



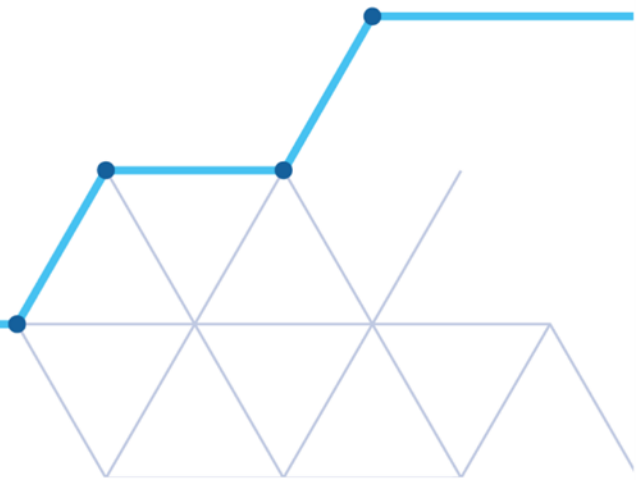
Ministry  
of Justice

# Proposals for revising the Code of Practice for Victims of Crime

This consultation begins on 17 July 2019

This consultation ends on 11 September 2019

Protecting and advancing the principles of justice





Ministry  
of Justice

## **Proposals for revising the Code of Practice for Victims of Crime**

**A consultation produced by the Ministry of Justice. It is also available at  
<https://consult.justice.gov.uk/>**

## About this consultation

- To:** The consultation is aimed at the public, victims of crime, criminal justice agencies, the judiciary, the Commissioner for Victims and Witnesses, organisations that work with and represent victims of crime and all with an interest in the criminal justice system in England and Wales.
- Duration:** From 17 July 2019 to 11 September 2019
- Enquiries (including requests for the paper in an alternative format) to:** Victims Consultation  
Victim and Witness Policy Team  
7th Floor  
Ministry of Justice  
102 Petty France  
London SW1H 9AJ  
Tel: 07540 272595  
Email: [Victims.Consultation@justice.gov.uk](mailto:Victims.Consultation@justice.gov.uk)
- How to respond:** Please respond by **11 September 2019** using the Ministry of Justice's online consultation hub at <https://consult.justice.gov.uk/digital-communications/proposed-changes-to-the-victims-code>  
You may also send your response via email to: [Victims.Consultation@justice.gov.uk](mailto:Victims.Consultation@justice.gov.uk) or in hard copy to:  
Victims Consultation  
Victim and Witness Policy Team  
7th Floor  
Ministry of Justice  
102 Petty France  
London SW1H 9AJ
- Response paper:** A response to this consultation exercise is due to be published by 11 December 2019 at: <https://consult.justice.gov.uk/>

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## Foreword



Becoming a victim of crime is often a traumatic experience which can have a profound and deeply personal impact on the victim. How people are treated immediately after a crime, and subsequently within the justice system, can make an important difference, not just in helping them play their part in seeing justice delivered, but in helping them to move on from what has happened.

Our justice system is highly respected around the world. We want to continue to build on this to ensure it encourages more victims to speak up in the certainty they will be understood, protected, and supported. This should be happening whether or not they report a crime, and regardless of their circumstances or background. That is why in September last year, we published the first ever cross-government Victims Strategy.

We have already delivered a significant number of the commitments in the strategy and we are on track to deliver the rest. This consultation is the first stage in delivering our commitment to consult on a strengthened Victims' Code (the Code), that will be both clearer, and more responsive to the changing nature of crime and victims' needs.

To help build confidence and trust, we want the structure of the Code to change from a series of entitlements to a 'living' statement of rights. This will pave the way for the forthcoming consultation on a Victims' Law to consider which key aspects of the revised Code are enshrined in law, as well as help to ensure that victims receive the right support at the right time.

Listening to victims, we know that many people are still not aware of the Code, and those who are, find it difficult to understand what it means for them. It is also clear that many victims do not always receive entitlements from the criminal justice system when they need them. That is why, in addition to creating a short, user-friendly overview of the Code to summarise the key points that all victims need to know, we are proposing to go further than our commitment in the strategy and provide a similar guide for those working in the criminal justice sector. This will ensure that victims have confidence that they will be offered the services and support they need.

To do that, the voice of the victim and the voice of the public is vital. We now want to hear what you have to say about our initial proposals for change, and the issues you think we should focus on. This consultation is the next step in ensuring the experience of victims within the justice system – whatever their particular path and eventual outcome – does not result in them becoming a victim of the process, as well as the crime.

A handwritten signature in black ink that reads "Edward Argar". The signature is written in a cursive style and is underlined with a single horizontal line.

