

# VICTIM SUPPORT

## A commitment to victims

General election 2017

Every year one in five adults in England and Wales fall victim to crime.<sup>1</sup> We know that crime can have a significant effect on victims' physical health, employment or higher education prospects, finances and emotional wellbeing.<sup>2</sup>

Victim Support is calling for each political party to put victims at the centre of their proposals to improve crime and policing, and commit to:

- **Strengthening victims' rights; and**
- **Safeguarding and supporting the vulnerable.**

<sup>1</sup> Office for National Statistics. (2016). Crime in England and Wales: Year ending Sept 2016

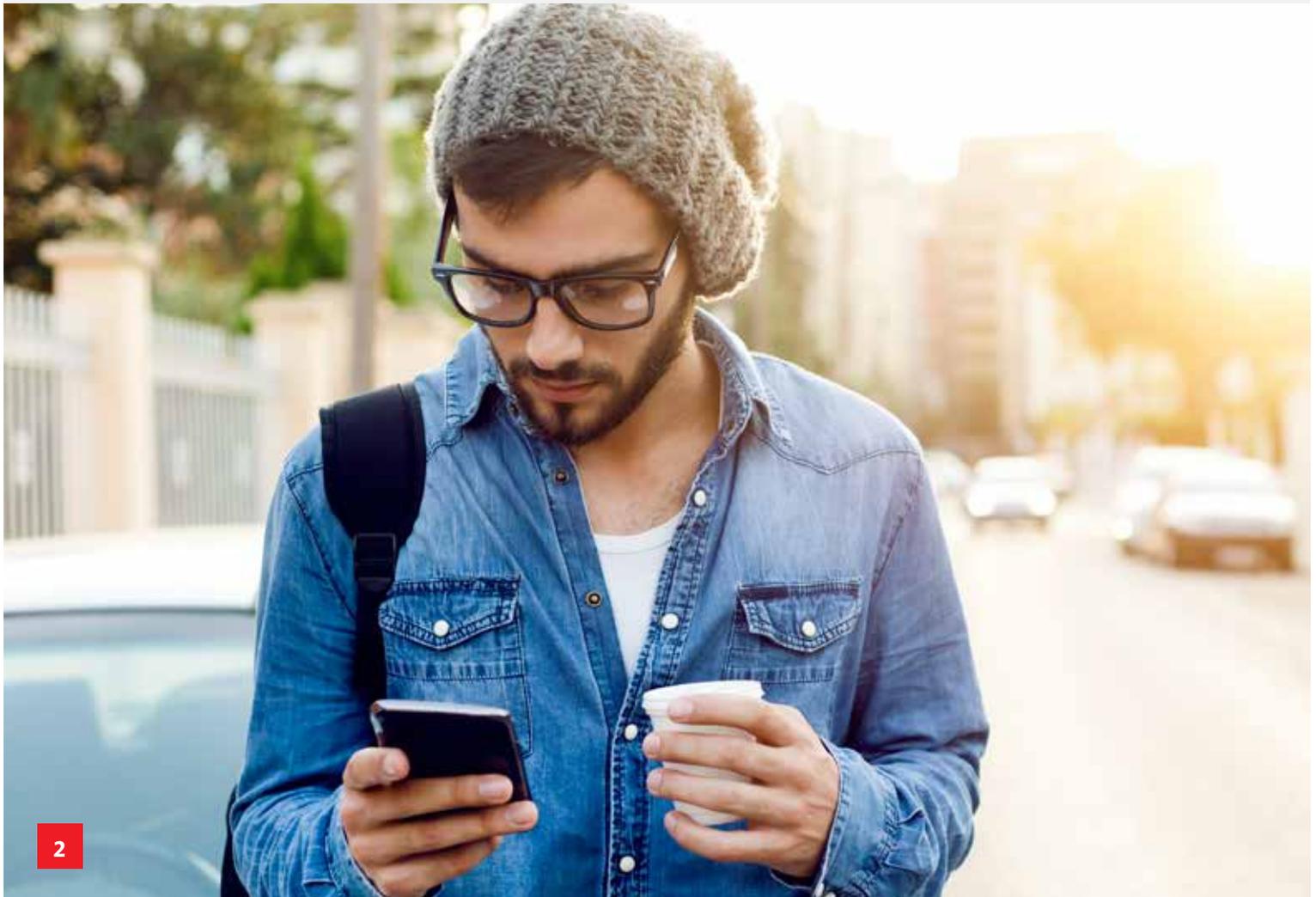
<sup>2</sup> Victim Support. (April 2017). Understanding Victims of Crime

