



Revising the Victims' Code

A response by Victim Support

August 2015

Victim Support is the independent charity for victims and witnesses of crime in England and Wales. Last year we offered support to more than 1 million victims of crime and helped more than 198,000 people as they gave evidence at criminal trials through our Witness Service. Victim Support also provides the Homicide Service supporting people bereaved through murder and manslaughter and runs more than 100 local projects which tackle domestic violence, antisocial behaviour and hate crime, help children and young people and deliver restorative justice. The charity has 1,400 staff and 4,300 volunteers and has recently celebrated its 40th anniversary.

Ministry of Justice consultation ‘Revising the Victims’ Code’

Victim Support’s response

Victim support welcomes the opportunity to respond to the Ministry of Justice consultation on revising the Code of Practice for Victims of Crime (Victims’ Code).

Victim Support considers the Victims’ Code to be the single most important document for victims of crime in England and Wales. We played a lead role in campaigning for the introduction of the Code and have taken a keen interest in its development ever since, including campaigning for it to be improved and strengthened on a number of occasions.

Victim Support also strongly supported the UK Government’s decision to sign up to the European Directive on Victims of Crime. We welcome the Government’s commitment to ensuring that the Directive is fully and meaningfully implemented and agree that the Victims’ Code is a good vehicle for achieving this.

We welcome the majority of the changes to the Code proposed in the consultation document. However, we do have some concerns regarding how the changes will be funded, access to support services for victims who do not report to the police, and the monitoring and enforcement of the Code. We have also suggested further changes to the responsibilities of Witness Care Units above and beyond those proposed in the consultation.

Q1. Do you agree with our proposal to amend the definition of a victim entitled to services under the Code so that victims of any criminal offence become eligible rather than victims of crimes notifiable under the National Crime Recording Standards (NCRS)? Q2. Please give your reasons to your response in Q.1

We welcome the proposal to extend the entitlements of the Victims’ Code to all victims of crime, not just victims of offences notifiable under the National Crime Recording Standards. We believe that this change will both facilitate compliance with the EU Directive and benefit those victims of crime currently excluded from services under the Code.

However, as identified in the Impact Assessment issued alongside the consultation document, this amendment will clearly result in a rise in the number of victims eligible to be referred to support services and a corresponding rise in costs to PCCs and/or service providers. Indeed the Impact Assessment notes that this change “could increase the number of victims seeking access to the [support] services commissioned by PCCs and potentially the cost of providing those services”¹.

¹ Revising the Victims’ Code Impact Assessment (P8): https://consult.justice.gov.uk/digital-communications/victims-code/supporting_documents/impactassessmentvictimscode.pdf

There is no indication that any funding will be made available to PCCs to cover the cost of this change, which could theoretically increase the number of the crimes (if not victims) eligible for services under the Code by up to 1.3 million per year². While clearly an increase in victims being referred for help and support is welcome, without additional funding this amendment may place a strain on PCC budgets and/or the service providers currently contracted by PCCs to support victims.

Service providers currently working with victims of crime under PCC contracts have been commissioned based on the provisions of the 2013 Victims' Code. The budgets allocated to deliver these contracts therefore cover only those victims eligible for services under the 2013 Code (except in cases where the PCC has voluntarily extended services beyond those automatically entitled to them). As the implementation date for the EU Directive is 16 November 2015 there will inevitably be a period during which PCCs are obliged to provide services to victims not covered under their existing contracts with support providers. We believe that the MoJ should make some transitional funding available to PCCs to cover the additional costs they face in delivering services to victims who fall outside the existing contracts (and for which they have already budgeted).

Q3. Should any more organisations be added to paragraph 8 of the Introduction to the Code because they are competent authorities for the purposes of the Directive? Q4. If yes, what organisations should be added?

Not to our knowledge.

Q5. Should any of the organisations listed in paragraph 8 of the Introduction to the Code be removed because they are not competent authorities for the purposes of the Directive? Q6. If yes, what organisations should be removed?

Not to our knowledge.

Q7. To comply with the Directive, have we imposed the right duties on the additional service providers in Chapter 5 of the Code? Q8. If not, what should we add or amend?

Yes, as far as we are aware.

² Revising the Victims' Code Impact Assessment (P7): https://consult.justice.gov.uk/digital-communications/victims-code/supporting_documents/impactassessmentvictimscode.pdf

Q9. Do you have any comments on any of the other amendments we propose to make to the Code?

We welcome the proposal that Witness Care Units (WCUs) should, in addition to providing information on the decisions taken by the court, provide information on the reasons for those decisions.

However, we believe that this amendment does not go far enough to fully meet Article 6 (2a) of the EU Directive which stipulates that victims have the right to receive information regarding “any final judgement in a trial”³. We know that at present victims often find sentencing opaque and confusing and fail to understand the full implications of the sentence handed down in their case.

Too often when a sentence is imposed it is not made clear what it means in practice, particularly when custody is involved. Although a ‘headline’ sentence will be set out by the judge or magistrates, what that means in practice is often obscure. Time served on remand; conditional or automatic remission of sentence; possible early release on licence or under curfew; temporary day release; eligibility for parole – any of these could affect the final sentence served, but the victim is unlikely to understand how these processes relate to the original sentence.