**Edward Argar MP**  
**Parliamentary Under Secretary of State at the Ministry of Justice**

## Introduction

1. The Code of Practice for Victims of Crime (the Code) is a statutory Government document which sets out the minimum level of services that victims of crime should receive from criminal justice agencies and other organisations in England and Wales. It enables victims to receive the information they need about their case, the criminal justice system, and the support services available, so that they can navigate the justice process and make their own informed decisions about what services to access, and what they are entitled to expect.
2. The Code came into effect in 2006, having been required by the Domestic Violence, Crime and Victims Act 2004. It built on the support for victims within the Victims' Charter, which was introduced in 1990 and which set out for the first time the levels of service victims of crime should expect. The Code was updated in 2013 and again in 2015, the latter primarily to ensure transposition of Directive 2012/29/EU of the European Parliament and the Council (the Victims Directive), which came into force on 16 November 2015.
3. On 10 September last year we published the first ever cross-government Victims Strategy. It was the first time we had looked in such detail and in such a joined-up way at how we treat victims in the wake of crime. The strategy sets out the government's vision of a justice system that supports even more victims to speak up with the certainty that they will be understood, protected, and supported whether or not they report a crime, and regardless of their circumstances or background. The strategy included 89 commitments (of which 32 have already been delivered), which are aimed at achieving this vision.
4. Key overarching commitments in the strategy include consulting on a revised Code, holding criminal justice agencies to account for compliance with the Code, consulting on the detail of a Victims' Law and reviewing access to compensation.
5. This consultation is the first step in delivering on the commitment on the Code. We intend to consult later this year on the detail of a Victims' Law to explore how government and other public bodies can be better held to account (compliance) for the service offered to victims under the Code.
6. In relation to the Criminal Injuries Compensation Scheme (the Scheme), we committed in the strategy to abolish the rule which denied compensation for some victims who lived with their attacker prior to 1979, which we have done. We also committed to consult on further changes to the Scheme, to ensure it better reflects the changing nature of crime, and changing needs of victims.

## The changing nature of crime<sup>1</sup>



The latest Crime Survey of England and Wales estimates suggest **1 IN 5 ADULTS EXPERIENCED CRIME** in the year ending December 2018.

**DESPITE THE LIKELIHOOD OF BEING A VICTIM OF CRIME HAVING FALLEN CONSIDERABLY SINCE 1995, WE CONTINUE TO SEE INCREASES IN POLICE RECORDED CRIME IN ENGLAND AND WALES FOR CERTAIN OFFENCES WHEN COMPARED TO THE PREVIOUS YEAR:**



Offences involving a knife or a sharp instrument have **INCREASED BY 6%**



Violence with injury has **INCREASED BY 17%**



Robbery has **INCREASED BY 11%**

Domestic abuse related offences have **INCREASED BY 25%**



**6% INCREASE** in homicide offences.

<sup>1</sup> All references to offences are derived from recorded crime figures from ONS (2019) Crime in England and Wales: year ending December 2018



## Our Approach

7. As the Victims Strategy made clear, every victim's journey is different. This can mean that for some the impact may be small and quickly left behind, but for others the impact can be more distressing and longer-lasting, and as a consequence the support they need to cope, and as far as possible recover, is far greater. The strategy identified a number of specific changes we intend to make to the Code, but as work on our review has progressed we have added to that list, and this consultation may also help identify additional changes that might need to be made.

The key principles underpinning our approach are that victims should:

- receive the information and support they need, when they need it;
- not be re-traumatised by their experience of the criminal justice process; and
- whatever the outcome, be satisfied with the treatment they received from the criminal justice system.

8. Based on what victims and victims' groups have told us,<sup>1</sup> we have identified a number of key themes underpinning victims' needs, which more often than not, flow through the criminal justice process from the crime to sentencing and sometimes beyond. We address these themes at each stage of the process, taking into account the principles outlined above. The themes are:

1. **Information and Communication** – Victims have told us that timely and accurate information and communication are key to meeting their needs.
2. **Victims' Voice** – Victims want to be listened to and their views and needs taken seriously.
3. **Support** – The support for victims should always be of a consistently high quality and accessible to them all.
4. **Specialist Support** – Recognition that many victims need access to specialised support.
5. **Accountability** – Victims should be confident that they will receive the services to which they are entitled and have redress if this does not happen.

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<sup>1</sup> See Annex – What has informed our work, page 24

## Reflecting changes since the Code was last updated

9. Since the Code was last updated in 2015, there have been a number of changes within the criminal justice system which are already in force and thus will be reflected in the revised Code. These include:
- The Crown Prosecution Service (CPS) **Speaking to Witnesses at Court Scheme**<sup>2</sup> which requires prosecution staff or advocates to provide essential information to prosecution witnesses at court, so that they know more about what to expect before they give their evidence.
  - **Justice After Acquittal National Standards of Support**<sup>3</sup> which require the police and CPS to follow a set of standards after an acquittal in all cases involving a murder.
  - In February 2019 the **Review of the Parole Board Rules and Reconsideration Mechanism: Delivering an effective and transparent system**<sup>4</sup> was published. The review sets out all the measures that have been taken and proposals for further reforms to improve the transparency and effectiveness of the parole system, including changes to the entitlements of victims within the parole process.
  - As announced at the **Prime Minister's Serious Youth Violence Summit**<sup>5</sup> in April, the revised Code will make it clearer to those psychologically affected by directly witnessing acts of serious violence, that they have the same entitlements to access victim support services as those who suffer physical injuries.
  - In April 2019 Police and Crime Commissioners (PCCs) were given greater responsibility around the monitoring of compliance with entitlements in the Code through their Local Criminal Justice Partnerships. The phased implementation of a **national compliance framework** will take place during 2019.