# Strengthening victims' rights

Victim Support believes the next government should strengthen victims' rights by:

- 1 Ensuring the Victims' Code has legal teeth and that agencies are held accountable for the service they provide to victims
- 2 Rolling out pre-trial cross-examination for vulnerable and child witnesses, including victims of sexual offences, and ensuring that they can give evidence remotely
- 3 Restricting the use of victims' previous sexual history in court to only when it is absolutely necessary in the interests of a fair trial, and ensuring it is never introduced without a formal application
- 4 Reforming the Criminal Injuries Compensation Scheme to ensure that victims of serious sexual abuse are not unjustly denied the redress they deserve
- 5 Implementing a ban on perpetrators of domestic abuse cross-examining their victims and improve provision of special measures in family courts
- 6 Granting victims of revenge porn the same valuable right to automatic anonymity in the media as victims of rape and other sexual offences.

***"I was a victim but it was beginning to feel like I've caused all of the problems. It was like it was my fault that this had happened."*** Victim of ASB



## 1 Enforcing the Victims' Code

For many victims, part of the recovery process following crime is to seek justice and redress through the criminal justice system (CJS). The Code of Practice for Victims of Crime (Victims' Code) is a statutory document that outlines clearly and precisely the level of service that victims are entitled to receive from each criminal justice agency at each stage of the justice process. However, 2017 VS research found that as many as six in ten victims are not receiving their rights under the Code and are not being treated with the dignity and respect they need and deserve.<sup>3</sup>

Last year 3.5 million victim based crimes were reported, but only three complaints relating to a breach of victims' rights were ever investigated by the Ombudsman.<sup>4, 5</sup>

Currently, the Victims' Code is not fully enforced and victims who feel that their rights have not been met lack a clear and accessible complaints pathway. Our research also found a positive correlation between victims receiving their entitlements under the Code and the likelihood of them being satisfied with their experience of the criminal justice system. This means that meeting victims' rights is vital to driving up satisfaction and ensuring that victims engage with the criminal justice process.

The next government must ensure that the Victims' Code is fully enforced and that agencies are held to account for their levels of compliance with victims' rights.

## 2 Rolling out pre-trial cross-examination

We know that cross-examination can be a stressful, difficult and traumatic experience for witnesses and in some cases can lead to 'secondary victimisation'.<sup>6, 7</sup> However, pre-recorded cross-examination is an important tool for helping vulnerable witnesses (such as children) to give their best evidence, ensuring that witnesses are spared the ordeal of giving evidence in open court. Pilots of pre-recorded cross-examination resulted in witnesses giving evidence earlier, an improved quality of evidence and a less stressful and traumatic experience.<sup>8</sup>

***"When I went to give evidence in court it wasn't a nice thing... The defence barrister I found quite intimidating and I felt at times that he sort of belittled me. I just found the trial was horrible, daunting. It was quite a traumatic experience."***

Victim of non-recent sexual assault

Rolling out pre-recorded cross-examination for children, vulnerable witnesses and sexual offence victims is vital to improve their often harrowing experience of court. The roll out should include a provision to give evidence from a remote site wholly separate from the court building so that no vulnerable witness should be obliged to enter a court building.

3 Victim Support. (April 2017). *Victim of the System*

4 Office for National Statistics. (2016). *Crime in England and Wales: year ending March 2016*

5 Freedom of Information request response from the PHSO received 23/05/2016

6 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/553335/process-evaluation-doc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553335/process-evaluation-doc.pdf)

7 Parsons and Bergin (2010)

8 <https://www.gov.uk/government/publications/process-evaluation-of-pre-recorded-cross-examination-pilot-section-28>

### 3 Restricting the use of previous sexual history in court

Section 41 of the Youth Justice and Criminal Evidence Act is in place to provide complainants with protection from unnecessary and intrusive questions into their private life and sexual behaviour and to tackle the pernicious and untrue myths about rape and female sexuality; namely that women with sexual history are more likely to consent and are less worthy of belief in a court of law.

