



Ministry  
of Justice

# **Improving the code of practice for victims of crime**

Impact Assessment

October 2013

<b>Title: Improving the code of practice for victims of crime</b> <b>IA No:</b> MOJ208 <b>Lead department or agency:</b> Ministry of Justice  <b>Other departments or agencies:</b> Police forces in England and Wales, British Transport Police and the Ministry of Defence Police, Crown Prosecution Service, Her Majesty's Court and Tribunals Service, Parole Board, HM Prison Service, Probation Service, Youth Offending Teams, Joint Police / Crown Prosecution Service Witness Care Units, National Offender Management Service, The Criminal Cases Review Commission, Criminal Injuries Compensation Authority, First Tier Tribunal (Criminal Injuries Compensation), formerly known as the Criminal Injuries Compensation Appeal Panel, UK Border Agency	<b>Impact Assessment (IA)</b>	
	<b>IA No:</b> MOJ208	
	<b>Date:</b> October 2013	
	<b>Stage:</b> Final	
	<b>Source of intervention:</b> Domestic	
	<b>Type of measure:</b> Other	
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> GREEN	

Cost of Preferred (or more likely) Option					
Total 10 year Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as	
-£9m - -£56m	Not Quantified (NQ)	NQ	Out of scope	N/A	

**What is the problem under consideration? Why is government intervention necessary?**

The Code of Practice for Victims of Crime (Victims' Code) sets out how victims should be treated by the criminal justice system. The existing Code is not a very accessible document for victims. The Government consulted on how to revise the Victims' Code so that victims are clear about the services they are entitled to receive from criminal justice agencies request to provide services under the Code and so that agencies can better tailor services to individual needs. Only the Government can revise the Victims' Code under section 32 of the Domestic Violence, Crime and Victims Act 2004 and this is the first time that the Victims' Code has been revised since its introduction in 2006.

Victims and the public at large need to have confidence in the system. There is a link between victims' satisfaction and confidence with the Criminal Justice System (CJS) and their willingness to engage with the system in the future. By revising the Victims' Code to make it more user-friendly and by improving the transparency of the complaints process, the Government aims to improve victim confidence in and engagement with the CJS. Having listened to the views of consultation respondents and to provide a consistent and immediate initial response to victims in England and Wales, we have decided to retain an automatic referral of all victims of criminal conduct under the National Crime Recording Standard to support services, with the exception of domestic violence and sexual violence cases in which the victim will have to give explicit consent to do so, as is the position outlined in the existing Victims' Code.

Victims do not currently have a loud enough voice in the criminal justice process and anecdotally victims and witnesses have said that they feel that they are accessories in the CJS. The Government aims to put victims first and make the system more responsive and easier to navigate. The Victim Personal Statement (VPS) has been included in the Victims' Code for the first time. All victims will be entitled to make a VPS at the same time as they make a witness statement and all victims eligible for enhanced services under the Code (victims of serious crime, vulnerable or intimidated victims and the most persistently targeted) will also be entitled to make a VPS. Victims will also have the option of choosing whether they wish to read their VPS aloud or to have it read aloud on their behalf, usually by a CPS prosecutor, before an offender is sentenced (in full or in part as appropriate), subject to judicial discretion.

The Government is revising the Code as part of its wider domestic policy strategy to reform the CJS and to improve services and support to victims and witnesses. The revised Code will also transpose part of the EU Directive establishing minimum standards on the rights, support and protection of victims of crime, which is due to come into force on 16 November 2015 along with part of the EU Directives on human trafficking and on child sexual exploitation.

**What are the policy objectives and the intended effects?**

To improve victims' experience of, and satisfaction with, the criminal justice system.

To make the criminal justice system easier to understand for victims of crime by creating a set of clear entitlements of what victims can expect from the services provided by criminal justice agencies at each stage of the criminal justice process. The level of such services will vary according to need.

To provide an enhanced level of service for victims of the most serious crime, vulnerable or intimidated victims (including all victims who are under 18 years of age) and the most persistently targeted and to allow criminal justice agencies to tailor and focus services to those most in need.

To provide an entitlement enabling all victims of criminal conduct who make a witness statement and all victims in the three groups listed above (victims of serious crime, vulnerable or intimidated victims and the most persistently targeted) to make a VPS and to choose whether they would like to have it read aloud, giving them a stronger voice in the criminal justice process. All businesses will also be able to make an Impact Statement to explain the impact a crime has had upon them.

To create a more transparent, user-friendly and effective process of registering complaints for victims of crime.

To signpost and offer information on Restorative Justice (RJ) to victims, where available within existing capacities. This information on RJ will be provided to victims of adult offenders for the first time. The existing Code only provides information for victims where the offender is under the age of 18.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The following options have been considered:

**Option 0:** Do Nothing. Continue with the current set of obligations.

**Option 1:** Implementing the revised Code of Practice for Victims of Crime:

- (a) The Code will be rewritten in a more user-friendly style, structured around the criminal justice process, so that victims can better understand how the system works and what they are entitled to at each stage. The Victims' Code will be revised to provide a tailored and flexible service to all victims and an enhanced service to three categories of victims, namely victims of serious crime, vulnerable or intimidated victims (including a separate section for children under the age of 18) and the most persistently targeted. Agencies will need to carry out effective needs assessments to identify which victims fall into the three categories, and assess what level of support the victim requires accordingly. Victims will also have the opportunity to withdraw from services if they no longer need them, or opt back in at a later stage if they previously declined services.
- (b) Reforms to the Victim Personal Statement (VPS): requiring the VPS to be offered to all victims who give a witness statement and all victims in the three groups listed above (victims of serious crime, vulnerable or intimidated victims and the most persistently targeted); giving victims the choice of reading their VPS read aloud in court or having it read aloud on their behalf (in full or in part as appropriate), subject to judicial discretion; expanding the number of bodies able to take a VPS from victims to include voluntary organisations; allowing all businesses who are victims of crime to make a separate impact statement.
- (c) Rewriting the victims' complaints process in order to create a more clear and effective process of registering complaints for victims of crime. CJS agencies will have a duty to a) provide victims with a clearly defined complaints procedure (contact, progression, time frame); and b) provide an acknowledgement or substantive response to the complaint within 10 working days. For the first time, if an agency receives a complaint which should be dealt with by a different agency, there will be a duty on the receiving agency to ensure that the complaint reaches the right agency. The victim would also have the option to refer their complaint through the Parliamentary and Health Service Ombudsman via their local MP if they are not satisfied with the outcome of the complaint which they have received through the internal complaints procedure of an agency.
- (d) The Code will include a separate section on Restorative Justice (RJ) for victims of adult offenders for the first time. The current Code provides information on RJ for victims of youth offenders only. This will explain to victims what RJ is in simple terms and its potential availability both before and after criminal proceedings have taken place, with a concurrent duty that the police, Youth Offending Teams and victim support organisations should signpost and offer information on RJ to victims, where available within existing capacities.

The preferred option is Option 1.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 10/2015

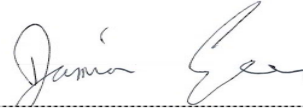
Does implementation go beyond minimum EU requirements?

Yes

Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister:



Date: 28 October 2013

# Summary: Analysis & Evidence

# Policy Option 1(a)

**Description:** Revising the Victims' Code to ensure a flexible service which responds to the particular needs of all victims and an enhanced service to victims of serious crime, vulnerable or intimidated victims and the most persistently targeted.

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low: NQ	High: NQ	Best Estimate: NQ	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Cost</b> (Present Value)		
Low	NQ		NQ	NQ		
High	NQ		NQ	NQ		
Best Estimate	NQ		NQ	NQ		
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
None						
<b>Other key non-monetised costs by 'main affected groups'</b>						
Criminal justice agencies may be required to undertake internal reviews and assessments of current procedures and potentially adapt to a new system, which may result in transitional costs.						
The police and Witness Care Units will be required to amend their needs assessments to ensure they are compliant with the Code in order to identify victims of the most serious crime and the most persistently targeted victims as well as the vulnerable or intimidated victims, which we expect will incur further administrative costs.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Benefit</b> (Present Value)		
Low	NQ		NQ	NQ		
High	NQ		NQ	NQ		
Best Estimate	NQ		NQ	NQ		
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
None						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
Revising the Code to make it easier to follow and make entitlements clearer should increase transparency and may lead to improved victim satisfaction through greater understanding and take up of entitlements						
Amending the needs assessment in order to identify victims who fall within the three categories as defined by the revised Victims' Code should enable agencies to tailor services to meet the specific needs of these types of victims.						
Criminal justice agencies will be better able to target resources to victims. An improved level of service may reduce the current level of complaints from victims and therefore lessen the burden on the CJS as a whole. The new provisions may also enable criminal justice agencies to reduce the inefficiencies created by resources being allocated to victims who do not require them.						
Improving the information and support provided to victims may improve victims' engagement with the CJS, increasing victims' participation in the system by increasing the likelihood that they report crimes and come forward to give evidence and thereby improving the effectiveness of the CJS as a whole.						
Failure to fully implement a European Directive may lead to infraction proceedings: revising the Victims' Code will transpose part of the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime. This is in line with the Government's domestic policy objectives to improve the experience of victims and witnesses in the criminal justice system. Although this will mean elements of the Directive will be transposed earlier than the implementation date, this is justified because the Directive was negotiated to meet domestic policy aims due for implementation under the Code and in accordance with a domestic timetable.						
<b>Key assumptions/sensitivities/risks</b>				<b>Discount rate (%)</b>	N/A	

Impacts are sensitive to the assumption that clearer entitlements will make it easier for victims to understand the CJS. This may lead to an increase in uptake of services which may have resource implications for the agencies.

It is assumed that it is possible to accurately identify the needs of victims through their first contact with the criminal justice agency and through the initial needs assessment by the police which will take place in order to signpost victims to the appropriate referral service (where a further needs assessment will be conducted).

**BUSINESS ASSESSMENT (Option 1(a))**

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	N/A

# Summary: Analysis & Evidence

# Policy Option 1(b)

**Description:** Reforms to the Victim Personal Statement.

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (10 year Present Value)
Low	NQ	£1m	£9m
High	NQ	£6m	£56m
Best Estimate	NQ	NA	NQ

### Description and scale of key monetised costs by 'main affected groups'

Responses to the "Improving the Code of Practice for Victims of Crime" consultation suggest that on average, it would take between 10 and 60 minutes to record a VPS from a victim of crime. Using Home Office estimates of the hourly cost of police officer time<sup>1</sup>, this leads to an estimated cost of around £6 - £30 per VPS taken.