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<sup>2</sup> Revised: 27 March 2018 – [www.cps.gov.uk/legal-guidance/speaking-witnesses-court](http://www.cps.gov.uk/legal-guidance/speaking-witnesses-court)

<sup>3</sup> [www.cps.gov.uk/sites/default/files/documents/publications/National-Standards-of-Support.pdf](http://www.cps.gov.uk/sites/default/files/documents/publications/National-Standards-of-Support.pdf)

<sup>4</sup> [www.gov.uk/government/publications/review-of-the-parole-board-rules-and-reconsideration-mechanism](http://www.gov.uk/government/publications/review-of-the-parole-board-rules-and-reconsideration-mechanism)

<sup>5</sup> [www.gov.uk/government/publications/prime-ministers-summit-on-serious-youth-violence](http://www.gov.uk/government/publications/prime-ministers-summit-on-serious-youth-violence)

## Next Steps

- 10. There is a statutory duty under the Domestic Violence, Crime and Victims Act 2004 to publish and consult on a draft amended Code, which we will do later this year. However, in advance of this we want to seek views on some of our proposed areas of reform and the broad themes set out in this document. This is so that stakeholders and the general public are fully engaged on the direction of travel and can inform our second consultation, which, in-line with our statutory obligations, will include a revised version of the Code, detailing specific entitlements.
  
- 11. The second consultation will also include a number of areas/issues previously identified in the Victims Strategy, but not covered by this consultation. With that in mind, please let us know in the box below if there are any you think that we should focus on.

<p><b>Question</b></p> <p>1. <b>Are there any specific areas/issues that you think we should also focus on in our second consultation?</b></p>
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# 1. Information and Communication

## Accessibility

- 1.1 Victims have told us that information about their case and explaining the criminal justice process are key priorities for them, yet their awareness of their entitlements under the Code remains low.<sup>6</sup>

## Case for change and proposals

- 1.2 Many victims who are aware of the Code have told us that its structure and length means that they do not find it user-friendly. Also, the language used currently lacks empathy and practical information to help guide them through the criminal justice process.
- 1.3 There are also concerns about whether the Code enables child victims to clearly understand their entitlements. A recent report by the National Society for the Prevention of Cruelty to Children (NSPCC)<sup>7</sup> found that young witnesses find it difficult to find information about entitlements, including the Code. Furthermore, a Victim Support report<sup>8</sup> found that victims need to have increased awareness of their entitlements so they know what they should receive from the criminal justice system.
- 1.4 Many practitioners have told us that the Code is difficult to navigate and that it lacks the operational guidance required to enable front-line staff to understand what they need to do for victims at each stage of the criminal justice process and who needs to do it.
- 1.5 Practitioners have also told us that the large number of possible entitlements (over 100 for an adult victim) makes it difficult for front-line staff to clearly explain, and for victims to understand, the support and information they should receive at every stage of their journey.
- 1.6 We committed in the Victims Strategy to develop a less complex, more accessible version of the Code for victims. We propose to do this by publishing a simplified hard copy guide to the Code that will make it easier for victims to understand their entitlements. Acting upon what we have been told, we also now propose that there should be separate guidance documents for Adults, Children/Young People and, for practitioners including more practical and best practice guidance. We will also explore how we can make information about victims' rights more accessible online, for example with a dedicated gov.uk page and a 'how to' guide to inform victims of where they can learn more about their entitlements and available support. We are considering providing police forces with a template 'pledge' card setting out key

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<sup>6</sup> ONS 2018 Crime Survey for England and Wales (CSEW), data table 4b, victims' services and restorative justice, year ending March 2013 to year ending March 2017

<sup>7</sup> <https://learning.nspcc.org.uk/research-resources/2019/falling-short-young-witness-policy-practice/>

<sup>8</sup> P11 "Victim of the System: The experiences, interests and rights of victims of crime in the criminal justice process" Victim Support (2017)

victim entitlements and websites, which can be amended to take account of local arrangements.

