



**VICTIM
SUPPORT**

Victim of the system

The experiences, interests and
rights of victims of crime in
the criminal justice process

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www.victimsupport.org.uk

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Executive summary

Every year around one in five adults in England and Wales falls victim to crime.¹ While crime rates overall have been declining since the mid-1990s, and have dropped dramatically (by more than 60%) over that period,² crime remains a significant social ill which can have profound and long-lasting consequences for victims. This is highlighted by recent Victim Support (VS) research which revealed that 83.7% of victims were negatively emotionally or psychologically affected, and almost two-thirds (59.8%) experienced negative health impacts. Victims also reported negative effects on their housing situation (31.9%), relationships (41.4%) and employment (32.4%).³

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) 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, VS has long been concerned that agencies are not routinely implementing their obligations and that the service victims receive falls short of what is outlined in the Victims' Code. This is backed up by existing evidence from agencies and their inspectorates, which suggests, among other issues, that a third of victims are not being offered the opportunity to make a Victim Personal Statement (VPS),⁴ Special Measures for vulnerable victims are not being adequately provided,⁵ and victims are being left in the dark about the progress of their case.⁶

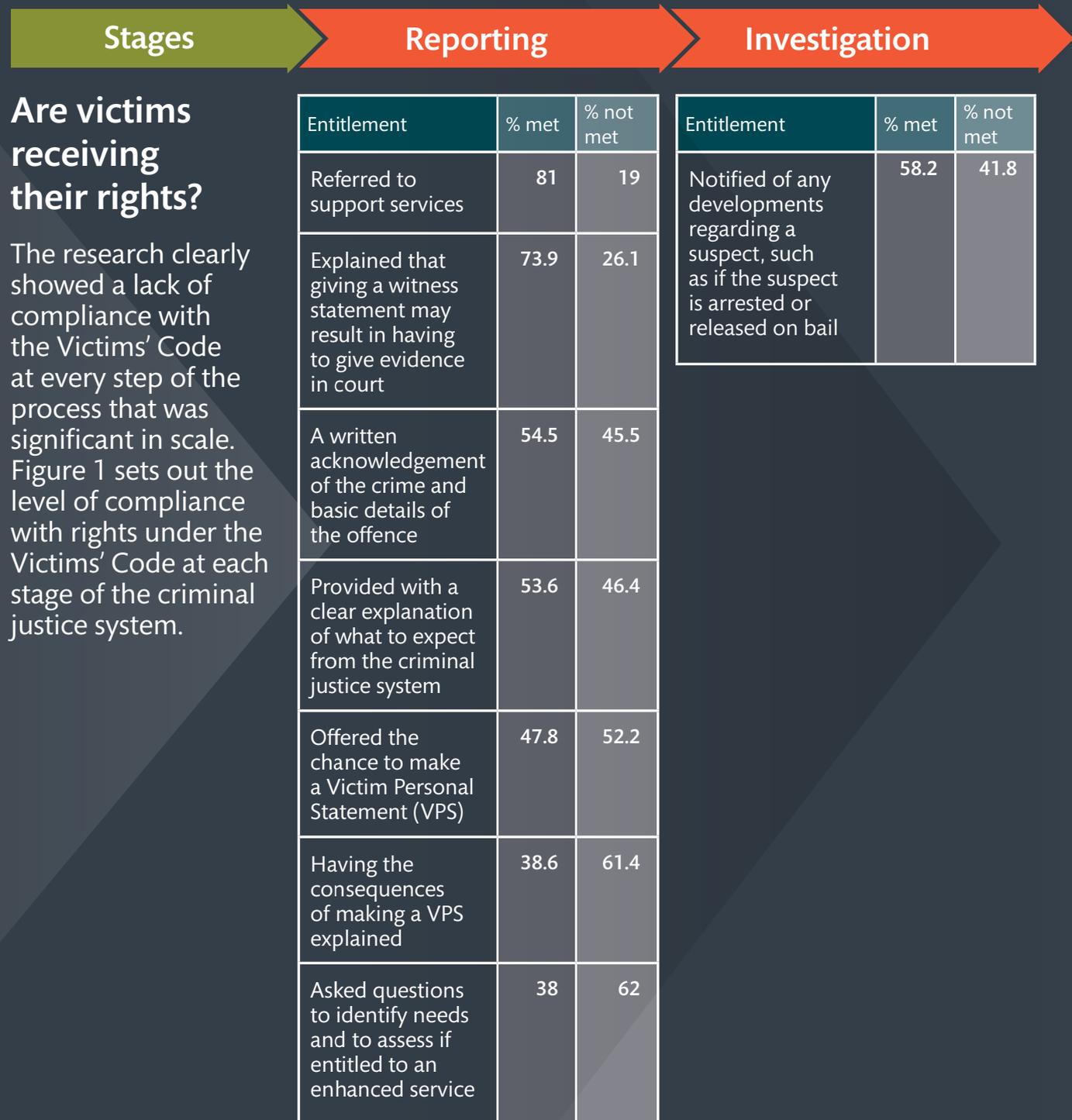
In the face of the mounting evidence that victims are being denied the service they deserve and to which they are entitled, we have conducted both quantitative and qualitative research with victims and VS caseworkers. Our research comprised a survey of 390 victims, and four focus groups and 11 in-depth interviews with current and former VS service users.¹ In addition to our research with victims, we also conducted a survey of 202 VS caseworkers who support victims to capture the issues they see first-hand in their day-to-day work. This new research shines a light on how victims experience the criminal justice process from beginning to end: their levels of satisfaction, how they are treated, the challenges they face, and whether their statutory rights are met.

We draw on the research conducted specifically for this report as well as other sources such as inspectorate reports and evidence from our staff and volunteers. The report aims to highlight where victims are receiving a good service, as well as where they are not receiving the level of service to which they are entitled, and the issues they face at each stage of the process. We make recommendations for changes to policy, practice and legislation that will make a significant difference to their lives.

Summary of findings

Figure 1:

Compliance with



victims' rightsⁱⁱ

Pre-trial

At court

Post-trial

| Entitlement | % met | % not met |
|---|-------|-----------|
| Informed about the date and time of trial | 80.7 | 19.3 |
| Contacted by the Witness Care Unit to assess needs | 66.7 | 33.3 |
| Notified of any decision made about the case before the trial started | 60.9 | 39.1 |
| Given information about what to expect in court | 57.5 | 42.5 |
| Offered or given pre-trial preparation, such as an offer of a pre-trial visit | 56.3 | 43.8 |
| Given information about available Special Measures | 56.3 | 43.8 |
| Informed of any bail hearings | 53.3 | 46.7 |

| Entitlement | % met | % not met |
|--|-------|-----------|
| Notified of the time, date and location of any court hearing related to the case | 87.2 | 12.8 |
| A contact point at court to find information about the case on the day(s) of trial | 54.2 | 45.8 |

| Entitlement | % met | % not met |
|--|-------|-----------|
| Notified of the outcome of any court hearing(s) related to the case | 83.8 | 16.2 |
| Notified about the sentence and received an explanation about the meaning and effect of the sentence | 66.7 | 33.3 |

ii The statistic at reporting is based on between 313 and 316 participants with the exception of the first entitlement; this was based on 133 participants and covered the year 2016 only as the entitlement was introduced in October 2015. Investigation is based on 313 participants; pre-trial is based on between 48 and 61 participants; at court is based on 47 and 46 participants; post-trial is based on 37 and 38 participants.

Summary of findings (continued)

Are victims satisfied with the service they receive?

We found that satisfaction with the CJS is very polarised. Many victims experienced an exemplary service and reported being treated with due sensitivity and respect. However, for many their experience fell far short of what they deserve to expect. The very first paragraph of the Victims' Code

Figure 2:

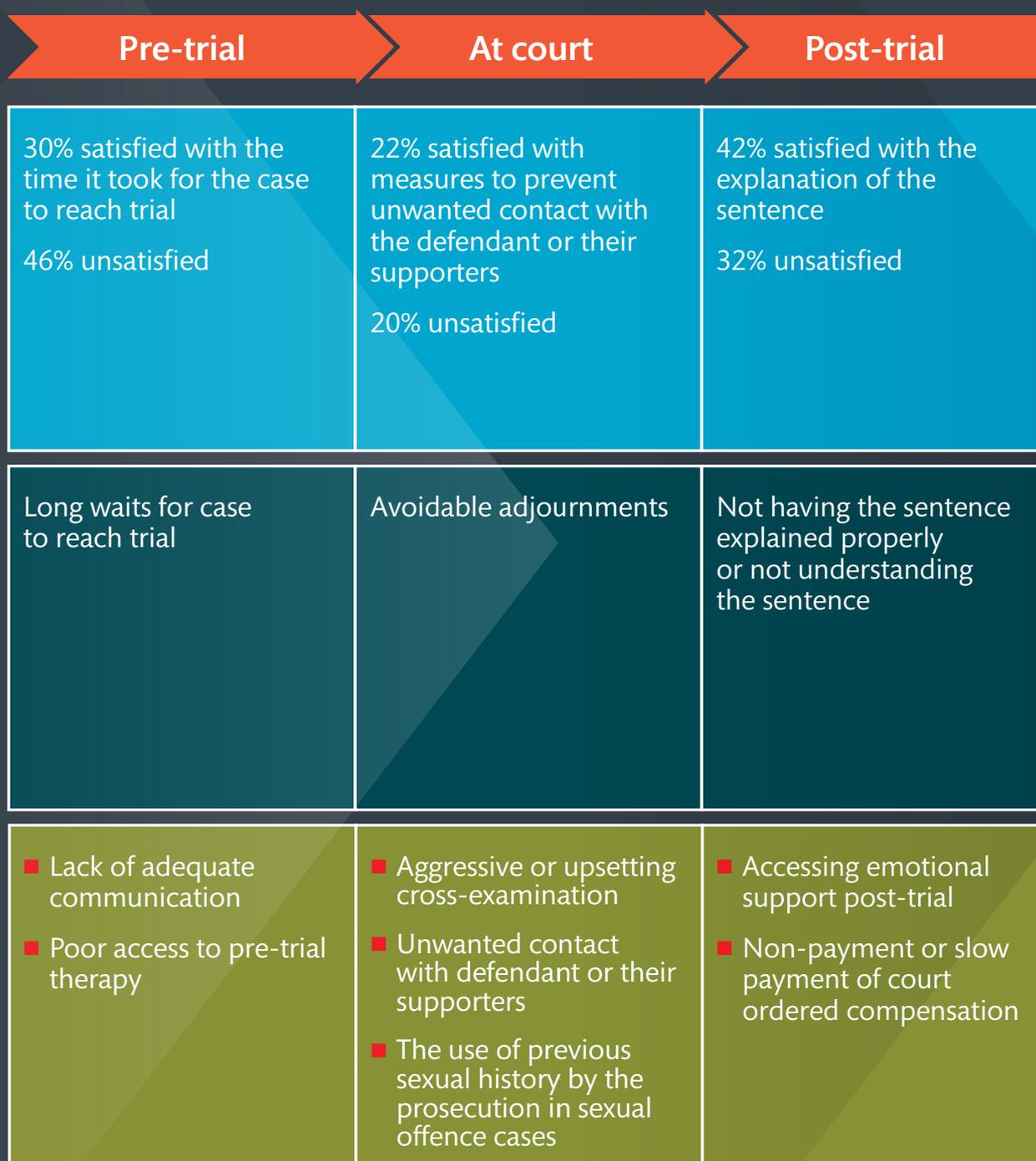
Journey through

| | Reporting | Investigation |
|--|--|---|
| Victim satisfactionⁱⁱⁱ | 40% satisfied with the experience of reporting 40% unsatisfied | 41% satisfied with the way the police investigated the crime 47% unsatisfied |
| Main issues victims face, as identified by VS caseworkers | Lack of adequate communication | Actual or perceived failure to adequately investigate the crime |
| Other issues facing victims | <ul style="list-style-type: none"> ■ Not being treated sensitively and with respect ■ Not being offered the chance to make a VPS ■ Not being believed | <ul style="list-style-type: none"> ■ Not being updated about the progress of the investigation |

ⁱⁱⁱ Satisfaction was measured on a five point scale ranging from 'very unsatisfied' to 'very satisfied'. For the purpose of the report the level of satisfaction was calculated by combining the response options of 'fairly satisfied' and 'very satisfied'; while the level of dissatisfaction was calculated by combining 'very unsatisfied' and 'somewhat unsatisfied'.

states that “Victims of crime should be treated in a respectful, sensitive, tailored and professional manner”. Our research shows that too many victims are not receiving this most basic of entitlements.

the system



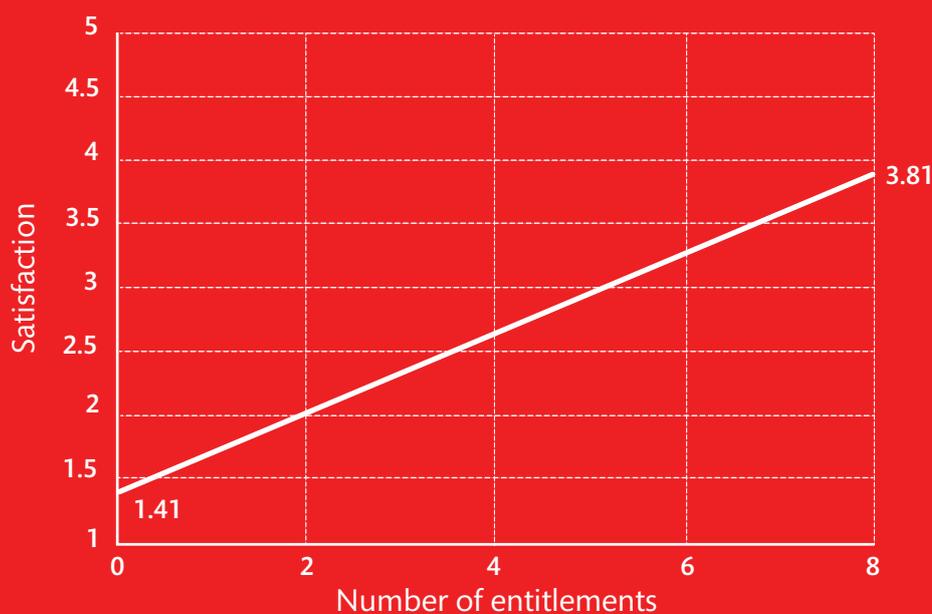
The sample size varies at each stage as the number of victims whose case reached court was significantly lower than the number who reported the offence to the police. The statistic at reporting is based on responses from 301 participants; investigation 295 participants; pre-trial 41 participants; at court 23 participants; and post-trial 36 participants.

Summary of findings (continued)

Crucially, analysis of our survey results showed a clear positive correlation between victims receiving their entitlements from the police under the Victims' Code^{iv} and the likelihood of them being satisfied with their experience with the police.^v Furthermore, our analysis reveals that the more entitlements a victim receives from the police, the more satisfied they are.^{vi}

The results are presented in Figure 3, clearly demonstrating that satisfaction significantly improves when victims' rights are met. Victims who received all of the Code's entitlements from the police reported almost three times the level of satisfaction of those who received none.^{vii} Reported victim satisfaction increased notably for each additional entitlement they received. Additionally, our analysis showed that receipt of entitlements from the police under the Code explains 33% of variation in victim satisfaction with the police. This suggests that adherence to the Victims' Code is vital if the CJS is to drive up satisfaction rates among victims.

