the Samaritans Media Guidelines for Suicide Reporting. We recognise the high standard of professionalism in Scotland, and acknowledge the vast majority of media outlets comply with such guidance. However, at VSS, we believe that extending anonymity to child homicide victims is in accordance with the principles set out in guidance, and is the natural next step that does not limit the press freedom in any meaningful way (Victim Support Scotland, 2024b).

The media would still be able to report on cases of child homicide, just not identify the victim. This allows the public interest to be served whilst maintaining the privacy and dignity of the victim and their family. The media already anonymously reports on sexual crimes (IPSO, 2021), which is evidence that this practice can be extended to child homicide cases.

Media representatives warn of the 'chilling effect' this measure may have on reporting. We do not accept this assertion. We firmly believe it is still possible to report on child homicide cases while ensuring the anonymity of the victim.

Some media maintain that if these proposals were to be implemented, they would be unable to report on major incidents such as the Dunblane school shootings in 1996, leading to fear and confusion as the school or location could not be named. VSS maintains that the school can be named, the location given, but that the decision to reveal the identities of the victims would initially be automatically restricted with the opportunity for the family to waive anonymity when they choose.

VSS are not calling for a ban on media outlets covering child homicide cases. We acknowledge that there may be times when coverage of these cases is in the public interest. However, we call on the Scottish Government to implement safeguards to protect the victim's identity. With such safeguards in place, the

media would still be free to report on cases where children die as a result of crime, without disclosing the child's name or other identifying details. In cases of filicide, news sources could disclose the name of the accused parent without including their relationship to the victim, or publishing family pictures. Fundamentally, victims' rights should take priority over the public appetite for explicit details.

6. DO YOU CONSIDER THAT AN EXTENSION TO ANONYMITY WOULD HAVE AN IMPACT ON OPEN JUSTICE?

No. We do not believe that the extension of anonymity would have an impact on open justice. Open justice is often defined by three clear purposes:

1. It preserves the legitimacy of the justice system in the eyes of the public.
2. It facilitates scrutiny of the justice system, and the actors involved in it.
3. It increases the accessibility of the law itself (Justice.org, 2023).

All three of these principles can be upheld whilst ensuring anonymity for child homicide victims.

It is important to acknowledge that open justice is not without constraints and restrictions. There are often details discussed in open court that cannot be reported on. This is already common practice when reporting on sexual crimes and in cases where the perpetrator is under the age of 18 (IPSO, 2021). If anonymity was extended to child victims of homicide, the media would lawfully be able to report on the case, as long as anonymity was preserved.

The media are accustomed to operating within court-imposed restrictions. If anonymity for child victims is implemented, this would be a small restriction for the press but would make coverage of the case significantly less distressing to the family and surviving siblings.

VSS strongly advocates for anonymity for children who die as a result of crime to be enshrined in law. The ISPO Code of Conduct and National Union of Journalists ethical reporting guidance could be extended beyond current provisions. The Code of Practice already states that court reporting “may not make light of the circumstances of the death or [include] gratuitous detail” (ibid.). Further, Clause 4 of the IPSO Editor’s Guide states that reporting must be handled sensitively at times of grief and shock (ibid.). Despite these provisions, explicit content is still a common feature of child homicide cases. This is in part due to the low number of cases leading to sensational reporting.

7. TO WHAT EXTENT DO YOU AGREE THAT A MEDIA TOOLKIT COULD SUPPORT JOURNALISTS AND EDITORS TO REPORT ON CHILD HOMICIDES IN A TRAUMA-INFORMED WAY?

- Strongly agree
- **AGREE**
- Neither agree or disagree
- Disagree
- Strongly disagree
- Please give reasons for your answer

Explanation

We agree that a media toolkit would be helpful in supporting journalists and editors to report in a trauma-informed way. However, we do not believe a media toolkit alone would be sufficient (Victim Support Scotland, 2024b). We certainly do not believe a toolkit would be adequately effective in the absence of an extension of anonymity, underpinned by legislation.

Families bereaved by crime tell us they feel like the press fails to see the real people behind their ‘story’ and will always prioritise “*their angle and boosting readership.*” (ibid.). Whilst a toolkit could help provide some consistent and improved standards across coverage, there remains the risk that this may not be universally adhered to (ibid.).