- 1.7 We are also proposing to change the structure of the Code to include a smaller number of overarching victims' rights. We intend to do this by bringing together a number of existing entitlements under more simplified rights such as a right to be given information about the investigation and criminal proceedings and the right to be offered the opportunity to make a Victim Personal Statement.
- 1.8 If we proceed with this proposal we will refine the detail ahead of the second consultation on the draft revised Code. We will ensure that any changes are fully compliant with section 33(9)(a) of the Domestic Violence, Crime and Victims Act 2004, which provides that the Secretary of State may only revise the Code if it appears to him that the proposed revisions would not result in a significant reduction in the quality or extent of the services to be provided under the Code.

### Questions

2. **Do you agree with the proposal to have separate guidance alongside the Code aimed at victims and practitioners? Please give reasons for your response.**
3. **Do you agree with the proposal to change the structure to a smaller number of overarching rights? Please give reasons for your response.**
4. **How else could we improve the accessibility of the Code?**

### Improved engagement

- 1.9 Under the current Code, victims are entitled to receive updates at key stages of their case, including when a suspect is arrested, bailed or charged, within set time scales ranging between one and five working days, depending on the specific entitlement and the service offered.
- 1.10 The police are currently responsible for updating the victim between the point of making an initial allegation to the point when the suspect is charged. The Witness Care Unit will then become the main point of contact for most victims following the first hearing.

### Case for change and proposals

- 1.11 Victims have told us that being provided with relevant information on the case is their top priority, yet stakeholders have suggested that some victims do not know who they should contact for an update and information on their case between the police update that follows a charging decision and the trial. The Victims' Commissioner has

previously identified that a *single point of contact* would help address the fact that there is no single criminal justice agency that takes responsibility for victims of crime.<sup>9</sup>

- 1.12 The current Code requires that victims be informed of how frequently they will receive updates on the status of the case following discussion with the police. Yet stakeholders have told us the victims are regularly dissatisfied with the level of contact.
- 1.13 Whilst communication with victims is important throughout the criminal justice process, we know that the lead up to a trial can be a particularly difficult period for victims and anecdotal evidence suggests the lack of a single point of contact may be contributing to victim disengagement for certain offences. Evidence from other jurisdictions is that victim would prefer a single point of contact.<sup>10</sup>
- 1.14 We therefore propose that the revised Code will make provision for those victims who are currently eligible for enhanced entitlements<sup>11</sup> under the current Code to be provided with a single point of contact (reflecting local processes), from the point of charge through to the conclusion of the case.
- 1.15 The frequency of contact and preferred method of communication will be discussed with all victims during their initial contact with the police and, if necessary, updated when the charging decision is communicated to them. This information will also form part of the referral between agencies in order that these communication preferences are not disregarded as the case progresses. The police will also signpost the victim to where they can find more online information explaining their entitlements and support services available to them.

## Questions

- 5. Do you agree that there is a particular need to strengthen communication from the point of charge? Please give reasons for your response.**
- 6. Should the victim's preferences relating to frequency and preferred method of contact through their criminal justice journey be recorded as part of the initial communication? And if so, should these preferences form part of the referral process between agencies? Please give reasons for your response.**

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<sup>9</sup> "What works in supporting victims of crime: A rapid evidence assessment" *Elaine Wedlock and Jacki Tapley* (2016)

<sup>10</sup> Para 5.45 p 48 Review of Victim Care in the Justice Sector in Scotland *Dr Lesley Thomson, QC* (2017)

<sup>11</sup> Chapter one (Page 13) The Code of Practice for Victims of Crime October 2015 – <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

## 2. Victims' Voice

### Victim Personal Statements

- 2.1 The Victim Personal Statement was piloted in 1996 (initially known as the Victim Impact Statement) and introduced across England and Wales in October 2001. The statement can be made by victims to explain the impact a crime has on them. The statement is usually given to the police at the same time as an evidential statement is taken, although it can be made at any time before the defendant is sentenced.
- 2.2 The primary purpose of the Victim Personal Statement is to give victims a voice in the criminal justice process and criminal proceedings when a case goes to court. The legal purpose of the statement is to give an accurate picture of the impact of the offence on the victim which can then be considered when sentencing takes place. It can also be used to inform bail decisions. A separate statement can be made about offenders whose release will be determined by the Parole Board.

### Case for change and proposals

- 2.3 Evidence suggests that the Victim Personal Statement is currently offered in the minority of cases.<sup>12</sup> Since reports are based on victims recalling the process, it is possible that recollection may be affected by when and how the statement is being offered. Often it is offered at the same time as the victim provides their witness statement, and in some instances, is added to the end of the witness statement. For many victims the impact of the crime will not be fully apparent so soon after the incident has taken place.<sup>13</sup>
- 2.4 Practitioners have told us that victims rarely update their Victim Personal Statement and that, where the offer is not taken up when first offered, there are few opportunities to ensure it is included in the file if the defendant pleads guilty at the first hearing. Evidence indicates that only around one in four victims<sup>14</sup> were present at trial suggesting that few victims are aware of how their statement was used in court. Stakeholders have also suggested that victims are often unaware that the statement is disclosed to the defence if the case goes to court and may be reported in the media if mentioned in open court.
- 2.5 We are therefore proposing that criminal justice agencies are provided with more flexibility around the Victim Personal Statement. Specifically, around when it is offered and, if the offer is accepted, that the victim will be provided with a copy of their statement to help them to decide when/if it requires updating to reflect the evolving impact of the crime.