Figure 3: Prediction of victims' satisfaction with the police based on number of entitlements received^{viii}



- iv A new variable was computed as a sum of all entitlements from the police. The final scale ranged between 0 (none of the entitlements were received) to 8 (all entitlements were received). The entitlement about police providing a written acknowledgement of the crime was not included as it was introduced to the Code in October 2015.
- v A summative score was calculated as the mean of the three items on satisfaction with the police (Cronbach's $\alpha = .90$). Responses ranged between 1 (Very unsatisfied) to 5 (Very satisfied), a higher score indicating greater satisfaction ($M = 2.89$, $SD = 1.47$).
- vi A Pearson correlation coefficient (r) was used to assess the relationship between number of police entitlements received and satisfaction with the police. A positive correlation was found ($r = 0.574$, $n = 147$, $p < 0.001$). Pearson's correlation coefficient (r) is a measure of the strength of the association between two variables. Possible values range between +1 and -1 inclusive. The stronger the association of the two variables, the closer the Pearson correlation coefficient (r) will be to either +1 or -1 depending on whether the relationship is positive or negative. Using a simple linear regression to predict satisfaction with the police based on number of entitlements from the police ($F(1, 145) = 71.42$, $p < 0.001$, $R^2 = .33$), participants' predicted satisfaction with the police = $1.41 + 0.30$ (number of entitlements).
- vii Rising from 1.14 to 3.71, a 2.7 times increase.
- viii Figure 3 presents the regression line. Participants' predicted satisfaction with the police = $1.41 + 0.30$ (number of entitlements).

This report also identifies areas where victims' rights should be strengthened. These include a Right to Review to the police, guaranteeing that child witnesses can access safe sites away from court to give evidence, ensuring that sexual offence victims are not unnecessarily cross-examined about their sexual history, and extending anonymity to victims of revenge porn. In addition, victims and witnesses would benefit from improvements to existing systems and processes, including better training for police officers in speaking to victims, improved access to pre-trial therapy, reduced court waiting times, and new arrangements for paying and awarding court ordered and criminal injuries compensation.

Conclusions

The findings from our research support the need for improved monitoring and enforcement of the Victims' Code. VS believes that improving how compliance with the Code is measured and monitored is vital to improving our understanding of how it is being implemented and what areas can improve. There also needs to be increased awareness among victims of their entitlements so they know what treatment and services they should receive.

By exploring the whole journey through the CJS, we have also identified other issues that can cause undue distress to victims. We also therefore support wider reforms that, together with increased compliance with the Victims' Code, would transform victims' experience of the criminal justice process. We hope that the findings of the report will be of particular interest to the Government in light of its commitment to set out a strategy for victims, the details of which are expected in early 2018.⁷



Introduction

The nature of the CJS in England and Wales means that victims are reliant on statutory agencies such as the police and Crown Prosecution Service (CPS) to investigate the crime and bring the offender(s) to justice. As former Victims' Commissioner Louise Casey put it, victims are asked to 'step aside' by the state which prosecutes crime on behalf of the Crown.⁸ While justice agencies have obligations towards victims in terms of the treatment and information they should receive, they do not act on their behalf. Perhaps as a consequence of the victims' lack of formal status in criminal proceedings, victims often report feeling like an 'afterthought' in the justice process where all the key decisions about their case are made by external agencies.⁹

Victims' rights

The treatment of victims and witnesses has undoubtedly improved over the past 20 years, driven forward by a political commitment to bring about change and victims' organisations such as VS pressing for reform. Advances have included the introduction of 'Special Measures' for vulnerable and intimidated witnesses in court,^{ix} provisions allowing

^{ix} Special Measures can include putting a screen around the witness box to stop the defendant seeing the witness, giving pre-recorded evidence, giving evidence by video link (usually from another room within the court building) and having the public gallery emptied.

victims to give a VPS, the introduction of Witness Care Units, the use of pre-recorded cross-examination for certain witnesses¹⁰ and a range of commitments by criminal justice agencies to treat victims considerately and respectfully, such as the Prosecutors' Pledge.¹¹

The most significant reform has arguably been the introduction of the Victims' Code,¹² which came into force in 2006.^x The Victims' Code is the statutory document which sets out the rights and entitlements of victims, making it the single most important document for victims of crime in England and Wales. It outlines clearly and precisely the level of service that victims are entitled to receive from each criminal justice agency at each stage of the process, including the police, CPS and HM Courts and Tribunals Service (HMCTS). For example, it specifies that victims are entitled to be kept informed about developments in their case (such as when a suspect is arrested or charged) within set time limits, and that victims must be informed of any sentence handed down to their offender and what it means. The current Victims' Code came into effect in October 2015 and VS worked tirelessly to ensure that it was a robust document containing meaningful rights.

However, evidence suggests the CJS is not routinely enforcing the Victims' Code, and therefore is not meeting its obligations to victims. The lack of compliance could be due to the Victims' Code not being legally enforceable, the absence of a mechanism to hold agencies to account except on individual cases, and no independent body to monitor implementation. Current monitoring arrangements rely on statutory agencies self-assessing their compliance, based on criteria determined by those agencies themselves. Effectively, agencies are asked to set and mark their own homework.

The Commissioner for Victims and Witnesses does have within their remit a duty to "keep under review the operation of the code of practice".¹³ The current Victims' Commissioner, Baroness Newlove, has undertaken a number of reviews of the Code, looking at issues such as the VPS, children's entitlements and the complaints system. A number of other agencies have also looked at compliance with the Victims' Code in some form.¹⁴ These include the CPS, who undertook a victim and witness satisfaction survey in 2015 and plan to repeat the research,¹⁵ and the Criminal Justice Inspectorates, who have looked at issues such as communicating with victims, the VPS and the application of Special Measures. Finally, victims' organisations such as VS have also looked at compliance with the Code through research examining issues including the timeliness of victim contact.¹⁶

However, all of these reviews are piecemeal, looking at certain aspects of the Code but not at the Code's operation as a whole. There is a gap in the system where an effective monitoring and enforcement mechanism would enable the Government to ensure that the Victims' Code is implemented throughout the system and identify good practice as well as areas for improvement.

Nevertheless, these reviews do show that agencies are not routinely implementing entitlements outlined in the Victims' Code. A 2015 report by Her Majesty's Inspectorate of Constabulary (HMIC) found that more than half of forces have issues with lack of compliance.¹⁷ A more recent report also found that "forces vary not only in the consistency and quality of victim contact but also in how this is monitored in order to ensure positive outcomes for victims".¹⁸ Another report from HMIC found that the Victims' Code, Prosecutors' Pledge and any other policy guidance on the treatment of witnesses is only fully met in 52% of cases and is not met at all in 16% of cases.¹⁹

^x The Victims' Code has been updated several times since 2006, the most recent version having been published in October 2015.

Additional evidence on poor compliance with the Victims' Code comes from the CPS Victim and Witness Satisfaction Survey, which found that 35% of victims were not offered the chance to make a VPS,²⁰ which is a requirement of the Victims' Code. Research conducted for VS's youth programme 'You&Co' also found that some Code entitlements relating to children were not being delivered.²¹

Another problematic factor in enforcing the Victims' Code is the lack of awareness among victims of the Code and their entitlements. The Victims' Commissioner's 2015 report *A Review of Complaints and Resolution for Victims of Crime*, based on consulting 200 victims, found not all victims are aware of their entitlements under the Victims' Code to make a complaint about an agency's or service provider's service to them.²²

Finally, the Code lacks a meaningful and robust mechanism for victims to hold agencies to account for failing to fulfil their obligations. Those who feel that their rights under the Code have not been met first must complain directly to the agency responsible, and following this they can take their complaint to the Parliamentary and Health Service Ombudsman (PHSO). However, research by the Victims' Commissioner found that some victims are not aware of how to complain, particularly in relation to the PHSO.²³ Furthermore, statistics obtained by VS show that in 2015/2016 only three complaints relating to the Victims' Code were investigated by the PHSO.²⁴

However, VS believes that there is currently an opportunity and a will among agencies to measure and improve their compliance with the Code and the level of service provided to victims.

The Government announced their intention in the Conservative Manifesto and in the 2015 Queen's Speech to bring forward measures to "increase the rights of victims of crime".²⁵ To date no legislation has been brought forward and there was no mention of victims in the 2016 Queen's Speech.²⁶ However, the Victim's Minister, Dr Phillip Lee MP, has reaffirmed the Government's commitment to increasing the rights of victims of crime²⁷ and has committed to publish a strategy for victims.²⁸ He has also stated that the Government is considering how compliance with the Code can be improved and monitored.²⁹

Additionally, there is a clear and demonstrable appetite among criminal justice agencies to improve the treatment of victims and to measure their own compliance with the Victims' Code. The CPS Victim and Witness Satisfaction Survey looked at the CPS's compliance with the Code and the agency has committed to addressing the failings identified. VS has also developed a Quality Assessment Framework to monitor and evaluate compliance with the Victims' Code in Cumbria, in collaboration with the Cumbria Police and Crime Commissioner and Safer Cumbria. We believe these activities show a will to measure and improve how agencies fulfil their obligations to victims under the Code.

Methodology

Starting in August 2016 we conducted research with victims to assess levels of compliance with the Victims' Code as well as victims' general experiences of the CJS. This research comprises three main types of data collection: a quantitative survey with victims; qualitative focus groups and in-depth interviews; and a quantitative study with VS caseworkers.

The survey was promoted to those whose service with VS came to an end within the last two years and who had agreed to be contacted for the purposes of this research. Out of the 3,542

potential participants who were approached, 390 completed the online questionnaire, an 11% response rate.^{xi} Respondents were from all nine English regions and Wales.

Figure 4 presents the distribution of VS service users, those who were approached and the final sample, broken down by gender and age.^{xii} While men constitute 38.3% of VS service users, a higher proportion (47.6%) were approached to take part in our research. In addition, participants were more likely to be older than overall VS service users and those who were approached.

Figure 4: Age and gender distribution of service users and participants

| | | VS ex-service users (%) ^{xiii} | Ex-service users who were approached (%) | Participants (%) |
|--------|--------|---|--|------------------|
| Gender | Female | 61.7 | 52.4 | 53.8 |
| | Male | 38.3 | 47.6 | 46.2 |
| Age | 18-24 | 16.6 | 14.0 | 5.0 |
| | 25-34 | 24.7 | 26.9 | 18.3 |
| | 35-44 | 21.7 | 23.7 | 24.0 |
| | 45-54 | 17.6 | 17.1 | 23.7 |
| | 55-64 | 9.2 | 10.1 | 17.0 |
| | 65+ | 10.2 | 8.2 | 12.0 |

Participants were asked about how the crime affected their life as well as their experience of the CJS. The most common crime types the participants had fallen victim to were violent crime (32.4%), burglary (20.1%), criminal damage (15.7%) and theft (13.6%).^{xiv}

To gain a richer understanding of the victim experience we also conducted four focus groups and 11 in-depth interviews, between November 2016 and January 2017, with current and former service users from across the country. In addition to our research with victims we also surveyed VS caseworkers between August and September 2016 in order to understand the issues they see first-hand in their day-to-day work with victims. In total, 202 VS caseworkers, both staff and volunteers, completed the survey.

xi Taking into account the sample size, in general, estimation from this sample to the total population of victims in England and Wales should allow for a margin of error of 4.95% in either direction with a 95% confidence interval. Margin of error is a measure of the difference between the estimate from the sample and the population value (Calder, K. (1953). *Statistical inference*. New York: Holt).

xii We have not compared distribution of ethnicity and crime type.

xiii From April 2014 to October 2016.

xiv Figures add up to more than 100% due to victims identifying as being the victim of more than one crime type.

About Victim Support

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.

Our vision is of a world where victims and witnesses are given the support they need and the respect they deserve. Central to this is our mission to champion the interests of victims; speaking up for victims' rights and ensuring their needs are met in the CJS.



Reporting crime to the police

Reporting a crime to the police is the first step on a victim's journey towards achieving – or seeking to achieve – justice. This initial interaction with the police is very important for two primary reasons: firstly, it sets the tone for all future interactions between the police and the victim – a good first interaction is likely to instil confidence, whereas a poor one may undermine confidence.³⁰ Secondly, the police are the only criminal justice agency most victims will have any contact with, and thus for many their experience of the police represents their entire experience and opinion of the CJS.³¹

There are a number of ways victims can report a crime to the police, including via the emergency 999 number, non-emergency 101 number, or in person at a police station. Some minor offences can also be reported online, and some crimes such as hate crime can be reported to third party reporting centres (such as those run by VS) which may with permission pass the case on to the police. However, despite the range of options available to victims we know that the majority of crimes are never reported to the police, and thus the case fails to progress to even the first stage of the justice process. The latest data from the Crime Survey for England and Wales shows that only approximately four in ten crimes are reported.³² Previous analysis of the Crime Survey reveals that the most commonly given reasons for not reporting crime include a perception that the police could not do much about the offence, the offence was too trivial, or it was a private matter.³³

Reporting rates vary enormously depending on crime type: while an estimated 95% of vehicle thefts and 61% of robberies are reported, only half of violent crime and a third of criminal damage ever comes to the attention of the police. The figure is even lower for victims of domestic abuse and sexual offences: four in five victims of partner abuse and five in six victims of the most serious sexual assault never report to the police.^{34,35}

Different victims also face different barriers to reporting. Hate crime, for instance, is significantly underreported for a variety of reasons.³⁶ LGBT^{xv} victims of hate crime state that one of their main concerns with reporting homophobic or transphobic crime is the fear of being outed by doing so. Disabled people face a totally different set of barriers to reporting hate crime, with many fearing that they won't be believed due to their physical disability or mental health problem.^{37,38} In turn, survivors of sexual offences often state concerns about not being believed, embarrassment and fear of further violence as reasons for not reporting; according to data from the Office for National Statistics (ONS) these barriers are significantly less likely to apply for victims of other crimes such as burglary or theft.³⁹

Those that do report to the police are entitled to a myriad of rights under the Victims' Code. The Code states that when a victim of crime makes a report to the police they must receive a written acknowledgement of the crime and basic details of the offence; a clear explanation within five working days of what to expect from the CJS; a needs assessment to identify if they are entitled to an enhanced service or Special Measures; referral to victim support services within two working days (unless they ask for this not to happen); and the opportunity to make a VPS.⁴⁰

Our research with victims suggests that many are not receiving these basic rights afforded to them. Equally importantly, we found that many victims were dissatisfied with the quality of their initial interaction with the police and in particular the tone and manner in which the police spoke to them. While a large proportion of victims reported positive treatment, a number reported concerns including officers being rude or dismissive, implying that the crime was of low importance, or not taking the offence seriously.

Explanation of what to expect and rights

Only just over half (54.5%) of victims we surveyed stated that the police provided them with a written acknowledgement of the crime and basic details of the offence, and a similar proportion (53.6%) were provided with a clear explanation of what to expect from the CJS.

“I think it would be helpful to, from a practical point of view, have the explanation of the process that you go through from going to police, to the court etc and what services may be out there for people.” Victim of stalking and harassment

“The explanation with regards to the process was explained clearly to me and I understood exactly what was going to happen... I had a really good conversation with an officer who took my statement and he advised me about external agencies that could support me... They also told me about what options were available to me with regards to finances, process and court. So they were really helpful.”

