

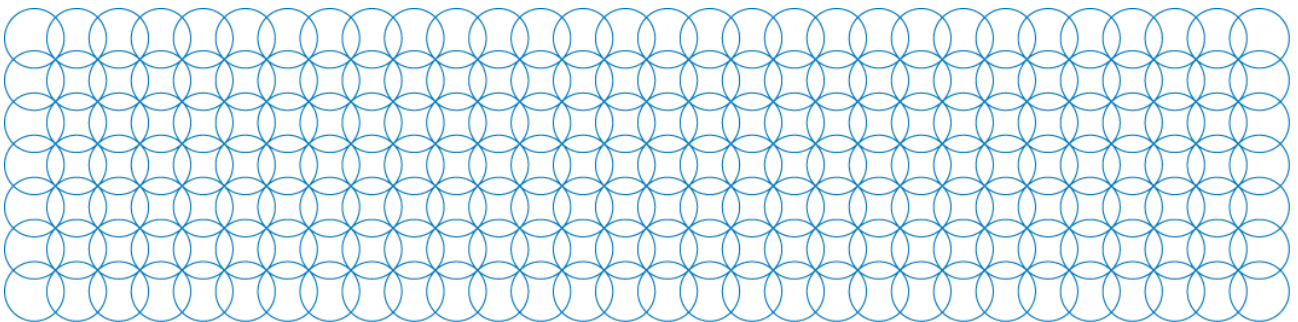


Ministry
of Justice

Revising the Victims' Code

Consultation document

This consultation begins on 16 July 2015.
This consultation ends on 16 August 2015.





Ministry
of Justice

Revising the Victims' Code

Consultation document

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 16/07/2015 to 16/08/2015.
- Enquiries (including requests for the paper in an alternative format) to:** Mhairi Aylott
Post Point 4.14
Ministry of Justice
102 Petty France
London SW1H 9AJ
Tel: 07580 701742
Email: VictimsCodeConsultation@justice.qsi.gov.uk
- How to respond:** Please send your response by 16 August to Mhairi Aylott at the email address or postal address.
- Response paper:** A response to this consultation exercise is due to be published in October 2015.

The response paper will be available on-line at <https://consult.justice.gov.uk/>.

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Foreword

I believe it is crucial that the needs of victims of crime are put first. Victims deserve the best possible support to help them cope with what they have been through.

The previous government updated the Victims' Code to give victims clear entitlements, and to include the right to ask to read their personal statement to the court. We are investing more than ever before in services and support for victims of crime but we can, and should, do more.

This government is committed to implementing the EU Victims' Directive in full by the deadline of 16 November 2015. The Directive will improve standards on the entitlements, support and protection available to victims of crime in the UK and across the EU.

I am therefore pleased to announce this consultation on some additional changes to the Victims' Code which will entitle more victims to receive services from a bigger number of organisations. The changes we propose here are largely technical and, alongside existing law and practice, will complete the transposition of the Directive into our national laws and systems.

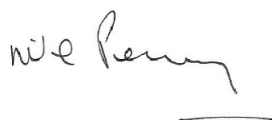
The first main change we propose is to broaden our definition of a victim so that victims of all criminal offences are entitled to receive support and information under the Victims' Code. Currently, victims of offences such as careless driving and drink driving do not receive support and we propose to close this gap.

The second main change is to extend the Victims' Code to apply to relevant agencies outside the core criminal justice system who provide services to victims of crime. Most crimes are dealt with by the police and Crown Prosecution Service but there are other organisations with powers to investigate and prosecute. I want to make sure that the victims of crime these agencies deal with are eligible to receive services under the Victims' Code.

The third main change will entitle victims who report a crime to receive a written acknowledgement which states the basic elements of the criminal offence concerned.

We are also proposing to make a number of smaller amendments to the Code, mostly to clarify it in places or to reflect more accurately what happens in practice.

These are technical changes required for compliance with the Directive and separate from our commitment to introduce measures to further increase the rights of victims of crime, for which we will publish draft clauses in due course.



Rt. Hon. Mike Penning MP

Minister of State for Policing, Crime, Criminal Justice and Victims

Executive summary

The statutory Code of Practice for Victims of Crime ("the Code") places obligations on core criminal justice agencies to provide victims of crime with support and information.