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<sup>12</sup> 16.5% Adults over 16 between April 16–Mar 17 – Crime Survey for England and Wales, Office for National Statistics

<sup>13</sup> MOPAC review of Compliance with the Victims' Code of Practice (VCOP) – published March 2019 – [https://www.london.gov.uk/sites/default/files/vcop\\_final\\_pages.pdf](https://www.london.gov.uk/sites/default/files/vcop_final_pages.pdf)

<sup>14</sup> CPS Victim and Witness Satisfaction Survey 2015 - [https://www.cps.gov.uk/sites/default/files/documents/victims\\_witnesses/cps\\_victim\\_and\\_witness\\_survey\\_sept\\_2015.pdf](https://www.cps.gov.uk/sites/default/files/documents/victims_witnesses/cps_victim_and_witness_survey_sept_2015.pdf)

- 2.6 Where the Victim Personal Statement is not offered at the point at which the victim makes their witness statement, the police will be required under the revised Code to capture the initial views of the victim about the impact that the offence has had. This is to assist with the consideration of any bail decisions and/or charging decisions, with a formal Victim Personal Statement being offered at the point of charge. Offering the chance to make a Victims Personal Statement at this later stage will allow traumatised victims, who may struggle to take in information so soon after a crime takes place, to understand the implications of making such a statement and to decide whether they wish to make one.
- 2.7 We are working with HM Courts & Tribunals Service (HMCTS) to allow courts to record whether and how the Victim Personal Statement is used during sentencing as well as enabling this information to be communicated as part of the sentencing explanation sent to the victim.
- 2.8 We have already committed within the Victims Strategy to working with the National Probation Service to strengthen victim entitlements on how their original Victim Personal Statement, if one was available at sentencing, can be considered during the Parole Board process, including how to update it or make a new statement if one was not made during the original trial.

#### **Questions**

- 7. Do you agree with the proposal to provide agencies with more discretion on when the Victim Personal Statement is offered? Please give reasons for your response.**
- 8. Do you agree that victims should be provided with a copy of their Victim Personal Statement? Please give reasons for your response.**
- 9. Are there any additional comments you wish to make on changes to the Victim Personal Statement process?**



## Mentally Disordered Offenders

- 2.9 Victims of Mentally Disordered Offenders (MDOs)<sup>15</sup> and victims of other offenders have different entitlements under the Code. There are separate systems for MDOs' treatment, rehabilitation, discharge or release into the community.
- 2.10 The Code also reflects different entitlements for victims of two types of MDOs, restricted and unrestricted patients. Victims of restricted patients are allocated a Victim Liaison Officer, as are victims of other offenders, who is responsible for updating the victim about key developments related to hearings for MDOs. Victims of unrestricted patients are not allocated a liaison officer and instead rely on hospital managers to provide updates.

## Case for change and proposals

- 2.11 In its final report, the independent review of the Mental Health Act<sup>16</sup> recommended that the Department of Health and Social Care (DHSC) and the MoJ work together to remove the gap in provision of information to victims of unrestricted patients, and to make sure victims are aware of their rights in respect of the Tribunal.
- 2.12 We are working to address concerns that victims of unrestricted patients do not always receive timely, accurate information about key developments in the offender's case. We recognise that although the DHSC's *'Mental Health Act 1983: Code of Practice'*<sup>17</sup> sets out existing responsibilities, the current structure has proven difficult for victims to navigate.
- 2.13 We are exploring who best should provide information to victims of unrestricted patients and whether it is possible to transfer some of the process from hospital managers to Victim Liaison Officers in the National Probation Service. Another consideration is whether there could be a specific 'single point of contact' role within the healthcare system with responsibility for updating victims about key developments.
- 2.14 We are also exploring the best way to recognise NHS England and DHSC's commitment to supporting the revised Code so that those providing information services to victims (including via Victim Liaison Officers) are clear about their role and the processes that must be followed in providing the right information, at the right time, to all victims of MDOs.
- 2.15 We also want to improve guidance so that those tasked with providing information to victims are clear about their duties and can deliver a more effective service, enabling better victim access to information about the hospital system and the Tribunal's powers and procedures.

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<sup>15</sup> Mentally Disordered Offenders are those detained in hospital under the Mental Health Act 1983 (MHA) after either being diverted from the criminal justice system for treatment in hospital by an order of the court, or being transferred to hospital from prison while serving a prison sentence. Some may also be subject to a restriction order under the MHA - 'restricted' patients. A restriction order means that the treating clinician must obtain the Secretary of State for Justice's consent for certain decisions relating to their management. The Secretary of State for Justice does not have power over the management of 'unrestricted' patients (those without a restriction order).