We therefore believe that in order to fully implement the Directive, WCUs should provide information to victims on what the sentence handed down by the court means in practice as applied to their case. We have in the past recommended that the judge or chair of magistrates should be responsible for providing this more detailed information about the sentence. However, given that the Code consultation already proposes making changes to the information provided to victims by WCUs this presents a good opportunity to address this shortcoming without a significant extra cost. Such a change would be very beneficial for victims and has the potential to increase understanding of, and confidence in, the criminal justice system.

Q10. Do we need to make any other amendments to the Code to implement the Directive? Q11. If yes, what amendments need to be made?

Article 8(5) of the Directive states that “*Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority*”⁴. We therefore welcome the clarification to be included in the revised Code that access to support services is not dependent on the crime being reported to the police (and we appreciate that this is the case already). However, we believe that more needs to be done to implement this Article in a meaningful way.

³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=en>

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=en>

Whilst most PCCs have contracted their support services to specialist providers, some have now taken this support function in-house. While we appreciate that even where the support is delivered by the police it can still be accessed without making a formal report, we are concerned that in practice victims who have chosen not to report the crime may be reluctant to seek support from the police and therefore exclude themselves from support altogether.

Current estimates suggest that more than half of all criminal offences go unreported. This figure is far higher amongst certain groups of victims, particularly young people. In fact the vast majority of serious offences committed against young people go unreported, including 87% of violent offences⁵. There are clearly a range of factors influencing the decision of victims, including young victims, not to report a crime and significant amongst these factors is mistrust and/or lack of confidence in the police. One study conducted by Greater Manchester Police found that only 37% of young people said they had confidence in the police in their local area and only 39% felt they could rely on police to be there for them when they needed them⁶.

We believe that more needs to be done to ensure that all victims can access support irrespective of whether the crime has been reported. PCCs will need to consider how best to make provision for victims of unreported crime where support services have been taken in-house. Particular attention should be paid to ensuring that victims, and groups of victims, who may have a negative perception of the police can access the support they need to cope and recover from crime. This may require specific guidance from the MoJ.

Questions on the Equalities Statement

Q12. Do you think we have correctly identified the effects of these proposals on those with protected characteristics under the Equality Act 2010? Q13. If not, are you aware of any evidence that we have not considered as part of our equality analysis? Please supply the evidence. What is the effect of this evidence on our proposals?

Yes.

⁵ Victim Support & University of Bedfordshire, 2014 'Suffering in Silence: children and unreported crime': https://www.victimsupport.org.uk/sites/default/files/Hidden%20Victimisation%20of%20Children_low%20res.pdf

⁶ *ibid*

Questions on the Impact Assessment

Q14. Do you think we have adequately assessed the impacts of our proposals in the impact assessment? Q15. If not, are you aware of any evidence or sources of information that will help us to understand and assess impacts further? Please supply the evidence. What is the effect of this evidence on our proposals?

We believe that the Impact Assessment has failed to sufficiently consider the risk of non-compliance with the revised Victims' Code.

The Impact Assessment notes *“we have assumed that all agencies will comply with the revised Code. However, it is possible that some agencies may not comply fully with the changes⁷”*. We believe that far from being 'possible' that agencies will not fully comply with the Code it is highly likely that they will not.

Victim Support has longstanding concerns that criminal justice agencies are failing in their duties to victims under the Code, as highlighted in our 2011 report 'Left in the Dark: why victims of crime need to be kept informed'⁸. The report found evidence of widespread failure to meet the requirements for keeping victims informed set out in the Code.

In order to address our concerns about failures to adhere to the Code, Victim Support has repeatedly called for the Code to be effectively monitored and enforced. We were disappointed when, despite a commitment to monitoring the Code (included in 'Transforming the criminal justice system: Strategy and action plan – implementation update'⁹) the MoJ failed to put in place a robust system of monitoring and enforcement. At present agencies are asked to self-assess their compliance against the Code and decide for themselves what information they publish to demonstrate compliance.

The decision not to effectively and robustly monitor the Code is of great concern to Victim Support. Without clear and objective data on each agencies' compliance with the Code it is not possible to hold agencies to account or to drive improvements in performance in the future. Without appropriate levels of scrutiny and oversight there is no mechanism to demonstrate where agencies are failing and no incentive for agencies to prioritise victim care.

⁷ Revising the Victims' Code Impact Assessment (P8): https://consult.justice.gov.uk/digital-communications/victims-code/supporting_documents/impactassessmentvictimscode.pdf

⁸ Victim Support, 2010 'Left in the dark: why victims of crime need to be kept informed': <https://www.victimsupport.org.uk/sites/default/files/Left%20in%20the%20dark.pdf>

⁹ Ministry of Justice, July 2014 'Transforming the criminal justice system: Strategy and action plan – implementation update': https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330690/cjs-strategy-action-plan.pdf

We therefore believe that there is a very significant risk that the changes proposed will not be fully implemented by criminal justice agencies. Were this to be the case, the Directive, while implemented on paper, would not be implemented in practice.