8. WHAT SHOULD SUCH A TOOLKIT COVER?

VSS maintains that the media toolkit should exist alongside the enshrining in law of anonymity for child victims.

A media toolkit should educate journalists and editors on the impact that press coverage can have on families, and stress that these are not simply stories, but deeply traumatic events (ibid.). Our expectation would be that members of the press should complete specialist training on how to report on crime in a trauma-informed way, similar to the trauma informed training taking place across the criminal justice system. VSS commits to being involved in the development, implementation, and facilitation of this training.

We would also recommend having a nominated intermediary to help manage media relations on behalf of the bereaved family. VSS often provide this service and would welcome this being formalised.

Specific guidance for the media should include:

- Ensuring the media understands the responsibility they have in setting the tone of public discourse.
- The requirement to preface potentially distressing content with content/trigger warnings so the audience can decide if they wish to continue reading/watching the coverage.
- Avoiding inflammatory language designed to stoke fear or extremism.

The toolkit should also provide guidance on the expected standard of reporting on cases where anonymity has been waived. This should include:

- Only reporting on essential information, excluding gratuitous details, and respecting the family's right to privacy.
- The importance of consulting the family on preferred photo choice and respecting that decision – media outlets should not pull images from victims' social media accounts.
- Avoiding having victim/perpetrator photos sitting side by side as this contributes to families' distress.
- Guidance on publishing new content on significant anniversaries, or victim's birthdays.
- The requirement to exclude victim photos and details when reporting that the perpetrator is eligible for parole or moves facility etc.

Above all, the toolkit should have as its aim that when covering child homicide, the media ensure that the victim is treated with kindness, dignity and respect and have their rights upheld at all times, in accordance with GIRFEC and UNCRC Articles.

We have heard from families bereaved by crime that they would also welcome greater, proactive communication between justice agencies and families about what the media might report (ibid.). Measures should be taken to ensure that sensitive information is reaching families directly, before it is announced in the media. Additionally, families should be proactively made aware of their rights surrounding media reporting (ibid.). VSS includes this information in our Support for Families Bereaved by Crime Family Folder (Victim Support Scotland, 2019).

9. ARE THERE ANY OTHER NON-LEGISLATIVE MEANS OF IMPROVING HOW CHILD HOMICIDES ARE REPORTED AND INFORMATION PUBLISHED?

In addition to enshrining in law the anonymity of children who die as a result of crime in law, we believe that IPSO and National Union of Journalists could also contribute to improvements on how child homicides are reported.

While there exists guidance in the IPSO Editor's Code of Practice on reporting of deaths (including suicide) and inquests, this does not specifically cover reporting of child homicides. Relevant measures are:

CLAUSE 9: *When reporting on crime particular regard should be paid to the potentially vulnerable position of children under the age of 18 who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.*

This can be contrasted with:

CLAUSE 7: *The press must not, even if legally free to do so, identify children under 16 who are victims or witnesses in cases involving sex offences'.*

The IPSO Code also stresses that in cases involving sex offences:

- Children must not be identified.
- The word 'incest' cannot be used where a child may be identified.
- Care must be taken that nothing in the report implies the relationship between the accused and the child.

Scottish media adhere voluntarily to the guidance in the IPSO Code and National Union of Journalists Code of Conduct, but as outlined above, are subject to less stringent guidance when reporting on children who die as a result of crime. We are opposed to child victims losing rights they would otherwise have because they are a victim of homicide (Victim Support Scotland, 2024b).

VSS calls for clear and explicit guidance around child homicide reporting, similar to that regarding children involved in sexual cases. An additional clause should be added to existing guidance, including IPSO, that ensures anonymity for children who die as a result of crime, alongside a legislative basis for this.

The existing guidance could also be revised to include requirements for the press to:

- Avoid using sensational and inflammatory language when reporting on child homicide.
- Report the facts objectively and neutrally – taking measures to avoid sensationalising.
- Carefully consider the level of detail being reported.