<sup>16</sup> [www.gov.uk/government/groups/independent-review-of-the-mental-health-act](http://www.gov.uk/government/groups/independent-review-of-the-mental-health-act)

<sup>17</sup> <https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

- 2.16 The report by the Victims' Commissioner for England and Wales, '*Entitlements and Experiences of Victims of Mentally Disordered Offenders*'<sup>18</sup> highlighted the disparity in entitlements between victims of MDOs and victims of offenders before the Parole Board to make a Victim Personal Statement.
- 2.17 We are fully committed to continuing to explore options to bring greater parity for victims of MDOs with victims' experience of submitting a Victim Personal Statement to the Parole Board. These proposals cannot be made through a change within the Code and may require a change in legislation. Therefore, the changes are outside the scope of this review.

**Question**

**10. Which agency is best placed to support victims of unrestricted patients?**

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<sup>18</sup> <https://victimscommissioner.org.uk/published-reviews/entitlements-and-experiences-of-victims-of-mentally-disordered-offenders/>

### 3. Support

#### Awareness of support

3.1 The Code requires support to be made available to all victims in assisting them to cope and, as far as possible, recover from the impact of being a victim of crime, regardless of whether they choose to report the incident to the police or other investigative agency. This support may extend to the victim being offered access to emotional, practical, therapeutic and clinical services as part of their recovery and is provided through services commissioned nationally by central Government or locally by Police and Crime Commissioners.

#### Case for change and proposals

- 3.2 Evidence suggests that around 69%<sup>19</sup> of victims, for various reasons, did not report the incident to the police. Stakeholders have told us that few victims are aware of the entitlement to access support services without contacting the police.
- 3.3 Practitioners and stakeholders have told us that victims are rarely made aware of the entitlement to access support service when they choose to formally withdraw from the criminal justice process, having initially reported the incident to police. We also know that few victims are made aware of this entitlement after their case has ended, whether in an acquittal or conviction.
- 3.4 We are therefore proposing to update the Code to make it clearer that victims who do not report the crime or who choose to withdraw from the criminal justice process are entitled to the same support as those who contact the police or continue to support the prosecution.
- 3.5 We are also proposing that victims will be made aware that they can continue to access support services when told of the outcome in their case. This provides an opportunity for victims to engage with support even if they did not take up the original offer.

#### Question

- 11. Do you agree that the right to access practical and emotional support for victims should be made clearer in the revised Code, for those victims:**
- a) who do not report incidents to the police?**
  - b) who choose to withdraw after reporting an incident to the police?**
  - c) at the end of their case?**
- Please give reasons for your response.**

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<sup>19</sup> Proportion of criminal incidents that the victim viewed as a crime, by whether the victim reported the incident to the police, year ending March 2016, CSEW

## 4. Specialist Support

### Focusing on victims' needs

- 4.1 The current Code provides specific entitlements for three categories of victims:
- Victims of the most serious crime (bereaved family members and victims of domestic violence, hate crime, terrorism, sexual offences, human trafficking, attempted murder, kidnap, false imprisonment, arson with intent to endanger life and wounding or causing grievous bodily harm with intent).
  - Vulnerable or intimidated victims (e.g. including under 18s, adults with mental impairment, physical disability or disorder, or victims in fear or distress about testifying in court which will affect quality of evidence).
  - Persistently targeted victims (targeted repeatedly over time, particularly if deliberately, includes victims of sustained harassment and stalking).
- 4.2 Victims in these categories have a right to be offered an enhanced service and a referral to specialised support where appropriate and available. This means shorter timescales in which information from criminal justice agencies must be passed to the victim and in cases where the victim is considered to be vulnerable or intimidated, access, subject to judicial discretion, to special measures to assist them to give their best evidence in court.<sup>20</sup>
- 4.3 To determine whether a victim qualifies for these services, the police will conduct an initial full needs assessment at the point of first contact, with a further needs assessment offered by the Witness Care Unit if the suspect pleads not guilty and the victim is required to give evidence.

### Case for change and proposals

- 4.4 Currently the Code requires that victims are referred to specialist services where “appropriate and available”. We recognise that there can be issues with sufficient geographic coverage and waiting times for some specialist support services. As noted before not all issues can be addressed by revising the Code. This is being addressed through our Victims Strategy commitment to introduce standards and a new framework of indicators for our centrally funded services, for Police and Crime Commissioners and for Sexual Assault Referral Centres. These will improve confidence in commissioned services, and help us better understand how funding is being used.

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<sup>20</sup> Although stakeholders have highlighted other issues related to specialist support, for example extending eligibility to be offered special measures, these are changes which would require primary legislation and as such are outside the scope of this review.

