

Out in the open

What victims really think about community sentencing

September 2012



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Foreword

Victims of crime have a key part to play in the effective operation of the criminal justice system. In recent years their needs have received greater consideration yet their experience of the system is still often unsatisfactory and their voice unheard.

Confidence in the criminal justice system among victims remains far too low. The rule of law rightly demands that victims do not dictate justice or sentencing, but the engagement and confidence of victims in it is nevertheless vital. Victims and witnesses have been historically marginalised in the field of sentencing. While this has begun to change and the need to consider victims' perspectives is acknowledged more widely, the views of victims continue to be misrepresented and misunderstood.

These issues are of particular importance at a time when significant changes are underway in sentencing and the wider criminal justice system. Sentencing policy has been singled out by the coalition Government as a priority for reform. A key aspect of this is reduction in the use of short – term prison sentences for lower level offences and the increased use of community sentences as an alternative. Reforms of community sentences are proposed in order to make them more effective and to gain the confidence of victims and wider society. If this process is to be successful it must take account of victims' views and concerns.

Against this background Victim Support and Make Justice Work decided to investigate the attitudes of

victims of crime towards community sentencing. Our report shows that victims are more open to the use of alternatives to custody than is widely supposed, but that they also have serious misgivings about their effectiveness.

This report poses a challenge to policy makers – to demonstrate to victims of crime that community sentences are robust and credible and to ensure their voices are heard. We believe the conclusions and recommendations made in light of these findings reveal how effective changes can be made.



Javed Khan

Chief Executive, Victim Support



Roma Hooper

Founder and Director of Make Justice Work

Executive summary

This report is based on research – jointly commissioned by Make Justice Work and Victim Support – designed to establish whether victims of crime are open to the greater use of community sentences, and if so, how their current limited confidence in such sentences might be enhanced.

The research for this project included a focus group with victims of crime combined with a nationwide opinion poll for victims of lower level offences. Both of these elements were facilitated by Populus. Additional research makes reference to existing sources and previous surveys.

What kind of justice do victims want?

Our research shows that being a victim of crime does not generally lead people to become more punitive towards offenders.

Not surprisingly, victims share the widely-held view that the criminal justice system does not treat them fairly. This can cause resentment of the investment in the rehabilitation of offenders. However, overall the attitudes of victims are not significantly different from those of the wider public. Both groups believe strongly in punishment and public protection, but not to the exclusion of rehabilitation and reform. Reparation is highly valued. Neither victims nor the public are as punitive as commonly believed.

Victims' views of community sentences

Victims' views on community sentencing are broadly in line with those of the wider public. Victims are open to the use of community sentences in dealing with lower level offences and take a flexible view of sentencing which allows for mitigating factors to be taken into account.

However, while they are open to community sentences in principle, victims along with the wider public have doubts about them in practice. Victims are sceptical about whether offenders will take community sentences seriously and how firmly they will be held to account if they do not.

They have concerns about the credibility of certain elements of community sentences, including restorative justice, unpaid work in the community or Community Payback, and electronic tagging. Doubts also remain about whether community sentences can effectively punish or deter offenders.

Making community sentences work for victims

If victims' concerns about community sentences are to be addressed it is vital that community sentences are effective and seen to be effective. Awareness and understanding of the real nature of community sentences must be raised among both victims and the wider public if misconceptions are to be tackled and confidence increased.

Our poll findings suggest that raising awareness and confronting misplaced perceptions about community sentences would lead to higher levels of public support for them. To be effective this would need to be based on an understanding of the main misperceptions and the factors underlying attitudes. Keeping individual victims informed is also important. Our poll findings also show that victims want more information about what the offender would do while serving their community sentence and about the progress of an offender serving a community sentence.

Findings further suggest a need for more opportunities for victims to record and communicate the impact of the crime.

Conclusion

Victims are broadly open to the use of community sentences and the principles that underpin them but there is a lot to do before they can see them as an effective form of justice in practice. Action is needed in three main areas:

- Ensuring community sentences effectively deliver the kind of justice victims want.
- Improving victims' awareness and understanding of community sentences.
- Improving victims' voice and engagement in community sentences.

Recommendations

General awareness

There is a widespread lack of awareness and understanding about community sentences which needs to be addressed. Awareness raising should tackle misperceptions and illustrate how community sentences can offer the type of justice victims want.

Raising public awareness of community sentences should be part of a wider effort to make sentencing and sentences more transparent and ensure that the underlying principles are explained clearly. In collaboration with the Sentencing Council, the Ministry of Justice should pursue this goal with renewed vigour, with an emphasis on engaging with the public, including victims of crime. Newly elected Police and Crime Commissioners (PCCs) should also support this process, as they will have an important part to play in reflecting and influencing public concerns about the criminal justice system in the future.

As part of this process it will be important to:

- make clear the extent to which effective community sentences ensure that offenders confront their own weaknesses and failings.
- explain the role and effectiveness of restorative justice, and invest in its wider delivery.
- ensure that the newly elected Police and Crime Commissioners work with other criminal justice agencies to pursue effective alternatives to custody.

Provision for victims where case results in the offender getting a community sentence

Sentences are meant to be explained to victims of crime, but in practice victims are often left unclear. Explanations of community sentences should include a breakdown of what the sentence involves and the consequences for the offender if they fail to comply. This information should be presented clearly and victims should have the opportunity to ask questions.

The victim personal statement (VPS)

The VPS provides an opportunity for victims of crime to explain the impact of an offence on them, their family and friends. The VPS is conducted by the police and should be made available to both the courts and the Probation Service. Despite its clear value, victims are often unaware of their right to make a VPS and are not given the opportunity to do so. Even when a VPS is made, the response of criminal justice agencies is often one of indifference. It is important that VPSs are strongly embedded within the criminal justice process and used effectively by criminal justice agencies. Victims should also have the opportunity to update their VPS and be made aware of the various ways in which it can be used.

Reparation

Reparation – material and emotional – is a key need of victims and should be a central part of all effective community sentences. Offenders should be made to understand the impact of their crimes on victims and local communities and, where possible, work to restore any physical damage caused by their actions. More onus should be put on repairing physical damage as part of restorative justice.

Victim-awareness activities should be included in all community sentences. Restorative justice should be available more widely.

Unpaid work/Community Payback

Awareness of Community Payback is generally high and confidence in its effectiveness as a punishment appears to be reasonably strong overall. However active engagement of victims is weak and its role in providing effective reparation is less clearly understood.

Unpaid work should be challenging, while being useful to the public and meaningful to the offender. It is also important that it is perceived to be so.

As the Government intends to promote the wider use of Community Payback, it is important that victims and local communities are more informed and engaged about it.

We want to see:

- more opportunities for victims to be informed about how they can be involved in the nomination of suitable Community Payback activities in their locality.
- awareness raised among victims and the wider community of local Community Payback activities completed locally.

Robust delivery

Offenders who breach the conditions of their community sentences must face a firm and swift response from the courts. Offenders, victims and the wider public need to understand that an alternative to custody is not a soft option and that it makes challenging demands of the offender.

This should be facilitated by the development of Intensive Alternatives to Custody (IAC) – which are now referred to as Intensive Community Punishment (IPC). These can offer community-based interventions which are demanding, robust and punitive with a strong emphasis on improving opportunities for employment, training and awareness as to the impact of crime on victims.

Victims should be made aware of IPC in order to show what community sentences can offer.