Using data on court proceedings and CSEW estimates of current offer and take up rates of the VPS, it is estimated that there could be a potential additional cost of around £1m to £6m<sup>2</sup> per year in police officer time if the uptake of VPS increases resulting from the changes in the Code. These costs may not represent an additional financial resource cost as it may be possible to reallocate staff time from other activities to these services. Offering the VPS to victims is an existing national standard for the police. The Code also provides flexibility to the police to create a system enabling victims' to submit their VPS online if they chose to do so.

### Other key non-monetised costs by 'main affected groups'

There may be additional costs for the CPS in ensuring the VPS is contained within the court file if the changes to the Code lead to an increased VPS uptake. We expect there to be costs for the CPS and HMCTS to provide victims with the option to read their VPS read aloud in court or have it read aloud on their behalf (in full or in part as appropriate) or not, including updating IT and information management processes to capture, share and update information on the victim's preference on whether they choose to have part of their VPS read aloud if the offender is found guilty. There may also be additional staff input needed from Witness Care Units interacting with victims and the CPS and its prosecutors' preparation time, court time and advocacy to ensure information is gathered from the police and relayed to the court and advocate, as well as any additional expenses to victims who attend court.

Information presented in the VPS may be relevant to a court's assessment of the harm an offence caused. This, along with the culpability of the offender, will determine the type and severity of sentence imposed. An increase in the use of the VPS may have an impact on sentencers' behaviour and hence NOMS resources (both probation and prison costs). There may also be an impact on court time for example if additional time is taken by judges in their sentencing remarks or by the victim or CPS prosecutor reading out the VPS.

The police may incur administrative and training costs for offering and recording the VPS. There may be additional costs incurred if voluntary organisations are engaged or contracted to take the VPS on behalf of the police. However, it is expected that these organisations would fully cost the impact and that this would be built into the contractual agreement so that the organisations are remunerated appropriately, or can absorb the costs from existing funding streams if they choose to do so. Therefore it is anticipated that there will be minimal direct impact on civil society organisations.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

### Description and scale of key monetised benefits by 'main affected groups'

None

<sup>1</sup> The hourly cost of a police officer (sergeant or below) is estimated at around £35 in 2013/14 prices (provided by Home Office). These have been calculated using Annual Survey of Hours and Earnings (ASHE) and Chartered Institute of Public Finance and Accountancy (CIPFA) data for 2011/12 and updated to 13/14 prices.

<sup>2</sup> Figures between 1 and 10 million are rounded to the nearest million, figures greater than 10 million are rounded to the nearest 10 million, and figures between 100,000 and 1 million are rounded to the nearest 100,000.

**Other key non-monetised benefits by ‘main affected groups’**

Victims of crime who make a witness statement and victims who are entitled to enhanced services under the Code (victims of the most serious crime, the most persistently targeted victims and vulnerable or intimidated victims) should benefit from an increased offer rate of the VPS by criminal justice agencies and a greater understanding of the VPS. This may allow them to participate to a greater extent in the criminal justice process. If they choose to have their VPS read aloud they will benefit from being able to directly inform the court about how the crime has affected them.

All businesses should benefit from the opportunity to make an Impact Statement. The opportunity for all businesses to make an Impact Statement will give them a voice in the criminal justice process and allow them to fully articulate the impact a crime has had upon them.

Victims may benefit from making a VPS with civil society organisations (as opposed to the police) as such organisations would have greater expertise in providing emotional and practical support to victims and may not be under the same time pressures as the police.

**Key assumptions/sensitivities/risks**

**Discount rate (%)**

N/A

In estimating the cost for police to take a VPS, Our range of 10 minutes to 1 hour per VPS is taken from the estimates from ACPO and Victim Support (the two organisations which operate across England and Wales engaging with a broad range of victims of crime and with the greatest experience of taking the VPS) and nine other consultation responses from whom 1 hour per VPS was within their upper and lower ranges. Impacts may vary with the time taken to make a VPS.

It is assumed that all cases (excluding drug offences) that proceed to the magistrates’ courts involve a victim who has made a witness statement or a victim who is eligible for an enhanced service under the Code, however some cases do not have a direct victim. It is also assumed that only these cases involve a victim who has made a witness statement or a victim who is eligible for an enhanced service under the Code. Therefore, in the modelling, it is assumed that only these victims would be given the opportunity to make a VPS. The additional potential impact may vary if the number of victims who would be offered the opportunity to make a VPS is different to this.

It is assumed that the CSEW figure for VPS offer rate is distributed evenly over cases which do not proceed to the courts and those which do.

It is assumed that the CSEW figure for VPS offer rate is an accurate estimate of the true offer rate. (There is a risk that the true offer rate is higher as some victims may not have realised that they had been offered a VPS and some do not remember if they were offered it or not).

It is assumed that the percentage of victims that take up a VPS offer would be the same as the current uptake rate based on the CSEW figure. The actual uptake rate may be lower if an increase in the offer rate does not lead to an increase in uptake.

It is assumed that the hourly cost of a police officer increases with inflation (given by the GDP deflator rate), therefore keeping the real cost constant each year.

The estimates of potential additional police costs are sensitive to the extent to other agencies or voluntary organisations may take the VPS as this would reduce the burden. However, overall volumes of uptake may increase the burden. It is an existing national standard for the police to take a VPS from victims at the same time as taking a witness statement.

**BUSINESS ASSESSMENT (Option 1(b))**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
<b>Costs:</b> NQ	<b>Benefits:</b> NQ	<b>Net:</b> NQ	No	N/A



# Summary: Analysis & Evidence

# Policy Option 1(c)

**Description:** A more effective means of registering complaints for victims of crime.

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

**Description and scale of key monetised costs by 'main affected groups'**  
None

**Other key non-monetised costs by 'main affected groups'**  
Agencies may need to carry out internal reviews and assessments of current complaints procedures to make sure they have a clearly identified complaints process and to ensure they comply with providing an acknowledgement or substantive response within 10 working days of receiving the complaint. This may have transitional costs.  
  
Where agencies do not already do so, there may be costs involved in publishing new information on how to make complaints and in providing updates if complaints involve more than one agency.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

**Description and scale of key monetised benefits by 'main affected groups'**  
None

**Other key non-monetised benefits by 'main affected groups'**  
Victims will have a clearly identified set of entitlements and a greater understanding of the duties on agencies should they need to make a complaint, including an entitlement to receive an acknowledgement or substantive response within 10 working days of receipt by the relevant agency. Victims also will have access to greater information on how agencies handle complaints. This may increase victim engagement and satisfaction with the CJS.  
  
For the first time, if an agency receives a complaint which should be dealt with by a different agency, there will be a duty on the receiving agency to ensure that the complaint reaches the right agency. This should prevent victims having to re-submit the complaint and avert further delay to the complaints process.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	N/A
<p>It is assumed that agencies will have a clearly identifiable complaints process, will provide the victim with the contact details of who is dealing with their complaint and that agencies will be able to publish more information on how they handle complaints under the Code.</p> <p>Reforms to the Code may drive up the quantity of complaints as victims will be more aware of their entitlements and this may place an additional burden on agencies.</p>		

## BUSINESS ASSESSMENT (Option 1(c))

<b>Direct impact on business (Equivalent Annual) £m:</b>	<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: NQ	No	N/A
Benefits: NQ		
Net: NQ		

# Summary: Analysis & Evidence

# Policy Option 1(d)

**Description:** Signposting and offering information on Restorative Justice to victims where available and extending this to victims of adult offenders for the first time.

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low: NQ	High: NQ	Best Estimate: NQ	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low	NQ		NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
None						
<b>Other key non-monetised costs by 'main affected groups'</b>						
<p>Agencies may incur costs involved with publishing information on Restorative Justice (RJ) for victims of adult offenders. There may also be costs to the police, and voluntary organisations from the additional time required to offer RJ information to victims.</p> <p>Signposting RJ in the Code could lead to increased use of the range of different forms of RJ if there is the capacity for it, though it is a Government objective to increase awareness of RJ. Although greater use of RJ could impose additional costs for the organisation providing and funding the RJ programmes, it is not anticipated that there will be an additional burden on organisations providing RJ services.</p> <p>A duty on all organisations providing RJ services to ensure they offer a quality service will be in line with existing practice. It also reflects the ongoing work to develop the Restorative Service Standards and Restorative Service Quality Mark (RSQM) which providers of RJ can obtain to show that they meet the Standards. The Code will not require agencies to hold the RSQM as it is non-mandatory (and still under development), but will require agencies to provide a quality service. As this reflects existing Government policy and trained practitioners will oversee RJ interventions, it is not anticipated that there will be an additional burden on organisations providing RJ.</p>						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low	NQ		NQ		NQ	
High	NQ		NQ		NQ	
Best Estimate	NQ		NQ		NQ	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
None						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
<p>Signposting RJ in the Code could lead to increased use of the range of different forms of RJ if there is the capacity for it. A previous study which considered both pre- and post-sentence RJ approaches found a victim satisfaction rate of 85%<sup>3</sup> from RJ conferences and a 14%<sup>4</sup> reduction in frequency of reoffending rates. Therefore this reform could indirectly lead to a reduction in crime.</p> <p>Additionally, in their response to the consultation, a further small-scale study carried out by the Children's Society highlighted a survey of their Tees Valley Restorative Justice programme. They indicated that their small scale study found that in 2011/12, 80% of victims who took part in this restorative justice project reported that they were less fearful of crime than before taking part. In addition, of those victims who took part in restorative justice, 73% of victims reported a high level of confidence in the CJS after taking part in RJ compared to 16% before the intervention. This survey is based on a very small sample size and the results have not previously been published. These findings support the benefits to victims which may arise from offering and signposting information on RJ.</p>						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	N/A

<sup>3</sup> Shapland, J., Atkinson, A., Atkinson, H., Colledge, E., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2007) Restorative justice: the views of victims and offenders. The third report from the evaluation of three schemes. Ministry of Justice Research Series 3/07

There are severe data limitations for figures on RJ as it has yet to be scoped or tested on a national scale for adult offenders and is currently only offered by a limited number of charitable providers.