More robust tests to evaluate public interest are also required. We acknowledge that reporting on child homicide cases may be in the public interest, however this does not need to include graphic detail e.g., regarding the condition the body was found in or mapping out last known sightings. We firmly believe that such explicit detail is unnecessary and is deeply retraumatising for the family, especially surviving siblings.

We would also suggest guidance making a distinction between short-term and long-term reporting (ibid.). We acknowledge that child homicide cases may be in the public interest shortly after the incident occurred and again during the trial. We reiterate that this coverage should anonymise the victims. However, we fail to see the need for reporting on the same case for years after the crime. Families tell us that they often experience additional coverage on birthdays, anniversaries or when there is a change to the perpetrator's sentencing status (ibid.). This ongoing coverage is extremely detrimental to the wellbeing of the family and surviving siblings, making it more challenging for them to move forward (ibid.). Families have told us they are still seeing headlines about their child years later, and have such a visceral reaction to it, there is anecdotal evidence of local newsagents taking measure to hide headlines and images in an effort to reduce the harm caused (ibid.).

This feedback has also been expressed by families of adults who have died as a result of crime. VSS calls for a higher standard of homicide reporting across all age groups but has focused on child cases in response to this consultation.

10. TO WHAT EXTENT DO YOU AGREE THAT THE SCOTTISH GOVERNMENT SHOULD WORK WITH THE CRIMINAL JUSTICE AGENCIES TO EXPLORE NON-LEGISLATIVE OPTIONS TO HELP REDUCE THE TRAUMA OF REPORTING ON BEREAVED FAMILIES OF CHILD HOMICIDE VICTIMS?

- Strongly agree
- **AGREE**
- Neither agree or disagree
- Disagree
- Strongly disagree
- Please give reasons for your answer

VSS is supportive of all measures that help reduce trauma for bereaved families. However, we reiterate that our starting point is that the right to anonymity for child homicide victims should be enshrined in law.

We are supportive of the idea that partnership working with criminal justice agencies, such as Police Scotland, Scottish Courts, and Tribunal Services (SCTS) and Crown Office and Procurator Fiscal Service (COPFS) has the potential to help reduce trauma for bereaved families. These agencies are often cited as sources of official information to the media. As such, criminal justice agencies have a duty to ensure that the information released:

- Has first been shared with the family, to prevent them learning about developments through the press or social media.
- Is accurate, credible and is necessary to be shared to aid the investigation.
- Is anonymised and does not make reference to the victim's name or include photographs.
- Includes details of who the press should contact for further information, with guidance around respecting the families' privacy should they not want to engage directly with the media.

We would suggest that a statutory protection of anonymity for child homicide victims would also support criminal justice agencies, by clarifying expectations around already very challenging cases and eliminating any doubt around the propriety of sharing this information.

11. IF ANONYMITY FOR DECEASED CHILD VICTIMS WAS INTRODUCED, AT WHAT POINT DO YOU THINK IT SHOULD START?

- From the point of a child's death (when it is established criminality is involved)
- From the start of criminal proceedings
- **OTHER - PLEASE PROVIDE DETAILS BELOW**
- Please give reasons for your choice

VSS is in favour of ensuring anonymity from the moment the child is deceased, whether criminality has been established or not, with the option to waive it, should the family choose to do so (ibid.). In cases where criminality is found not to have been involved, other protocols may be applicable.

We believe that ensuring anonymity from the beginning, with the right to waive, helps minimise trauma and maximise the families' control of the situation (ibid.). We acknowledge that because the number of children who die as a result of crime in Scotland is low, such cases have the potential to spark public interest. However, the public's appetite for information cannot be prioritised over the wellbeing of families going through deeply traumatic events.

There are examples of anonymised media reporting to protect children, for cases which are originally considered a missing person case. In such cases, the child's name and identity are broadcast to aid finding the child. Once the victim is found, and if a sexual element of the crime is established, it is possible to redact references to the victim's name, identifying features and photographs to preserve their anonymity. We recognise that such cases will still be known locally, however this mitigates harm caused as people beyond the community do not know who the victim is. We believe the same protections can and should be extended to children who die as a result of crime.