Introduction

Victims of crime have a clear and legitimate interest in sentencing. They are also stakeholders in the wider criminal justice system whose engagement and support is essential to its effectiveness and legitimacy. The interests of victims also feature prominently in the wider public debate, with both the media and politicians often claiming to represent their views.

Victims are commonly represented as being more likely to hold punitive views and are portrayed as opposing community sentences on this basis. Such claims are rarely based on solid evidence and relatively little research has taken place to explore the views of victims on community sentencing.

This research is focused on the views of victims of 'lower level offences' (eg theft from the person, criminal damage, non-violent harassment). Lower level offenders are more likely to be those committing a wider number of crimes due to alcohol, drug and mental health needs and are more likely to receive short – term prison sentences. It is these sentences which have been shown to perform poorly in terms of providing rehabilitation and reducing levels of re-offending. Currently nearly two-thirds of offenders serving short sentences are reconvicted within a year.¹ Latest estimates suggest that this cycle of crime costs between £7bn and £10bn a year.²

In light of this, Victim Support and Make Justice Work wanted to explore how victims of lower level offences feel about how such offenders should be dealt with.

This report is based on research - jointly

commissioned by Make Justice Work and Victim Support - designed to establish whether victims of crime are open to the wider use of community sentences, and if so, how their currently limited confidence in such sentences might be enhanced. It aims to answer the following questions:

- What kind of justice do victims want? – a look at the effect of being a victim on attitudes towards dealing with offenders and what victims want justice to deliver.
- How do victims view community sentences? – a look at how victims view community sentences as a means of delivering justice in relation to lower level offences.
- How can community sentences work for victims? – an assessment of the key factors influencing confidence and attitudes and how they can be addressed.

Note on the research evidence

The findings presented in this report are taken from focus groups and a poll of victims of lower level crime and a review of existing evidence and analysis of the British Crime Survey. Primary research was conducted by Populus – an independent, professional research agency.

A key part of the primary research was a Victim Enquiry Day. Nine victims of lower level crimes participated in the day held at the Reading offices of Thames Valley Probation on 21 June 2012. The day consisted of an initial focus group discussion, a presentation from probation officers on the work

1. Victim Support (2010) *Victims Justice? What victims and witnesses really want from sentencing*

2. www.communityorcustody.com/National%20Enquiry%20-%20Final%20Report.pdf
www.makejusticework.org.uk/wp-content/uploads/Matrix-MJW_updated-Final-Report_June-2012-2-1.pdf
www.makejusticework.org.uk/wp-content/uploads/are-short-term-prison-sentences-an-efficient-and-effective-use-of-public-resources-MATRIX-Oct-2009.pdf

What are community sentences?

A community sentence is made up of one or more of 12 possible requirements that sentencers can assign to an offender. Each sentence is tailored to reflect the seriousness of the crime while also taking into account the rehabilitation of the offender.

Requirements may include drug, alcohol or mental health orders, education and training courses, behaviour courses and victim awareness courses as well as Community Payback (unpaid work in the community which replaced community service).

If the offender does not comply with any aspect of their community sentence they can be recalled to court for re-sentencing.

The four main aims of the community sentence are:

- **Punishment:** Offenders must be properly punished for their crime. A community sentence must be tough on offenders and offer constructive opportunities for the future.
- **Reparation:** Offenders may be required to face their victims so that they view their crimes in a different way.
- **Rehabilitation:** Offenders need support and opportunities to prevent re-offending.
- **Protection:** Protecting the public is the top priority.

Each sentence should include requirements that cover all four aims of a community sentence.

of Thames Valley Probation, small group Q&A sessions with an ex-offender, police officers, and a restorative justice project worker and victim who participated in the restorative justice Project, and a second, subsequent focus group discussion. Focus groups were moderated by Populus. This format was designed to (a) explore prevailing attitudes regarding community sentencing and related issues, and (b) gauge the effect on attitudes of learning about what community sentences are and how they are delivered.

The other piece of primary research was a short survey of victims of lower level crime conducted by Populus using their online panel. Fieldwork was conducted between 3 and 13 August 2012. Results are based on a nationally representative sample of

2,098 British adults who had been victims of lower level crime in the preceding five years.

The findings from these pieces of work have been synthesised with existing evidence gathered through a literature review and analysis of the British Crime Survey. The British Crime Survey (now the Crime Survey for England and Wales) is the largest survey of experience and attitudes in relation to crime and the criminal justice system in the UK. The British Crime Survey analysis looked at responses to questions relating to attitudes to sentencing and the criminal justice system more widely. Responses were split by whether or not respondents had experienced any crime in the past 12 months to provide an indication of whether recent experience of victimisation makes a difference to views.

Context: victims' general experiences and views

The following summarises the key issues concerning victims of crime, particularly those of lower level offences, and provides background to the focus group findings. It also considers how far the concerns raised are shared by victims more generally and the wider public.

Impact of lower level crime

Evidence shows that all types of crime can have a considerable impact on the victim. While victims of violent crime are on average more likely to be seriously affected than victims of other crimes, the difference is not great. All types of crime can and do have a considerable impact on victims' lives, including offences commonly termed as minor or lower level, particularly if they are repeated or persistent (see Figure 5 in Appendix 2). Crime can have a devastating and long-term impact on victims. Victims of crime commonly experience emotional harm such as fear, anger and loss of confidence, as well as physical symptoms including panic attacks and difficulty sleeping. Crime can also impact on aspects of victims' lives such as relationships, personal finances and work.

The impact that lower level crime can have on the victim was reflected in the focus group held for this research with victims of lower level offences:

"My daughter was so afraid [after the crime] that she didn't leave the house for weeks."

There was a consensus in the focus group that, if it has a direct victim, what are classified as lower level or minor crimes can still be serious from the victim's perspective:

"If it's had any effect on someone it's not a low level crime"

It was stressed that the impact of lower level crime is particularly great if it is persistent:

"It might be only minor offences but when it's happening to you regularly then it's a big thing for you."

Victims of lower level crimes' experiences of the criminal justice system

Statistical evidence indicates that only around half of victims who have support needs in connection to the crime they have been a victim of have those needs met (see Figure 6 in Appendix 2). The views of the focus group reflect a prevalent view that the criminal justice system is not very good at meeting victims' needs.

Despite some positive experiences of the police, there was a prevalent view that they were overstretched and uninterested in lower level crimes - to which their response was often "too little, too late":

"I've probably reported 20 crimes to the police and not once have I been told that the case has been closed or anyone has been convicted for it."

Those who have experienced the courts process reported similarly unsatisfactory experiences and a sense of dissatisfaction.

Measure (in %)	Victim		Non-victim		Total	
	Confident	Not confident	Confident	Not confident	Confident	Not confident
How confident are you that the criminal justice system as a whole is effective?	39	61	44	56	43	57
How confident are you that the Probation Service is effective at preventing criminals from re-offending?	22	78	24	76	24	76
How confident are you that the courts are effective at giving punishments which fit the crime?	26	74	27	73	27	73
How confident are you that prisons are effective at punishing offenders who have been convicted of a crime?	28	72	29	71	29	71
How confident are you that prisons are effective at rehabilitating offenders who have been convicted of a crime?	19	81	21	79	19	81

Table 1 Confidence in effectiveness of the Criminal Justice System in dealing with offenders.
Source British Crime Survey, 2010-11

Confidence in the criminal justice system

Evidence shows that victims have less confidence in the criminal justice system than those who have not recently experienced crime, particularly in relation to the police. Analysis of the 2010-11 British Crime Survey was conducted for this research to compare the confidence of victims and non-victims in sentencing, prison and probation. It shows less of a difference between victims and non-victims in these areas.