Victim of road traffic incident

A slightly higher proportion (58.2%) were informed about the Victims' Code, although many of the victims we spoke to reported first hearing about it from victim support services, implying that support services are helping to plug the gaps in the information provided by the police. This is reaffirmed by VS research with children and young people that found that the charity was actively delivering entitlements on behalf of criminal justice agencies.⁴¹

"I don't think I've heard about the Victims' Code... No, I don't think they [police] did [tell me about it]. No, I'm not familiar with it at all."

Victim of a non-recent sexual assault

"He [police officer] told me all about my rights. That was all explained."

Victim of stalking and harassment

"I didn't hear about the Victims' Code from the police... I only knew about it from previous experience otherwise I wouldn't know." Victim of fraud

"My victim supporter told me about it [Victims' Code], but I didn't know previously."

Victim of racial and religious abuse

Making a Victim Personal Statement

Less than half of the victims we surveyed (47.8%) stated that they were offered the chance to make a VPS. The VPS, which is usually given at the same time as a victim gives their evidential statement, is the victim's opportunity to explain the impact that the crime has had, whether emotionally, physically, financially or in any other way. It gives victims a voice in a system where they too often lack one and evidence suggests that many victims value the opportunity to have their voice heard in this way.⁴² Our findings suggest an even lower offer rate than that reported in the CPS's 2015 victim and witness survey, which found that 34% of victims were not offered the chance to make a VPS.⁴³

The qualitative data we gathered from the interviews and focus groups suggests that while in some cases victims are told nothing about the VPS and not offered the chance to make one, in others the police may mention the VPS but discourage victims from making one due to time or other constraints.

"My VS caseworker told me about the VPS because the police never told me anything, it was all down to my VS caseworker... She told me that I should make a personal statement." Victim of violence

"We didn't do the victim one [VPS] because she [police officer] wanted to leave it because this one [evidential statement] had taken so long to do... So I didn't get to do that one." Victim of non-recent sexual assault and rape

For victims who gave a VPS, the feedback was mixed on how helpful they found it. While some victims were positive about the experience, and in particular the opportunity for the offender to hear the impact of their offending, one of our participants was particularly dismayed when the VPS was reported in the press.

“It was good to know that he [the offender] had heard it... and probably seeing how other people reacted around him... I was hoping it would click in his mind that it was awful what he had done and... how it affected me what he did... It was good to know that without having to talk to him I could still tell him how awful he was basically. It was quite empowering really.” Victim of domestic abuse

“My husband made a victim statement... But unfortunately the paper actually read out [printed] my husband’s statement... It was something that he was saying personally about how this was affecting him what was going on and I think... for it to go in the paper it’s just wrong.” Victim of harassment

The fact that the above victim was not aware that the contents of the VPS may be reported by the press is perhaps correlated with our survey finding that under half (43.3%) of victims had the consequences of making a VPS explained to them. The issue of details of offences being reported in the press is further explored in our ‘At court’ section.

Referral to victim support services

The great majority of victims surveyed (81%) reported that the police either referred them, or offered to refer them, to a victim support service. However, due to the nature of our sample (ex-VS service users), this is likely to overestimate the true percentage of victims referred for support.

There is substantial evidence that having access to high quality independent support improves the victim experience of, and confidence in, the CJS.⁴⁴ This was supported by our focus group participants, many of whom spoke about the importance of receiving independent support to help them cope and recover following the crime.

“The ability to speak to somebody about what happened, other than my family... I was quite mindful of the worry and the concerns and stress that was impacting on my family, and it was actually really good to be able to speak to somebody not involved in any way.” Victim of stalking and harassment

“It’s very important to be able to talk to somebody who can understand what you’ve been [through] and can support you. Just to know that there is somebody on the end of the phone... that you can phone when you are absolutely drained and don’t know where to turn and to talk to somebody about that.” Victim of rape and domestic abuse

“My support worker she came out to see me every week... It was brilliant. As I said I don’t think I would be here now [without her]. I became so depressed, well I’m still depressed but you know you think who do I go to, what do I do, but I knew she was there for me if I needed it.” Victim of antisocial behaviour

“No matter how much family support you have when anything goes wrong... you can never ever tell them your deepest fears or concerns like I did to a lady at Victim Support. I let it all out to her and I actually don’t really know where I would be without her... She just helped me through the most difficult time I ever had in my life.” Victim of harassment

There is also evidence that some victims not referred to a support service would have benefited from having this offer.

“Nobody said ‘look do you want any help on this?’ I didn’t have an offer and it was never ever put to me. It was only when... somebody had rang me and they were threatening me, so I reported it again, the lady there said ‘do you want the guys at Victim Support to help you?’” Victim of fraud

“It would help to have someone to talk to.” Victim of burglary

Research and anecdotal evidence suggest that victims place a high value on support services being independent of statutory agencies, and that they might not engage with services if they believe them to be part of the government or police.⁴⁵ This is backed up by previous VS research which asked victims to identify the three qualities that they believed were most important to them in a support organisation. Just over one in five (21%) stated that support services being independent of the police was a quality most important to them.⁴⁶

“I’d be more likely to think they [support services] could give me a valuable opinion if they weren’t an arm of the police.” Victim of high volume crime

Good practice case study – Northamptonshire

In 2016 VS set up a bespoke training package for Northamptonshire Police, providing training on how to communicate to victims the support and services available to them. The 90-minute session provides training to all new recruits, as well as officers, special constables, inspectors and 999 call handlers. The package has had a long-term impact, with the number of victims being referred to VS for support rising by over 50% since the training sessions began. We also now receive some referrals directly from the force control room, resulting in victims receiving immediate external emotional support straight from first contact with the police.

Our survey also found other elements of the Victims’ Code that were not being consistently offered to victims at the reporting stage. This includes the requirement that the police should conduct a needs assessment to ascertain whether the victim should receive enhanced entitlements (only 38% of victims stated that the police did this), and the requirement that the police explain that a victim may have to give evidence in court if they give a witness statement (a quarter did not have this explained to them).

Police sensitivity

One of the most striking findings from our research was how dissatisfied many victims were not with the basic elements of reporting an offence, but with the tone and manner in which the police responded to them when they did so. The ‘soft skills’ of the police officers involved appear to be very important to the victim experience. In particular, victims were very dissatisfied when they felt that the police were dismissive, failed to believe them, or didn’t take the offence seriously enough.

“I didn’t have a good experience when I reported the crime... I didn’t feel I was believed. I felt very uncomfortable. The lady [police officer] left me in the room and sat out in the reception to phone up her supervisor because she didn’t know what to do... And then she said... how old were the men [offenders] and I said well... I really don’t know, [I] just didn’t have a clue. She took on herself to say to her supervisor ‘oh they probably both in their 80s, they probably not even alive, probably get nothing from it’... It almost put me off reporting it. I almost said to her forget it, just leave it, which I’m glad I didn’t, but that’s what it almost made me want to do... because the way she was treating me.” Victim of non-recent sexual assault and rape

“They [police] just were not interested, inferred it was all my fault and go away.”
Victim of violence

“I find some officers within the Domestic Abuse Unit are quite unhelpful and rude and make me feel like I am bothering them.” Victim of violence

“He [police officer] basically told me he didn’t think it was worth it or bad enough to do anything... He made me feel like I shouldn’t phone up any more and that made me feel really isolated... I felt very let down.” Victim of harassment

However, the victim experience in this regard is extremely variable, with many of the victims we spoke to recounting a very positive experience of reporting the crime and a sensitive and empathetic response from the police.

“I was really worried about going to the police... I went to the police and... I really didn’t know what to expect whether they will take me seriously or not and he [police officer] couldn’t take me more seriously... There was never any kind of feeling that I was taking up too much time. He was just really good. He listened to me... at no point did I feel that they were not taking me seriously... They dealt with it so well... The police were very empathetic. It makes a huge difference.”
Victim of stalking and harassment

“I think part of me I always thought nobody would believe me. I know that sounds silly but that’s how I felt. They [police] definitely did believe me and they definitely supported me. The PC I’ve been working with, she was really really good with me.”
Victim of domestic abuse and rape

While a great many victims receive an exemplary service from the police, the negative reporting experience of some of the victims we spoke to as part of our research is clearly of concern. It is perhaps significant that many of the complaints raised by victims in our study – for example, that the police did not take the offence seriously – mirror the reasons commonly given by victims for not reporting crime in the first place. This would imply that there is at least some basis to the preconceived ideas held by some victims that prevent them from reporting crime.

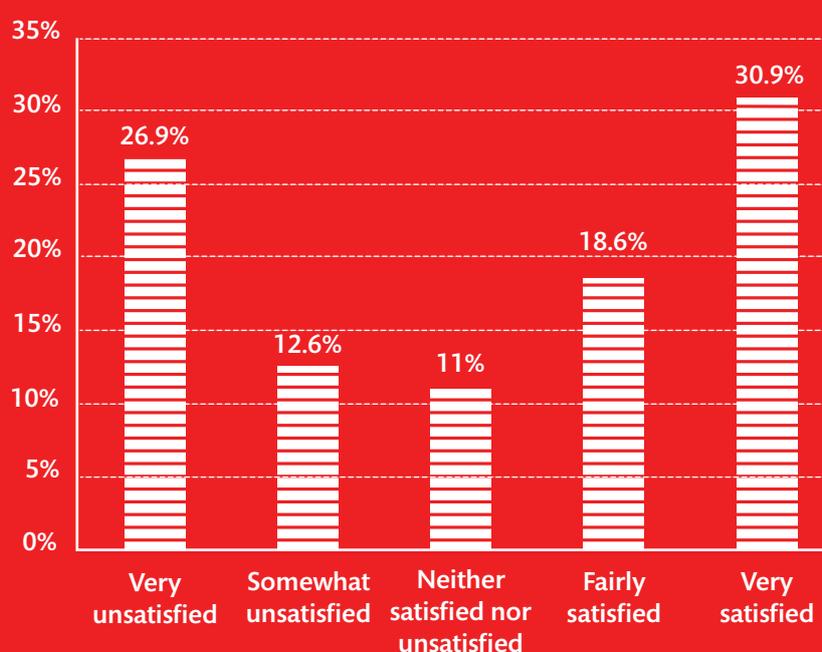
It is of particular concern that some victims did not feel that they were believed when reporting the crime. A recent statement from the College of Policing highlighted the importance of believing victims’ accounts: “we know from research, and lessons from the past, that a key reason why people do not report abuse is a fear of not being believed”.⁴⁷

The statement goes on to cite evidence from Rape Crisis, the NSPCC, the US National Violence Against Women Survey and academic papers outlining that fear of not being believed is one of the most significant barriers preventing victims from reporting crime, particularly sexual violence.⁴⁸

The finding that some victims found officers rude or unhelpful perhaps goes some way to explaining the fact that as many as a fifth of complaints about police officers to the Independent Police Complaints Commission (IPCC) relate to incivility, impoliteness or intolerance.⁴⁹

Overall our research with victims suggests that their experience of reporting an offence to the police is highly polarised, with victims likely to be either very satisfied or very dissatisfied with their treatment.

Figure 5: Satisfaction with victim's experience of reporting of the crime



As the above chart shows, approximately one in three victims (30.9%) are very satisfied with their experience of reporting a crime, with a slightly smaller proportion (26.9%) very dissatisfied. This suggests a wide variation in the response of frontline police officers, with some providing an excellent service while others are failing to meet the needs or expectations of victims.

Good practice case study – West Yorkshire

In 2015, West Yorkshire Police introduced problem solving officers for every ward in Bradford to tackle and resolve antisocial behaviour. All officers attended training at which VS provided input. This included equipping officers with an awareness of the impact of antisocial behaviour and the treatment of victims, using the stories of a number of victims, with their consent. This helped officers to be more aware of the impact of the crime and the needs of victims.

It is clear from the findings of both our quantitative and qualitative research that victims are not consistently receiving their entitlements under the Victims' Code from the police. In fact, for many of the aspects of the Code surveyed (being provided with a written acknowledgement of the crime, receiving an explanation of what to expect from the CJS and having the opportunity to make a VPS) only around half of victims received their entitlements.

Recommendation: All police officers should receive training in how to respond appropriately to victims of crime, including how to express empathy and the importance of believing a victim's account of the offence.



Police investigation

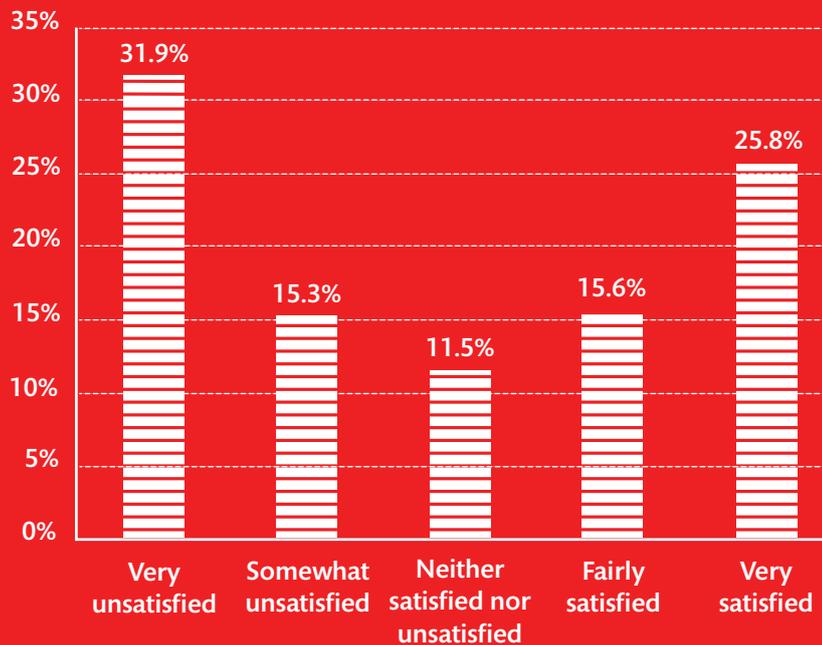
After reporting a crime to the police, the next stage of the justice process is for the police to conduct an investigation and provide the victim with relevant updates on progress.

Pursuing investigatory leads

Although a victim may reasonably expect that all reports of crime will be thoroughly investigated, in practice this is not always the case. The Victims' Code does not provide any specific rights in terms of whether, and to what extent, a crime should be investigated, only that victims must be updated on any developments. However, police officers are expected to conduct investigations in line with Authorised Professional Practice,⁵⁰ which sets out guidance on how offences should be investigated.

Our research with victims suggests that a significant proportion are dissatisfied with the way that the police investigated the crime they experienced. Our survey results reveal that almost half (47.2%) of victims were dissatisfied with the way the police investigated the crime, with almost a third (31.9%) being 'very dissatisfied'. This was also reflected in our survey of VS caseworkers, which found that 67% believed that an 'actual or perceived failure to adequately investigate the crime' was one of the most important issues victims faced.

Figure 6: Satisfaction with the way the police investigate crime



Our qualitative work with victims sheds more light on the reasons for their dissatisfaction with investigations, including citing instances where the police failed to take witness statements, check CCTV, or conduct door to door enquiries.

“Clearly in my case the police were not interested, it took ages to follow things up and they put very little effort into it.”

Attacked by a dog resulting in a severed finger

“They told me they spoke to neighbours to ask if anything was seen, heard or recorded by CCTV and they told me that everyone said no... I spoke to the neighbours within the block of flats who said... [they] were never contacted by the police. I also spoke to a neighbour... he told me he had CCTV which pointed directly towards our flats... which was fully functioning and, had we contacted him a little earlier or the police contacted him, he would have given the evidence picked up. It basically felt like I was tossed aside and they could not be bothered to do the work.”