## BUSINESS ASSESSMENT (Option 1(c))

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	N/A

## Evidence Base (for summary sheets)

### Introduction

#### Revising the Victims Code

1. This Impact Assessment focuses on proposed changes to the Code of Practice for Victims of Crime (Victims' Code). The Victims' Code governs services provided by relevant bodies within the criminal justice system in England and Wales to victims of crime. The Victims' Code places obligations on criminal justice agencies to provide victims with a universal minimum level of information and other services such as notification of important developments in their case and an enhanced service to vulnerable or intimidated victims.
2. The Government response to the "Getting It Right for Victims and Witnesses" consultation in July 2012 contained a commitment to hold a consultation on a revised Victims' Code in 2013. Responses to the July 2012 consultation indicated that the current Code is not user-friendly.
3. The strict procedural wording of the Code was necessary when it was introduced in 2006 to establish, promote and embed the principles and procedures of services by criminal justice agencies to victims for the first time. However, the mandatory step-by-step guide is no longer appropriate as the primary purpose of the document. The way the Code is currently written means it is difficult for victims to understand and constrains local criminal justice agencies who may be best placed to determine their own procedures.
4. We have revised the current Victims' Code with the victim as the primary audience, so they can understand and track their journey through the criminal justice system. We are also aiming to give greater flexibility to criminal justice agencies to tailor services according to individual need. The revised Code will outline the minimum entitlements for all victims of crime, but also focus entitlements and resources on the three categories of victims most in need, as originally defined in the "Getting It Right for Victims and Witnesses" consultation:
  - (a) victims of the most serious crime
  - (b) persistently targeted victims
  - (c) the most vulnerable (hereafter referred to as vulnerable or intimidated victims)
5. These categories are flexible (with definitions provided in the introduction to the revised Code) and provide agencies with the ability to decide, in dialogue with victims, their needs and service requirements on a case-by-case basis.
6. Criminal justice agencies and victims will be able to decide jointly what services an individual victim requires. This could either take the form of an enhanced service for those falling within the three categories of victims most in need, or a tailored service which cuts down unnecessary

<sup>4</sup> Ministry of Justice (2010) Green Paper Evidence Report. Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders

contact with victims who do not need it or want it. This more tailored support should mean that criminal justice agencies will be better able to target resources to meet victims' individual needs and at an appropriate level.

7. To recognise the views raised in the consultation responses, particularly from police forces and in order to ensure consistent and immediate access to support services is provided to victims, we have decided to retain an automatic referral of all victims of criminal conduct under the National Crime Recording Standard to victims' services with the exception of domestic violence and sexual violence cases in which the victim will have to give explicit consent to do so. This is the position outlined in the existing Victims' Code (para 5.4) and therefore will not impose any additional burdens on the agencies involved. Retaining this approach is also aligned with existing practice with many police forces in the UK who have reported moving to the "Leicestershire model" of automatically transferring victims' data to victims' services.
8. Following the consultation, additional detail has been added to the post-trial section of the Code including information on sex offenders' notification requirements. This provides an entitlement for victims to make representations when the police are reviewing whether the offender's notification requirements may be stopped. The notification requirements are an automatic consequence of a conviction or caution (for a Schedule 3 offence under the Sexual Offences Act 2003). This is an existing statutory entitlement and not a new duty for the police.

### The Victim Personal Statement

9. The Victim Personal Statement (VPS) was piloted in 1996 (initially known as the Victim Impact Statement) and introduced as the VPS across England and Wales in October 2001. The VPS is a statement which can be made by victims to explain how a crime has affected them.
10. In England and Wales, as in other common law justice systems, victims are not party to criminal proceedings. The trial is between the state and the defendant, and victims can participate as a witness giving evidence. The VPS serves as a powerful tool in strengthening the voice of victims during criminal proceedings. The statement is usually given by the victim during an early conversation with the police, at the same time as a witness statement is taken, although it can be made at any time during the proceedings up until the court case. It allows the victim to explain to the court, in their own words, how the crime has affected them, whether physically, emotionally or in any other way. The legal purpose of the VPS is to give the court a more accurate picture of the impact of the offence on the victim. It can also fulfil a cathartic purpose by allowing the victim to inform the court, offender and others involved in the case how they felt as a consequence of the crime. The VPS can also be used to inform bail and Parole Board decisions.
11. Difficulties with the VPS include:
  - Low offer rate - victims recalled being offered the opportunity to make a VPS in only 9% of all incidents reported to the police.<sup>5</sup> (Crime Survey for England and Wales);
  - Lack of integration between criminal justice agencies. For example, the VPS may not be included in the CPS file due to the speed at which court cases are processed;
  - Currently the VPS is only available for small businesses, and there is no mechanism for larger businesses to explain the impact a crime has had upon them.
12. The revised Victims' Code requires the police to offer the following victims an opportunity to make a VPS: all victims making a witness statement, victims of the most serious crime, persistently targeted and vulnerable or intimidated victims. The Code also gives victims the option of stating their preference for whether they would like to read their VPS aloud in court or have it read aloud on their behalf (in full or in part as appropriate).
13. The riots of August 2011 provided a stark reminder that businesses are also victims of crime and should be entitled to receive the information and support they need following a crime. For example, the latest British Retail Consortium Annual Retail Crime Survey showed that retail crime cost UK shops £1.6 billion in 2011/12. This represented a 15.6 per cent increase when compared to the previous year and is equivalent to 135,000 full-time retail jobs.<sup>6</sup>

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<sup>5</sup> 07/08 and 08/09 Crime Survey for England and Wales analysis. (Franklyn (2012) Satisfaction and willingness to engage with the Criminal Justice System).

<sup>6</sup> British Retail Consortium Crime Survey 2012

14. Under the new proposals in the Victims' Code, all businesses will be able to submit an 'Impact Statement' to allow them to explain how a crime has affected them, highlighting the wider economic and financial impacts that crime can have on a community. Following the consultation, we have included a definition of a business under the Code which includes enterprises such as charities so they are also able to submit an Impact Statement. Currently only representatives from small businesses are able to make a Victim Personal Statement, meaning that medium-sized and large businesses do not have any means to explain the impact a crime has had upon them to a court. Individual victims within businesses will also be able to make a VPS, should they want to, so that the full impact of the crime can be considered by the court.
15. Including the VPS in the revised Code and enabling businesses to make a separate Impact Statement, along with clarifying its purpose, will increase awareness amongst victims that this mechanism enables their voice to be heard in criminal proceedings. The option of having their VPS read aloud in court empowers the victim by enabling them to directly inform the court how a crime has affected them.
16. The revised Code provides a mechanism for civil society organisations to offer and take the VPS on behalf of the police when contracted to do so. It is expected that civil society organisations that are contracted to take the VPS on behalf of local police forces would fully cost the impact of doing so. It is expected that this would be built into the contractual agreement so civil society organisations are remunerated appropriately or choose to absorb the costs from existing funding streams. Taking a VPS represents a natural progression for many civil society organisations, building on their current provision of offering emotional and practical support for victims.

#### Complaints procedure

17. The current process for making a complaint under the Victims' Code can be unclear for victims and does not always provide an effective means of redress. It currently lists thirteen routes of complaint to criminal justice agencies, plus an ability to refer complaints to the Parliamentary and Health Service Ombudsman. Only a third (32%)<sup>7</sup> of victims whose cases resulted in a charge recalled being made aware of how to make a complaint.
18. There is a need to provide a clearer and more effective process of registering complaints for victims of crime and improve the way in which complaints are dealt with under the Code. The revised Code will explicitly include victim entitlements with regards to complaints and the duties that each agency has in relation to any complaints made. This includes an entitlement to receive a substantive response or an acknowledgement of the complaint, including timeframes for sending a substantive response to the complaint where appropriate, within 10 working days of the relevant agency receiving it. Victims will receive information on who they should contact should they need to complain, confirmation that the complaint is being addressed and how to escalate their complaint.

#### Restorative Justice

19. Restorative Justice (RJ) provides an opportunity to be heard and to have a say in the resolution of offences including agreeing restorative or reparative activity for the offender. It enables can provide a means of closure and enable the victim to move on.
20. RJ also provides an opportunity for offenders to face the consequences of their actions and the impact that it has had on others. If the offender has admitted guilt, and both the victim and offender consent to participate in a meeting, the victim will be able to explain to the offender how the incident has affected them. The victim may then decide to seek an apology, and may be able to agree an activity that the offender has to undertake as part of making good the harm that has been done. However the offender will not escape punishment as RJ is used in addition to a CJS penalty or sentence.
21. Currently, information on RJ availability is not offered consistently. In the current Victims' Code, information on RJ is only provided for victims of youth offenders. In the RJ action plan, published in November 2012, the Government set out its intention that RJ is to be an embedded, growing part of the Criminal Justice System where available, with victims feeling comfortable and confident requesting it at any stage of the criminal justice system.

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<sup>7</sup> Data from Witness and Victim Experience Survey 2009/10, Franklyn (2012) Satisfaction and willingness to engage with the Criminal Justice System - supplementary tables

22. The purpose of including RJ in the Victims' Code is to increase awareness amongst victims and to enable criminal justice practitioners to offer RJ subject to local availability and the right conditions being in place. This would be met by existing RJ capacity. Government has agreed that up to £20m from increased revenues obtained by the Victims Surcharge will be made available for the development and expansion of pre-sentence RJ. This funding will help increase capacity to deliver RJ and therefore enable more victims to access RJ services.
23. Imposing a duty on agencies to offer and signpost information on RJ, where appropriate, and extending this to victims of adult offenders will increase awareness amongst offenders on other types of additional services which may be available to them.
24. The final version of the Victims' Code will include a duty on all agencies providing RJ services to ensure they offer a quality service. This will be in line with existing practice. It also reflects the ongoing work to develop the Restorative Service Standards and Restorative Service Quality Mark (RSQM) which providers of RJ can obtain to show that they meet the Standards.
25. The changes to the Code reflect existing Government policy and RJ services will continue to be funded by existing budgets which may require reallocation of resources.