As Table 1 shows, around three-quarters of both groups lack confidence in:

- the courts to issue appropriate sentences.
- the Probation Service to prevent re-offending (covering offenders on community sentences and on probation after release from prison) or in prisons both to deliver effective punishment and, particularly, effective rehabilitation (see Table 1 above).

What kind of justice do victims want?

Summary

- Contrary to the common perception, becoming a victim of crime does not generally lead people to become more punitive in their attitudes as to how the criminal justice system should deal with offenders.
- Victims' attitudes are influenced by a common perception that the criminal justice system does not treat victims fairly. This can cause resentment at the investment in rehabilitation of offenders and adds to the demand from victims that the criminal justice system provides reparation.
- However, overall victims' attitudes are not significantly different from the general public's, who have similar concerns over an imbalance in favour of offenders in the system and for whom reparation holds a strong appeal.
- Evidence shows both victims and the wider public have a strong concern for punishment and protection of the public but not to the exclusion of rehabilitation and reform and are less punitive than commonly perceived.

There is a common assumption that victims of crime are more likely to seek retributive or harsh consequences for offenders. However, the evidence suggests this is generally not the case.³

As cited in the previous chapter and in the next, analysis of 2010-11 British Crime Survey evidence on sentencing and treatment of offenders shows little to no difference between victims and non-victims. Other statistical analysis on public and victim attitudes – including from a 2004 study of public opinion and community sentences – shows that being a victim is not a significant factor in attitudes and there is no consistent relationship between this and holding punitive views.⁴

3. That is in relation to offenders generally rather than the offenders in the crime they were a victim of.

4. The same appears to hold true in relation to fear of crime, which evidence shows only has, at best, a modest relationship to punitiveness. For example, studies have found that perception of incidence of crime in local area or recorded crime rates did not relate consistently to holding punitive attitudes.

If not more punitive, does the kind of justice victims want differ in any other way? There were indications in the focus group that certain factors related to being a victim did inform attitudes. A lack of confidence in the system and a sense of unfairness and imbalance in how it treats victims and offenders was evident in the focus group and was connected to their own experiences as victims:

"They [offenders] seem to get all the support to get a job, to encourage them to keep on the straight and narrow, but what about my children who've stayed on the straight and narrow and been on the receiving end. What's there for them? Nothing. That's what really lets me down because I've just had to tell my children they can't go on a trip because I've had to pay an excess on my insurance to buy the stuff that they need again [to replace stolen items]."

How far this affects the type of justice victims want to see is difficult to determine. It was certainly the cause of some frustration and resentment in the focus group. However, while this may have undermined support for the rehabilitation of offenders, it generally did not mean they wanted this type of support taken away.

Wider evidence indicates that victims are supportive of rehabilitation for those convicted of lower level offences. For instance, a 2006 SmartJustice and Victim Support poll of victims found that 70% wanted to see more treatment programmes in the community for offenders suffering from mental health problems and for drug addiction, to tackle the causes of non-violent crime.

What victims' frustrations did translate into were calls for victims and citizens to have equivalent support and opportunities. This was partly behind a common view to see greater reparation; for offenders to make up for the harm they have caused. There were various calls for measures which would fulfil this in the focus group, covering practical, material and emotional reparation:

"I would like the offender to come face-to-face with the victim and be made to do something that would make amends."

However, while some victims feel this sense of unfairness and a need for reparation very strongly, it does not distinguish them overall from the public, who generally feel much the same.

British Crime Survey analysis shows that a perceived imbalance between the rights of the offender and victim is common but not limited to victims: 63% of respondents to the 2010-11 survey did not believe that the criminal justice system achieves the correct balance between the rights of the offender and the rights of the victim. There was virtually no difference between the responses of victims and non-victims.

The survey further indicates that concerns over the lack of a voice for victims are also at the same level. This appears to be less of a factor overall, though still significant: 28% of 2010-11 respondents disagreed that 'The criminal justice system takes into account the views of victims and witnesses'. Again, the views of victims were very close to the wider public's (Table 3 in Appendix 2).

Getting underneath the surface

What do victims really want from sentencing? At first glance, the evidence seems to support the common view that both victims and the public tend to be punitive. Surveys which ask respondents to say which sentencing goals they think should take top priority find that both victims and the wider public tend to put punishment, retribution and protection of the public ahead of rehabilitation or reform. Evidence also suggests that victims and the public think the criminal justice system is too soft or lenient in dealing with offenders.⁵

However, both of these indications only scratch the surface. When respondents are allowed to cite multiple goals as the most important (rather than rank in order of importance or pick one or two as the most important), it has been found that most choose punishment, reform and reparation/restitution at the same time. As one study noted victims, and the public "do not see any contradiction in valuing both retribution and rehabilitation".⁶

Meanwhile, evidence that people think the

5. For example the 2010 European Social Survey found that 77% of UK respondents agreed that 'people who break the law should be given much harsher sentences than they are these days' - higher than the average response across Europe (69%); the 2010-11 British Crime Survey found the same proportion (77%) agreed that the criminal justice system is too soft on those accused of committing a crime'

6. Maruna, S. & King, A. (2004) 'Public opinion and community penalties' in T. Bottoms, S. Rex & G. Robinson (Eds.) *Alternatives to Prison: Options for an Insecure Society*, Cullompton: Willan, p88

criminal justice system is too soft may reflect misperceptions of the system itself rather than their own punitiveness. Research has shown that people consistently overestimate the leniency of the courts. It may also reflect a tendency to 'talk tough' in response to opinion polls.⁷ Studies which give contextual information or relate questions to a specific case generally show the public to be no more (and sometimes less) severe than the courts.⁸

This was evident in the research conducted for this report. Concern among the focus group for punishment, deterrence and public protection was strong but it did not prohibit support for rehabilitation. One participant stated in relation to youth offending (something which a number of participants were particularly concerned about):

"I do believe there needs to be a deterrent but also some practical training that means they come away with a skill. We all need to feel that we're useful... we all want to feel we have a purpose in life. I'd like to see them given structure and meaning and an alternative to what they're doing."

The findings from a 2007 ICM survey of victims of crime for the Ministry of Justice signals what victims ultimately want from the justice system: it found that a vast majority of victims (93%) said the most important thing for them was that the offender did not do it again.

The evidence reminds us that when considering what type of justice victims want, close consideration must be given to the terms used and their meanings. Victims might say they want punishment but that does not mean they are punitive in the sense of retribution or vengeance. A sense that offenders should pay for what they have done is a natural one but our research also suggests that, for lower level crimes at least, victims are anxious that offenders face up to the consequences of their actions and make amends for them. It further suggests that victims are not averse to provision of support to help offenders move away from offending behaviour as long it is effective in doing so and is matched by support for them as victims.