Victim of burglary

“I feel let down by the police. I feel that they didn’t do as thorough job as what they could. I feel at the time of the incident there was a lot more that they could’ve done, to make the arrest, to make the person pay for the crime by taking him to the court. That didn’t happen. I actually felt let down by the service because I need closure on the crime... I know that this person is out, free walking about and he may do it again because he may not learn from his mistakes.” Victim of road incident

“They could have... interviewed the main witness. They couldn’t be bothered because the accused told them that they hadn’t used racial language towards me or threatened to ‘effing kill me’. In other words, the police took the word of the accused against mine without even bothering to take a statement from the witness.”

Victim of violence and racial abuse

In contrast, some victims were very satisfied with the investigation and perceived that the police officer(s) involved had gone to considerable effort. However, we found such experiences to be less prevalent.

“We were assigned to this police woman who was absolutely brilliant... As soon as it happened they [police] were around... They advised us to get CCTV camera obviously, it helped... And the police came around and we’ve done a statement... She would come to the house to see if we were OK and ring us... She was just excellent. I couldn’t fault her at all and the police, what they did. From my point of view, we had actually one of the best police women I could ever possibly meet. She was so caring... telling us everything, everything that was happening we got to know about. We were never left in the dark. We knew everything what was happening, she would ring up all the time to tell us.” Victim of harassment

Victims’ variable experiences and perceptions of the quality of police investigations are to some extent in line with the findings of the most recent HMIC Police Effectiveness report, which found that 17 out of 43 police forces “require improvement” in how well they investigate crime.⁵¹ HMIC also found that a quarter of police files did not show evidence of a clear investigation plan and that “many officers, particularly mid-service officers, have not received the appropriate investigative training for some years. This has a detrimental effect on their ability to investigate crime effectively.”⁵² Additionally HMIC states that uniformed response officers, who conduct the majority of initial investigations, “will have had limited formal training on how to investigate crime”.⁵³

It should be noted, however, that the most recent findings of HMIC represent a significant improvement on the HMIC inspection report of two years earlier. This found “serious inconsistencies in the way evidence was gathered during the initial stages of an investigation, including failures to do house-to-house enquiries, to take photographs of injuries in domestic abuse assault cases, or to collect CCTV evidence on assaults in a public place”⁵⁴ and further noted that “opportunities⁵⁴ to secure a successful outcome for victims of crime were being missed as a result of failures to conduct an effective, prompt and professional investigation”.⁵⁵ It is probable that a proportion of the victims we surveyed would have had their case investigated prior to the recent improvements in police investigation standards.

Despite the relatively high level of victim dissatisfaction with police investigations, and HMIC’s findings, victims do not have an official right to a review of a police decision not to investigate a crime. This is in stark contrast to the rights victims have under the Victims’ Right to Review scheme, which affords victims the right to challenge a decision not to prosecute an offence.⁵⁶

Recommendation: The Government should conduct a review to examine the feasibility and desirability of extending the Victims’ Right to Review to cover police decisions to close an investigation.

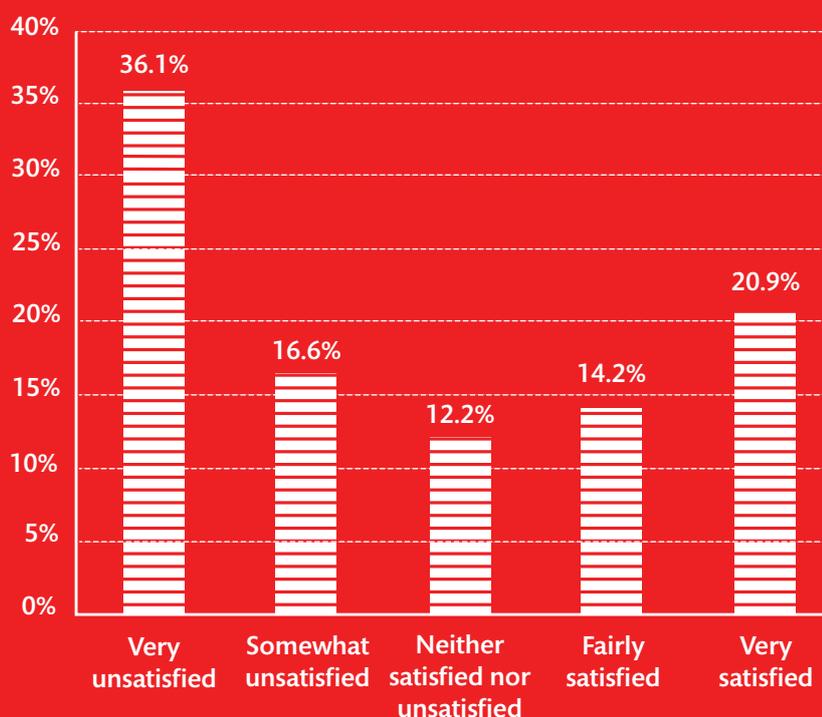
Keeping victims updated about the investigation

The Victims' Code states that victims are entitled to be informed about key developments in their case (such as when a suspect is arrested, interviewed, charged or released) within five working days, or one working day for victims in the priority categories.⁵⁷ Even where there are no updates in a victim's case, the police should agree with the victim in advance how often they will receive updates on the status of the case.

There is a growing body of evidence that victims are not being kept adequately updated on progress in their case. The 2015 HMIC Police Effectiveness report states that "the quality of victim care (in terms of keeping victims informed in line with the requirements set out in the Victims' Code) is not as good as it should be".⁵⁸ In addition, the report states that "victims are not being provided with regular updates on the status of their case, which can be crucial in order to safeguard not only them, but often their children".⁵⁹

Our own research with victims has found that a lack of information and updates on case progress is an area of significant dissatisfaction for victims. Overall, more than half of the victims we surveyed (52.7%) were dissatisfied with how the police kept them updated on progress with the case, with over a third (36.1%) being very dissatisfied.

Figure 7: Satisfaction with the way the police kept victim updated on progress in the case



Four in ten victims (41.8%) in our survey reported that the police did not notify them of developments regarding a suspect in their case. 'Lack of adequate communication' also came out as the top issue victims face with the police in our survey of VS caseworkers, chosen by 75% of those surveyed.

“They’ve [police] been to see me... and I haven’t heard from them since. It makes you feel that you are worthless and what’s happened to you isn’t important, that it wasn’t significant.” Victim of harassment

“Follow up is essential. Even if no more can be done to solve a crime being told this would put an end to it. You otherwise feel lost and unimportant.”

Victim of burglary

“I was also not updated on the progress so I called them two weeks later to find out the case had been closed and nobody had informed me.”

Victim of burglary and sexual offence

“I had no feedback at all after reporting the crime. I was not told the results of fingerprint analysis.” Victim of burglary

“I reported the crime to the police, they [police] came took my statement and that was it, I never heard from them again. They didn’t speak to me about what was going on, and they didn’t contact my family about what was going on... They didn’t tell anything [about how you can] be supported like nothing.”

Victim of violence

While there was a high level of dissatisfaction with case updates reported by victims in our survey, as with satisfaction with reporting crime, the results were highly polarised. In fact, over a fifth (20.9%) of the victims we surveyed were ‘very satisfied’ with the way they were updated.

“They [police] have been very very supportive. They actually contacted me quite regularly with updates. The DC that is working on the case... she’s been contacting me and keeping me updated and asking me if... there is any more support that I need.” Victim of domestic abuse and rape

“The police were very good, they helped me through. They kept me updated; I had regular calls and chats with the police.” Victim of violence

“He [police officer] was very good at keeping me updated on the progress of the case. He phoned me as soon as they were ready to interview him [offender], he phoned me and told me what they are going to do. When they interviewed him he phoned me, it must be just after they interviewed him, and told me how the interview has gone, what they gonna do, where it’s gonna go from there.”

Victim of stalking and harassment

The results of our recent survey are also in line with the findings of our 2011 research report *Left in the Dark: why victims of crime need to be kept informed*.⁶⁰ That report found evidence of widespread failure to meet the requirements for keeping victims informed. In particular it found that victims are only kept updated about what is happening in their case to a satisfactory level in around half of all reported incidents, and in a third of cases the victim hears nothing more from the authorities after reporting the crime.⁶¹

The *Left in the Dark* report also points to some stark consequences of failing to keep victims adequately informed. Our findings revealed that as well as affecting their wellbeing, failing to keep victims adequately informed was undermining confidence in the CJS as a whole, which in turn could affect its ability to bring offenders to justice. A poor level of service from the police can make victims disengage from the system,⁶² and also make it less likely that victims will report incidents in the future.⁶³ In some cases poor treatment can even affect the success of the investigation as unsupported victims may be more likely to withdraw support for a case while it is being investigated or prosecuted.⁶⁴ Recent figures published by the Ministry of Justice reveal that the number of prosecutions dropped due to victim or witness issues is rising,⁶⁵ which again may be indicative of poor treatment.

Our recent research with victims, as well as official inspectorate reports and previous VS research, suggests that significant progress is required to ensure that all victims are satisfied that their case has been adequately investigated and that they have received relevant updates in line with the Victims' Code. Improvement in these areas is essential if the CJS is to retain the respect and confidence of victims, witnesses and the public at large and secure their cooperation in bringing offenders to justice.



Pre-trial

For most victims of crime, their experience of the CJS starts and ends with the police. In the majority of cases investigations are either closed without further action being taken (48% of recorded offences are closed with no suspect identified)⁶⁶ or, less commonly (7.4% of cases), dealt with by means of an Out of Court Disposal.⁶⁷ Only a small minority of reported crimes make it as far as the courts.

For cases that do proceed to court, the Victims' Code sets out the level of service victims should expect to receive from the Witness Care Unit,^{xvi} CPS and HMCTS. At the pre-trial stage, this includes the right to be informed of the outcome of any bail hearings, the date, location and outcome of any criminal court hearings, and to be informed if you are required to give evidence and receive information about what to expect.⁶⁸ Victims in the three priority categories^{xvii} should also be informed that pre-trial therapy is available and will be facilitated if requested.

xvi The Witness Care Unit is intended to be the single point of contact for victims and witnesses for information about the progress of their cases and to mitigate the stress of going to court. It should also inform victims and witnesses of the dates of court hearings, provide information about the process, and communicate court results and explain any sentence given.

xvii The Victims' Code defines the three 'priority categories' as: victims of the most serious crime, persistently targeted victims, and vulnerable or intimidated victims.

For victims required to give evidence, the Victims' Code stipulates that they should be offered a full needs assessment by the Witness Care Unit, which may include identifying the need for Special Measures for those victims entitled to them. Victims are also entitled to a pre-trial visit, which is a visit to the court before the date of the trial, giving the victim the opportunity to familiarise themselves with the court building.⁶⁹

Preparation for court

Our survey with victims found that compliance with the Victims' Code was patchy at the pre-trial stage, with almost four in ten victims (39.1%) reporting that they were not notified of decisions made about a case before the start of the trial, over four in ten (42.5%) not being given information about what to expect at court, one in three (33.3%) not given a needs assessment, and almost a fifth (19.3%) not given basic information about the date and time of the trial.

Our findings at the pre-trial stage (although based on a small sample of 61 victims whose cases progressed to court) suggest a similar or slightly higher rate of victims receiving a needs assessment than that found by the CPS's 2015 victim and witness survey. In that survey, the CPS reported that "of those asked to give evidence, 45% of victims... received a needs assessment from a Witness Care Unit".⁷⁰ However, despite our indicative finding that more victims may now be receiving a needs assessment, with a third missing out on this basic entitlement there is clearly more work to be done to ensure full compliance. It is also of significant concern that many victims are not being given the relevant information about the trial dates, times and outcomes.

Some of the victims in our focus groups were concerned not only about the information (or lack thereof) they received from the Witness Care Unit, but also about insensitive treatment by individuals staffing those units. However, it should be noted that it is difficult to ascertain from our results how widespread a problem this was.

"Regarding my assigned witness care officer, he was very harsh, rude and completely disregarded any feelings I had of fear, anxiety or sadness. I was basically forced into attending a trial and finding child care with no added help. This particular witness care member was rude enough to suggest that if I didn't go to trial I would only have myself to blame if anything happened to myself or my young children."

Victim of criminal damage and violence

Well over half of the victims in our survey (56.3%) stated that they were offered a pre-trial preparation visit, significantly more than the 34% of victims who reported they were offered one as part of the CPS's 2015 survey.⁷¹ That same CPS survey found that 71% of victims who visited the court before the trial found it 'very helpful'.⁷² The value of pre-trial visits is further supported by evidence from our *Out of the Shadows* report which found that "most of those who did visit the court prior to the first day of trial, found it useful to find out what a courtroom looks like and where everyone is positioned during a trial".⁷³ We also received a lot of positive feedback on pre-trial visits from our focus group participants and interviewees.

“I had like a pre-trial visit before going to court, basically my VS caseworker was the one who sorted all that out for me... I was just so scared and frightened because I haven’t been to court before and it was just scary. And she made that OK because I went and had a pre visit... She took me to the side room [waiting room] and I felt so much calmer.” Victim of violence

“Witness care in particular were really helpful. I had a pre-trial visit which helped me visually prepare so I knew where to go and what to expect.”

Victim of non-recent sexual assault

Pre-trial therapy

The issue of access to pre-trial therapy has been an issue within the CJS for a number of years. There are strong links between victimisation and mental health problems, particularly for victims of sexual offences, with as many as 50% of female rape victims developing post-traumatic stress disorder (PTSD) or other symptoms such as anxiety, depression, suicide attempts, sleep disorders and eating disorders.^{74,75} Victims of child abuse are more likely to develop psychiatric disorders including PTSD, depression, anxiety and eating disorders.⁷⁶ It is clear that some victims of crime can benefit from therapy to help them to cope and recover from their experience.

However, there are concerns among criminal justice agencies that inappropriate pre-trial therapy can lead to the victim’s evidence being tainted and the prosecution lost. The CPS states that: “the key issue with regard to pre-trial discussions of any kind is the potential effect on the reliability, actual or perceived, of the evidence of the witness and the weight which will be given to it in court. Pre-trial discussions may lead to allegations of coaching and, ultimately, the failure of the criminal case.”⁷⁷

While the CPS makes this assertion, the decision to undertake pre-trial therapy is the decision of the victim alone. The availability and facilitation of pre-trial therapy is a key right under the Victims’ Code and is outlined in CPS guidance.