### **Rationale for Intervention**

26. The conventional economic approach to Government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).
27. The primary purpose of the proposed interventions are to improve the experience of the criminal justice system for victims of crime by making their entitlements from agencies clearer and by introducing more flexible duties on agencies that can be better tailored to individual victim-need. The revised Victims' Code maintains existing minimum entitlements for victims, but enables criminal justice agencies to agree with victims what services they need. By moving to a system which is based on tailored outcomes rather than rigid processes, CJS agencies will have more flexibility in the provision of services.
28. Government intervention through revisions to the Code could reduce the inefficiency created by resources being allocated to victims who do not require them, and the inequity created by inadequacy of resources allocated to the victims who require more services.

### **Policy objectives**

29. The Victims' Code aims to set out what victims of crime should expect to receive, ensuring that entitlements are tailored to the individual needs of victims. All victims of criminal conduct under the National Crime Recording Standard will be entitled to a minimum standard of service. It is proposed that enhanced services will be made available to victims of serious crime, vulnerable or intimidated victims and the most persistently targeted victims.

### **Policy Options considered**

30. Two approaches were considered and reflected in the consultation paper.
31. The first is to do nothing, leaving the current system as it is.
32. The second is Government intervention to review and rewrite the Victims' Code to improve clarity and performance. This would mean:
  - (a) The Victims' Code will be rewritten in a more user-friendly style, structured around the criminal justice process, so that victims can better understand how the system works and what they are entitled to at each stage. The Code will be revised to provide a tailored and flexible service to

all victims and an enhanced service to three categories of victim most in need, namely victims of serious crime, vulnerable or intimidated victims (including a separate section for children under the age of 18) and the most persistently targeted.

The police already conduct an initial needs assessment to identify vulnerable or intimidated victims and Witness Care Units conduct detailed follow-up assessments for victims who are witnesses. The only change to the current process is that agencies will have to identify which victims fall into the three categories instead of only vulnerable or intimidated victims, and assess what level of support the victim requires accordingly. Criminal justice agencies can agree, after discussion with the victim, what services they need. This may fall below the minimum standard outlined in the Code if the victim decides they do not need this, which gives criminal justice agencies greater flexibility. Victims will also have the opportunity to withdraw from services provided if they no longer need them, or opt back in at a later stage if they previously declined services.

Automatic referral of all victims to support services with the exception of domestic violence and sexual violence cases will be retained. This is the position outlined in the existing Victims' Code (para 5.4) and therefore will not impose any additional burdens on the agencies involved.

- (b) Reforms to the Victim Personal Statement (VPS): it will become a requirement for the VPS to be offered to all victims who give a witness statement and all victims eligible for enhanced services under the Code (victims of serious crime, vulnerable or intimidated victims and the most persistently targeted). The Code places a duty on the police to give victims the option of choosing whether they would like to read their VPS aloud in court or to have it read on their behalf (in full or in part as appropriate) or not if the defendant is found guilty, subject to judicial discretion. The number of bodies able to take a VPS from victims will also be expanded to include voluntary organisations and there will be provisions to allow all businesses to make a separate Impact Statement.
- (c) Rewriting the victims' complaints process in order to create a clearer and more effective process of registering complaints for victims of crime. CJS agencies will have a duty to (a) provide victims with a clearly defined complaints procedure (contact, progression, time frame); and (b) provide an acknowledgement or substantive response to the complaint within 10 working days of receipt. This standardises response times across agencies for the first time, improving clarity for the victim. For the first time, if an agency receives a complaint which should be dealt with by a different agency, there will be a duty on the receiving agency to ensure that the complaint reaches the right agency. The victim would also have the option to refer their complaint through the Parliamentary and Health Service Ombudsman via their local MP if they are not satisfied with the outcome of the complaint which they have received through the internal complaints procedure of an agency.
- (d) The Code will include a separate section on Restorative Justice (RJ) for victims of adult offenders for the first time. It will also provide assurances for victims that appropriate safeguards will be in place and that a quality service will be offered. The current Code provides information on RJ for victims of youth offenders only. The revised Code will explain what RJ is to victims in simple terms with a concurrent duty that the police and Youth Offending Teams should signpost and offer information on RJ to victims, where available.

Under the Victims' Code, victims of crime:

- Will be entitled to receive information on RJ where available and the possibility of taking part;
- May have the opportunity to take part in RJ, led by a trained Restorative Justice facilitator, whilst criminal proceedings are ongoing;
- May also have the opportunity to take part in RJ, led by a trained Restorative Justice facilitator, after the conclusion of criminal proceedings.

## Groups Affected

33. The proposals under consultation involve a wide-ranging reform of services given to victims in the criminal justice system. Therefore many groups will be affected by whatever policy option is chosen.
34. The main groups affected by these proposals are:
- Victims of crime
  - Wider society
  - The agencies with specific obligations in the Victims' Code, which are:
    - The Criminal Cases Review Commission
    - The Criminal Injuries Compensation Authority
    - The Crown Prosecution Service
    - The First-tier Tribunal (Criminal Injuries Compensation)
    - Her Majesty's Courts and Tribunals Service
    - Her Majesty's Prison Service
    - National Offender Management Service (NOMS)
    - The Parole Board
    - Police and Crime Commissioners
    - All police forces in England and Wales, the British Transport Police and the Ministry of Defence Police
    - Providers of probation services, hereafter referred to as probation trusts
    - The UK Supreme Court
    - Witness Care Units
    - Youth Offending Teams

### Note on territorial application

35. The proposals as set out in this Impact Assessment will have effect in England and Wales only. Measures to transpose part of the EU Directive establishing minimum standards on the rights support and protection of victims of crime will differ in Scotland, Northern Ireland and Gibraltar.

## Cost and Benefits

36. In this section, 'criminal justice agencies' refers to the 14 agencies specifically covered by the Victims' Code.
37. Many of the impacts from the proposals in this IA depend on behavioural changes which cannot be modelled and therefore it has not been possible to quantify these impacts. In most cases, we anticipate the impacts would be marginal and therefore we believe it would be disproportionate to commission research in attempt to produce quantifiable data.

### Base Case/Option 0

38. The base case is the "do nothing" option, making no changes to the current Victims' Code. This means that as this option can only be compared with itself, the costs and benefits will be zero initially, as is the option's Net Present Value.

**Option 1(a): Revising the Code of Practice for Victims of Crime to ensure a flexible service which responds to the particular needs of all victims and an enhanced service to victims of serious crime, vulnerable or intimidated victims and the most persistently targeted.**



## Costs of Option 1(a)

### *Costs to Criminal Justice Agencies*

39. All criminal justice agencies required to provide services to victims of crime under the Victims' Code will need to create updated practice guidance in order to decide how to meet victims' entitlements. This may require internal reviews and assessments of current procedures and transitional costs associated with moving to the new system.
40. The Supreme Court has been included as a service provider under the Victims' Code for the first time. This is because the Supreme Court was created after the original Code was produced in 2006. There are only a very small amount of duties for Supreme Court staff to fulfil in appeal cases and these are in line with existing practice.
41. Police and Crime Commissioners have been included as a service provider under the Victims' Code, which reflects their role as local victims' champions. 14 out of 15 PCCs who responded to question 4 of the consultation considered that PCCs should be included as a service provider under the Code. The revised Code includes a duty on PCCs to include information about the Code on their website and a reciprocal duty with other criminal justice agencies to consult on respective organisational priorities and to work in a way which delivers an efficient and effective local criminal justice system. Whilst there may be small initial administrative costs in ensuring this information is made available, we do not consider this change to be an additional resource burden beyond this. The role of PCCs in the revised Code will be reviewed in late 2015.
42. Needs assessments will need to be amended to enable identification of victims who fall within the three categories as defined by the revised Victims' Code (victims of serious crime, the most persistently targeted and vulnerable or intimidated victims). The police currently carry out needs assessments but only to identify vulnerable or intimidated victims or witnesses and if they are eligible for special measures. The police should conduct a needs assessment of all victims and witnesses who they are considering recording evidence from. The WCUs, which are jointly run by the police and CPS, will offer all victims a needs assessment in cases where the offender pleads 'not guilty', with an enhanced service being offered to those victims considered to be in 'greatest need'. The WCU will undertake a more thorough assessment on victims required to give evidence in court to ensure that they have the support they need to give their best evidence. We expect that amending the needs assessment to ensure that victims of serious crime and persistently targeted victims are identified at this initial stage, and amending the case tracking system to ensure these victims can be monitored, to result in some administrative costs. It may also result in the police or WCU spending more time with each victim, with subsequent resource costs.
43. Under the existing Code, victims who are identified as vulnerable or intimidated are entitled to receive an enhanced service, such as being provided with certain information within 1 working day. The revised Code will also provide an enhanced service to victims of the most serious crime and persistently targeted victims, which will extend such commitments to a greater number of victims. We expect this to lead to additional time and administrative costs for the CPS and WCUs through a potential increase in the number of cases eligible for enhanced services.
44. The new Code will clarify the victim's entitlement to be notified if the offender is given an out-of-court disposal, including a police caution. As this is an existing statutory entitlement, it is anticipated that additional costs to the police will be minimal.
45. The new Code will include a new entitlement for vulnerable or intimidated victims to be consulted by the police about what kind of special measures they may need to help them give evidence in court, alongside a new duty for the police to explain special measures clearly to the victim. Whilst there is already an expectation for the police to discuss special measures with victims, inclusion of this new entitlement in the Code may have an impact on police time if more victims decide that they wish to discuss their options for special measures in more detail. There may also be an increased uptake of special measures by victims following these discussions, with administrative costs for the agencies involved.
46. The new Code will include additional detail on the role of the court to make sure that the trial is conducted in a fair and just manner, including reference to the CPS's existing responsibility to

seek the court's intervention where cross-examination is considered by the prosecutor, in all the circumstances of the case, to be inappropriate or oppressive. However, as this reflects the existing CPS Prosecutors' Pledge and is not a new duty for prosecutors, it is anticipated that these costs will be minimal.