7. See Roberts, J.V. & Hough, M. (2011), *Custody or community: Exploring the boundaries of public punitiveness in England and Wales*, Criminology and Criminal Justice: 11

8. Victim Support (2010), *Victims' justice? What victims and witnesses really want from sentencing* (www.victimsupport.org.uk/About-us/Policy-and-research/-/media/Files/About%20us/News/Sentencing%20report%202010/Victim-Support-Sentencing-report-Dec-2010)

Victims' views of community sentences

Summary

- In contrast to how their views are sometimes portrayed, victims are – like the public – broadly open to the use of community sentences in dealing with lower level offences and take a flexible approach to sentencing which allows for mitigating factors.
- Effective community sentences offer the kind of justice victims want but they are not confident it can be delivered in practice.
- Victims – like the public – have serious doubts over the practicality and effective delivery of community sentences. There is scepticism over whether offenders will properly engage with community sentences and how well they will be held to account if they do not.
- There are also doubts in relation to the practicality and effectiveness of specific aspects of community sentences, including restorative justice, unpaid work in the community/Community Payback and tagging.
- Although Community Payback appears to have gone some way to counter it, there also remain doubts over the capacity of community sentences to effectively punish or deter.

The previous chapter suggests that what community sentences are designed to achieve is in line with the kind of justice victims - and the public - want to see. But do victims of crime see it that way? The evidence gives a mixed picture. There is a broad acceptance in principle of community sentences as a means of dealing with lower level offences. There is also a lack of confidence in short-term prison sentences, apparently linked to recognition of their limited capacity to rehabilitate and reduce re-offending. However, there are doubts about the usefulness of community sentences and the ability of the criminal justice system to deliver them effectively. And there are indications that

community sentences continue to be seen as too 'soft' and ineffectual as a punishment or deterrent.

As with wider sentencing issues, victims appear to be very much in line with the wider public on this. Analysis of the British Crime Survey shows little difference between victims and 'non-victims'. Findings from the focus group with victims of lower level crime were very similar to those conducted with members of the Scottish public participating in focus groups on attitudes to community sentencing for a 2007 Scottish Executive study.⁹

⁹ Scottish Executive Social Research (2007), *Community Sentencing: Public perceptions and attitudes* www.scotland.gov.uk/Resource/Doc/203436/0054193.pdf

Views on community sentences in principle

The wider evidence suggests that victims generally consider community sentences at least as an appropriate, if not first choice, option for lower level, non-violent offences albeit within certain bounds (notably whether or not it is a repeat offence).

The poll conducted for this research put the following to victims of lower level crime: 'In dealing with perpetrators of 'lower level', mostly non-violent offences, judges are able to choose between giving the offender a short-term prison sentence or a community sentence. Do you think community sentences should or should not be used as an alternative to prison for 'lower level' offences?' As Figure 1 shows, most victims said that community sentences should be used as an alternative to prison (63%), while just over a quarter (26%) said they should not.

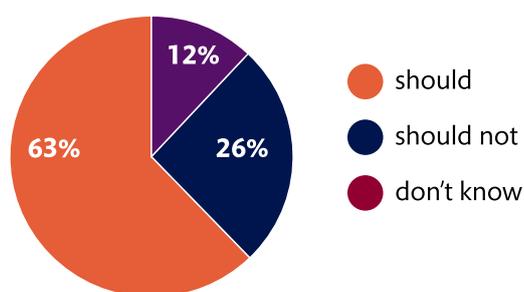


Figure 1. Do you think community sentences should or should not be used as an alternative to prison for 'lower level' offences?

Source: Populus poll for Victim Support/Make Justice Work, 2012

Unweighted base: 1,020

This indicates a broad level of approval for the use of community sentences as an alternative to custody. This is supported by other evidence including a 2006 ICM poll of 1,000 victims for SmartJustice and Victim Support which found that almost two-thirds of victims did not believe that

prison works to reduce non-violent crime.¹⁰

It is also consistent with more nuanced findings available from the British Crime Survey, which asks respondents to indicate which action they think should be taken against perpetrators of minor crimes, in relation to four different scenarios: one where the offender is a 30-year-old man committing the offence for the first time, one where the offender is a 15-year-old teenager committing the offence for the first time and then two more with the same offender characteristics but with it being a second, rather than first, offence. Respondents can choose from a caution or warning, a conditional charge, a fine, a community sentence or custody.

The findings show that victims and non-victims alike show strong preference for community sentences. Community sentences are cited as the most or the second most appropriate action across the board by both victims and non-victims. For the first offence scenarios (for both the adult and young offender) they are second to a caution or warning, while for second offences they are the most favoured option, with custody the second most favoured option (see Table 3 overleaf for full findings). These findings are consistent with other similar research, demonstrating that victims and the public are open to alternatives to custody and are generally flexible and not absolutist in their views on determining sentences.¹¹

Focus group findings were broadly inline with these indications. Participants generally saw a place for community sentences in dealing with non-violent, lower level crimes. There were, however, limits – the main one being that community sentences were considered inappropriate for repeat offences, particularly if the offender had already been on community sentences after previous convictions.

10. See www.restorativejustice.org.uk/resource/victims_survey/

11. See Roberts, J.V. & Hough, M. (2011), *Custody or community: Exploring the boundaries of public punitiveness in England and Wales*, Criminology and Criminal Justice: 11

Action	30-year-old man committing minor offence for 1st time			30-year-old man committing minor offence for 2nd time			15-year-old teenager committing a minor offence for 1st time			15-year-old teenager committing a minor offence for 2nd time		
	Victim (%)	Non-victim (%)	Total (%)	Victim (%)	Non-victim (%)	Total (%)	Victim (%)	Non-victim (%)	Total (%)	Victim (%)	Non-victim (%)	Total (%)
Caution or warning	37	36	37	2	2	2	57	53	56	4	3	4
Conditional charge	9	8	9	5	6	6	8	8	8	8	9	8
Fine	26	26	26	22	23	22	11	13	12	16	17	16
Community sentence	26	27	26	42	41	42	22	25	23	52	48	51
Custody	2	3	2	29	29	29	2	2	2	21	23	21
Total %	100	100	100	100	100	100	100	100	100	100	100	100
Total number of responses	11,666			11,648			11,660			11,635		

Table 2
Source: British Crime Survey 2010-11

One focus group participant said she thought of community sentences as the ‘yellow card’ for perpetrators of lower level crime on their first offence and custody the ‘red card’ to be used against re-offenders because she saw prison as instilling more discipline and providing a greater punishment. Another participant put it this way:

“If they have been offending and re-offending and given various community sentences then it’s clearly not working so there needs to be some [other] form of deterrent. They can’t think that it’s alright to do these sorts of crimes.”

These views are consistent with those expressed by members of the public in the Scottish Executive study, which identified that repeat offenders tend to be seen as having betrayed the goodwill of the public. They are also consistent with a study using more serious offence scenarios which found that absence of previous convictions was seen as a powerful justification for a community sentence

among members of the public.¹²

Restorative justice

This research also looked specifically at views on restorative justice. In the poll, victims of lower level crime were asked whether they agreed or disagreed with the statement that victims should have the opportunity to tell the offender about the impact of their actions. As Figure 2 shows, seven out of ten respondents agreed.

This position was broadly reflected in the focus groups:

“We need to let the offender know how much they have affected our lives.”