The previous government revised the Code in December 2013 to include some additional entitlements, make it clearer and more readable, and to give greater flexibility to core criminal justice agencies to tailor services according to individual need.

The Code is central to our strategy for transposing Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 ("the Directive") which establishes minimum standards on the rights, support and protection of victims of crime, and which comes into force on 16 November 2015. It has long been our principal means of ensuring that criminal justice system agencies give victims the entitlements they are due.

We transposed a considerable amount of the Directive when we revised the Code in December 2013. We are now consulting on further revisions to the Code to address some gaps which remain in relation to the support and information provided to victims of crime.

Revising the Code should improve the experience of victims of crime in the criminal justice system and ensure compliance with the EU Victims' Directive by 16 November 2015.

These are technical changes required for compliance with the Directive and separate from our commitment to introduce measures to further increase the rights of victims of crime, for which we will publish draft clauses in due course.

The main changes we propose to make are:

1. To extend the services offered under the Code to victims of any criminal offence, not just victims of the more serious criminal offences that are notifiable under the National Crime Recording Standards (NCRS).
2. To make sure that victims are entitled to receive support and information from relevant public sector investigative and prosecutorial organisations, not just the police and Crown Prosecution Service.
3. To make sure that a victim who reports a crime receives a written acknowledgment which states the basic elements of the criminal offence concerned.

A number of other smaller changes are described in the Appendix to this paper. The majority of these either codify (for transposition purposes) what is already happening in practice or require small adjustments to existing policy or practice.

We are interested in your views on these proposals.

Introduction

This paper sets out a consultation on revisions the government proposes to make to the Code of Practice for Victims of Crime ("the Code"). The draft revised Code at <https://www.gov.uk/government/consultations/revising-the-victims-code> is published in accordance with the requirements of the Domestic Violence, Crime and Victims Act 2004 having consulted the Home Secretary and the Attorney General.

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.

The Directive is at:

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

An Impact Assessment and Equalities Statement is at:

<https://www.gov.uk/government/consultations/revising-the-victims-code>

Responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

The proposals

Policy objectives

The principal objective of amending the Code is to ensure the transposition of the Directive into our national laws and systems.

The main changes we propose to make are:

1. To extend the services offered under the Code to victims of any criminal offence, not just victims of the more serious criminal offences that are notifiable under the National Crime Recording Standards (NCRS).
2. To make sure that victims are entitled to receive support and information from relevant public sector investigative and prosecutorial organisations, not just the police and Crown Prosecution Service.
3. To make sure that a victim who reports a crime receives a written acknowledgment which states the basic elements of the criminal offence concerned.

A number of other smaller changes are described in the Appendix to this paper. The majority of these either codify (for transposition purposes) what is already happening in practice or require small adjustments to existing policy or practice.

Extending the services offered under the Code to victims of any criminal offence

We propose to broaden our current definition of “victim”. At present, the Code defines a victim as someone who has suffered harm directly caused by a criminal offence that is notifiable under the National Crime Recording Standards (NCRS). The NCRS is a standard of recording crime by the police. It deals primarily with indictable only or triable-either way offences (serious offences which may be punished by more than 6 months imprisonment). The NCRS excludes summary offences such as careless driving or drink driving – therefore victims of these crimes are not covered by our definition – and, while in practice they may receive services under the Victims' Code on a discretionary basis, they are not entitled to them.

The Directive, however, confers rights upon persons who have suffered harm caused directly by **any** criminal offence.

See paragraph 4 of the Introduction to the draft revised Code for the amended definition.

Extending the Code to other investigative and prosecutorial organisations

The term “competent authority” is employed throughout the Directive to describe the body (or bodies) that have a duty to provide services to victims of crime. It is for national law to determine the identity of competent authorities. While most of the organisations covered by the Code are clearly competent authorities for the purposes of the Directive, we consider that there are others not currently covered by the Code.

We have added the organisations listed in the Appendix as competent authorities because they are public sector organisations which perform functions in relation to victims as defined by the Directive with respect to one or more of its Articles.

We propose to add a new chapter to the Code which sets out the information, help and services that additional organisations (“service providers”) must provide to victims of crime and bereaved close relatives. These additional service providers have an investigative or a prosecutorial function (and some have both). Their functions largely determine the ways in which, and frequency with which, these service providers come into contact with victims, and these factors largely determine the services they are to provide.