Despite this, there is a substantial body of evidence that victims are being advised by criminal justice agencies not to undertake pre-trial therapy, or are being flatly denied it.^{78,79,80,81,82} This means that many victims are unjustly denied much needed psychological support. Research also shows that many of those who wait until after trial to access therapy believe support post-trial is too late.⁸³ This issue affected one of our focus group participants, who described how she was discouraged from seeking therapy prior to the trial:

“I was told it will be better to wait [for therapy] till after the trial because there were things that we wouldn’t be able to sort of discuss because of the pending trial, because there were certain aspects I wouldn’t be able to talk about... I think it would’ve been helpful to have it [pre-trial therapy] because I’ve never been like to court before. I was very very nervous. It was such a traumatic experience as well as having to relive things from the past, from my childhood and then keep going on the whole court thing in my head.” Victim of non-recent sexual assault

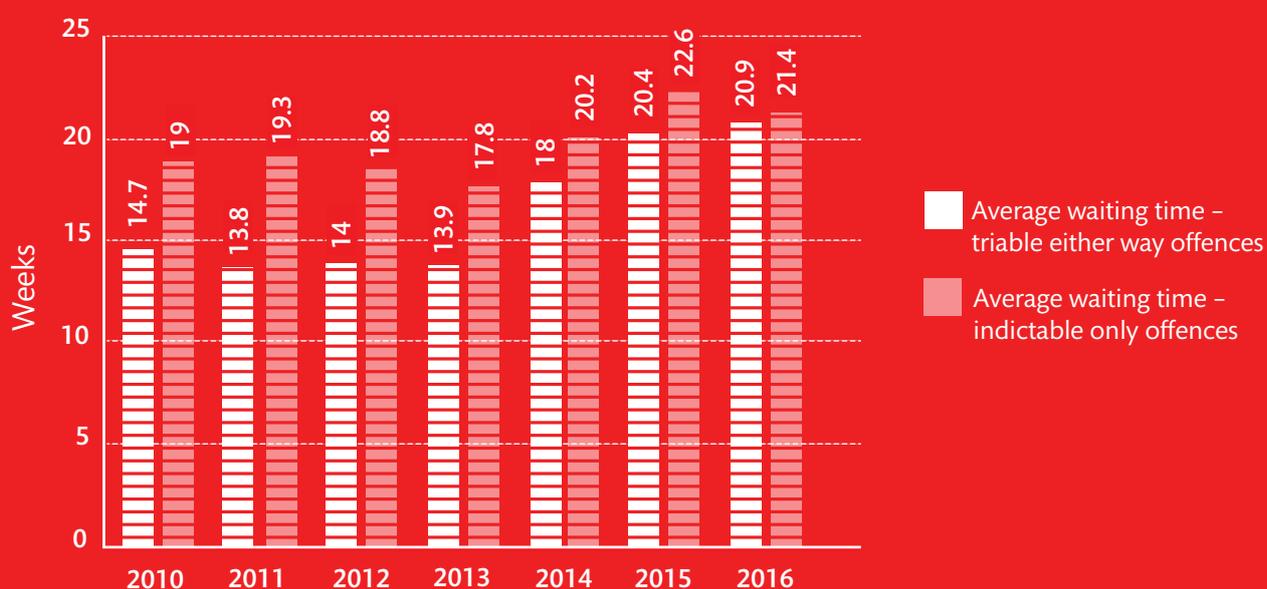
VS is concerned that despite CPS guidance and the right enshrined in the Victims' Code to access pre-trial therapy, victims are still being denied the opportunity to receive this form of support. We are encouraged that CPS guidance is currently being revised and we support the Government's commitment to ensure it highlights that "the interests of the witness in criminal proceedings are paramount in ensuring there is access to therapy both before and after trial".^{84,85} As current guidance clearly states that "the best interests" of the relevant witnesses are "the paramount consideration in decisions about the provision of therapy before the criminal trial", updating it is only a first step and all agencies involved must ensure that updating this guidance actually translates into real change for victims who need appropriate therapy pre-trial.

Recommendation: The NHS and criminal justice agencies should work together to ensure that appropriate pre-trial therapy is offered and available for vulnerable victims, and will be facilitated if needed.

Waiting times for cases to reach trial

The 'waiting time' for a case to be tried refers to the number of days between a case being sent to court and the start of the substantive hearing. In effect, it refers to the time a victim has to wait for their case to be heard in court after the point at which it is ready for trial. The average waiting times for trial have soared in recent years and now stand at almost five months in the Crown Court.

Figure 8: Average waiting times for trial in the Crown Court in England and Wales

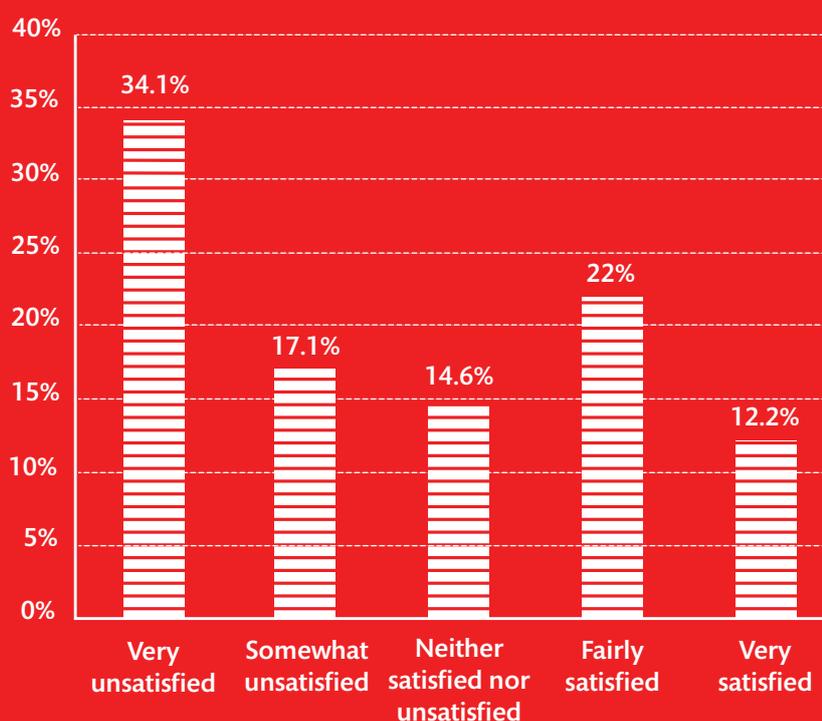


This is distinct from the 'offence to completion' time, which measures the time from the offence happening to the conclusion of criminal proceedings (and thus includes the time taken to investigate the crime). This figure has also risen exponentially in recent years; it currently takes 273 days (nine months) from offence to completion in the Crown Court, up from 222 days five years ago. This also varies substantially by crime type, with sexual offence cases taking 408 days to complete, which is over seven times as long as theft offence cases (56 days).

Long waiting times for cases to reach trial is a perennial problem in the CJS in England and Wales and has been the subject of a number of reviews over recent years, including the influential *Review of efficiency in criminal proceedings* written by Lord Justice Leveson.⁸⁶ This is an issue which came through strongly as an area of concern in our quantitative and qualitative research with victims. It was also the subject of the VS 2015 report *Waiting for Justice* and a key theme of our 2013 report *Out of the Shadows: Victims' and witnesses' experiences of attending the Crown Court*. There is now a significant body of evidence to demonstrate that waiting times for cases to reach trial are viewed by victims as being too long, and that the wait they endure is having a substantial negative impact on them.

Our survey with victims found that more than half (51.2%) were dissatisfied with the time it took for their case to reach trial, with more than a third (34.1%) being 'very dissatisfied'. Long waits for cases to reach trial also topped our caseworker survey as the most important issue facing victims pre-trial, selected by 76% of those questioned.

Figure 9: Satisfaction with the time it took for the case to reach trial



Evidence suggests that waiting a long time for a case to come to trial can cause stress, anxiety and inconvenience for victims and witnesses. Our 2013 research report *Out of the Shadows*⁸⁷ found that delays in cases reaching court, and subsequent adjournments, were "especially difficult for victims of crime". The authors reported that "many of our interviewees talked about having to put their life on hold or of not being able to move on from the crime" during the period between the offender being charged and the start of the trial. The problem of long waits for cases to be heard was also acknowledged by Lord Justice Leveson in his review.⁸⁸ Lord Justice Leveson noted that at least one Crown Court was fixing trial dates a year in advance and that this "is doubtless causing a considerable increase in the stress placed on victims and witnesses".⁸⁹

The distress caused to victims by long waits for trial was also highlighted in our *Waiting for Justice* report which cited the case of a domestic abuse victim who had suffered a serious assault and had her trial adjourned three times. The VS staff member supporting her reported that the victim was “extremely distressed having waited months for the court date to come round and prepared herself for it. She feels re-victimised.”⁹⁰ In a similar case which took a year to reach trial, having been adjourned on three occasions, our staff member reported that:

“The witness became visibly upset when speaking with the prosecutor, and stated that it was because it had gone on so long. She told us that she has been unable to move on with her life for nearly a year, and this has taken a toll on her emotionally.”⁹¹

The theme of not being able to move on with one’s life while awaiting trial was also picked up by our focus group participants and interviewees.

“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

“The court case eventually came about nine months after the actual attack... The court was running late... We sat there for about an hour and then the prosecutor came and said I’m terribly sorry but today’s court case has been cancelled because they are going to hear a more important one and it has to be rescheduled. It was then scheduled for early September. This incident happened in September of the previous year so it took a year to come to court. And it nearly got cancelled the second time. It’s just my prosecutor made a case to court that it probably wouldn’t get heard [if cancelled again] because I... was going to be away for a while so they gave exception to that.” Victim of road rage incident

Long waits for a case to reach trial are not only stressful for the victims and witnesses involved, but also have the potential to undermine the effectiveness of the trial itself. Lord Justice Leveson’s review identifies that where there is a long period between offence and trial “memories will be affected and the direct evidence less persuasive”.⁹² This point has also been made by VS caseworkers who have seen first-hand the effect that long waits can have. One VS volunteer, supporting a victim who had had their case adjourned for six months, commented: “one has to question under these circumstances just what quality of evidence he is likely to be able to give, so far down the line”.⁹³

In addition to the risk that the quality of the evidence given at trial will diminish the longer the waiting period is the concern that long waits may result in a trial collapsing altogether. While there is no research evidence that we are aware of demonstrating a concrete link between long waiting times and ineffective trials, there is anecdotal evidence of a correlation. Research commissioned by VS found that “the changing of court times and dates resulted in some participants not attending court and hence potentially affecting the outcome of the case”.⁹⁴ VS staff also frequently report that victims and witnesses either do not return to court following an adjournment or threaten not to.

There is also some suggestion that defendants may be deliberately exploiting long waits for cases to come to trial in the expectation of the case collapsing. Lord Justice Leveson writes that listing cases for trial many months ahead “increase[s] the likelihood of defendants pleading not guilty, knowing that the trial will not come up for a considerable period by which time... victims and witnesses [may have] lost interest or moved away”.⁹⁵

The consequences of a criminal trial collapsing because a victim has lost confidence in the justice process are far-reaching. Not only does such a scenario result in failure to bring an offender to justice, leaving them free to commit further crimes, but negative experiences also make victims less likely to report incidents in the future.⁹⁶ Thus a victim feeling so dissatisfied that they disengage from the CJS can impact not only the case in question, but future cases relating to crimes not yet even committed.

Previous research commissioned by VS found that victims thought reducing the time between offence and trial should be a priority.⁹⁷ Protracted waiting times and multiple adjournments have now become issues of such proportion that they risk undermining the integrity of the whole system. VS believes that the failure of the courts to process criminal cases within a reasonable timeframe risks doing immense damage to the standing and effectiveness of our CJS.

The Ministry of Justice has acknowledged that “our courts are archaic and slow, and their out of date processes do not meet the needs of the public”⁹⁸ and is reforming the court process with the aim of making it more streamlined. A package of measures was announced by the Government in September 2016 including a commitment to “invest in smarter, more streamlined processes to deliver better justice for all, including victims, witnesses and society”.⁹⁹ This includes digitising the CJS, providing an online process to manage cases from charge to conviction and introducing wi-fi to courts. The Prison and Courts Bill, going through Parliament at the time of publication, will extend the use of video link technology and provide for more matters to be dealt with virtually, among other issues.¹⁰⁰ HMCTS has also established a working group to engage with victim and witness organisations, of which VS is a member.

Recommendation: The Government should make reducing waiting times a central aim of its ongoing court reforms.



At court

Many victims and witnesses required to attend court to give evidence have never been inside a court building before, let alone been a participant in a criminal trial. The unfamiliarity of the setting, coupled with their natural anxiety over taking the stand, can make attending court a stressful and daunting experience. VS research has found that most witnesses are 'very anxious' about going to court. They find it to be an unknown and intimidating environment, worry about coming face to face with defendants and fear possible reprisals for giving evidence.¹⁰¹

Our focus group participants and interviewees described the experience of attending court variously as 'distressing', 'daunting' and 'scary'.

"It was quite a distressing experience. It wasn't very nice at all."

Victim of non-recent sexual assault

"I've never been to a court before so if it's your first time, I perceived it as being extremely daunting." Victim of assault and theft

"I was so scared and frightened as I haven't been to court before, it was just scary... I thought I will just pass out... Before I actually got through the door on the day I was actually literally sick... I had panic and fear and felt like my stomach was constantly going." Victim of violence

Provision of Special Measures

Over recent decades a number of new provisions have been introduced to help make appearing in court as a witness less distressing and enable victims to give their ‘best evidence’. The most significant of these changes was the introduction of ‘Special Measures’ under the Youth Justice and Criminal Evidence Act 1999. Special Measures are additional provisions which witnesses defined as being either ‘vulnerable’ or ‘intimidated’ can have (at the discretion of the court) to help mitigate the stress of giving evidence. Special Measures can include putting a screen around the witness box to stop the defendant seeing the witness, giving pre-recorded evidence, giving evidence by video link (usually from another room within the court building) and having the public gallery emptied.

The Victims’ Code states that, where appropriate, the CPS must consider making a Special Measures application to the court “taking into account any views expressed by the victim”.¹⁰² This is also a duty of prosecutors under the CPS ‘Prosecutors’ Pledge’.¹⁰³ HMCTS is responsible for ensuring that any Special Measures that have been granted by the court are in place on the day of the trial.¹⁰⁴

Evidence suggests that the provision of Special Measures is patchy, with research conducted by the CPS finding that vulnerable and intimidated witnesses are not always identified and even where they are, Special Measures are not always discussed in a timely fashion.¹⁰⁵ HMIC has also found evidence of the police not working adequately with the CPS to provide Special Measures for vulnerable victims.¹⁰⁶ This was also a key finding of our *Out of the Shadows* report, which found that witnesses experienced a lot of confusion and many did not know until the last minute whether they would receive Special Measures or not. This is sometimes the cause of stress and anxiety to witnesses.¹⁰⁷

“It wasn’t that easy to get [Special Measures]... [I] was really unsure as to whether we’d get it and nobody really told us, definitively, until the actual day that we were in court that we’d be getting them.” Witness in serious assault case¹⁰⁸

However, despite evidence that the process for obtaining Special Measures is sometimes lacking, most witnesses who receive them are very positive about their impact. CPS research has found that the most common Special Measure, the use of a screen (used by 11% of victims who give evidence), was found to be helpful by 85% of victims.¹⁰⁹ Similarly, VS’s *Out of the Shadows* report found that most of the witnesses they interviewed who were granted Special Measures ‘greatly appreciated’ them.¹¹⁰ Some of our focus group participants described how the provision of these measures gave them greater confidence in giving evidence:

“I had Special Measures so I didn’t have to look at him [the offender]... and it made giving my evidence a lot easier not having to see him.”

Victim of non-recent sexual assault

“I made a point of saying that I wanted to give my evidence behind screen, I really didn’t want to see this guy again. It took a little while to get that approved, but it was approved.” Victim of road rage incident

In the case of children (under 18 years of age), all should be automatically assessed as vulnerable and therefore be entitled to receive Special Measures. However, there is

substantial evidence that criminal justice agencies do not always recognise vulnerability and children are not always assessed as vulnerable.^{111,112,113} Even where children are appropriately assessed many do not have access to one of the most impactful measures – the ability to give evidence via video link from a location away from the court building. There are currently 21 video live link sites in England and Wales allowing witnesses to give live evidence remotely, fewer than one for every two police force areas.¹¹⁴ However, the Government plans to increase the number of sites available.