12. See Roberts, J.V. & Hough, M. (2011) *Custody or community: Exploring the boundaries of public punitiveness in England and Wales*, Criminology and Criminal Justice: 11

Views on community sentences in practice

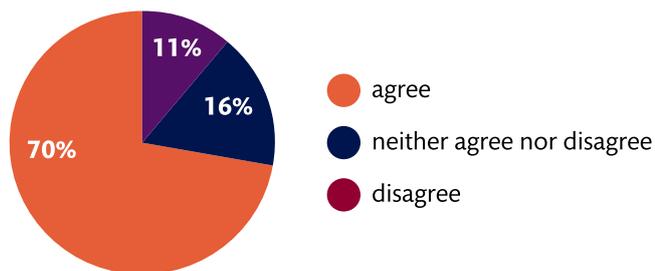


Figure 2. Victims should have the opportunity to tell the offender about the impact of their actions

Source: Populus poll for Victim Support/Make Justice Work, 2012

Unweighted base: 2,098

While the above suggests a strong base of potential support for community sentences among victims, it does not tell the full story. Evidence suggests that support for community sentencing and reparation in principle does not necessarily translate into overall support. This is partly because of doubts which emerge once victims look at specific aspects of community sentences and also because of a broader scepticism over their practicality and effective delivery.

Some focus group participants felt that community sentences contained positive, worthwhile goals but were essentially impractical:

“All nice ideas but from my experiences I’m sceptical that it will happen.”

Gaining more information about community sentences over the course of that day did little to change participants views. The focus group doubted whether offenders would genuinely engage with the community sentence - a number of comments referred to offenders ‘playing the system’ - and were sceptical about the ability of the Probation Service to prevent this from happening.

The indications are that this scepticism is broadly shared by the general public. Similar doubts over capacity to deliver community sentences were echoed by members of the public in the Scottish Executive focus groups. Meanwhile over three-quarters of respondents to the 2010-11 British Crime Survey said they were not confident that the Probation Service is effective at preventing criminals from re-offending by rehabilitating offenders given community sentences or released from prison (with little difference in views between victims and non-victims).

To an extent, this scepticism is likely to be a reflection of the general lack of confidence and understanding of the criminal justice system, particularly in sentencing. However, specific areas of concern also emerged, which show victims not seeing the connection between the type of justice they want and the justice which community sentences can deliver. The key areas of concern were that community sentences were not tough enough, not robustly enforced and did not directly contribute to the individuals and/or community which had been harmed.

The most commented on and widely perceived area of weakness and lack of confidence in community sentences is in their effectiveness as a punishment. A view of community sentences as ‘soft’ was evident in the focus group. Participants were generally sceptical in relation to measures such as Community Payback/unpaid work, electronic tagging or supervision as a punishment:

“They love having a tag because it’s fun.”

“I don’t think community sentences are a deterrent because 50 hours sweeping the road or picking up litter - well, you know, what’s that?”

While these kinds of views do appear to have a common currency, wider evidence suggests there is more confidence in Community Payback as a punishment : 67% of respondents to the 2010-11 British Crime Survey considered Community Payback effective as a punishment.

Restorative justice

Despite support for the principle, victims are wary about restorative justice in practice. The British Crime Survey asks people who have been a recent victim of crime whether they would accept a meeting with the offender if offered it: 77% of respondents to the 2010-11 survey said no; 69% of those who were offered a meeting with an offender turned it down.

Reservations and scepticism about restorative justice in the focus group largely remained, even after hearing about how restorative justice works when done well and what benefits it can have for victims in a session with a restorative justice project worker and a victim who had been engaged on the scheme. While participants were impressed by the victim who had been through the restorative justice process and recognised that she benefited from it, they generally could not see themselves reacting in the same way. Despite the common appreciation of the principle of restorative justice, at best, there was only cautious approval for the actuality:

“Whether it [restorative justice] works for 10%, 15% or 20% [of offenders]... that’s still better than it would have been.”

There are a variety of, often self-evident, reasons why victims would be wary of meeting offenders in person. Some of these should, in theory, be lessened when it is a non-violent offence. However this still leaves other concerns.

In the focus group there was a common concern as to how genuine the offender would be. Related to this was also some feeling that restorative justice was just words which did not necessarily mean anything. Some participants felt it would be more meaningful to have some sort of direct, practical restoration. Meanwhile there were also concerns that restorative justice would lead to a lightening of the offender’s sentence:

“I hope they don’t get anything off for that [participating in restorative justice].”

Unpaid community work

In theory reparation is a central element of Community Payback (as indicated in the name).

However, focus group participants generally did not make the connection between the two, seeing it more as an intended punishment and deterrent (and not a very effective one). In as far as it was seen in terms of reparation, any approval was undermined by doubts over its efficacy:

“They do community service down my way... they go around the corner on a break and smoke a spliff.”

Other evidence suggests that this may reflect a wider perception. While there is relatively high awareness of Community Payback, there is comparatively low awareness about opportunities for members of the community to nominate and vote for a project: 75% of 2010-11 British Crime Survey respondents were aware of offenders doing Community Payback work in their local area in the past 12 months but only 22% thought that people in their local area have any say on what kind of work is done by offenders doing Community Payback.

Making community sentences work for victims

Summary

- If victims' concerns about community sentences are to be addressed it is vital that community sentences are effective and seen to be effective.
- Awareness and understanding of community sentences is poor and affects confidence. Awareness raising is needed but needs to consider the factors underlying attitudes.
- Victims lack information and voice in the criminal justice system. Victims want more and better information about what the offender in their case would do on their community sentence and about their progress while on it.
- Victims also need more opportunities to record and communicate the impact of the crime, whether through the Victim Personal Statement or restorative justice.

The evidence set out in the preceding chapters shows that, in theory, community sentences offer the kind of justice which victims want but they are not confident it can be delivered in practice. The following explores the key factors in that lack of confidence and how they might be addressed. It draws on poll findings which tested the appetite for possible measures with victims of lower level crime.

Ensuring community sentences are delivered effectively

First and foremost, this report has clearly shown that victims lack confidence in the practicality, robustness and delivery of community sentences. These are not baseless. Lack of investment in community sentences has meant they are not as effective as they should be and many courts have limited access to the full range of measures that can be imposed. Innovative work has been done (such as the Intensive Alternatives to Custody pilots),

but more is needed if victims are to have confidence in community sentences as a robust and credible sanction.

Many of the concerns of victims in the focus group echoed those which have been expressed more widely (including those by Make Justice Work and Victim Support). These include the need for them to be suitably demanding and robustly enforced with consequences for offenders who fail to comply, as well as the need to have proper investment in mental health, drug and alcohol treatment programmes.

As this report has shown, punishment is an important element of sentencing for victims and the public. However, this research suggest this does not mean a wish for harsh treatment for its own sake. Punishment which is also reparation – where offenders face up to and repay the damage they have done – is something which victims of lower level crime would widely value.

Awareness and understanding of community sentences

It is a truism that justice must both be done and be seen to be done. Community sentences have to be effective but also have to be seen to be effective if victims are to be confident in them. Currently there is a clear lack of awareness and understanding about community sentences among both victims and the wider public. Community sentences involve a range of different components and vary according to the nature and severity of the offence, leaving scope for misunderstanding. The element with which people are most familiar is unpaid work in the community/Community Payback and many people perceive this as being all that community sentences are.