The additional service providers are set out in paragraph 8 of the Introduction and the duties which apply to them are set out in the Introduction and in a new chapter (Chapter 5) in the draft revised Code.

Making sure that victims who report crimes receive a written acknowledgment from the police which states the basic elements of the criminal offence concerned

When victims report a crime, the police currently give them an “information for victims of crime” leaflet which tells them what to expect from the criminal justice system. However, the Directive requires victims to be given a written acknowledgment which states the basic elements of the criminal offence. We propose to revise the Code to entitle victims to receive such a written acknowledgement when they report a crime. See Chapter 2, Adult Victims Part A, paragraph 1.1, bullet point 1 and Chapter 3, Children and Young People, Part A, paragraph 1.1 bullet point 1 of the revised code.

Other amendments

We propose to make a number of other, smaller amendments to the Code. We consider that these will have little, or no impact, on organisations required to provide duties under the Code because we think either these things are already happening in practice or that what happens in practice will require minimal adjustment. These amendments are set out in the Appendix to this consultation document.

Impact Assessment and Equalities Statement

To inform responses to this consultation document we have published separate analyses of the potential impacts of our proposals.

- Impact Assessment: its purpose is to identify the main groups affected by our proposals and the likely costs and benefits to those groups. The impact assessment can be found at <https://www.gov.uk/government/consultations/revising-the-victims-code>.
- Equalities Statement: in light of our obligations under the public sector equality duty in section 149 of the Equality Act 2010 this considers the potential effects of our proposals according to the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Statement can be found at <https://www.gov.uk/government/consultations/revising-the-victims-code>.

We welcome comments about the accuracy and extent of the effects identified. We particularly welcome responses from those who identify themselves as sharing a protected characteristic or from interest groups representing those with protected characteristics. The responses received will be taken into account as the government decides the best way forward following the end of the consultation period.

Questionnaire

Questions on the proposals:

- Q1. Do you agree with our proposal to amend the definition of a victim entitled to services under the Code so that victims of any criminal offence become eligible rather than victims of crimes notifiable under the National Crime Recording Standards (NCRS)?**
- Q2. Please give your reasons to your response in Q.1**
- Q3. Should any more organisations be added to paragraph 8 of the Introduction to the Code because they are competent authorities for the purposes of the Directive?**
- Q4. If yes, what organisations should be added?**
- Q5. Should any of the organisations listed in paragraph 8 of the Introduction to the Code be removed because they are not competent authorities for the purposes of the Directive?**
- Q6. If yes, what organisations should be removed?**
- Q7. To comply with the Directive, have we imposed the right duties on the additional service providers in Chapter 5 of the Code?**
- Q8. If not, what should we add or amend?**
- Q9. Do you have any comments on any of the other amendments we propose to make to the Code?**
- Q10. Do we need to make any other amendments to the Code to implement the Directive?**
- Q11. If yes, what amendments need to be made?**

Questions on the Equalities Statement

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

Questions on the Impact Assessment

- Q14. Do you think we have adequately assessed the impacts of our proposals in the impact assessment?**

Q15. If not, are you aware of any evidence or sources of information that will help us to understand and assess impacts further? Please supply the evidence. What is the effect of this evidence on our proposals?

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
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.

Contact details/How to respond

Please send your response by 16 August 2015 to:

Mhairi Aylott
Post Point 4.14
Ministry of Justice
102 Petty France
London SW1H 9AJ
Tel: 07580 701742
Email: VictimsCodeConsultation@justice.gsi.gov.uk

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 Mhairi Aylott using the contact details above.

Publication of response

A paper summarising the responses to this consultation will be published in October 2015.