47. The new Code will clarify victims' entitlements regarding meetings with prosecutors: (a) following a decision not to charge, victims must be notified if a meeting with the CPS cannot take place with reasons why and (b) following acquittal, victims must be offered a meeting a few weeks after the case has concluded with the actual timing of the meeting informed by the family's wishes. This may result in some additional administrative costs to the CPS, but as this follows existing best practice it is anticipated that these costs will be minimal.
48. The new Code also includes a new entitlement for victims to be notified by the Criminal Cases Review Commission if there is a reasonable prospect of a review coming to the victim's attention and a presumption that the victim will be informed if the case is referred to the courts. This may lead to increased administrative costs for the Commission. However as this reflects existing practice by the Commission these costs are expected to be minimal.
49. The new Code will include additional detail on the entitlement for victims to make representations when the police are reviewing whether the offender's notification requirements may be stopped. If more victims take up this entitlement as a result of this, there may be some administrative costs imposed on the agencies involved. This is an existing statutory entitlement and not a new duty for the police, it is anticipated that these costs will be minimal.
50. The new Code will also include detail on the role of victims on the Serious Further Offence Review process. If an offender commits a serious further offence while they are on any form of statutory supervision, or up to 28 days after their probation supervision ended, the probation trust may undertake a Serious Further Offence Review to review the management of the offender and highlight any learning for future offender management. Since 1 April 2013, victims of offenders who are charged with an offence that would require a mandatory Serious Further Offence Review are entitled to request a Victim Summary Report, summarising the general findings of the probation trust from the Serious Further Offence Review. This will be delivered by a senior manager in a face to face meeting. This is an existing scheme, but inclusion in the Code will publicise this entitlement to a greater extent, which may result in additional costs upon probation trusts and Witness Care Units if more victims request a report as a result.

## **Benefits of Option 1(a)**

### *Benefits to victims of crime*

51. Victims would be provided with a clear set of entitlements that they can expect from criminal justice agencies at every stage of the criminal justice process (CJS). The revised Code is victim-focussed and can be read as a manual, allowing the victim to track what they are entitled to throughout their journey through the CJS. There is also a separate section within the Code outlining what young victims under the age of 18 are entitled to. These policies should increase transparency and may lead to improved victim satisfaction through greater understanding and uptake of entitlements.
52. Criminal justice agencies and victims will be able to discuss and decide what services an individual victim requires. This could either take the form of an enhanced service for those falling within the three categories of victims most in need, or a tailored service which cuts down unnecessary contact with victims who do not need it or want it. For example, victims who have been persistently targeted by low-level offending may not have previously been eligible for enhanced services as they may not have been assessed as vulnerable or intimidated. Under the proposed provisions, these victims would now have the option to benefit from enhanced services.
53. A simplified and more user-friendly system may also promote transparency and improve local accountability.
54. Following the consultation, the definition of "victim of the most serious crime" has been amended to give an indicative list of offences. This will give victims greater certainty about who falls into this category.

## *Benefits to Criminal Justice Agencies*

55. Criminal justice agencies will be better able to target resources to victims at an appropriate level. An improved level of service may help reduce the level of complaints from victims and therefore the burden on the CJS as a whole. Additionally, the new provisions may enable criminal justice agencies to reduce the inefficiencies created by resources being allocated to victims who do not require them, and the inequities created by inadequacy of resources allocated to the victims who require more services.
56. We know from the Witness and Victims Experience Survey (WAVES) that keeping victims informed of the progress of their case process and the outcome of the case are strongly associated with victims' satisfaction. Also, victims' and witnesses who are satisfied with their contact with the CJS are more likely to be willing to engage with the CJS again in future<sup>8</sup>. Therefore improving the information and support provided to victims by agencies throughout the process may also improve victims' engagement with the CJS, increasing victims' participation in the system by increasing the likelihood that they report crimes and come forward to give evidence and thereby improving the effectiveness of the CJS as a whole.
57. An amended definition of "victim of the most serious crime" to give an indicative list of offences will give criminal justice agencies greater certainty about who falls into this category. For more complex cases, agencies will be able to use their discretion in determining which victims fall into the three priority categories.

## *Other potential benefits*

58. Revising the Victims' Code is an existing Government commitment made in the Government's response to the "Getting it Right for Victims and Witnesses" consultation, in order to provide clear entitlements for victims of crime and strengthen their voice in the CJS.
59. The police have a duty under the revised Victims' Code to conduct a "needs assessment" with all victims of crime to establish what support or information they need to help them cope and recover. For some victims, this may be minimal. For others it may be more substantial. The police currently carry out needs assessments but only to identify vulnerable or intimidated victims. Witness Care Units, who are jointly staffed by the CPS and police, will offer an enhanced service to any victim or witness who has been identified as being in the greatest need to identify whether they need additional support. The only change to the current process is, in accordance with domestic policy, that agencies will have to identify which victims fall into the three categories of those eligible for enhanced services (instead of only vulnerable or intimidated victims), and assess what level of support the victim requires accordingly. Criminal justice agencies can agree, after discussion with the victim, what, if any, services they need. As under the existing code, victims will also have the opportunity to withdraw from services provided if they no longer need them, or opt back in at a later stage if they previously declined services.
60. The Code will also transpose part of the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime, in line with the Government's aim of improving the experience of victims in the criminal justice system. The EU "Victims' Directive"<sup>9</sup> lays down the minimum standards of support a member state must provide to victims of crime within its jurisdiction. The Directive covers the provision of information and support to victims, participation in criminal proceedings, protection of victims and recognition of victims with specific protection needs and other provisions such as training of practitioners.
61. The Directive must be implemented by 16 November 2015. It will be transposed by a number of means including revising existing statutory Codes of Practice, such as the Victims' Code, and enacting secondary legislation. Full implementation of the Directive by November 2015 is required to avoid the risk of infraction. The UK will benefit by reducing the risk of legal infraction proceedings from the European Commission, which can be brought against an EU Member State if an EU Directive has not been transposed properly. The maximum fine that could be imposed on the UK by the European Court of Justice is €703,000 per day or £256 million per year. The UK

<sup>8</sup> Satisfaction and willingness to engage with the Criminal Justice System. Findings from the Witness and Victims Experience Survey, 2009-10, Franklyn, R (2012)

<sup>9</sup> Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

has not been fined to date. Although this will mean elements of the Directive will be transposed earlier than the implementation date, this is justified because the Directive was negotiated to meet domestic policy aims due for implementation under the Code and in accordance with a domestic timetable of producing a revised Victims' Code to improve the experience of victims in the CJS.

62. The existing Victims' Code was introduced in 2006. It needs to be updated to reflect current practice. The Directive complements the Government's reforms to the Victims' Code and is broadly compatible with a lot of existing practice in the UK, as this was the negotiating aim. Although the deadline to implement the Directive is November 2015 the reforms to the Code are domestically driven in accordance with the aim implementing the Government's policy in the "Getting it Right for Victims and Witnesses" consultation to consult on a revised Code. As a result some parts of the Directive are being implemented earlier than November 2015. The areas of the Directive that are being transposed in the Code are aligned with the policy objective set out in Option 1 (a) to provide a flexible, responsive service to the needs of victims.
63. According to Article 1 of the Directive, its aim is "to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings"; and that "victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice agencies or a competent authority, operating within the context of criminal proceedings". This dovetails with the aims and objectives of broader criminal justice policies in the UK, as well as reforms to the Victims' Code in England and Wales and complements the objectives set out at policy option 1 (a).
64. Article 2 of the Directive stipulates that a child's "best interests shall be a primary consideration". This is aligned with existing domestic policy and the United Nations Convention on Rights of the Child. The revised draft Code requires that at all times the best interests of the child must be a primary consideration, which clarifies the existing domestic position (this is not specifically mentioned in the current Victims' Code). Similarly, under Article 24(2) of the Directive, where the age of the victim is uncertain and there are reasons to believe that the victim is a child, the victim will be presumed to be a child. The revised Code automatically entitles all victims under the age of 18 to enhanced services should they want it. The revised Code, for the first time, has a section dedicated to children and young people who are victims of crime and their parents or guardians. These are not requirements under the Directive, but reflect existing policy initiatives in England and Wales.
65. Articles 22-23 of the EU Victims Directive require Member States to ensure that victims receive an individual assessment to identify any specific protection needs during the criminal investigation and any subsequent trial. The current Victims' Code requires an assessment to establish whether a victim is eligible for special measures at court, which would include the video recording of evidence in chief for some victims. A further full needs assessment is undertaken by Joint WCU/CPS where a "not guilty" plea is entered (para 6.2). The requirement for the police to conduct needs assessments of victims is therefore a domestic initiative and the changes to the Code which could be attributed to the Directive largely reflect existing best practice.
66. The CPS are consulting on and implementing a scheme to allow victims the right to review decisions not to charge, discontinue all charges and thereby ending proceedings and cases where the CPS offers no evidence. This is aligned with Article 11 of the EU Victims Directive on rights in the event of a decision not to prosecute, but was initiated following the domestic case of *R v Killick* 2011 and the domestic policy aim of improving confidence in the criminal justice system. The rationale behind the changes is to provide a better service to victims so they can obtain justice and seek redress. The entitlements on the victims' right to review have been reflected in the revised Code, but are not contained in the existing Code.
67. The Code includes a list of essential information to be translated on request for victims who do not understand English. This provides for the translation of information given to victims on the date, time or location of all court hearings, when giving evidence in criminal proceedings and when receiving information about the outcome of criminal proceedings. This enables victims to fulfil their role as a witness in court in criminal proceedings. This information can be provided orally or in writing to seek to minimise costs to criminal justice agencies. This provides a flexible, responsive service to victims who cannot speak English and is also in line with Articles 6 and 7 of the EU Victims' Directive.