Views on community sentences are likely to reflect these misconceptions. They may also be subject to media influence. Certainly in the focus group conducted for this research as with those conducted for the Scottish Executive study, the influence of representation in the media of community sentences (and particularly unpaid community work/Community Payback) was apparent.¹³ In the wider research, tabloid newspaper readership has been shown to be associated with holding punitive views.¹⁴

This might be taken to mean that victims' and the public's confidence in community sentences can be improved through greater information and awareness raising. Victim Support and Make Justice Work sought to test this by giving one half of respondents to the opinion poll a brief explanation of community sentences while giving the other half no explanation, then asking both whether they

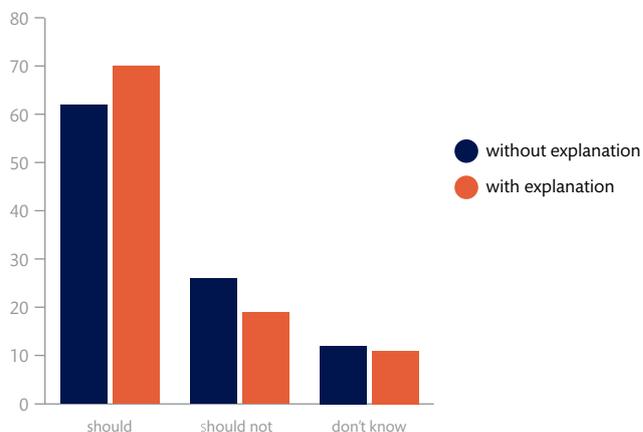


Figure 3. Do you think community sentences should or should not be used as an alternative to prison for 'lower level' offences?

Source: Populus poll for Victim Support/Make Justice Work, 2012

Unweighted bases: total 2,098 ; with explanation 1,078 ;without explanation 1,020

thought community sentences should or should not be used as an alternative to prison for 'lower level' offences. As Figure 3 shows, having the explanation made people more likely to give a pro-community sentencing response and less likely to give an anti one by eight percentage points (70% compared to 62% see Appendix 3 for full details).

This suggests there is an awareness deficit which, if addressed, does increase support for community sentences. However, it also suggests that the impact of awareness raising is likely to be significant without being huge.

The wider evidence gives a mixed picture on the effect of raising awareness. It has been shown that positive effects of providing information can be very short-term and if content and approach is misjudged, can have negative consequences.¹⁵ The focus group indicated that exposure to community sentencing does not necessarily lead to greater

13. Scottish Executive Social Research, (2007) *Community Sentencing: Public perceptions and attitudes* www.scotland.gov.uk/Resource/Doc/203436/0054193.pdf

14. See Maruna, S. & King, A. (2004) 'Public opinion and community penalties' in T. Bottoms, S. Rex & G. Robinson (Eds.) *Alternatives to Prison: Options for an Insecure Society*, Cullompton: Willan

15. See Maruna, S. & King, A. (2004) 'Public opinion and community penalties' in T. Bottoms, S. Rex & G. Robinson (Eds.) *Alternatives to Prison: Options for an Insecure Society*, Cullompton: Willan

confidence. Participants welcomed the opportunity to learn more about community sentences and express their views but it did not appear to have much effect on their overall attitudes:

“With all these programmes they’ve got with offenders I still wondered what they’re actually achieving.”

The wider research suggests that attitudes towards sentencing are subject to emotional, psychological and sociological influences. One study found that holding punitive attitudes was most related to social and economic anxieties (connected to the state of the economy, loss of community, lack of respect among young people) and certain core beliefs and values (in particular a view on how far criminal actions are a choice or a product of circumstances, and a belief in redeemability).

Both of these sets of factors were apparent in the focus group. Participants frequently referred to societal problems when talking about the causes of crime, particularly in relation to young people (lack of discipline, poor parenting) and breakdown in community cohesion. In relation to beliefs and values, participants referred to offenders both in terms of being inherently bad and as victims of circumstance. Which view was taken appeared to be strongly influenced by familiarity. For instance, victims were universally interested and empathetic in relation to the former offender who talked about his experiences of being on a community sentence in one of the sessions.

To be effective, awareness raising and wider distribution of information will need to address misperceptions but also appeal to these emotional and psychological influences.

Better meeting the needs of victims

Another clear deficit highlighted in this report is in how far the criminal justice system currently

meets the needs of victims. A weight of evidence shows that how victims are managed when dealing with criminal justice authorities is just as, or more, important than the outcome of legal disputes to their satisfaction. The key established needs of victims are:

- Recognition - to have their experience and its impact acknowledged.
- Information - about the processing and outcome of their cases.
- Voice - to have a chance to put across their experiences and views.
- To be treated respectfully and fairly.
- Material reparation eg compensation.
- Emotional reparation and an apology.

There has been a historic problem in delivering all of these needs in the criminal justice system and a number of complaints in these areas were voiced in the focus group:

“As a victim you feel left out.”

While the value of the service provided by Victim Support was acknowledged, there was a sense that this could not compensate for the failure – as participants saw it – of the criminal justice authorities to treat victims with due seriousness and consideration. Two key areas of concern were lack of information and lack of voice, particularly in relation to having a chance to put across the impact of the crime to both the authorities and the offender.

Victim Support and Make Justice Work sought to test out approaches to addressing these areas, around information and voice, in the poll. As Figure 4 shows, around two-thirds (64%) of victims agreed that victims should be informed about an offender’s progress when serving a community sentence.

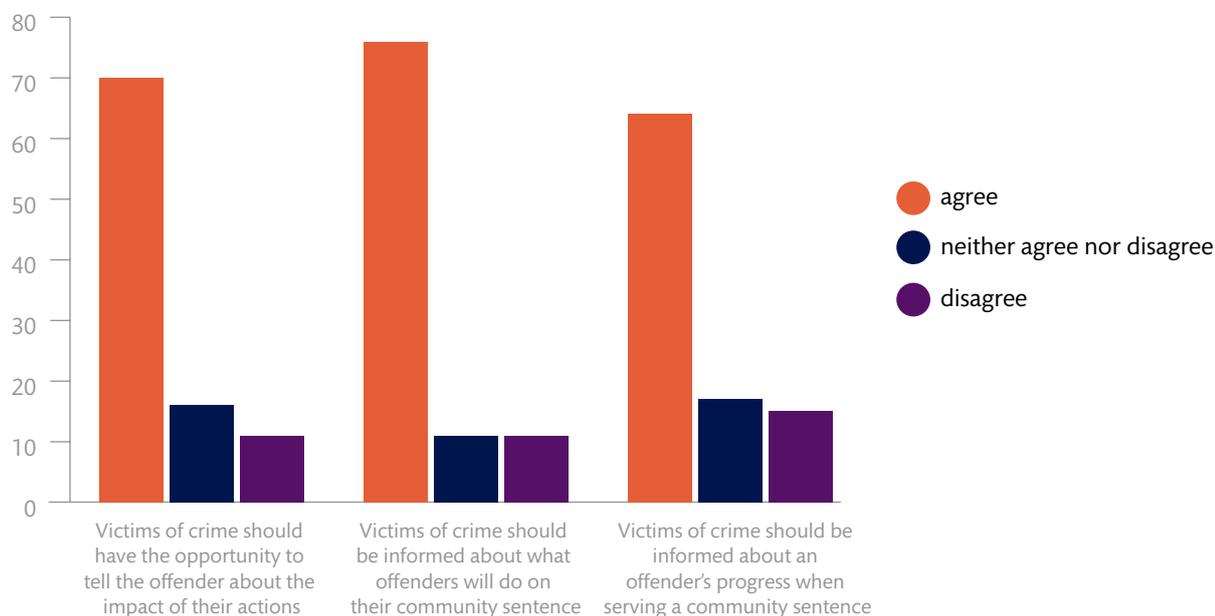


Figure 4. Support for victims engagement measures

Source: Populus poll for Victim Support/Make Justice Work, 2012

Unweighted base: 2,098

Just over three-quarters (76%) would like to be informed about what a community sentence entails. As previously cited, 70% believe they should have the opportunity to tell the offender about the impact of their actions (see Figure 4).