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 1998 (DPA) 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>

Appendix

Main amendments to the Victims' Code

Reference (to chapter and paragraph)	Description of change
Introduction, paragraph 1	This paragraph makes clear that victims will be treated in a manner which is tailored to their needs.
Introduction, paragraph 4	<p>The definition of 'victim' will be expanded so that victims of all criminal offences will become eligible for services under the Code, not just victims of crimes classified under the National Crime Recording Standards.</p> <p>All references to "criminal conduct" have therefore been changed to "criminal offence" throughout the document.</p>
Introduction, paragraph 7	<p>This makes clear the list of organisations who must provide services in line with Chapter 1-4 of the code. These 'service providers' are:</p> <ul style="list-style-type: none">• 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

	<ul style="list-style-type: none"> • The National Probation Service • The UK Supreme Court • Witness Care Units • Youth Offending Teams.
<p>Introduction, paragraph 8, 9, 10</p> <p>New Chapter 5</p>	<p>The Code will be expanded to include a number of duties on other organisations with investigative and/or prosecutorial functions, which are not currently covered by the Code. An organisation responsible for the provision of services under Chapter 5 must also, where relevant, provide services to victims in accordance with the Introduction.</p> <p>These organisations are referred to as “service providers” in the Code.</p> <p>The organisations are:</p> <ul style="list-style-type: none"> • The Competition and Markets Authority • The Department for Business, Innovation and Skills (Criminal Enforcement) • Her Majesty’s Revenue and Customs • The Health and Safety Executive • The Information Commissioner’s Office • The Independent Police Complaints Commission • The National Crime Agency • The Office for Rail and Road¹ • The Serious Fraud Office <p>The duties imposed in the Introduction and Chapter 5 relate to the following Articles of the Directive (some apply to organisations with investigative functions and some to organisations with prosecutorial functions):</p> <ul style="list-style-type: none"> • Article 3 - Right to understand and to be understood • Article 4 - Right to receive information from the first contact with a competent authority

¹ For legal purposes, the Office for Rail and Road is using the name Office of Rail Regulation until mid-October 2015.

	<ul style="list-style-type: none"> • Article 5 - Right of victims when making a complaint • Article 6 - Right to receive information about their case • Article 7 - Right to interpretation and translation • Article 8 - Right to access victim support services • Article 11 - Rights in the event of a decision not to prosecute • Article 14 – Right to reimbursement of expenses • Article 15 – Right to return of property • Article 19 – Right to avoid contact between victim and offender • Article 20 – Right to protection of victim during criminal investigation • Article 22 – Individual assessment of victims to identify specific protection needs • Article 23 – Right to protection of victims with specific protection needs during criminal proceedings. • Article 24 – Right to protection of child victims during criminal proceedings.
Introduction, paragraph 10	Voluntary organisations may provide services in line with this Code but are not a “service provider”.
Introduction, paragraph 16	The victim is entitled to be accompanied by a person of their choice if they require assistance to understand and be understood in their first contact with a service provider. This reflects existing practice.
Introduction, paragraph 18	This paragraph clarifies the information the victim can expect from the criminal justice system such as the “Information for victims of crime leaflet”. This paragraph also describes the information that must be provided to the victim in their first contact with the relevant service provider.
Introduction, paragraph 30	If the victim was not resident in England and Wales at the time the criminal conduct took place, they are still entitled to receive the services set out in the Code if the crime took place in England and Wales.
Chapter 2, Adult Victims, Part A, paragraph 1.1 Chapter 2, Adult Victims, Part B, paragraph 1.1, 1 st	When they report a crime, victims will be entitled to receive a written acknowledgement which states the basic details of the offence. The written acknowledgement could be in the form of a letter, an electronic notification such as an email or text, or it could be written by hand. The victim may request not to receive such acknowledgement. Where the police or relevant service provider considers there may be a risk of harm to the victim from sending the written acknowledgement (for example