- 4.5 Stakeholders have told us that a number of additional victims who do not fall within the three categories above would also benefit from enhanced communication and access to specialist support services. Although the Code currently allows agencies to use their discretion and provide the additional entitlements to all victims', practitioners have told us that this does not always happen routinely.
- 4.6 We are therefore proposing to amalgamate the existing '*victims of the most serious crime and persistently targeted victims*' categories into a single category of '*victims with the greatest needs*'. This will make it clearer that, whilst persistently targeted victims and victims of the most serious offences remain likely to require additional support, practitioners should consider whether a victim of any offence should be offered a more specialised service based on their needs.
- 4.7 This proposed change will enable us to highlight the possible needs of victims of perceived "low level" crime where the circumstances mean that the victim may benefit from a specialised service, for example in incidents where an individual has been a victim of crime whilst at work.
- 4.8 Having accurate and timely information about the needs of victims is vital if they are going to receive tailored support, including whether they would benefit from a specialised service. However, the Victims' Commissioner's rapid evidence assessment on what works for victims<sup>21</sup> highlighted that not all of those entitled to the specialised services are being identified early or in fact being identified at all.
- 4.9 We know victims have higher levels of satisfaction when offered a needs assessment by the police and/or the Witness Care Unit, yet less than half of those surveyed by the CPS could not recall being offered one.<sup>22</sup> When they are being offered, we know victims are being asked to take part in several needs assessments throughout the criminal justice process as the information is not always passed between agencies and support services. This means that victims often have to repeat information about themselves and about the impact of the crime that they have previously provided, creating a feeling that the criminal justice system has not fully considered their needs. It may also lead to re-traumatisation for some victims.
- 4.10 In addition to revising the Code, we are proposing to provide clearer guidance to practitioners of the requirement to offer victims a needs assessment at key stages of their journey. This will highlight the importance of early identification of specialised need, and ensure that processes are in place to allow this information to pass between criminal justice agencies. We are also exploring options to enable the needs assessment information to form part of the referral to support services.

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<sup>21</sup> <https://victimscommissioner.org.uk/published-reviews/what-works-in-supporting-victims-of-crime-a-rapid-evidence-assessment/>

<sup>22</sup> CPS Victim and Witness Satisfaction Survey 2015 - [https://www.cps.gov.uk/sites/default/files/documents/victims\\_witnesses/cps\\_victim\\_and\\_witness\\_survey\\_sept\\_2015.pdf](https://www.cps.gov.uk/sites/default/files/documents/victims_witnesses/cps_victim_and_witness_survey_sept_2015.pdf)

### **Questions**

- 12. Do you agree with the proposed changes to eligibility categories for access to specialist support? Please give reasons for your response.**
- 13. Are there other types of support or information which would benefit those victims who are offered specialist support?**
- 14. What changes should be made to the existing needs assessment process?**

## **5. Accountability**

### **Creating local accountability**

- 5.1 In May 2015 PCCs were elected for the second time in police force areas in England and Wales, with the exceptions of London and Manchester, where responsibility sits with the Mayor.
- 5.2 PCCs are accountable for delivering local results by setting the local force's policing priorities, consulting with victims of crime in doing so, and its budget, working with partners to cut crime, holding the Chief Constable to account for the performance of the force, and commissioning local victim support services.
- 5.3 In February 2019, national and local criminal justice partnership protocols were published to promote local partnership working between PCCs and criminal justice partners and PCCs have taken on greater responsibility for working with their local criminal justice partnerships to monitor compliance with the Code.
- 5.4 We have also committed in the Victims Strategy to hold agencies to account for compliance with the Code through improved reporting, monitoring and transparency on whether victims are receiving entitlements. At a local level PCCs will be responsible for regularly monitoring and identifying issues through local criminal justice partnership arrangements so they can determine effective local intervention. We have already issued the first iteration of a framework for compliance to PCCs who are testing against local systems and arrangements.
- 5.5 As part of our consultation on the Victims' Law we will be including proposals strengthening compliance and increasing the powers of the Victims' Commissioner.

### **Case for change and proposals**

- 5.6 The devolution of most of the commissioning of victim support services to PCCs has enabled them to tailor the services offered to victims to meet the needs of the communities they serve. PCCs have become increasingly innovative in how they deliver services to victims. Some and their associated police forces, including their equivalents in London and Manchester, have made local changes which have altered the processes for delivering certain entitlements under the Code, for example, by replacing traditional Witness Care Units with victims' hubs and co-located services. This has meant that the single processes outlined in the current Code, assigning individual roles and responsibilities to the police and Witness Care Units no longer reflects a number of the local delivery models in place across England and Wales.