These issues relate to wider long-standing issues concerning a lack of clarity around sentencing and underuse of the Victim Personal Statement (VPS). In a survey of victims conducted in 2011 for Victim Support by Ipsos Mori, more clarity over sentencing decisions was cited by more respondents than any other measure for improving the criminal justice system for victims (see Figure 7 in Appendix 2). Evidence from the Ministry of Justice indicates that less than half of victims who report crimes to the police are given the opportunity to make a VPS, when it should be open to all.¹⁶

16. See Franklyn, R. (2012) *Satisfaction and willingness to engage with the Criminal Justice System: Findings from the Witness and Victim Experience Survey, 2009–10*, Ministry of Justice www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/satisfaction-willingness-to-engage-with-cjs.pdf

Victims in the focus group were largely unaware of the VPS. Once made aware they were clear in their advocacy of it:

“That to me is a crucial piece of paper because it would help you feel they [the authorities] are listening. They need to know how we feel”

They were also quick to pick up on the comment made by a probation officer that VPSs are rarely passed as part of the documentation they receive for each offender, and this was a significant source of dismay:

“The one thing that seemed to be missing [from the information the Probation Service was passed] was the victim side. How can they assess the person if they only have part of the story? There needs to be some understanding of what the impact has been on the victim. The victim seems to become voiceless.”

Appendices

Appendix 1: about the authors

About Victim Support:

Victim Support is the independent charity for victims and witnesses of crime in England and Wales. Victim Support was set up over 38 years ago and has grown to become the oldest and largest victims' organisation in the world. Every year, it contacts over 1.5 million people after a crime to offer help.

Victim Support depends on thousands of specially-trained volunteers to deliver its services and although it works closely with the police and other parts of the criminal justice system, it is an independent charity.

Victim Support offices across England and Wales and has run the Witness Service in every criminal court. It also runs the national Victim Supportline and the Homicide Service.

About Make Justice Work:

MJW was established in 2009 and is a campaign to boost public support for a change in how Britain deals with lower level offenders – a switch from expensive and futile short prison terms to intensive and effective sanctions, delivered in the community.

It aims to raise public awareness of the ineffectiveness and expense of locking up low-level offenders, only for them to offend again and again. Crucially, the campaign identifies the community alternatives to custody that are most effective both at reducing re-offending and cutting costs.

The brainchild of criminal justice campaigner, Roma Hooper, founder of the Prison Radio Association, MJW is backed by leading experts both inside and outside of the criminal justice system – including former prison governors, charity directors and leading academics. It also enjoys the support of a wealth of key figures from outside the criminal justice world.

Appendix 2: tables and charts

Views on the criminal justice system's treatment of victims	Victim			Total		
	Victim (%)	Non-victim (%)	Total (%)	Victim (%)	Non-victim (%)	Total (%)
The CJS achieves the correct balance between the rights of the offender and the rights of the victim	37	36	37	64	63	63
The CJS takes into account the views of victims and witnesses	73	71	72	27	29	28

Table 3

Source: British Crime Survey 2010-11

Unweighted bases: 39,873, 40,599

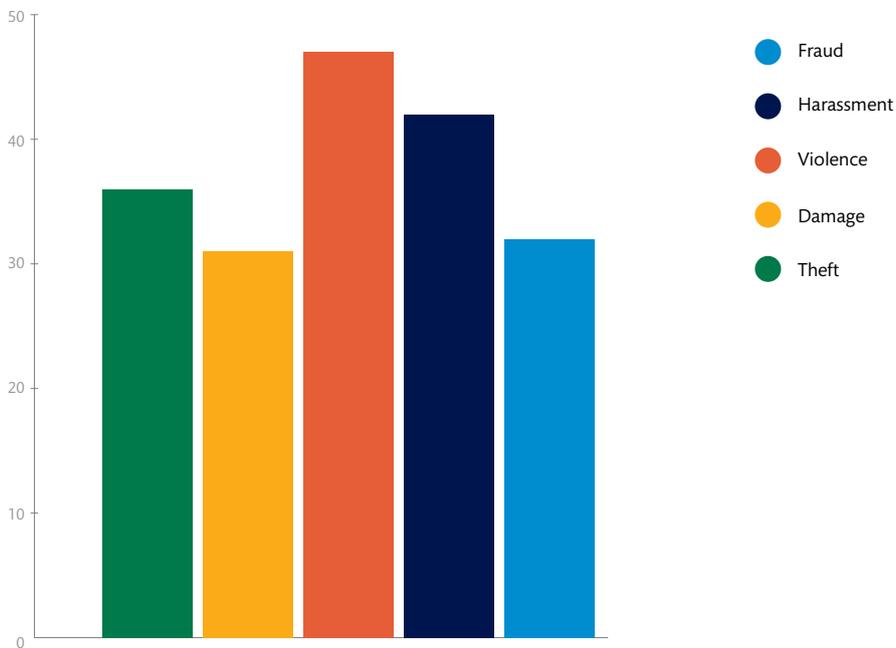


Figure 5. Incidents badly affecting victim by crime type
Unweighted base: 1,134

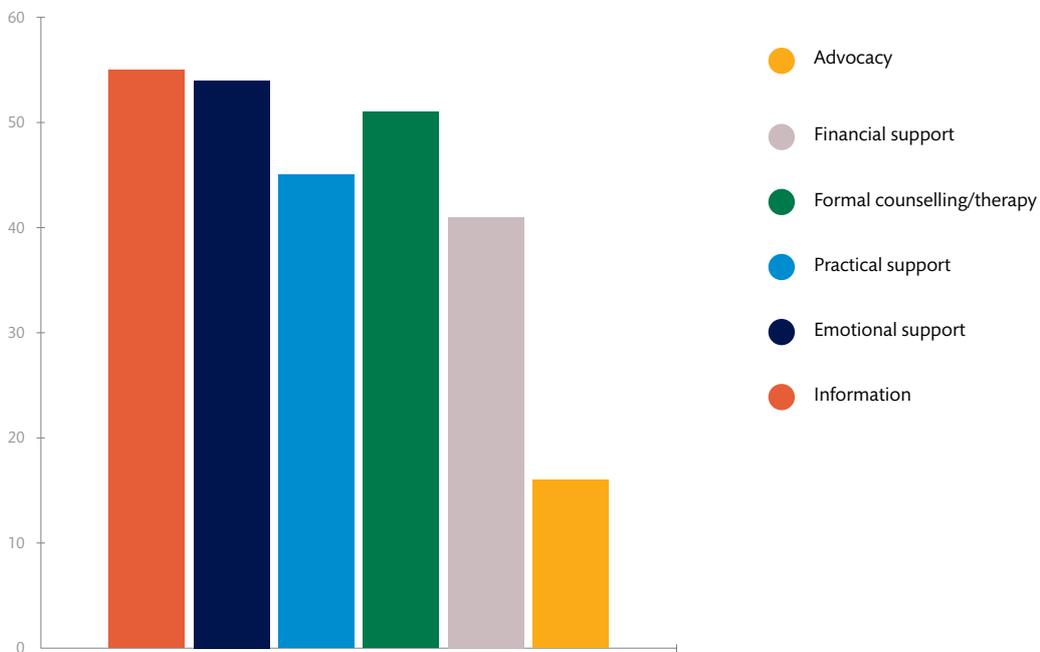


Figure 6. Extent to which victims receive the support they need
Unweighted base: 1,134