68. There are potential costs for criminal justice agencies associated with providing the additional information and linguistic assistance to victims. However, these are in parallel with existing practice, such as ensuring that victims who cannot speak English and are due to give evidence as a witness in a case are aware of the date, time and location of the court hearing. There are potential benefits for victims of crime in England and Wales whose understanding of the CJS process will be enhanced by the availability of this information in a language they understand.
69. The final version of the Victims' Code codifies existing practitioner guidance followed by the police in *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses and using Special Measures*, which was published in March 2011. This includes ensuring interviews take place without unjustified delay, keeping the number of interviews to a minimum and considering factors such as the gender of the interviewer and the need for a suitable adult to be present to provide emotional support. As this reflects existing practice, this should not create any additional costs on the police. This is aligned with Articles 20 and 23 of the EU Victims' Directive, which stipulate that criminal justice practitioners should minimise the suffering of victims coming into contact with the CJS.
70. The current Victims' Code requires services to be given to victims where they have been directly subjected to criminal conduct under the National Crime Recording Standard (NCRS). Police recorded crime is governed by the Home Office Counting Rules and the NCRS. The rules provide a national standard for the recording and classifying of notifiable offences. The NCRS was designed to take a more victim-oriented approach to crime recording with the police being required to record any allegation of crime unless there is credible evidence to the contrary.
71. The NCRS includes offences such as causing death or injury by dangerous driving, but does not include offences such as careless or inconsiderate driving or driving under the influence of drink or drugs. Most driving offences, including driving without insurance, are summary offences and therefore automatically excluded. If someone is driving without insurance and causes death then that would be included in the recorded crime data.
72. To acknowledge the serious difficulties victims of road traffic offences may confront, we propose providing flexibility for the police to use their professional discretion to offer support and services in line with the Victims' Code in cases where a victim of crime is not directly eligible for support under the Code if the offence concerned does not fall under the NCRS. This discretion is aimed at recognising the varying local practice of different police forces. It will not require the police to provide services above and beyond the Code. The discretion will also not affect how the crime is recorded.
73. There may be staff costs associated with police forces who decide to provide additional support to victims of crime which exceeds the requirements of the Victims' Code. There are also potential significant benefits for victims of road crime if they are offered additional support and services by the police.
74. The new Code will include additional detail on the entitlement for victims to make representations when the police are reviewing whether a sex offender's notification requirements may be stopped. Including this in the Code could increase awareness of the entitlement amongst victims who are not already aware of it.

### **Net Impact of Option 1(a)**

75. We expect that there would be a net benefit to victims. They will have a clearer set of codified entitlements. Victims of the most serious crime, vulnerable or intimidated victims, and the most persistently targeted will benefit from a greater awareness of enhanced entitlements they can receive under the revised Victims' Code. Additionally, some victims who may not have previously been assessed as being entitled to enhanced services will now have to option to receive these services.
76. Criminal justice agencies may incur transitional costs when changing their processes and revising their procedures in order to meet the requirements of the revised Victims' Code. In the longer term, there may also be costs on criminal justice agencies associated with implementing the Code, such as ensuring needs assessments are carried out appropriately to identify those victims most in need. A potential increase in the number of cases eligible for an enhanced service may also impose further time and administration costs. However, criminal justice agencies would

benefit from positive impacts such as less bureaucracy and greater freedom to tailor services according to individual need. They may also benefit from being able to target resources more efficiently at those most in need and, in the long term, from a reduction in the volume of complaints from victims.

## **Risks, assumptions and sensitivities for option 1(a)**

77. The main assumptions are:

- Current entitlements for victims are unclear and it would be easier for victims to understand the CJS if what they are entitled to is clearly outlined at each stage of their criminal justice journey.
- That a simplified system will increase transparency and local accountability.
- It will be possible to identify accurately the needs of victims through an initial needs assessment.
- A more efficient, visible system should reduce complaints. However, the concurrent improvements to the means of registering complaints for victims of crime for victims at **option 1(c)** may mean that victims are more likely to exercise their entitlement to complain about unsatisfactory service provision.
- Criminal justice agencies are willing to fund and implement the revised processes in the Victims' Code and have the resources to do so. Further information on the potential resource implications are outlined in options **1(b)-1(d)**.

78. The main risks and sensitivities are:

- If the entitlements prove to be too onerous and prescriptive, there may be resource implications for the criminal justice system;
- If the entitlements are too flexible and minimum standards are not met by the agencies, there may be a reduction in the quality of service for victims;
- The ability of agencies to tailor their services depend on a large proportion of victims of low level crime not wanting and needing contact with or support from criminal justice agencies;
- The costs and benefits of this option may be affected by wider changes in policy and resources across the CJS and by crime trends.

## **Data Limitations**

79. It is not possible to estimate the amount of additional time and resources that would be required to update related practice guidance based on the revised Code. Additionally, whilst there are estimates available on the time taken to carry out current needs assessments, these do not reflect the additional amount of time that may be needed to undertake the amended needs assessments. There is also no data to indicate the potential volume of needs assessments that would be carried out. Consequently, we are unable to estimate the additional resources that may be required to carry out the amended needs assessments and therefore the associated costs.

80. Whilst responses from the "Improving the Code of Practice for Victims of Crime" consultation suggest that victims will benefit from the proposed changes, we are unable to quantify the value that victims would place on this. It is also not possible to quantify the impact from a potential reduction in the level of complaints as we do not have figures on the current level of complaints from victims under the Code or the cost of processing these complaints. Given that complaints are initially made at a very local level it is difficult to calculate accurate total volumes. In addition, a reduction in the level of complaints is dependant on a behavioural change for which there is not sufficient information to accurately estimate.

## **Option 1 (b): Reforms to the Victim Personal Statement.**

### **Costs of Option 1(b)**

*Costs to Criminal Justice Agencies*

## Police

81. Revisions to the Victims' Code propose to make it a requirement for the VPS to be offered to all victims who give a witness statement and all victims eligible for enhanced services under the Code (victims of serious crime, vulnerable or intimidated and persistently targeted victims). This could impose costs to the police force across England and Wales if there is an increase in the uptake of VPS and therefore an increase in time spent with victims to support the writing of the VPS. The revised Code places a duty on the police to ask whether the victim wants to read their VPS (in full or part) aloud in court or to have it read on their behalf (usually by a CPS prosecutor), subject to judicial discretion. This may impose staff costs on the police as officers may need to spend additional time explaining the VPS process and recording their preference for whether they would like the VPS to be read aloud in court.
82. Responses to the "Improving the Code of Practice for Victims of Crime" consultation suggest that on average, it would take between 10 and 60 minutes to record a VPS from a victim of crime. Using Home Office estimates of the hourly cost of police officer time<sup>10</sup>, this leads to an estimated cost of around £6 - £30 per VPS taken.
83. In order to estimate the total additional cost this would impose, it is assumed that all indictable cases that proceed to the courts (excluding drug offences) would involve a victim making a witness statement, or a victim who is eligible for enhanced services under the Victims' Code. In 2012, around 300,000 defendants (excluding those for drug offences) were proceeded against in the magistrates' courts<sup>11</sup>. Additionally, data from the Crime Survey for England and Wales (CSEW) indicates that victims recalled being offered the opportunity to make a VPS in only 9%<sup>12</sup> of incidents reported to the police, and of these, around 60%<sup>13</sup> recalled making a VPS.
84. Using this information, it is assumed that in 91% of incidents reported to the police, the opportunity to make a VPS is currently not offered. Of these, it is assumed that around 60% would have taken up the opportunity to make a VPS. Applying these assumptions to the volume of defendants proceeded against in the magistrates' courts, it is estimated that of the victims whose cases proceed to court, around an additional 200,000 could take up the opportunity to make a VPS. If this were the case, this would lead to an estimated cost of around £1m to £6m<sup>14</sup> per year in police officer time if more VPS' are offered due to changes in the Code. These potential costs may not represent an additional financial resource cost as it may be possible to reallocate staff time from other activities to these services. The Code also provides flexibility for the police to allow victims' to submit the VPS online, which may lessen any potential resource burden upon them.
85. Additional administrative costs may fall on the police as all businesses will also be able to make an Impact Statement following an incident of recorded criminal conduct. However, it is proposed that businesses would complete the Impact Statement themselves and submit it to the police or relevant criminal justice agency, thereby minimising the additional time burden. Nevertheless, there may still be administrative costs for the police and other agencies receiving the paperwork.

## HMCTS

86. Information presented in the VPS may be relevant to a court's assessment of the harm an offence caused. This, along with the culpability of the offender, will determine the type and severity of sentence imposed. It is therefore possible that an increase in the use of the VPS may have an impact on sentencers' behaviour and hence NOMS resources (both probation and prison costs). There may also be an impact on court time for example if additional time is taken by

<sup>10</sup> The hourly cost of a police officer (sergeant or below) is estimated at around £35 in 2013/14 prices (based on Home Office 2011/12 figures). These have been calculated using Annual Survey of Hours and Earnings (ASHE) and Chartered Institute of Public Finance and Accountancy (CIPFA) data for 2011/12 and uprated to 13/14 prices.

<sup>11</sup> Criminal Justice Statistics Quarterly, December 2012:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/203847/3-court-proceedings-dec12.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203847/3-court-proceedings-dec12.xls) Table Q3c

<sup>12</sup> 07/08 and 08/09 Crime Survey for England and Wales analysis. (Franklyn (2012) Satisfaction and willingness to engage with the Criminal Justice System).

<sup>13</sup> <https://www.gov.uk/government/publications/support-for-victims-findings-from-the-crime-survey-for-england-and-wales> Table S40.

<sup>14</sup> Figures between 1 and 10 million are rounded to the nearest million, figures greater than 10 million are rounded to the nearest 10 million, and figures between 100,000 and 1 million are rounded to the nearest 100,000.

judges in their sentencing remarks or relevant parts of the VPS being read aloud by the CPS prosecutor, subject to judicial discretion.

87. It has not been possible to estimate the additional costs on the courts for extended hearing times if the VPS is read aloud in court by the CPS prosecutor. There is no data available on the potential number of victims who would choose to have their VPS read aloud if the defendant is found guilty.

### *CPS*

88. The revised Code requires the CPS to ensure that the VPS is brought to the attention of the court which means it would need to be contained within the court file. This already occurs as a matter of good practice, but the CPS may incur additional administration costs if the uptake of VPS' increases and by requiring staff to ensure that this takes place consistently.
89. We expect the entitlement for victims to choose to read relevant parts of their VPS aloud in court or to have it read aloud on their behalf (usually by a CPS prosecutor) to impose additional costs on the CPS, including updating IT and information management processes to capture, share and update information on the victim's preference on whether they would like have parts of their VPS read aloud if the offender is found guilty. There are also likely to be further costs of additional staff time for Witness Care Units interacting with victims and CPS prosecutors' preparation time, court time and advocacy to communicate the victim's preference on whether they would like to have their VPS read aloud, review the content of the VPS and read out relevant sections of the VPS in court if the defendant is found guilty where the victim chooses this option.
90. There may potentially be an increase in costs for the CPS in the payment of expenses to victims who attend court where they choose to read out their VPS if the defendant is found guilty. Currently, only victims who are witnesses in the case are eligible for expenses which may include reimbursement for travel, sustenance, loss of earnings or any other relevant expense incurred. Furthermore, these expenses are only due for the days on which victims are required to be available to give evidence. Due to a lack of available data, we are unable to estimate the potential increase in volumes of victims eligible to claim expenses and are therefore unable to quantify any potential additional cost.