Last year there were **600,000** victims of sexual assault

However, there is evidence to suggest that a complainant's sexual history is being used as evidence without making an application to the court, in contravention of the law. 2016 research of rape trials found that the complainant's sexual history with third parties was introduced in half of the trials examined often without any S41 application to allow it.<sup>9</sup> A recent study showed that out of 30 rape trials at Newcastle Crown Court that took place between January 2015 and June 2016, the complainant's previous sexual history was used in 11.<sup>10</sup> In the majority of those cases, an application was not made to obtain the judges consent either at all or it was made at trial without prior notice.

From our experience, we know that victims fear being questioned about their sexual history at court and that consequently this can be a barrier to reporting the crime. For those that do undergo such questioning, the experience can be distressing and risks prejudicing a trial by embedding myths about rape. In light of the potential impact on the victim, we believe it is essential that use of previous sexual history is strongly regulated and only introduced rarely and when absolutely necessary. Ground rules hearings should take place prior to cross-examination in sexual offence cases to address restrictions about the witness's previous sexual history.

### 4 Reforming the Criminal Injuries Compensation Scheme

The Criminal Injuries Compensation Scheme is a statutory scheme compensating blameless victims of violent crime. VS believes this compensation makes a vital contribution to a victim's recovery, both in practical terms and as a formal recognition of the wrong that they have suffered. However, the current system is not working for child victims of crime, particularly those who fall victim to serious offences, and a number of rules need revision:

**Consent:** As it is currently drafted, the Scheme compensates only those victims who did not 'in fact' consent to the crime. This has been interpreted to mean that even the very youngest of children who have been victims of sexual abuse can be denied compensation if there is any evidence to suggest they complied with their abuse, such as through fear or lack of understanding. This is wholly inconsistent with the law which is clear on this matter – where a person is under the age of 16 sexual activity is automatically criminal, unless the victim is over 13 and the defendant reasonably believed he or she was over 16. The interpretation of this rule means that child victims of sexual abuse are being denied compensation.

**Unspent convictions:** The Scheme currently states that victims who have unspent criminal convictions will have their awards reduced or withheld. This rule is disproportionate, resulting in victims of serious crime, including victims of child

9 Temkin, J., Gray, J. & Barrett, J. (2016)

10 Durham, R., Lawson, R., Lord, A., & Baird, V. (2017). *Seeing Is Believing*. The Northumbria Court Observers Panel Report on 30 rape trials 2015-16

sexual abuse, potentially being denied compensation due to convictions for even the most minor of offences such as failing to pay their TV License fee. Over the past five years 159 victims aged 16 or under have had an award for a sexual offence refused due to having unspent criminal convictions.<sup>11</sup> We believe the Scheme should be more proportionate and not take unspent criminal convictions into account when determining a compensation award unless the offence was for a serious crime.

**The '1979 rule:** The '1979 rule prevents any victim who was living with their abuser as a member of the same family at the time of an assault from claiming compensation if the offence took place before 1 October 1979. We believe this arbitrary cut-off date is damaging to victims and contrary to the Scheme's own statement of purpose to provide compensation to those suffering violent crime. Victims of abuse who were living with their attacker as part of the same family prior to 1979 should have the same rights to compensation as those who experienced abuse after this date.

## 5 Preventing perpetrators cross-examining domestic abuse victims in the family courts

Our experience has shown that direct cross-examination by their abuser in family courts is a traumatic experience. It also risks bolstering the power and control that may already be held by the perpetrator. We believe that a ban on this practice would help to improve victim safety in the family courts and prevent a continuation of the abuse. In addition, special measures must be available across the family court estate to support the victim when giving evidence.

Last year  
there were  
**2 million**  
victims of  
domestic abuse

## 6 Granting anonymity for revenge porn victims

The law criminalising revenge porn came into force in April 2015 and over 1,784 cases of revenge porn were reported in the first year of the law's operation.<sup>12</sup> Unlike other sexual offences, the revenge pornography offence does not benefit from any specific statutory provision to allow for complainant anonymity (note that the use of 'anonymity' in this context means anonymity in the media, not anonymity from the defendant or members of the public present in court). Figures obtained by VS show that victims do not support, or withdraw support for, police action in 30% of all reported cases of revenge porn, despite a named suspect being identified.<sup>13</sup> This is three times the national average of 10% in 2015/16.<sup>14</sup> We believe this demonstrates that lack of anonymity creates a strong barrier to victims supporting police action and is acting as an impediment to them being able to secure justice.