While there are clear concerns with how vulnerability is assessed, there is also an issue with the presumption that vulnerable witnesses should give evidence a certain way: for example CPS guidance states that all child witnesses should give their evidence first by recorded interview and then give any further evidence by live link. However, not all vulnerable victims have the same needs and preferences and the same approach to seeking justice. Some victims may want to use Special Measures and give evidence via remote link, while others may want their day in court and opportunity to see the defendant in the dock. There should be no one size fits all approach to vulnerable victims giving evidence in court.

Recommendation: Vulnerable victims, including children and young people, should have more choice over how and where they give evidence. They should be able to do so in a way that is tailored to their individual, specific needs, rather than being provided with a default option, allowing them to make an informed and personal decision about how to proceed.

Cross-examination

Cross-examination is the process of “being questioned by the prosecution or defence lawyer to test the accuracy and truthfulness of a witness’s evidence. This might involve the witness being given another version of an event for their comments.”¹¹⁵ While cross-examination is an essential aspect of the adversarial system, it can nevertheless be a harrowing experience. Previous research with the Witness Service found that vulnerable and intimidated witnesses felt stressed and upset by cross-examination and 71% of young witnesses who were cross-examined said the experience had upset them.^{116,117} The victims who took part in our focus groups and interviews painted cross-examination as an intimidating, unpleasant and sometimes shocking experience.

“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

“His solicitor just came up with the strangest level of attacks... I just found the experience quite traumatising. It brought back the whole case.”

Victim of road rage incident

“I was told that I would only be questioned on my statement. That was not the case. I was questioned about many other things... I was not prepared for that. And was deeply shocked by the deception and lies that were thrown at me by the lawyer.”

Victim of violence

“With her [offender’s] solicitor, the way he was cross-examining me saying that this [attack] didn’t happen that it was in my head... it just made me feel so bad and I said no it wasn’t like that, it really wasn’t like that... I was the victim and she [offender] was like laughing at me... and she just kept shouting ‘you’ve got to prove that’... She had to get told by the court to be quiet... And I felt physically sick. It was just awful... Whole experience of being there was a bad experience. I think it’s something that stays in your head and you can’t get away from that.” Victim of violence

While cross-examination is a necessary part of a contested trial, there are steps criminal justice agencies can take to help better prepare witnesses for the experience. This includes the requirement as set out in the Victims’ Code that the prosecutor should introduce themselves to victims and answer any questions they have on the court process. In addition there is an obligation on prosecutors to seek the court’s intervention where cross-examination is considered to be inappropriate or aggressive.^{118,119}

However, CPS research suggests that under half (49%) of victims were satisfied that they were given enough support before giving evidence, dropping to 45% for victims of ‘sensitive offences’.¹²⁰ Our own survey with victims found that only ten of the 21 victims we surveyed who were cross-examined reported that the prosecutor spoke to them and explained the basis of the defence case before the trial, and five out of ten were dissatisfied with the level of judicial intervention during cross-examination.

Special Measures exist for the aim of alleviating some of the stresses and pressures of cross-examination for vulnerable victims and the Government has committed to roll out the use of pre-recorded cross-examination in 2017, allowing vulnerable witnesses to pre-record their evidence ahead of the trial taking place.¹²¹ This is a very welcome step in the right direction but the Government needs to go further. With over three-quarters of children reporting feeling anxious about giving evidence¹²² and almost half encountering the defendant in the court building,¹²³ it is highly questionable whether court buildings are suitable places for children and vulnerable people to give their best evidence. Child and vulnerable witnesses should be able to give their evidence from somewhere less daunting and imposing, with fewer people around and where they do not risk being seen by the defendant or being approached by their supporters.

Additionally, victims of sexual offences face substantial and distressing problems during cross-examination in the form of their past, private, sexual history being used in court as evidence against them. Section 41 (S41) of the Youth Justice and Criminal Evidence Act 1999 states that in a sexual offence case, no evidence can be admitted and no question can be asked in cross-examination about the sexual behaviour of the complainant apart from in exceptional circumstances.

However, research shows that the victim’s previous sexual history is in actuality used as evidence regularly and in contravention of S41. A 2016 study of rape trials found that the complainant’s sexual history with third parties was introduced in half of the trials examined without any S41 application to allow it.¹²⁴ In one trial, the defence cross-examined the complainant about her relationships with other men, in contravention of S41. Rather than stopping this line of cross-examination, the judge instead proceeded to continue the line of questioning himself. Another study by the Northumbria Police and Crime Commissioner Dame Vera Baird QC, published in February 2017, found that out of 30 rape trials at Newcastle Crown Court, the complainant’s history was used in 11. In four of the trials, no application was made to use this evidence.¹²⁵

The use of previous sexual history at cross-examination can deter victims from reporting and can be difficult, intrusive and distressing for them in the courtroom. It is also linked to pernicious and untrue myths about rape and female sexuality which are prejudicial against the victim, namely that women with sexual history are more likely to consent and are less worthy of belief. However, VS is encouraged that progress is being made to restrict the use of previous sexual history to only where necessary. We participated in an engaging and productive meeting with the Justice Secretary on the issue in January 2017 and we are pleased that the Government have committed to allowing victims of sexual offences to pre-record their cross-examination before trial.¹²⁶

Recommendation: Court buildings are not suitable places to expect children to give their best evidence. Alternative provision should be made to allow children to give evidence from remote sites wholly separate from the court building if they choose. Every police force area should establish at least one 'safe space' from which children can give evidence remotely.

Recommendation: The use of victims' previous sexual history in court should only be allowed when it is absolutely necessary in the interests of a fair trial, and should never be introduced without a formal application. Ground rules hearings should take place prior to cross-examination in sexual offence cases to address restrictions about the witness's previous sexual history.

Unwanted contact with the defendant at court

For many victims and witnesses, the fear of coming into contact with the defendant in and around the court building is a cause of significant anxiety. The Victims' Code states that HMCTS staff must ensure that "victims can enter the court through a different entrance and are seated in a separate waiting area from the suspect where possible".¹²⁷ However, even where separate entrances and waiting areas are utilised, victims and witnesses may still encounter defendants in other areas of the court. As our *Out of the Shadows* report notes, "while our interviewees were anxious about having to face the defendant(s) in the controlled setting of the courtroom, most were unprepared for meeting defendants in the court entrance halls, canteen or smoking areas outside the court buildings. These encounters were distressing, and were regularly reported by our interviewees."¹²⁸

Relatively few of our survey participants had given evidence at trial; however, of those who had, half (11 out of 22) reported that they had had unwanted contact with the defendant or their supporters in the court building. Further, nine out of 20 were dissatisfied with the measures taken to prevent unwanted contact with the defendant or their supporters in and around the court building. Our interviewees and focus group participants recounted several instances of unwanted contact and the distress this caused.

"To... go to court... see your abuser... is the most worrying thing which makes you not want to go through with the procedure." Victim of criminal damage and violence

"The person that attacked me, she was outside the courtroom waiting as I was going in through the doors to go, and she was just glaring at me and I just felt I will turn around and go home because I just couldn't cope with it... She [offender] was abusive outside the court... It was horrible." Victim of violence

“The court clerk made a mistake telling me the wrong floor to exit out of the lift, when I exited the defendant was standing in front of me.” Victim of violence

“I came into the court building and there sitting by the entrance was my attacker. He was allowed to sit right at the entrance watching, to see what I look like.”

Victim of road rage incident

Reporting restrictions

The justice system in England and Wales operates under the ‘open justice’ principle, which dictates that as a general rule justice should be conducted in public and “fair, accurate and contemporaneous media reporting of proceedings should not be prevented by any action of the court unless strictly necessary”.¹²⁹ As the Right Honourable Lord Thomas, Lord Chief Justice of England and Wales, has asserted, “open justice is a hallmark of the rule of law. It is an essential requisite of the criminal justice system that it should be administered in public and subject to public scrutiny. The media play a vital role in representing the public and reflecting the public interest.”¹³⁰

It is therefore the case that the media are allowed to report freely on the vast majority of criminal proceedings. This is sometimes problematic for victims and witnesses, as was described by some of the victims who took part in our interviews and focus groups.

“There was a member of the press there when there was sentencing. I attended the sentencing to try to get some closure and it went in the paper and it was almost like they were trying to make him out to be the victim... Other people who are victims of the crime they are going to read this and they are going to think what’s the point in reporting this crime. I wanted them to think more carefully about how they report things in the future.” Victim of non-recent sexual assault

“We had a reporter who was working for the local paper who happened to be in the court. And we haven’t told anyone, we haven’t told family members or anyone at all friends, family no one knew... Anyway, we had the full thing in the local paper about the outcome and what he’s been doing to us and everything... And that’s how family members found out... We didn’t want them worried... I was absolutely devastated, and crying... It was just that we kept it from the family simply because we didn’t want to stress them out and worry them, and then you know the paper go and do that... At the time when I saw it in the paper I thought if your mum, my husband’s, see this she’s going to have a heart attack, and what about your dad. And it made us like stressful.” Victim of harassment

However, there are exceptions to the open justice principle, most notably the lifetime anonymity granted to victims of sexual offences under the Sexual Offences (Amendment) Act 1992. The Act bans the media from reporting “any matter likely to identify the victim of a sexual offence, from the time that such an allegation has been made and continuing after a person has been charged with the offence and after conclusion of the trial”.¹³¹ The lifetime ban on revealing the identity of the victim applies to almost all sexual offences, including rape, sexual assault and indecency towards children. The Government has also recently granted lifetime anonymity to victims of female genital mutilation under the Serious Crime Act 2015.¹³²

The protections for victims of sexual offences are hugely important in encouraging victims to report to the police, as highlighted by the problems with the use of previous sexual history at cross-examination.¹³³ However, there is one glaring omission in the existing provisions: the failure to provide anonymity to victims of the relatively new offence of revenge porn. As a new offence, relatively little research has been conducted into the impact of revenge porn but from our experience we know that it is a serious crime which often results in significant and long-lasting distress.

Revenge porn became a specific offence under the Criminal Justice and Courts Act which came into force in April 2015. Under the Act it is an offence for a person to disclose a private sexual photograph or film if the disclosure is made a) without the consent of an individual who appears in the photograph or film, or b) with the intention of causing that individual distress. The Act did not contain a specific provision guaranteeing the complainant's anonymity in the media. Without mandatory reporting restrictions (anonymity), victims of revenge porn face the prospect of having their name and details of the offence reported in the press. This may also inadvertently result in the offending images being shared more widely, for example on social media.

Data obtained by VS from 32 out of 43 police forces in England and Wales shows that there were 1,784 reported cases of revenge porn in 2015/2016 while figures from the CPS show there were 206 prosecutions for the offence during the same period.¹³⁴ Almost a third of reported offences involve young people under 19, with some victims as young as 11 years old.¹³⁵ No action is taken against the alleged perpetrator in 61% of reported incidents.¹³⁶

The prospect of details of revenge porn offences being reported in the media could be acting as a deterrent to taking forward revenge porn proceedings. 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. This is three times the national average across all offences categories of 10%.¹³⁷ While we do not have a full understanding of the reasons why victims withdraw support for police action in these cases, the findings may be indicative that a lack of anonymity is creating a barrier to victims supporting police action.

Case study

Fatima is a young woman who met a man through an online dating site. The pair shared explicit images via a messenger app on their phones but the relationship soon soured and she decided she didn't want to continue contact.

After Fatima made it clear she didn't want to see him any more, the man uploaded her images to a porn website. He also threatened to share the images with her family. Fatima reported the incident to the police.

Fatima was very distressed when she came to VS and reported feeling rejected by family and friends. She has come under significant pressure from family members to withdraw the allegation as her parents are very concerned about grandparents, friends and neighbours finding out about the case. Fatima feels deeply ashamed and is struggling to maintain relationships with family and friends. She is very afraid about the possibility of the case being reported in the press.

VS is providing ongoing support to Fatima.

Prosecutors can seek reporting restrictions in any case “when the public interest and the right to receive and impart information is outweighed by the rights of victims, witnesses or defendant”.¹³⁸ However, this provision provides no guarantee that reporting restrictions will be granted, with the decision ultimately in the hands of the judge alone.

VS is concerned 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 liable to cause considerable distress and could be deterring victims from reporting revenge porn offences, or causing them to withdraw support for cases they have reported, thus denying victims justice. Further, there is considerable support for anonymity for victims of revenge porn among the general public. An ICM poll of 2,048 people, published in July 2016, found that 75% of the population believed that victims of revenge porn should be given automatic anonymity. Women are 77% in favour while men are 72% in favour.¹³⁹

Recommendation: The Government should legislate to grant victims of revenge porn the same valuable right to automatic anonymity in the media as victims of rape and other sexual offences.

Witness support and support after the trial

It is clear that from the moment of stepping into the court building victims and witnesses face a number of challenges. These range from unwanted contact with the defendant to fear of giving evidence, difficulty obtaining Special Measures to anxiety over the case being reported. The one service dedicated solely to supporting witnesses in court is the Witness Service.

The Witness Service was launched in the Crown Court in 1994 and by 2003 the service had a presence in all criminal courts in England and Wales. The Witness Service provides pre-trial visits, a quiet place for witnesses to wait before giving evidence, accompaniment to the courtroom, a link to court staff and information on the court process. The Witness Service is commissioned nationally by the Ministry of Justice and is currently run by Citizens Advice, having been provided by VS from its inception until April 2015.

The *Out of the Shadows* report highlighted the importance of the Witness Service in providing a ‘safe haven’ for witnesses waiting to give evidence.¹⁴⁰ This theme was picked up by the victims who took part in our interviews and focus groups.

“The ladies [from the Witness Service] that were there were absolutely wonderful. They took me to the side room... and just sat with me all the way through. It was such a help that they were there... and I felt so much calmer.” Victim of violence

“Having people there like people from Witness Care [Witness Service]... they were really good and very supportive.” Victim of non-recent sexual assault

Our findings, both from this research and previous studies, demonstrate the importance of witnesses being able to access independent support at court. It was also clear from our research that many victims required ongoing support following the trial from victim support services.

“After [the trial] my caseworker phoned me... talking to me, calming me down and just being that support for me... I get all my support from my VS caseworker. She’s constantly texting or she’s calling me to see how I am, or I come in and I have regular chats.” Victim of violence

“And I’m still seeing Victim Support now... It’s nice because even though for me like the trial and everything is over they haven’t just said it’s all over now we don’t need to see you any more. They still want to see me and make sure I’m OK. You can’t ask for more than that really, can you?” Victim of non-recent sexual assault

“I just found the whole experience quite traumatising. [The trial] brought back the whole case so when I finished I was asked whether I wanted counselling from Victim Support and I felt at the time I did, and the lady who has been phoning me to give counselling and talk about it has been excellent. So, the after trial care I’ve got I thought was very good.” Victim of road rage incident

Research shows that it is important that ongoing or additional emotional support is available to victims during engagement with the CJS to ensure they have a clear understanding of the legal process and are coping with the related stress and anxiety.^{141,142} However, we also found evidence that some victims would have benefited from further help following the trial but were not referred to a victim support service at this stage.

Recommendation: Support must be available for victims from the moment the crime took place and for as long as they need it. Following the conclusion of a criminal trial victims must be routinely offered the opportunity to be referred on to victim support services to ensure that their needs continue to be met.