### *Civil society organisations*

91. Under the revised Code, civil society organisations will be able to offer the VPS to victims when contracted to do so on behalf of the police and record it in written, electronic format or over the telephone. This may lead to additional time and administrative burdens as such organisations are not currently resourced to do this. However, there are no obligations on civil society organisations in relation to the VPS under the revised Code. It is expected that civil society organisations that are interested in offering this service and then contracted to take the VPS on behalf of local police forces would fully cost the impact and that this would be built into the contractual agreement so that they are remunerated appropriately, or can absorb the costs from existing funding streams if they choose to do so. Therefore it is anticipated that there will be minimal direct impact on civil society organisations as the commissioning criminal justice agency will be indirectly responsible for the funding of this service.
92. Whilst the commissioning criminal justice agency will indirectly fund the service, civil society organisations may bear some costs for training their staff, where required, to take VPS' from victims of crime. However, respondents to the "Improving the Code of Practice for Victims of Crime" consultation felt that civil society organisations taking the VPS would represent a natural progression that would build on their existing service provision of offering emotional and practical support in their interactions with victims.

### **Benefits of Option 1(b)**

#### *Benefits to victims of crime*



93. Data from the Crime Survey for England and Wales indicates that victims recalled being offered the opportunity to make a VPS in only 9%<sup>15</sup> of all incidents reported to the police. We propose to include a duty on the police to offer each victim making a witness statement the opportunity to make a VPS at the same time. All victims eligible for enhanced services under the Code (victims of serious crime, vulnerable or intimidated and persistently targeted victims) will also be entitled to make a VPS at any stage of the criminal justice process. Victims will be able to choose whether they would like to have relevant parts of their VPS read aloud in court or have it read aloud on their behalf (usually by the CPS prosecutor) to enable the victim to directly inform the court how the crime has affected them. This will be accompanied by a clear explanation of the purpose of the VPS to victims of crime and how the VPS is used in court. By increasing the offer rate of the VPS, victims will be able to participate to a greater extent in the criminal justice process and have a louder voice in criminal proceedings.
94. Data from the 2009-10 Witness and Victim Experience Survey demonstrates a positive trend on the levels of satisfaction for victims submitting a VPS. Overall two-thirds (68 per cent) of victims who made a VPS felt that their views were taken into account against 18% who did not.<sup>16</sup> Roberts and Manikis researched the use of Impact Statements in a number of countries. They found that, although legal professionals may have been initially ambivalent towards the use of victim statements, the most recent research reveals a more positive attitude.<sup>17</sup> They also discovered that the majority of victims who submitted a VPS for the purposes of sentencing reported they would do so again if victimised in the future.<sup>18</sup> This indicates that victims would benefit from an increased offer rate of the VPS.
95. The reforms will also create provisions for all businesses who are victims of crime to make an Impact Statement. This will allow businesses to have a voice in the criminal justice process and allow them to fully articulate the impact a crime has had upon them. Currently only small businesses are able to do this. 93% of respondents to question 8<sup>19</sup> of the Victims' Code consultation agreed that all businesses should be entitled to make an impact statement to explain how a crime has affected them. Additionally, organisations amongst the business community such as the British Retail Consortium and Association of Convenience Stores have strongly supported the initiative. This suggests that all businesses would benefit from the opportunity to make an impact statement.
96. Victims may also experience greater benefits from making a VPS with civil society organisations (as opposed to the police) as such organisations would have greater expertise in providing emotional and practical support to victims and may not be under the same time pressures as the police.

### **Net impact of option 1(b)**

97. We expect that the reforms to the VPS would lead to a net benefit to victims and businesses that are victims of crime. The duty on service providers to offer each victim who makes a witness statement the opportunity to make a VPS will enable them to participate to a greater extent in the criminal justice process and have a louder voice in criminal proceedings.
98. If there is an increase in uptake, it is estimated under the assumptions above, that this could impose a 10 year present value cost of around £9m to £56m in additional police officer time required to take the VPS<sup>20</sup>. These costs may not represent an additional financial resource cost as it may be possible to reallocate staff time from other activities to these services. The police could share this burden with civil society organisations that may have lower costs. It is anticipated that the consequential benefits that victims would experience from having a louder voice in the criminal proceedings would outweigh these costs.

<sup>15</sup> 07/08 and 08/09 Crime Survey for England and Wales analysis. (Franklyn (2012) Satisfaction and willingness to engage with the Criminal Justice System).

<sup>16</sup> Franklyn, R (2012) "Satisfaction and willingness to engage with the Criminal Justice System: Findings from the Witness and Victim Experience Survey, 2009-2010", *Ministry of Justice Research Series 1/12*

<sup>17</sup> Roberts and Manikis (2011) "Victim Impact Statements: a Review of Empirical Research". *Report for the Commissioner for Victims and Witnesses in England and Wales, University of Oxford*

<sup>18</sup> Roberts and Manikis (2011) "Victim Impact Statements: a Review of Empirical Research". *Report for the Commissioner for Victims and Witnesses in England and Wales, University of Oxford*

<sup>19</sup> "Do you agree that all businesses should be entitled to make an impact statement to explain how a crime has affected them?"

<sup>20</sup> Figures between 1 and 10 million are rounded to the nearest million, figures greater than 10 million are rounded to the nearest 10 million, and figures between 100,000 and 1 million are rounded to the nearest 100,000.

99. Additionally, the majority of costs that civil society organisations may incur are expected to be indirectly funded by the commissioning criminal justice agency. Whilst they may incur some training costs, respondents to the “Improving the Code of Practice for Victims of Crime” consultation felt that civil society organisations taking the VPS would represent a natural progression that would build on their existing service provision of offering emotional and practical support in their interactions with victims.

### **Risks, assumptions and sensitivities for option 1(b)**

100. In estimating the cost for police to take a VPS, our range of 10 minutes to 1 hour per VPS is taken from the estimates from ACPO and Victim Support (the two organisations which operate across England and Wales engaging with a broad range of victims of crime and with the greatest experience of taking the VPS). There were nine further consultation responses from whom 1 hour per VPS was within their upper and lower ranges. The estimates from the consultation responses that exceeded 1 hour were predominantly from organisations working with victims of serious crime or vulnerable or intimidated victims where it is likely that the victim will need more time to make the VPS and these have been assumed to represent the upper end of the distribution of timings. The range of responses from organisations means that the assumptions of average time used in the estimates are highly uncertain. In addition, the estimated additional cost is based only on an increase in the uptake of VPSs and does not take account of the time taken to offer additional VPSs which are not then taken up.
101. In the modelling, it is assumed that all cases (excluding drug offences) that proceed to the magistrates’ courts involve a single victim who has made a witness statement or a victim who is eligible for an enhanced service under the Code, however some cases do not have a direct victim. It is also assumed that only these cases involve a victim who has made a witness statement or a victim who is eligible for an enhanced service under the Code. Therefore, it is assumed that only these victims would be given the opportunity to make a VPS. The additional potential impact may vary if this is not the case.
102. When applying the CSEW figure for VPS offer rate to the volume of defendants proceeded against at magistrates’ courts, it is assumed that the offer rate is distributed evenly over cases which do not proceed to the courts and those which do. It is likely that the VPS offer rate is higher for those cases which proceed to the courts and lower for those cases which do not. This suggests that the current VPS offer rate for cases that proceed to the courts may be underestimated, and therefore the additional potential impact may be overestimated.
103. Additionally, some victims may not have realised that they had been offered a VPS and some do not remember if they were offered it or not. This suggests that the current offer rate may be higher than that which is estimated by the CSEW, and therefore the additional potential impact may be lower.
104. It is assumed that the percentage of victims that uptake a VPS offer would be the same as the current uptake rate based on the CSEW figure. It is possible that an increase in the offer rate may not necessarily lead to an increase in the uptake, resulting in a lower percentage of uptake than there is currently. This could lead to a lower potential additional cost than that currently estimated.
105. It is assumed that the hourly cost of a police officer increases with inflation (given by the GDP deflator rate), therefore keeping the real cost constant each year.
106. It is an existing national standard for the police to offer a VPS to a victim of crime in England and Wales. Expanding the number of agencies who can take a VPS to include appropriate support services should decrease the resource burden on the police in cases in which a victim wants to make or update a VPS after the crime was recorded. However, the potential increase in the uptake of the VPS may increase the overall burden. Therefore the net impact is unclear.
107. It is estimated that there will be no regulatory impact on business as duties under the Victims’ Code all fall on criminal justice agencies. The VPS and Impact Statements for businesses is voluntary – victims do not have to complete a statement if they do not wish to do so, so there is no mandatory burden placed on them.

### **Data Limitations**

108. It has not been possible to estimate the additional impact from large businesses who are the victims of crime being given opportunity to make an impact statement. There is no data available on the potential number of businesses who would be offered, and who would accept the offer, to make a VPS. There is also no data available on the volume of small businesses that currently make a VPS and therefore it is not possible to model this behaviour.
109. Additionally, it is not possible to estimate the additional administrative costs resulting from agencies receiving paperwork relating to the VPS. However we anticipate this impact to be small.
110. Whilst are unable to quantify the value that victims would place on having a greater offer rate and clearer understanding of the function of a VPS as well as a louder voice in criminal proceedings, available research demonstrates a positive trend on the levels of satisfaction for victims submitting a VPS. We are also unable to quantify the value that businesses who are victims of crime would place on having a louder voice in criminal proceedings through an Impact Statement being made available to them.

### **Option 1 (c): A more effective means of registering complaints for victims when they make a complaint to a criminal justice agency.**

#### **Costs of option 1(c)**

##### *Costs to Criminal Justice Agencies*

111. Agencies may incur administration costs as they may need internal reviews and assessments of current complaints procedures to comply with the requirement to provide a substantive response or acknowledgement to a victim's complaint within 10 working days of receipt. There may be transitional costs involved with setting up a clearly identifiable complaints process within the organisation.
112. Agencies may incur admin costs involved with publishing more information on how they handle complaints under the Victims' Code and providing updates on the status of the complaint if it involves more than one agency.
113. There is a potential for there to be costs involved with training staff on the complaints process within their agency.

#### **Benefits of option 1(c)**

##### *Benefits to victims of crime*

114. Victims will have a clearly identified set of entitlements and a greater understanding of the duties on agencies should they need to make a complaint and will have access to greater information on how agencies handle complaints. They will also have greater certainty that they will receive either an acknowledgement or response within 10 working days of the agency receiving the complaint. This may increase victim engagement and satisfaction with the CJS.