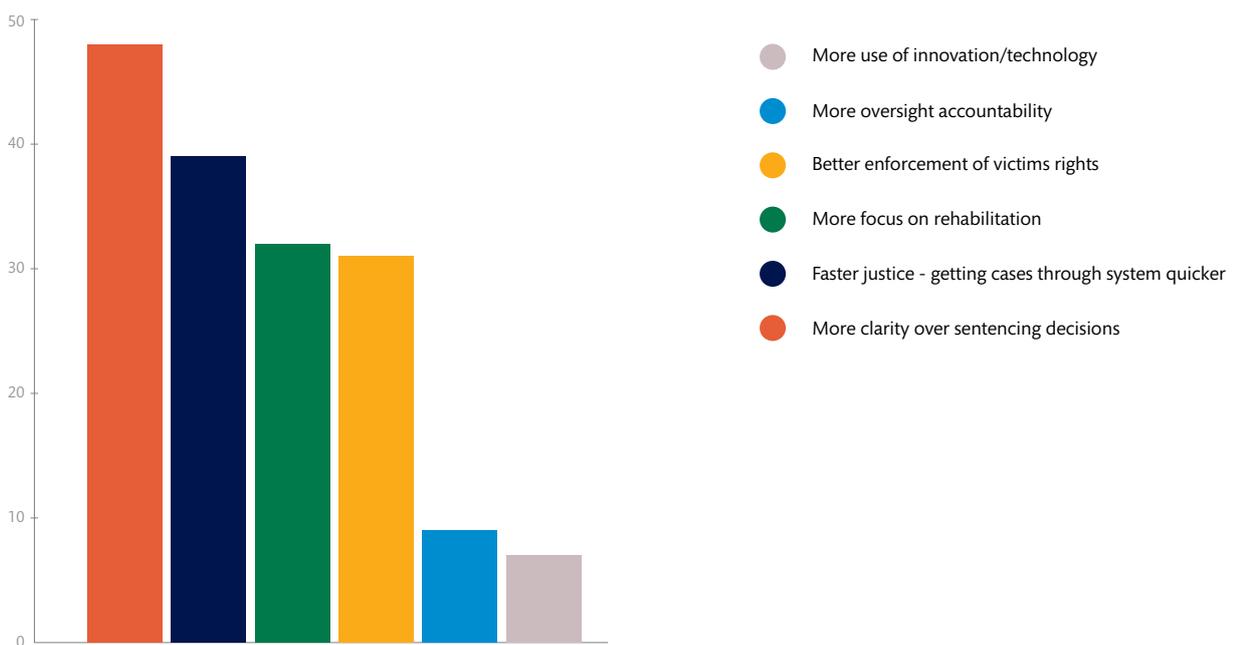


Figure 7. Victims priorities for how the criminal justice system should be improved for victims.
Unweighted base: 1,134

Appendix 3: full methodology

A mixed method approach was taken for the research in this study, combining new primary qualitative and quantitative research, a short literature review and analysis of the British Crime Survey. Primary research was conducted by Populus – an independent, professional research agency.

Primary research

Victim enquiry day

Nine victims of lower level crimes participated in the day held at the Reading offices of Thames Valley Probation on 21 June 2012. Participants were recruited through Victim Support and a research recruitment agency, sought to have a mix of crime type and socio-demographic characteristics represented. All participants had experienced crime in the previous two years including criminal damage, theft from the person and non-violent harassment (with criminal damage the most common). The day consisted of:

- Initial focus group discussion moderated by Populus.
- Presentation from probation officers on the work of Thames Valley Probation.
- Small group Q&A sessions with an ex-offender, police officers, and a restorative justice project worker and victim service user.
- Opportunity for informal discussions with criminal justice professionals, including a judge and a magistrate.
- Reconvened focus group discussion moderated by Populus.

This format was designed to (a) explore prevailing attitudes regarding community sentencing and related issues, and (b) gauge the effect on attitudes of learning about what community sentences are and how they are delivered.

Poll

A short survey of victims of lower level crime was conducted by Populus using their online panel. Fieldwork was conducted between 3 and 13 August 2012. Results are based on a nationally representative sample of 2,098 British adults who had been victims of lower level crime in the preceding five years. The sample from which the 2,098 victims of crime were drawn was weighted by age, gender, socio-economic grade, region, work status, tenure, cars in household, and whether the respondent had taken a holiday in the past three years.

The poll asked the following questions:

How far do you agree or disagree with the following statements?

- Victims of crime should be informed about what offenders will do on their community sentence.
- Victims should have the opportunity to tell the offender about the impact of their actions.
- Victims of crime should be informed about an offender's progress when serving a community sentence.

Do you think community sentences should or should not be used as an alternative to prison for 'lower level' offences?

For the last question the sample was split in order to test the effect of addressing lack of awareness of misperceptions on attitudes. Half the sample were asked the question with just a very brief, preliminary statement:

- "In dealing with perpetrators of 'lower level', mostly non-violent offences, judges are able to choose between giving the offender a short-term prison sentence or a community sentence.

The other half were provided with an explanation of community sentences:

- “In dealing with perpetrators of ‘lower level’, mostly non-violent offences, judges are able to choose between giving the offender a short-term prison sentence or a community sentence. Community sentences aim to protect the public, punish offenders, make them aware of the impact of their actions on victims and contribute to the offenders’ rehabilitation. They are carried out in the local community and tailored to reflect the seriousness of the crime. Community sentences may include unpaid work, treatment for drug, alcohol or mental health problems, as well as exclusion from certain areas by means of electronic tagging and curfews. These requirements are monitored throughout the course of the sentence.”

Secondary research

Literature and evidence review

An evidence review was conducted in January and February 2012 to establish what is already known about victims’ attitudes to community sentencing. Literature was identified by gathering that already known to the research team, web search and snowballing. Relatively little directly relevant research was identified, with most relating to public opinion rather than victims’ attitudes. However, a number of useful sources were identified, reviewed and synthesised into a report which was then drawn on to inform the primary research and analysis and reporting. These are referenced through the report in the footnotes.

British Crime Survey analysis

In order to supplement the findings of the literature review, new analysis was conducted of the 2010-11 British Crime Survey dataset. The analysis looked at responses to questions relating to attitudes to sentencing and the criminal justice system more widely. The British Crime Survey asks respondents whether they have experienced any crime in the past 12 months. Findings were cross-tabulated by responses to this question to give a proxy for victims (those who had experienced crime in the past 12 months) and non-victims (those who had not). This is not a perfect measure but does give a strong indication whether or not recent experience of victimisation makes a difference to views.

Victim Support
Hallam House
56-60 Hallam Street
London W1W 6JL

corporateaffairs@victimsupport.org.uk

+44 (0)20 7268 0200

www.victimsupport.org.uk

Make Justice Work
26a Ganton Street
London W1F 7QZ

info@makejusticework.org.uk

+44 (0)20 3538 8365

www.makejusticework.org.uk

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