Compensating victims of crime

Crime can have a significant emotional and financial impact on victims and many appreciate some form of financial recompense as a tangible form of redress for, and a formal recognition of, their suffering.¹⁴³ There are two primary means by which victims can be compensated following an offence. Firstly, through court ordered compensation, which must be handed down by a judge as part of the offender's sentence in the form of a 'compensation order'. Secondly, by the Criminal Injuries Compensation Scheme (CICS), which is a government administered scheme that compensates 'blameless' victims of violent crime.

Court ordered compensation

Court ordered compensation is financial compensation that a judge or magistrate orders must be paid to a victim by a convicted offender as part of the offender's sentence.^{xviii} Compensation is intended to act as a form of reparation for the harm caused by the offence. Victims can be compensated not just for financial loss or loss of property, but also for more intangible harm such as any pain and suffering (including terror, shock or distress) they have experienced.¹⁴⁴ In 2015, 147,982 defendants were ordered to pay compensation to their victim – this represents 12% of sentenced offenders (1,246,945 defendants were sentenced in 2015).¹⁴⁵

xviii The requirement to pay compensation can either be a sentence in its own right, or an ancillary order.

Court ordered compensation has existed in England and Wales since 1972. Since the year 2000 courts have been required to consider making a compensation order in any case where personal injury, loss or damage has resulted from the offence, and if it does not do so it must give reasons.¹⁴⁶ The Ministry of Justice paper *Punishment and Reform: effective community sentences*, released in 2012, sets out that “compensation orders are an essential mechanism for offenders to put right at least some of the harm they have caused. They require offenders to make financial reparation directly to their victims, to compensate for the loss, damage or injury they have caused.”¹⁴⁷

There is no statutory limit on the amount of compensation a court can impose, although in making an order a court must have regard to both the harm caused by the offence and an offender’s ability to pay. As a result of the need to consider an offender’s means, court ordered compensation often does not restore the full financial loss to the victim, or represent an amount that wholly reflects the harm the victim has suffered. The Sentencing Council advises judges that “where the offender has little money, the order may have to be scaled down or additional time allowed to pay”.¹⁴⁸

As most offenders have limited means, the sums ordered to be paid in compensation are on the whole relatively modest. In 2015 the average amount of compensation awarded was £253,¹⁴⁹ with over half of defendants ordered to pay compensation of £50 or less and only 4% of defendants ordered to pay £500 or more.¹⁵⁰

Research suggests that court ordered compensation is highly valued by victims, particularly in cases where they have experienced financial loss as a result of the crime. A report on victims’ views of court and sentencing, produced by the former Commissioner for Victims and Witnesses, found that “financial compensation was very important to some victims, particularly where they had suffered financial loss... It could be preferred to what were considered less tangible sentencing elements.”¹⁵¹

However, there is mounting evidence that the system for enforcing court ordered compensation is inadequate and is adding unnecessary distress and frustration to victims’ experience of the CJS.

At present, if a court orders compensation to be paid by an offender to their victim, the money must first be recovered from the offender by HMCTS before it is passed on to the victim. The offender can ask to pay in instalments – for instance £5 a week over two years – which can mean that victims get regular amounts too small to make any real difference to their lives, but are compelled to have prolonged contact with the person who committed a crime against them. The court may allow compensation to be paid over a period of up to three years. Court statistics reveal that only just over a quarter (28%) of compensation orders are paid within three months, less than half (49%) are paid within a year, and 44% remain outstanding after 18 months.¹⁵²

The piecemeal nature of payments can serve as a constant reminder to the victim of the crime. This point was recognised by the Ministry of Justice in a 2014 publication which stated that “the current scheme of receiving compensation can be distressing for victims because it prolongs their relationship with the offender and can prevent them from moving on from the experience”.¹⁵³

HMCTS has a number of powers at its disposal to collect payment from offenders including taking money direct from their earnings or benefits, issuing warrants to seize and sell goods belonging to an offender, or ultimately, bringing an offender back before the courts.

Despite this range of powers, collection rates have remained low for a number of years. As of quarter two of 2016, £706 million worth of financial impositions remained unpaid,^{xix} up 28% since quarter two of 2014.¹⁵⁴ In reality many compensation orders are never paid, with victims themselves asked by the court to write off the debt owed by the offender after a certain period of time. The system is therefore set up so that the victim feels the consequence of any failure by the government to enforce or retrieve reparations from the offender.

Our own research with victims found that failure to properly enforce compensation orders is an area of significant discontent.¹⁵⁵ Victims often feel that the courts do not take enough positive action to chase up outstanding payments or advise them of the reasons for payments not being made.¹⁵⁶ Many victims VS has supported have expressed dissatisfaction with the payment and enforcement of compensation orders:

“I still have not received any compensation after a year and a half.”

Former VS service user

“You have to keep going and be persistent with any claims for compensation that you feel you deserve. Why should you be a victim twice?” Former VS service user

The frustration experienced by victims at not receiving the compensation owed to them can go hand in hand with a general sense of being forgotten by the system once the case has been heard, which can leave victims feeling that they are lacking ‘closure’:

“I was awarded compensation, which has not yet been received as the criminal has not paid anything to the court. Since the case was deemed closed by the court I have not received any updates on the outstanding compensation or general information regarding the case. I feel that communication from someone at the court... would have been a good way to finalise events.” Former VS service user

Not only can failure to enforce payment of compensation orders cause frustration and distress to victims, it also has the potential to undermine confidence in the courts and CJS. A report into victims’ views on courts and sentencing found that “the appreciation of compensation as a sentence can be severely diminished where it is not completed or enforced”.¹⁵⁷ As noted in a recent report commissioned by the Victims’ Commissioner, “It is [a victim’s] perception of fairness in procedural justice that has a significant impact on victims’ satisfaction with the criminal justice system”.¹⁵⁸

International best practice – court ordered compensation in the Netherlands

In 2011 the Government of the Netherlands introduced the ‘advance compensation scheme’ as part of the Act for the Improvement of the Position of Victims in Criminal Procedure. Under the scheme the state pays the victim the full amount (up to a maximum of €5,000) of compensation awarded by the court if the offender fails to pay within eight months. The state subsequently recovers the amount due from the offender.

The scheme originally covered only victims of violent and sexual offences, but in 2016 was extended to cover victims of any crime.

xix Including fines, court costs and compensation.

The previous government acknowledged many of the problems associated with the payment of court ordered compensation in the document *Our Commitment to Victims*.¹⁵⁹ This document, published by the Ministry of Justice, stated that “we think there is potentially a clear benefit for victims in giving them a chance to obtain a proportion of their compensation up front”. It further stated that the Ministry would “consult on options for paying compensation to victims up front, to prevent compensation arriving months or years after imposition” by December 2014.¹⁶⁰ Unfortunately the Ministry of Justice has yet to consult on a new regime for paying compensation and we understand that there are currently no plans to move forward with this proposal.

Recommendation: Steps need to be taken to prevent court ordered compensation resulting in an ongoing relationship between the victim and offender, with the victim suffering the financial consequence of HMCTS’s failure to retrieve payment. The Government should take responsibility for paying all compensation owed to victims up front in a single payment shortly after sentencing, and then recover the funds from the offender through the effective use of existing powers.

Criminal injuries compensation

Since 1964 victims of crime have been able to access state funded compensation through the CICS. The CICS compensates blameless victims of violent crime under a tariff-based scheme, the latest incarnation of the Scheme having been approved by Parliament in November 2012. Victims or a qualifying relative can be compensated for personal or fatal injury, loss of earnings, dependency or special expenses.¹⁶¹ The CICS is administered by the Criminal Injuries Compensation Authority (CICA) which is an executive agency of the Ministry of Justice.

The existence of the CICS allows victims of violent crime to seek redress who may otherwise have been unable to do so, as it operates without the need for a successful prosecution of the attacker and without being limited by what the defendant can afford.

As the independent charity for victims of crime in England and Wales, VS plays a significant role in helping people to seek compensation through the Scheme. Last year we helped over 3,500 victims to make an application for compensation, including over 500 victims of sexual offences.

We are in no doubt about the importance of the Scheme, which has made life easier for hundreds of thousands of people over the past half century. As a member of our staff said:

“You can’t put a level of importance on [the Scheme], it’s recognition, it’s a token, it’s rarely unappreciated.” VS staff member

However, a number of the rules governing the Scheme cause significant difficulties for victims, particularly children and victims of sexual offences. There are particular concerns around the ‘consent’ rule, the ‘same roof rule’, and the reduction of awards for those with criminal convictions. Further, the timescales and time taken for awards to be processed are a source of frustration to many victims.

Consent

The most recent iteration of the rules governing the CICS classifies sexual assault as a violent crime (for the purposes of the Scheme) only in circumstances where a person did

not 'in fact' consent.¹⁶² There is growing concern that this clause is being used to deny compensation to child victims of sexual abuse and grooming.

The law is clear – 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 16.¹⁶³ The Scheme contains no minimum age for the application of this rule, meaning that even the very youngest of children can theoretically be denied compensation if there is any evidence to suggest they complied with their abuse, for example through fear or lack of understanding.

We have seen numerous cases in which compensation has been denied on the basis of apparent 'consent'. This includes truly egregious cases where vulnerable victims of child sexual exploitation who have been subjected to prolonged and depraved acts of abuse, including rape, have been denied compensation because CICA has deemed them to have consented to the acts. This is despite the victims in question not being of an age where they could legally consent and being manipulated and coerced by much older men who in some cases were successfully prosecuted in court and received lengthy prison sentences.

The criminal position on consent is very clear: it only exists where a person "agrees by choice and has the freedom and capacity to make that choice".¹⁶⁴ The age of consent is thus no mere legal technicality, but an acknowledgement that children are incapable of making this choice. However, the Scheme denies compensation to children of any age who, while recognised in law as victims of abuse, are subject to entirely different and opaque expectations of their behaviour and capacity by CICA.

Case study

Kate was 14 when she was first contacted via Facebook by a much older man and invited to a party in the town where she lived. When Kate decided to go along, she had no idea what she was getting into. There were a group of men at the party and at first they seemed friendly and fun. After meeting up with them a few times Kate very quickly found herself pressurised into a sexual relationship with one of them. Before long she found that she was regularly expected to have sex with the man, and if she didn't comply she would be subject to scare tactics, manipulation and threats of violence. The emotional and sexual abuse, including rape, that Kate suffered would continue for the next five years.

When Kate finally managed to escape the abuse it took all her courage to face her abusers in court. Her bravery, and that of the other victims of the gang, resulted in the men being sentenced to more than 30 years' imprisonment for crimes including rape, sexual activity with a child, and sexual assault.

Kate was deeply affected by the years of abuse and exploitation she suffered at the hands of the gang. As a result of the abuse Kate started to self-harm on a daily basis and twice attempted suicide. She was diagnosed with depression and anxiety and experienced constant feelings of guilt, fear and anger. She had difficulty sleeping and when she did sleep would frequently have nightmares.

The effect of the abuse was not just psychological but physical too – Kate has suffered from a number of urinary tract infections and has ongoing problems with abdominal

pain which have resulted in a number of hospital admissions. Her GP has said that these problems are a consequence of the abuse she experienced.

VS referred Kate to a psychotherapist who found that, in addition to her depression and anxiety, she was also suffering from many of the symptoms of PTSD. Kate received therapy and also started taking antidepressants.

With VS's help, Kate put in an application to CICA – the government agency responsible for awarding compensation to victims of serious crime. Kate had to wait many months for a response from CICA and when it arrived she was devastated by the outcome. CICA informed her that it would not be honouring her claim because “on the balance of probabilities [she] had not been the victim of non-consensual sexual acts”.

The response from CICA was hugely upsetting to Kate because it implied that she was somehow responsible for the abuse that she suffered. This is despite the fact that she was 14 at the time of the abuse and therefore unable to legally consent, and was systematically groomed by a gang intent on sexually exploiting young girls.

All of the professionals who have had contact with Kate agree that she has been sexually abused and has suffered serious consequences as a result. The local probation service calls the case in which Kate was a victim “one of the most serious cases we are currently working on, due to the level of exploitation and harm involved” and further adds that “it is very important that [Kate] is not made to feel responsible for what happened or that she is not believed. She was a minor and therefore unable to give consent. She was groomed... and the offenders were convicted.”

The psychological damage that can be done to child victims of sexual abuse is well-known and is not conditional upon being forced to have sex using physical violence. Since the 2012 Scheme came into force statutory agencies' and the public's understanding of grooming and the scale of child abuse has changed dramatically. As the Government stated in 2017, “cultural attitudes have shifted so that victims are no longer being blamed for their abuse”.¹⁶⁵ The Scheme fails to reflect this. That children who have suffered abuse are informed by a state agency that they somehow consented to the harm that they suffered, and are denied compensation because of this, is unfair, uncaring and can re-victimise the victims who are among some of the most vulnerable in our society.

1979 'same roof rule'

The 'same roof rule' prevents any victim who was living with their attacker as a member of the same family at the time of an assault from claiming compensation if the offence took place before 1 October 1979.¹⁶⁶ The reason for this cut-off is that it was on this date that such claims became possible at all; prior to this, no victim who had lived with their attacker was eligible under any circumstances. Figures obtained by VS show that 1,484 compensation claims have been rejected over the past ten years due to the 1979 'same roof rule'.¹⁶⁷

VS has significant experience of seeing the negative impact of the rule first-hand. The victims affected are those of some of the most devastating crimes on the statute book, including child abuse and domestic abuse. Often, they have endured years of violence in their own homes, from those whom they should be able to trust most, before eventually obtaining help.

These victims then find that they are denied compensation, not because they are less deserving or have suffered less than other victims, but simply because of what may appear to them an arbitrary cut-off date for eligibility. The impact of this news can be traumatic:

“A victim was sexually abused for many years by her stepfather pre-1979. The effect on her life prior to reporting was devastating: she was self-harming and took an overdose and this was when she disclosed what had happened to her. Supported throughout by Victim Support, she proceeded through the judicial system, giving evidence which resulted in a guilty verdict and a 13-year sentence for the offender. This lady had suffered not only emotionally, but due to the extent of the abuse she had serious physical injuries which meant she was unable to have children of her own.

“Victim Support assisted her with her CICA application, which was turned down as she had lived with her abuser at the time of the offence [the offence having occurred prior to 1979].

“The victim was left devastated by the decision of CICA. When the abuse was happening she was a child. She was told by her stepfather that if she ever told anyone her mum would leave her and go away with him, she would be put in a home and he would hurt her family. As a child you are unable to leave home, and the worries about what he would do are very real at the time, so telling someone is not an option. As a child she had no choice but to stay in the family home. This lady was devastated that she was being told that she was being penalised for not being physically able to leave the home. In her words ‘do they think I wanted to stay there and get raped every other day?... I was seven years old at the time it started and 12 when it stopped’. VS staff member

Furthermore, the lack of discretion that decision-makers have in such cases can lead to some tragically arbitrary outcomes:

“We supported two victims who were sisters, both sexually abused by their father. One sister obtained compensation because the abuse occurred after 1 October 1979 and the other sister was denied compensation because the abuse took place earlier. This seemed completely unfair and arbitrary and in my opinion, amounted to re-victimisation. The victim was obviously upset and although she handled the refusal relatively well, she did not understand the logic of the CICA decision. We believe all victims should be treated equally and there should be no distinction whether the offender was a stranger or family member.” VS caseworker

The refusal of compensation in such cases is clearly not only damaging to victims, but a significant and egregious injustice.