##### *Benefits to Criminal Justice Agencies*

115. Criminal justice agencies will benefit from having a consistent procedure for handling complaints which simplifies dealing with complaints that require input from more than one agency.

#### **Net impact of option 1(c)**

116. We expect there would be a net benefit to victims of crime. Although there may be costs involved with updating current complaints processes, we expect these will be outweighed by the benefits to victims of crime as well as benefits to agencies through having a more consistent procedure which will give them the opportunity to receive feedback from victims on their practices and to use this feedback to improve their processes, thereby improving the service for future victims.

## **Risks, assumptions and sensitivities for option 1(c)**

117. It is assumed that agencies will have a clearly identifiable complaints process, will provide the victim with the contact details of who is dealing with their complaint and that agencies will be able to publish more information on how they handle complaints under the Victims' Code.
118. Reforms to the Code may drive up the quantity of complaints as victims will be aware of their entitlements and thus may place an additional burden on agencies.

## Data Limitations

119. There is no data to inform estimates of the additional costs which may be incurred by agencies establishing a more clearly identifiable complaints process, publishing clearer information and potentially further training staff on how complaints should be processed. However we anticipate that these transitional costs will be marginal.
120. It is also not possible to estimate the value that victims would place on having a clearer and more effective process of registering complaints. Whilst we anticipate there may be an increase in the volume of complaints due to greater ease in doing so, as before, it is not possible to quantify the impact of this as we do not have figures on the current level of complaints from victims under the Victims' Code or the cost of processing these complaints. Given that complaints are initially made at a very local level it is difficult to calculate accurate total volumes. In addition, a reduction in the level of complaints is a behavioural change which cannot be accurately estimated.

## **Option 1(d): Signposting and offering information on Restorative Justice (RJ) to victims where available and extending this to victims of adult offenders for the first time.**

### **Costs of option 1(d)**

#### *Costs to Criminal Justice Agencies*

121. Agencies would be required to offer and signpost information on RJ to victims of adult offenders for the first time. There may be administration costs involved with publishing this information. Agencies may also incur costs through additional time required to consistently offer RJ to victims of crime both before and after criminal proceedings have taken place.
122. Whilst signposting RJ in the Victims' Code could lead to increased use of the range of different forms of RJ, this would only be the case if there is the capacity for it. Although greater use of RJ could impose additional costs for the organisation providing and funding the RJ programmes, it is not anticipated that there will be an additional burden on organisations providing RJ services as they will continue to be funded by existing budgets. Any potential additional burden may require reallocation of resources.
123. The duty on all agencies providing RJ services to ensure they offer a quality service will be in line with existing practice and existing national standards. It also reflects the ongoing work to develop the Restorative Service Standards and Restorative Service Quality Mark (RSQM) which providers of RJ can obtain to show that they meet the Standards. As this reflects existing Government policy, it is not anticipated that there will be an additional burden.

### **Benefits of option 1(d)**

#### *Benefits to victims of crime*

124. Victims of crime may benefit from being made aware of, and possibly utilising, RJ and may have greater engagement with the CJS as a result. In their response to the consultation, the Children's Society highlighted a survey of their Tees Valley Restorative Justice programme. They indicated that their small scale study found that in 2011/12, 80% of victims who took part in this restorative justice project reported that they were less fearful of crime than before taking part. In addition, of those victims who took part in restorative justice, 73% of victims reported a high level of confidence in the CJS after taking part in RJ compared to 16% before the intervention. This survey is based on a very small sample size and the results have not previously been published. These findings support the benefits to victims which may arise from offering and signposting information on RJ.
125. The Restorative Service Standards will ensure the quality and consistency of RJ services and that appropriate safeguards are in place. By including a reference to quality in the Code, there are potential benefits to victims in ensuring that rigorous safeguards are in place and potentially increasing the likelihood of the victim receiving a satisfactory outcome.

### *Benefits to wider society*

126. Signposting RJ in the Victims' Code could lead to increased use of the range of different forms of RJ if there is the capacity for it. A previous study which considered both pre- and post-sentence RJ approaches found a victim satisfaction rate of 85%<sup>21</sup> from RJ conferences and an estimated 14%<sup>22</sup> reduction in frequency of reoffending rates. Therefore changes in the Code could potentially indirectly lead to a reduction in crime.

### **Net impact of option 1(d)**

127. We expect there would be a net benefit to victims of crime. It is anticipated that the administrative costs required to provide additional information on RJ will be outweighed by the benefits that victims of crime and wider society may receive from it, and any additional use of RJ would be funded via existing budgets which may require reallocation of resources.

### **Risks, assumptions and sensitivities for option 1(d)**

128. It is assumed that current RJ entitlements are unclear to victims and that signposting this information will make it easier for victims to understand what they may be entitled to from RJ.

129. There is a risk that amendments to the Victims' Code may drive up demand for RJ which agencies and voluntary organisations are unable to meet, thereby creating unrealistic expectations for victims. However, agencies will have a duty to offer RJ only where there is capacity for it to be provided.

130. If civil society organisations take VPS' on behalf of the police, there is a possibility that victims may ask them to signpost information on RJ and its availability. This may potentially impose time and administrative costs on such organisations. However there is no duty for these organisations to take VPS' and therefore they may choose not to do so if they anticipate that this will be a significant cost.

131. There are severe data limitations for figures on RJ as it has yet to be scoped or tested on a national scale for adult offenders and is currently only offered by a limited number of charitable providers.

### **Data limitations**

132. It is not possible to quantify the additional administration costs which may be required to signpost information on restorative justice (RJ) or additional time that is required to offer RJ to victims of crime, although both are anticipated to be negligible. Whilst we expect there may be an increase in the use of RJ if there is the capacity for it, this would be funded by existing budgets, although this may potentially require reallocating budgets.

133. Whilst there is some evidence of a high satisfaction rate from RJ and a reduction in frequency of reoffending rates due to RJ, and additional studies support that victims benefit from RJ, it is not possible to quantify this value that victims place on being made aware of and possibly utilising some form of RJ.

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<sup>21</sup> Shapland, J., Atkinson, A., Atkinson, H., Dignan, J., Edwards, L., Hibbert, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2008) Does restorative justice affect reconviction? The fourth report from the evaluation of three schemes. Ministry of Justice Research Series 10/08

<sup>22</sup> Ministry of Justice (2010) Green Paper Evidence Report. Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders

# **Specific Impact Tests**

## **Statutory Equality Duty**

A separate Equality statement is being produced.

## **Competition Assessment**

No competition assessment is required.

## **Small Firms Impact Test**

The provision for small firms to make a VPS is contained in the current Victims' Code. It is optional for small businesses to make a VPS and they are under no obligation to do so. Therefore we do not expect any additional impact on them resulting from these proposals.

## **Small and Micro Business Assessment**

A Small and Micro Business Assessment (SMBA) is not required as the proposals are due to come into force before the SMBA becomes applicable in April 2014.

## **Greenhouse gas assessment**

We do not expect any significant impact on carbon emissions.

## **Wider Environmental issues**

We do not expect any significant impact on other environmental issues.

## **Health and Well-being Impact Assessment**

The provision of effective support to victims of crime and enhanced services for victims of serious crime, vulnerable or intimidated victims and the most persistently targeted is a positive development. This should have a beneficial impact on the health and lifestyle of victims and reduce the need for social care. We do not expect the proposals to have a significant impact on the following wider determinants of health such as income, environment, transport, housing, education, employment, agriculture or social cohesion.

There may be a small impact on crime (particularly given any increase in the use of Restorative Justice which has been shown to lead to lower reoffending frequency rates), which is considered a wider determinant of health.

## **Human Rights**

The proposals are compliant with the Human Rights Act (1998).

## **Justice Impact Test**

The overall impact on the Justice System is outlined in the evidence base of this Impact Assessment.

## **Sustainable Development**

We do not anticipate the proposals having any negative effect on the principles of sustainable development.

The proposals may have a small positive effect on the principle of "ensuring a strong, healthy and just society" by improving the efficiency of the criminal justice system, by strengthening the voice of victims in the criminal justice process and by providing victims with a more effective means of registering complaints.

## **Privacy Impact Test (an MOJ Specific Impact Test)**

Not applicable.

# Post Implementation Review

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<b>Basis of the review</b> We intend to review any change to the Victim's Code two years after implementation. Although it is more usual to conduct a review after three years, we have decided on this review period given the need to assess whether the revised Code meets the needs of the new model for commissioning victims' services, both locally and nationally, which will have bedded in by this point.
<b>Review Objective</b> The Review will be to assess whether the revised Victims' Code meets the needs of the new commissioning landscape, whether changes in the Victim's Code have successfully achieved the stated policy aims and whether the changes have had the expected impacts on identified groups.
<b>Review approach and rationale</b> To assess the impacts on identified groups and to assess the achievements in relation to the policy aims. This is likely to be in the form of an implementation review, and could form part of a longer piece of work collating and publicising best practice in victim and witness services in the CJS. We will seek feedback from stakeholders (particularly Police and Crime Commissioners), victims, CJS practitioners and victim's organisations.
<b>Baseline</b> For data on offer and uptake of VPS to victims reporting to the police: quantitative data from the Office for National Statistics' Crime Survey for England and Wales (CSEW) survey. Additional information is available from the Ministry of Justice's Witness and Victim Experience Survey (WAVES) and data from Criminal Justice Statistics court proceedings. (To note: WAVES was last conducted in 2009/10 and there are currently no plans to run this survey again).
<b>Success Criteria</b> With regard to VPS offer and uptake, this will be determined by the future data from 2013/14 CSEW. The future data and statistics from reforms to how victims pursue means of redress will also help to determine the success of this policy. (To note: data from 2013/14 CSEW may not be directly comparable to earlier CSEW data).
<b>Monitoring Information arrangements</b> We anticipate that future data with regards to VPS offer and uptake from 2013/14 CSEW, and data from the criminal justice agencies who are required to provide services to victims of crime under the Victims' Code will enable suitable monitoring arrangements and encourage greater transparency. (To note: data from 2013/14 CSEW may not be directly comparable to earlier CSEW data).
<b>Reasons for not planning a PIR</b>  N/A