VS believes that the fact that victims of revenge porn are not afforded the same right to anonymity as victims of rape and other sexual offences is undermining the effectiveness of the legislation. The prospect of details of the offence being reported in the media (and by extension the increased likelihood of the offending images being shared further) is likely to cause considerable distress and could be deterring victims from reporting revenge porn offences, thus denying victims justice. As such, we believe that victims of revenge porn should have the right to remain anonymous.

11 Freedom of Information request to the Criminal Injuries Compensation Authority

12 Freedom of Information request to all forces in England and Wales

13 Freedom of Information request to all forces in England and Wales

14 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/539447/crime-outcomes-hosb0616.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539447/crime-outcomes-hosb0616.pdf)

# Safeguarding and supporting the vulnerable

Victim Support believes the next government should safeguard and support the vulnerable by:

- 7 Introducing measures to tackle hate crime
- 8 Making a breach of a Domestic Violence Protection Order a criminal offence
- 9 Limiting distress to victims by reducing court waiting times.



## 7 Introducing measures to tackle hate crime

As hate crime is targeting a specific identity and community due to a prejudice or hostile belief against it, these underlying beliefs need to be addressed. Perpetrator programmes work to re-educate offenders and teach them to understand the impact of their behaviour. They provide clear information about what is acceptable and unacceptable conduct and work to address the behaviour and triggers behind the abuse.

Additionally, more can be done to increase awareness of community-rooted third party reporting centres and increase visibility in at-risk communities in order to build trust with, and reach out to, victims who do not report the crime. VS found that by undertaking an awareness raising campaign of reporting and our third party centre, reports to the local centre increased by over 100%.

VS believes the next government should provide a clear plan of how they will tackle hate crime across England and Wales.

Over  
**200,000**  
hate crimes  
take place  
every year

## 8 Enforcing Domestic Violence Protection Orders (DVPOs)

DVPOs provide vital protection for victims of domestic abuse by allowing the police to remove suspected perpetrators from the family home and preventing them from contacting the victim. However, one in five DVPOs is breached, which is not currently a criminal offence. This means a perpetrator can return to the family home, contact the victim and even continue the abuse and face no criminal consequences for doing so. VS believes that in order to provide victims with better protection, breaching a DVPO must be made a criminal offence.

## 9 Reducing court waiting times

A Crown Court case currently takes an average of 273 days (nine months) from offence to completion, up from 222 days five years ago. This figure is even more shocking for victims of sexual offences, who have to wait on average well over a year (408 days) from offence to completion in court.<sup>15</sup> Long waiting times for a case to come to trial can cause stress, anxiety and inconvenience for victims and witnesses, and even has the potential to undermine the effectiveness of the trial itself.<sup>16, 17</sup> The next government must make reducing court waiting times a central aim.

***“I went to the police just after Christmas [2015]... and finally it went to trial end of June this year [2016]. I have been told that’s not a great time to wait but for me as the victim of the crime you are in limbo, your life was on hold for nearly two years waiting to go to court.”*** Victim of non-recent sexual assault

15 Ministry of Justice Criminal court statistics (quarterly): July to September 2016

16 Victim Support (2013) *Out of the Shadows*

17 Rt Hon Sir Leveson, B. (2015). *Review of Efficiency in Criminal Proceedings*. Judiciary of England and Wales

# VS VICTIM SUPPORT

For more information about our manifesto please contact:  
[policyteam@victimsupport.org.uk](mailto:policyteam@victimsupport.org.uk).

Victim Support is the leading independent charity in England and Wales for people who have been affected by crime and traumatic incidents. Our specialist teams provide individual, confidential and personalised support to help victims recover from the physical and psychological effects of crime. Our services are free and available to everyone, whether or not the crime has been reported and regardless of when it happened.

In 2015/2016 VS offered help to one million people, including just over 91,000 suffering from domestic violence and 16,000 suffering from hate crime. VS also runs the national Homicide Service, last year supporting 1,452 people bereaved by 440 murders or manslaughters, as well as running a free Supportline. The charity has just over 1,000 staff and 3,000 volunteers.

For information and support, contact us by:

- calling: Supportline **08 08 16 89 111**
- using Next Generation Text (add **18001** before any of our phone numbers)
- Online: **[victimsupport.org.uk](http://victimsupport.org.uk)**

**[victimsupport.org.uk](http://victimsupport.org.uk)**

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