12. IF ANONYMITY IS AUTOMATIC, HOW SHOULD A WAIVER PROCESS OPERATE?

- Family members must apply to court to waive anonymity
- Family members are allowed to waive anonymity without requiring a court order and all restrictions fall when anonymity is waived
- Family members are allowed to waive anonymity without requiring a court order, but restrictions do not fall when they do so and those wishing to publish identifying information must seek permission from the family before doing so
- **OTHER – PLEASE PROVIDE DETAILS BELOW**

Explanation

When consulting families bereaved by crime, there was a lack of consensus on how a waiver process should operate. However, we would have concerns about a waiver process that did not have judicial oversight. Reasons for this include:

- If the waiver can be granted without judicial oversight, there is a risk of unwanted press enquiries towards the family until they grant the waiver. We know that families may feel pressured into disclosing information that they later regret sharing. The regret associated with waiving a right to anonymity could be significant and have far reaching consequences.
- There could be risks to the criminal justice process if the waiver is granted without judicial consideration of those risks. For example, in cases where the accused is a relative of the deceased child.
- A waiver that can be granted without a judicial process leaves vulnerable families open to inadvertently granting a waiver they did not wish to grant. For example, the press may interpret social media posts by the family as a form of waiver since information about the deceased may be considered to have entered the public domain (even if this information is obviously private, such as details of the funeral arrangements). This would have the effect of limiting the right of the family to their own freedom of expression, which may be an important part of their coping strategy.
- There may be a need to examine whether the person granting the waiver on behalf of the family is entitled to do so.
- There may be a need for a balancing of rights or interests which require independent assessment.

The counterpoint to this is that:

- We know that engaging with the court service for the purposes of the criminal trial of the accused is a retraumatising event for the family, so additional court processes have the potential to be counterproductive in reducing family trauma.
- We would be opposed to any steps which add to the administrative or cost burden for the bereaved family.

We have considered whether VSS could have a role in acting as an intermediary between the press and the family when it comes to the question of waivers. Whilst we would be happy to have a role in supporting families, on balance we consider that the interests of the family are best serviced by the

waiver process being managed by the judiciary. This could be done at the Sheriff Court level to mitigate costs.

We would further suggest that the onus for applying for the waiver need not necessarily rest with the family. It may be possible to develop a process whereby members of the press could apply for the waiver, (and bear the costs) perhaps with the Sheriff having the power to defer consideration of the waiver until the family are ready to make representations. Again, VSS could have a role as an interested party to make representations on behalf of the family.

The Youth Justice Legal Centre have extensive guidance on the reporting restrictions around child perpetrators which may be instructive (YJLC, 2024).

13. WHO SHOULD BE ALLOWED TO WAIVE ANONYMITY/APPLY FOR A WAIVER?

Every family is different and interpersonal relationships can be complex, particularly during times of grief and trauma. Accordingly, we consider that the question of whether an individual has the right to waive anonymity should be taken on a case-by-case basis (Victim Support Scotland, 2024b). This is feasible due to the low number of cases annually (Scottish Government, 2024b). We reiterate here that we are minded towards a waiver system that is subject to judicial oversight so that the question of an individual's right to waive can be carefully considered.

We expect that in the majority of cases, the person with the right to waive will be a person who has parental rights and responsibilities for the child. These rights may exist automatically or may have been granted by a previous court order. Within a family there may be multiple people with parental rights and responsibilities who may not be in agreement on the question of the waiver (Clan Childlaw, 2024). It is also possible that a person with parental rights and responsibilities may be a suspect in the homicide investigation. These considerations strengthen the argument for a process that is subject to judicial oversight, so that risks and competing interests can be appropriately managed.

14. WHAT DO YOU THINK ARE THE MAIN CHALLENGES TO ENFORCING ANONYMITY RESTRICTIONS?

The enforcement challenges will depend on the process that is adopted to grant the waiver. We would suggest that a process with judicial oversight has fewer challenges, since there is less scope for misinterpretation of the status of the waiver, and less risk this will be breached.

Duty to uphold anonymity

Action can be taken to provide information, educate and encourage family members and the public at large not to share the identity of the deceased child (for example, in the same way that they are educated not to share information that leaves them vulnerable to cybercrime). The key complaint from the families we have consulted is about the harm caused by members of the press. It is our firm opinion that professionals acting in their paid roles should be held to a higher standard and face stronger consequences for breaking anonymity than other groups (Victim Support Scotland, 2024b).