Previous convictions

The rules governing CICA dictate that victims will have awards withheld or reduced where they have unspent criminal convictions.¹⁶⁸ In practice we find that this rule disproportionately affects the most vulnerable victims, including victims of child sexual abuse.

The reasons for this are twofold: firstly, victims of child sexual abuse (and in particular sexual exploitation and grooming) are often targeted by their abusers largely because they

are vulnerable, lack adequate support and supervision, and may be easier to manipulate. Such victims are often from troubled backgrounds and may therefore for various reasons be more likely to have criminal convictions prior to the abuse taking place. Secondly, the fact of being abused in itself makes it more likely that a person will themselves go on to commit an offence – either as part of the abuse (and under the coercion of the abuser), or in reaction to the abuse.^{169,170,171} It is now widely recognised that victims of crime have an increased likelihood of committing an offence themselves.¹⁷² The relationship is particularly acute where the individual has suffered sexual abuse, with Ministry of Justice data revealing that almost a third (30%) of prisoners had experienced emotional, physical or sexual abuse as a child.¹⁷³ Research also finds that victims of sexual abuse are at particular risk of substance misuse as a mechanism to cope with or escape the trauma of their abuse.¹⁷⁴

The unspent convictions rule has a particularly acute impact on child victims of sexual offences. 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. During the same period 105 child victims of sexual offences had their compensation reduced due to this rule; in some cases they received an 80% reduction in compensation.¹⁷⁵

To deny compensation to victims with unspent convictions could therefore be construed as discriminatory. The fact that CICA fails to make any acknowledgement of the evidenced link between victimisation and offending, or any distinctions between the nature of the offences committed, is a particular weakness.

Timeliness and time limits

Many of the victims we support wait a considerable length of time between making an application and receiving a decision from CICA – this problem is particularly acute for victims of sexual offences. We are currently supporting victims of child sexual exploitation who have been waiting in excess of 18 months for a decision from CICA.

One of our focus group participants spoke about the impact on her life of waiting to receive compensation from CICA:

“It’s more than 18 months ago [when claim was made] and still nothing from them... I tried to find out some information, when I went to find out they told me they were still dealing with people from previous years. So you know it could be a while... it is a minimum of two years. He [offender] will be out of prison before I’m made comfortable and you know where I am at the moment I don’t want to be here because he used to live very close to here and I don’t want to be around here when he comes out. And for me to not be here I need the compensation sorted out.”

Victim of violence

CICA’s own data reveals that almost a fifth of cases (18.5%) remain unsettled within two years and 6.7% of the CICA caseload was submitted prior to the introduction of the current Scheme in 2012. In over a third of cases (35.7%) victims wait more than a year for a decision.¹⁷⁶ For many victims the amount of time they have to wait to receive the awards to which they are entitled is unacceptably long. This can cause significant distress to victims and prevent them from moving on with their lives as they would wish to do.

In addition to the timeliness of applications, VS has concerns with the time limits that the CICS places on applications. The Scheme also requires that victims make an application

within two years of the date of the crime, although claims can be made later if the claims officer determines that “due to exceptional circumstances the applicant could not have applied earlier”.¹⁷⁷

The time limits pose obvious problems. Firstly, in cases of child abuse the victim might not report to the police until many years, or even decades, later, far exceeding the two year limit. While there is the ‘exceptional circumstances’ clause, this is at the discretion of the claims officer and victims may also have to go through a lengthy appeal process to make their case. Secondly, many victims do not want to put in a CICA claim while the court case is ongoing and for many offences, particularly sexual offences, the time between the offence taking place and the end of trial can be longer than two years. It is not unreasonable for victims to want to wait to the end of the trial before making a claim; some may feel that it is a distraction during the trial or that it creates the perception that they are only going through the criminal justice process for the purposes of receiving compensation.

Recommendation: The Criminal Injuries Compensation Scheme must be updated to ensure that it is fit for purpose and that victims receive the redress they deserve. The definition of consent must be changed so that no child victim of grooming is denied compensation on the grounds that they complied with their abuse. Additionally, the 1979 ‘same roof rule’ should be abolished and the ‘unspent convictions’ rule be made more proportionate so that victims are not denied redress due to unrelated convictions for minor offences. The two year time limit on applications must also be re-examined.



Monitoring and enforcement of the Victims' Code

It is clear from our new research as well as the wealth of existing evidence that victims are not routinely receiving the level of service that they are entitled to under the Victims' Code. This is leaving hundreds of thousands of victims without the rights that they deserve and can have far-reaching consequences; our analysis found a clear correlation between victim satisfaction and the level of entitlements received. This suggests that increasing compliance is vital for driving up victim satisfaction and ensuring that victims engage with the criminal justice process. VS believes that reform of the way that the Victims' Code is monitored and enforced, and that agencies are held to account, is long overdue.

There is a genuine commitment by criminal justice agencies to improve the treatment of victims, evidenced by some excellent examples of local criminal justice boards establishing monitoring and compliance frameworks and victim and witness surveys such as those commissioned by the CPS. However, the current approach is piecemeal, lacks a national regime and relies on agencies to measure their own compliance.

In November 2016, VS asked all police forces in England and Wales for details of any data or information that they collect or hold on compliance with the Victims' Code. The majority of forces told us they were unable to supply this information, suggesting that they may not have an adequate or robust process in place to measure how and whether they comply with victims' rights under the Code. A lack of a national framework or compliance regime was frequently cited as a reason that data on compliance was not held: "the Ministry of Justice have not provided a compliance framework in relation to the Code of Practice for Victims of Crime"; "no central set of targets published for Forces to comply with"; and "there is no formal national reporting/compliance framework in existence in relation to the Code of Practice for Victims of Crime".^{xx}

Evidently the lack of any central framework and clear and strong legal enforcement is problematic. Under current arrangements no single agency is responsible for monitoring compliance with the Victims' Code,^{xxi} with agencies themselves responsible for 'self-assessing' their own compliance. As such agencies are not being fully held to account for their performance. 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.

Additionally, victims who feel that their rights under the Victims' Code have not been met lack a robust complaints pathway and a clear means of redress. The current complaints system for victims of crime is often muddled and confusing. They may deal with up to 14 agencies and organisations during the course of a criminal investigation, each with their own complaints system, which are often hard to navigate. Complaints can be escalated to the PHSO, but the role of the PHSO in the complaints system is poorly understood by victims, with many unaware of how to navigate the procedure.¹⁷⁸ The PHSO also operates using an 'MP filter' – whereby complaints can only be made through a Member of Parliament (MP) – which distances the PHSO from victims and could act as a barrier to those who do not wish to share their experience with their MP.

This is demonstrated by data obtained by VS that shows that only 24 complaints relating to the Victims' Code were received by the Ombudsman in 2015/2016. Of these, only three were concluded at investigation with only one of these actually fully upheld.¹⁷⁹ Over the same period, 3.5 million victim-based crimes were recorded by the police.¹⁸⁰ The stark contrast between the 3.5 million offences processed by the CJS and the mere three cases explored by the PHSO suggests the complaints system is inaccessible to victims and warrants further investigation into its suitability to hold agencies to account.

The Ministry of Justice is "currently considering how compliance with the Victims' Code might be improved and monitored".¹⁸¹ The evidence suggests that current levels of compliance are poor and that present monitoring and enforcement measures are largely weak or non-existent. The Government's commitment to review compliance is hugely welcome and needs to result in an effective monitoring and enforcement regime that holds agencies to account to ensure improvements are made to victims' experience.

xx Freedom of Information requests were issued to all forces in England and Wales asking for details of any data or information collected or held on compliance with the Victims' Code.

xxi The Victims' Commissioner has within her remit to "keep the operation of the Victims' Code under review", but, does not conduct in-depth scrutiny of agencies' performance.

Good practice – Cumbria Victims’ Code Quality Assessment Framework

VS, in collaboration with Safer Cumbria and the Cumbria Police and Crime Commissioner, has developed a Quality Assessment Framework to monitor and evaluate compliance with the Victims’ Code in Cumbria. This new systematic approach has four methods: monitoring and evaluating compliance with the Victims’ Code; learning from victims’ and witnesses’ experiences and views; implementing collaborative working procedures; and ensuring continual improvement.

The monitoring and evaluation involves the creation of a set of clear standards and robust measurements for entitlements. A simple rating system is used to indicate status of performance from bronze – significant improvement required – to gold – exceeding standards. There will be a quarterly evaluation of performance followed by an annual detailed review to be published. This framework is currently being piloted with the final version being rolled out fully in the future. Qualitative data collection along with service user surveys focusing on victims’ and witnesses’ experience also hold agencies to account.

Recommendation: The Victims’ Code should be effectively monitored and enforced to ensure that victims receive the level of service to which they are entitled. Agencies must be held to account for their levels of compliance with the Code and victims must have a clear and accessible complaints procedure.



Conclusion and recommendations

The goodwill and cooperation of victims and witnesses of crime is crucial to the smooth running of the CJS. The process is dependent on them to report crime, provide statements, and give evidence in court. Without their assistance the system simply could not function. It would be incapable of carrying out its primary duties of protecting the public and bringing offenders to justice.

However, despite the system's reliance on victims and witnesses, our research, as well as a substantial body of published evidence, demonstrates that victims of crime face significant challenges at every stage.

Our findings suggest that victims are not consistently receiving a good level of service when they report crime; during the investigation; pre-court; at court; or after court. They also face long waits for cases to reach trial, stressful and aggressive cross-examination at court and significant challenges obtaining compensation.

While some of the problems identified require new practical or legislative solutions, the key theme drawing the majority of the issues identified together is the failure by criminal justice agencies to comply with the statutory Victims' Code. The evidence from both our research and the reports of the criminal justice inspectorates is clear – non-compliance with the Victims' Code is a widespread and systemic problem. This means that hundreds of thousands of victims every year are being denied their right to a basic minimum level

of service. Failure to deliver this means that not only are agencies falling short of their statutory obligations to victims, they are failing to treat them with the dignity and respect they need and deserve.

The failure of the CJS to provide victims with the level of service to which they are entitled has significant and far-reaching consequences. Our analysis found high levels of dissatisfaction among victims with how they were treated – more than half of victims (52.7%) were dissatisfied with how the police kept them updated on progress with the case, almost half (47.2%) were dissatisfied with the way the police investigated the crime, and many reported distressing experiences at court.

Crucially, our analysis revealed that there is a positive correlation between victims receiving their entitlements under the Code and the likelihood of them being satisfied with their experience of the CJS. This suggests that adherence to the Victims' Code is vital if the system is to drive up satisfaction rates among victims.

Low satisfaction with the CJS is a matter of great concern because it has real and tangible consequences for victims and justice. As our *Out of the Shadows* report noted, "how victims and witnesses are treated is likely to affect their confidence and trust in that system as well as the likelihood of their reporting crime or agreeing to attend court as witnesses in the future".¹⁸² Indeed we have substantial evidence that this is the case: our *Left in the Dark* report found that receiving a poor service can make victims disengage from the CJS, and negative experiences also make it less likely that victims will report incidents in the future.¹⁸³

Not only does failing to provide a good service to victims risk undermining the CJS's ability to bring offenders to justice, there is also evidence that by not treating victims and witnesses with the respect they deserve, agencies risk exacerbating their distress and hindering their ability to move beyond the crime. A Canadian study found that "victims who had been treated unfairly by the criminal justice system continued to experience more symptoms of Post-Traumatic Stress Disorder than victims who felt that they were treated fairly by the criminal justice system".¹⁸⁴ Thus where a victim is dissatisfied with the way they have been treated this may have an effect on their long-term recovery.

VS believes that the Ministry of Justice must improve levels of compliance with the Victims' Code. This could be achieved either by the Ministry monitoring the Code itself or nominating an independent body to do so, and ensuring that any such body has the powers required to perform this function effectively and that victims have a clear pathway to seek redress when their rights have not been met. The Ministry or body responsible for monitoring the Victims' Code should work with victims, victims' representatives and the criminal justice agencies to agree a set of performance measures against which compliance can be monitored. The results of the monitoring should be published on at least an annual basis. We believe that the current review of their strategy for victims presents an ideal opportunity for the Government to introduce a robust monitoring and enforcement regime, backed up by legislation where required.

In addition to a commitment to monitoring and enforcing the Victims' Code we would like the Government to act to strengthen victims' rights by considering extending the Victims' Right to Review to the police, guaranteeing that child witnesses can access safe sites away from court to give evidence, ensuring that sexual offence victims are not unnecessarily cross-examined about their sexual history and extending anonymity to victims of revenge

porn. We would also like to see existing systems and processes improved, including better training for police officers in speaking to victims, improved access to pre-trial therapy, reduced court waiting times, and new arrangements for paying and awarding court ordered and criminal injuries compensation.

Recommendation 1: The Victims' Code should be effectively monitored and enforced to ensure that victims receive the level of service to which they are entitled. Agencies must be held to account for their levels of compliance with the Code and victims must have a clear and accessible complaints procedure.

Recommendation 2: All police officers should receive training in how to respond appropriately to victims of crime, including how to express empathy and the importance of believing a victim's account of the offence.

Recommendation 3: The Government should conduct a review to examine the feasibility and desirability of extending the Victims' Right to Review to cover police decisions to close an investigation.

Recommendation 4: The NHS and criminal justice agencies should work together to ensure that appropriate pre-trial therapy is offered and available for vulnerable victims, and will be facilitated if needed.

Recommendation 5: The Government should make reducing waiting times a central aim of its ongoing court reforms.

Recommendation 6: Vulnerable victims, including children and young people, should have more choice over how and where they give evidence. They should be able to do so in a way that is tailored to their individual, specific needs, rather than being provided with a default option, allowing them to make an informed and personal decision about how to proceed.

Recommendation 7: Court buildings are not suitable places to expect children to give their best evidence. Alternative provision should be made to allow children to give evidence from remote sites wholly separate from the court building if they choose. Every police force area should establish at least one 'safe space' from which children can give evidence remotely.

Recommendation 8: The use of victims' previous sexual history in court should only be allowed when it is absolutely necessary in the interests of a fair trial, and should never be introduced without a formal application. Ground rules hearings should take place prior to cross-examination in sexual offence cases to address restrictions about the witness's previous sexual history.

Recommendation 9: The Government should legislate to grant victims of revenge porn the same valuable right to automatic anonymity in the media as victims of rape and other sexual offences.

Recommendation 10: Support must be available for victims from the moment the crime took place and for as long as they need it. Following the conclusion of a criminal trial victims must be routinely offered the opportunity to be referred on to victim support services to ensure that their needs continue to be met.

Recommendation 11: Steps need to be taken to prevent court ordered compensation resulting in an ongoing relationship between the victim and offender, with the victim suffering the financial consequence of HMCTS's failure to retrieve payment. The Government should take responsibility for paying all compensation owed to victims up front in a single payment shortly after sentencing, and then recover the funds from the offender through the effective use of existing powers.

Recommendation 12: The Criminal Injuries Compensation Scheme must be updated to ensure that it is fit for purpose and that victims receive the redress they deserve. The definition of consent must be changed so that no child victim of grooming is denied compensation on the grounds that they complied with their abuse. Additionally, the 1979 'same roof rule' should be abolished and the 'unspent convictions' rule be made more proportionate so that victims are not denied redress due to unrelated convictions for minor offences. The two year time limit on applications must also be re-examined.

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“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.”

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