- 5.7 As well as the variation in local delivery of services, stakeholders have told us that the lack of assigned responsibility for certain entitlements within the Code has led to no individual agency taking ownership for its delivery. For example, the Victims' Commissioner in a report on criminal injuries compensation<sup>23</sup> found that many victims were left to find out themselves about the compensation process rather than being informed as required by the current Code.
- 5.8 Furthermore, in its interim report,<sup>24</sup> the Independent Inquiry into Child Sexual Abuse states that victims are not consistently receiving the service to which they are entitled to under the Code.
- 5.9 We are therefore proposing that PCCs, and their equivalents in London and Manchester, will be responsible for working with their local criminal justice partners to adapt the victim and practitioner guidance, mentioned in the accessibility section above, to set out how overarching victims' rights will be delivered locally. This will allow local criminal justice partnerships to ensure they are clear not only to victims but also to agencies about who does what at a local level.

#### Question

- 15. Do you agree with that PCCs should work with their local criminal justice partners to adapt the victim guidance to explain the local offer for victims? Please give reasons for your response.**

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<sup>23</sup> Compensation without re-traumatisation: The Victims' Commissioner's Review into Criminal Injuries Compensation

<sup>24</sup> Interim report of the Independent Inquiry into Child Sexual Abuse – <https://www.iicsa.org.uk/reports>



## Questions

### Next Steps:

1. Are there any specific areas/issues that you think we should also focus on in our second consultation?

### Information and Communication:

2. Do you agree with the proposal to have separate guidance alongside the Code aimed at victims and practitioners? Please give reasons for your response.
3. Do you agree with the proposal to change the structure to a smaller number of overarching rights? Please give reasons for your response.
4. How else could we improve the accessibility of the Code?
5. Do you agree that there is a particular need to strengthen communication from the point of charge? Please give reasons for your response.
6. Should the victim's preferences relating to frequency and preferred method of contact through their criminal justice journey be recorded as part of the initial communication? And if so, should these preferences form part of the referral process between agencies? Please give reasons for your response.

### Victims' Voice:

7. Do you agree with the proposal to provide agencies with more discretion on when the Victim Personal Statement is offered? Please give reasons for your response.
8. Do you agree that victims should be provided with a copy of their Victim Personal Statement? Please give reasons for your response.
9. Are there any additional comments you wish to make on changes to the Victim Personal Statement process?

### Mentally Disordered Offenders:

10. Which agency is best placed to support victims of unrestricted patients?

**Support:**

11. Do you agree that the right to access practical and emotional support for victims should be made clearer in the revised Code, for those victims:
- a) who do not report incidents to the police?
  - b) who choose to withdraw after reporting an incident to the police?
  - c) at the end of their case?
- Please give reasons for your response.

**Specialist Support:**

12. Do you agree with the proposed changes to eligibility categories for access to specialist support? Please give reasons for your response.
13. Are there other types of support or information which would benefit those victims who are offered specialist support?
14. What changes should be made to the existing needs assessment process?

**Accountability**

15. Do you agree with that PCCs should work with their local criminal justice partners to adapt the victim guidance to explain the local offer for victims? Please give reasons for your response.

## **ANNEX – What has informed our work**

- We have identified these areas through stakeholder engagement and consideration of key victim focused surveys, including the Crime Survey for England and Wales and reports, including those produced by the Victims' Commissioner, and conducted by the CPS and the London Victims' Commissioner.
- The Victims' Commissioner's reports, such as on the entitlements and experiences of victims of mentally disordered offenders, published on 1 June 2018, informed the Victims Strategy and has continued to inform our consideration of whether this category of victim requires additional entitlements under the Code.
- The Association of Police and Crime Commissioners helped us disseminate an initial questionnaire about the Code to victims via Police and Crime Commissioners and the victim support services they funded. This was not a representative sample but it helped to guide our further work in identifying the most important entitlements for victims, which we set out in the Victims Strategy.
- We also worked closely with the London Victims' Commissioner's review of compliance with the Code, inputting on the questions asked by the Commissioner in her London-specific victim survey, which formed a key part of the review. The London Victims' Commissioner's final report on the review, published on 21 March, has also helped confirm our understanding of the issues and the gaps that need to be addressed.
- We also sought the views of the Victims Panel on our emerging findings. The panel represents the voice of victims in government policy making, its membership comprises victims and academic experts.
- Additionally, earlier this year we held a series of workshops with victims, victim groups and criminal justice practitioners to test the themes that we had identified. We received confirmation that these themes are those of most importance and which are of most interest among these groups.

## About you

Please use this section to tell us about yourself

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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## Contact details/How to respond

Please respond by 11 September 2019 using the Ministry of Justice's online consultation hub at <https://consult.justice.gov.uk/digital-communications/proposed-changes-to-the-victims-code>

You may also send your response via email to: [Victims.Consultation@justice.gov.uk](mailto:Victims.Consultation@justice.gov.uk) or in hard copy to:

Victims Consultation  
Victim and Witness Policy  
Ministry of Justice  
7th Floor  
102 Petty France  
London SW1H

## Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

## Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/>

Alternative format versions of this publication can be requested from [Victims.Consultation@justice.gov.uk](mailto:Victims.Consultation@justice.gov.uk).

## Publication of response

A paper summarising the responses to this consultation will be published in three months' time. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

## Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

## Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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