For example, if an elderly relative posts a Facebook status grieving their loss, we do not consider that this has the same potential to be harmful as they do not have the same public reach as press outlets. This is particularly true where there is judicial oversight of the waiver process since the press will not be entitled to report on the content of that post or treat the post as a presumptive waiver.

New media

We recognise that new actors in the online media space such as bloggers, vloggers and podcasters will bring their own set of challenges when it comes to enforcement. Social media is another realm where enforcement of reporting restrictions has been challenging. However, there are examples where restrictions of the traditional press have also served to limit public awareness of other online content, e.g., where 'super injunctions' have been granted. We acknowledge that social media regulation is a broad topic that extends beyond the scope of this consultation, however the key point to make is that it would be wrong to let the perfect be the enemy of the good and opt not to regulate press coverage just because it is deemed too difficult to regulate social media.

Building understanding

Any time there is a change in process, awareness-raising and education is key to ensuring new measures are successfully implemented. Following the adoption of anonymity provisions, the Scottish Government should co-produce information with families, media stakeholders and other key parties (ibid.). VSS commits to producing guidance for families to be included in the Support for Families Bereaved by Crime Family Folder (Victim Support Scotland, 2019) - an online and physical resource to provide families bereaved by crime with the information they need in one, easy to understand place.

All professionals impacted by the change in legislation (e.g., from criminal justice agencies, victim support organisations, members of the media etc.) should be encouraged to view understanding the new procedures as mandatory continuing professional development, essential to their role. We would expect all professionals to adhere to the anonymity restrictions and lead by example to ensure the implementation is as seamless as possible.

15. TO WHAT EXTENT DO YOU THINK IT IS IMPORTANT THAT THE WIDER PUBLIC UNDERSTAND ANONYMITY PROVISIONS?

Families bereaved by crime tell us that they do not consider that the public at large necessarily need to understand anonymity provisions. This is because families, staff and volunteers do not generally view the wider public as being responsible for the harm they have experienced (Victim Support Scotland, 2024b). Families say that the key groups who need to understand the measures are:

- The bereaved families themselves,
- The media,
- Victim support organisations,
- Police Family Liaison Officers,
- Other agencies in the criminal justice system.

It is essential that the press comply and take measures to protect the anonymity of children who die as a result of crime, and it should be a clear part of the provision that 'second hand reporting' of information shared by the general public or other actors such as bloggers etc., will still be considered contrary to the anonymity provisions.

Whilst not identified as a priority by families bereaved by crime, we do see merit in a wider public awareness campaign since this would help limit the amount of material that could be found by grieving siblings or their friends/classmates. We recognise that formal enforcement may prove challenging without the cooperation of social media platforms, however our expectation would be that an awareness campaign may make a positive contribution.

16. WHAT CAN BE DONE TO INCREASE PUBLIC UNDERSTANDING OF ANONYMITY PROVISIONS?

As stated in the previous question, families tell us that they do not believe it is essential that the wider public understands the details of anonymity provisions (Victim Support Scotland, 2024b). However, we believe there is merit in considering an awareness raising campaign.

The media could contribute to this by including a pro forma statement with every news item that anonymously reports on a child homicide, and which explains to the reader why the victim has not been named. Online articles may need to have comments disabled as an additional safeguard. The pro forma statement could also encourage the public not to speculate on the identity of the victim or share details of this on their social media channels. The media could also publish articles explaining the change, similar to the BBC piece explaining why an accused teenager cannot be named (BBC, 2018).

VSS can also play a role in delivering an awareness campaign and sharing resources to draw attention to the change. Through Victim Support Scotland's Support for Families Bereaved by Crime Service, families can also be supported to fully understand the implications of this change.

17. WHAT GROUP OF PEOPLE DO YOU THINK IT WOULD BE HARDEST TO EDUCATE ABOUT ANONYMITY PROVISIONS?

Families bereaved by crime tell us that they think there is potential for extended family members to struggle with understanding the new provisions (Victim Support Scotland, 2024b). There are also concerns that fractured family dynamics may pose challenges, if not with understanding, then with acceptance (ibid). This feedback has added weight to our view that judicial oversight of the waiver process may be important in protecting the family from the fear that they may accidentally break the anonymity provisions, or from that error being exploited.