<p>bullet</p> <p>Chapter 3, Children and Young People, Part A, paragraph 1.1, 1st bullet</p> <p>Chapter 3, Children and Young People, Part B, paragraph 1.2, 2nd bullet</p> <p>Chapter 5, paragraph 1.6</p>	<p>in domestic violence cases), they may agree with the victim not to send one.</p> <p>If requested, the written acknowledgement will be translated and/or interpreted should the victim not be able to speak or understand English.</p>
<p>Chapter 2, Adult Victims, Part A, paragraph 1.1, 3rd bullet</p> <p>Chapter 2, Adult Victims, Part B, paragraph 1.1, 3rd bullet</p>	<p>Clarification that a needs assessment must include an assessment of whether and to what extent the victim may benefit from special measures. (No change in practice as this is part of the purpose of the needs assessment.)</p>
<p>Chapter 2, Adult Victims, Part A, paragraph, section 1, paragraph 1.12, 1.19</p> <p>Chapter 2, Adult Victims, Part B, 1.10</p>	<p>Clarification that you are, subject to the discretion of the court, able to read your Victim Personal Statement yourself or have it read aloud by someone else (for example, a family member or the CPS prosecutor).</p>
<p>Chapter 2, Adult Victims Part A, paragraph 2.2</p>	<p>Addition of a victim's right to review police decisions not to prosecute, as well as CPS decisions not to prosecute. (No change in practice. Both the police and CPS Victims Right to Review schemes are operative owing to domestic case-law.)</p>
<p>Chapter 2, Adult Victims Part A, unnumbered new text box after paragraph 2.6</p>	<p>Clarification of how the CPS and police Victims Right to Review schemes work. (No change in practice.)</p>
<p>Chapter 2, Adult Victims</p>	<p>A more detailed description of the restorative justice services that victims can access and clarification that these services can be provided by a range of service providers. (No change in practice.)</p>

<p>Part A, Section 7</p> <p>Chapter 2, Adult Victims, Part B, Section 7.</p> <p>Chapter 3, Children and Young People, Section 7</p>	
<p>Introduction, paragraphs 30-33</p>	<p>Clarification of the information that victims who do not speak or understand English are entitled to have interpreted or translated. Where a victim is unhappy with a decision not to provide translation or interpretation services they are entitled to make a complaint to the relevant service provider or organisation.</p>
<p>Chapter 2, Adult Victims, Part A, paragraph 1.8, 5th bullet</p> <p>Chapter 2, Adult Victims, Part B, paragraph 1.6, 5th bullet</p>	<p>Clarification that victims will be entitled to have the interview, where necessary, conducted in premises designed or adapted for that purpose.</p>
<p>Chapter 2, Adult Victims Part A, paragraph 1.8, 6th bullet</p> <p>Chapter 2, Adult Victims Part B, paragraph 1.6, 6th bullet</p>	<p>Clarification that victims will be entitled where possible to have the same person conduct all the interviews, unless to do so would prejudice the proper handling of the investigation. (No change in practice.)</p>
<p>Chapter 2, Adult Victims Part A, paragraph 1.8, 4th bullet</p> <p>Chapter 2, Adult Victims Part B, paragraph 1.6, 4th bullet</p>	<p>Medical examinations of the victim will be kept to a minimum and carried out only where strictly necessary for the purposes of criminal proceedings. (No change in practice.)</p>

<p>Chapter 2, Adult Victims Part A, paragraph 3.6 , 2nd bullet</p> <p>Chapter 2, Adult Victims Part B, paragraph 3.5</p> <p>Chapter 3, Part A, Children and Young People, paragraph 4.3</p>	<p>The Witness Care Unit, which already notifies victims about decisions taken by the court, will provide the victim with a brief summary of the reasons why that decision was taken, where such reasons are available. (Small change in practice.)</p>
<p>Introduction, paragraph 21</p>	<p>Clarification that access to services to help victims cope and recover (commissioned by Police and Crime Commissioners) is not dependent on an individual having reported to the police that they are a victim of crime. (No change in practice.)</p>
<p>Introduction, paragraph 18</p>	<p>Clarification of the information victims are to receive at the point of first contact with the police or other relevant organisation about what to expect from the criminal justice system. (No change in practice.)</p>
<p>Chapter 2, Adult Victims Part A, paragraph 1.8, 7th bullet</p> <p>Chapter 2, Adult Victims Part B, paragraph 1.6, 7th bullet</p>	<p>All victims of sexual violence, gender-based violence or domestic violence will be offered the opportunity to have their interview conducted by a person of the same gender wherever possible, unless doing so is likely to prejudice the criminal investigation. (Small change in practice but, as the requirement is to do so wherever possible, the resource implications will be small.)</p>
<p>Glossary</p>	<p>The entry defining the National Crime Recording Standards has been deleted.</p> <p>The description of “service providers” has been amended to be consistent with the description at paragraph 8 of the Introduction.</p> <p>The entry for Probation Trusts has been replaced by the entry for the National Probation Service. Throughout the Code, all references to Probation Trusts have also been replaced by a reference to the National Probation Service.</p>



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