VSS is happy to play a role in supporting families to understand the anonymity provisions.

18. HOW MIGHT THIS GROUP BE ACCESSED AND EDUCATED?

Families should be educated in a trauma-informed way by Family Liaison Officers and key workers through Victim Support Scotland's Support for Families Bereaved by Crime service. At VSS, we commit to briefing families appropriately and ensuring they understand the anonymity provisions.

Our specialist Support for Families Bereaved by Crime service consists of highly trained and trauma-informed staff who can support families to understand changes to the provision. We also commit to developing literature tailored to families to explain the anonymity restrictions, including how the waiver process works, in readily understood language.

19. WHAT DO YOU THINK WOULD BE AN APPROPRIATE PENALTY FOR BREACHING AN ANONYMITY RESTRICTION?

Families, staff, and volunteers we consulted were unsure about appropriate penalties, but there was a general feeling that there should be different consequences for different parties depending on the level of malintent (ibid.).

At the sharp end of the scale could be provisions equivalent to those available under the Contempt of Court Act 1981, which extends protections to accused persons. A relatively recent example of a breach of the 1981 Act is given by *The Lord Advocate v Scottish Daily Record and Sunday Mail Ltd* [2018] HCJAC 32. The article not only named the accused and published photographs of him, but it also associated him with drug trafficking and a number of gangland shootings. It used phrases such as “gang boss,” “cocaine kingpin” and suggested that he had been “involved in a violent turf war with rival gangsters.” The court ruled that a contempt had been committed and imposed a fine of £80,000.

Whilst this case is an extreme example, it does serve to illustrate the imbalance of the important protections for accused persons and the integrity of the judicial process, versus the protections available to victims.

We would suggest that consideration should be given to whether breaches of anonymity restrictions could be dealt with in a similar way to breaches of the Contempt of Court Act 1981. Any fines issued could then form part of the Victims Surcharge Fund and be used to support other families bereaved by crime. Consideration could also be given to the approaches of other jurisdictions when dealing with this and equivalent matters.

20. TO WHAT EXTENT DO YOU AGREE THAT ANY EXTENSION OF ANONYMITY TO DECEASED CHILD VICTIMS IN SCOTLAND WOULD NEED TO APPLY TO THE REST OF THE UK TO BE EFFECTIVE?

- Strongly agree
- **AGREE**
- Neither agree or disagree
- Disagree
- Strongly disagree
- Please give reasons for your answer

Scots Law and the Scottish criminal justice system have been distinct from England since long before devolution. As a nation, we are able to implement and enforce our own laws as evidenced by examples such as Scotland having a lower drink driving limit and not being included in the Sunday Trading Act 1994 (The Scotsman, 2019).

We acknowledge that Scots Law would have no jurisdiction over media outlets based in England or internationally. However, it is our hope that media based in the rest of the UK would respect the rights of children and the intent behind the legislation and also report anonymously.

Even if UK media outlets do not report anonymously outwith Scotland, VSS believes this would still improve reporting standards within Scotland, by reducing the number of triggering articles families are exposed to. Additionally, the less traction a story gets initially, as well being less geographically relevant, the less likely it is to be picked up by other news sources. Families impacted by crime often tell us that it is local media outlets that are most likely to report the story for years after the fact, on anniversaries of the death, the child's birthday and when there is an update for the perpetrator (Victim Support Scotland, 2024b). Anonymising coverage of child homicide, even at a local level, would mitigate the situation and support the family's wellbeing.

There are examples of one legal jurisdiction in the UK making a change which other legal systems later implement. For example, the rest of the UK provides an automatic right to anonymity in sexual offence cases, whereas in Scotland it is simply guidance (legislation.gov.uk, 2009). Anonymity for complainers in sexual cases is one of the measures proposed in the Victims, Witnesses, and Justice Reform Bill (Scottish Government, 2023b). This highlights how legal systems in the UK can shape and influence each other and operate effectively.

21. TO WHAT EXTENT DO YOU SUPPORT THE OPTIONS DISCUSSED IN THIS PAPER?					
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
No anonymity restrictions (i.e. the status quo) but with non-legislative actions, such as a media toolkit					X
Full anonymity restrictions (no waiver)				X	
Automatic anonymity with option to waive	X				
No automatic anonymity but can apply for court order (with the potential for non-legislative actions, such as a media toolkit)				X	
Please give reason for your answer	<p>We believe this option gives the family the most control to do what is best for them. At VSS, our primary goal is to support and empower people impacted by crime.</p> <p>We feel that putting the onus on grieving families to apply for a court order is not appropriate.</p>				
22. TO WHAT EXTENT DO YOU THINK THAT THE LEGISLATIVE OPTIONS PROPOSED ARE PROPORTIONATE AND ENFORCEABLE?					
	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
No anonymity restrictions (i.e. the status quo) but with non-legislative actions, such as a media toolkit				X	
Full anonymity restrictions (no waiver)				X	
Automatic anonymity with option to waive	X				
No automatic anonymity but can apply for court order (and potential for non-legislative actions, such as a media toolkit)				X	
Please give reasons for your answers	<p>We believe an automatic right to anonymity with the option to waive is proportionate. It is comparable to anonymity measures currently in place for victims of sexual crimes, which are readily enforced. We do not see any reasons why this could not be enforced in the same way.</p>				

23. ARE THERE OTHER OPTIONS YOU THINK WE SHOULD EXPLORE?

Many families we support are initially shocked to find out that anonymity for children who die as a result of crime is not an automatic right. As mentioned above, we would be happy to support and contribute to an awareness raising campaign to implement any change. We note that IPSO has an advice and information hub on their website targeted at the general public, but this is not widely known about. This is an example of a resource that could be called upon once the Code is updated to reflect any regulatory change.

24. DO YOU HAVE ANY OTHER COMMENTS ON THIS ISSUE THAT YOU WOULD LIKE TO SHARE?

We understand that at times in this response we have made emotional arguments. This is because this is deeply personal and emotional for every family we support.

We have noted in a previous question that VSS's initial campaign was for anonymity for children who die as a result of crime. On publication of the consultation, this has been expressed by the Scottish Government as Media Reporting of Child Homicide, which clearly changes the focus more on media itself. While we have articulated the impact of reporting on bereaved families, we acknowledge the legitimacy of this. As such it is important to state that our intention is not to unjustly criticise the media for reporting, but to amend and enhance legislation to support the views, wishes and concerns raised by families whose child has died as a result of crime.

Scotland is a progressive nation and strives to implement new legislation and policies to support all children. Children in life have a right to be treated with kindness, dignity, and respect (Scottish Government, 2022). The media have already demonstrated that they can uphold this right and protect the anonymity of children who survive their crime (or indeed for child perpetrators of offences). Therefore, we strongly believe we can and must extend this right of anonymity to children who die as a result of crime.

We also wish to reiterate the impact on surviving siblings. They have a right to a childhood free from exposure to explicit details about their sibling's death. We cannot overstate the traumatic impact graphic news coverage can have on surviving siblings, who become victims in their own right. It is increasingly challenging to shield children from harmful content as the internet is a daily essential for schoolwork and entertainment. We are told by parents that they live in fear of their surviving children accidentally being exposed to age-inappropriate and violent coverage about their sibling's case. Imposing anonymity provisions would be a major step towards safeguarding surviving siblings.

Additionally, we are aware that at the Ministerial Roundtable there was a discussion regarding the media being able to uncover the identity of children who die as a result of crime through death certificates. It is important to distinguish between restrictions on reporting, and restrictions on knowledge. We do not seek to limit what journalists are capable of discovering through investigation. Where we want to see restrictions is on what can be reported.

The harms described to us by bereaved families can best be mitigated by restrictions around press coverage, since this is what families point to as a key cause of retraumatisation (Victim Support Scotland, 2024b). Any steps that prevent unnecessary information being shared in the first place (rather than redacting it) enables family to have some control over the narrative and do what is best for their case, at a time where they feel like they have no control (ibid.).

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