



Ministry  
of Justice

# **Delivering justice for victims**

**A consultation on improving victims'  
experiences of the justice system**

December 2021

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of Justice

## **Delivering justice for victims**

A consultation on improving victims' experiences  
of the justice system

Presented to Parliament

by the Deputy Prime Minister, Lord Chancellor and Secretary of State  
for Justice

by Command of Her Majesty

December 2021



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# About this consultation

- To:** This consultation is open to the public. We would be particularly interested to hear from victims of crime, organisations representing victims, the police, criminal justice practitioners, service providers, health care professionals, Police and Crime Commissioners, local authorities and community safety partnerships.
- Duration:** From 9 December 2021 to 3 February 2022
- Enquiries (including requests for the paper in an alternative format) to:** Victim and Witness Policy and Strategy Team  
Ministry of Justice  
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London SW1H 9AJ  
Email: [victimsbillconsultation@justice.gov.uk](mailto:victimsbillconsultation@justice.gov.uk)
- How to respond:** Please send your response by 3 February 2022 to:  
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102 Petty France  
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Email: [victimsbillconsultation@justice.gov.uk](mailto:victimsbillconsultation@justice.gov.uk)
- Additional ways to feed in your views:** We will also be holding a series of events across England and Wales during the consultation period to canvass views.
- Response paper:** A response to this consultation exercise will be published in due course at: <https://consult.justice.gov.uk/>

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# Foreword

Every year, one in five people in our country will become the victim of a crime. Some will be bewildered by what's happened to them. Others will be left picking up the pieces of their lives. All victims should feel confident to pursue justice. We have a moral duty to protect these victims of crime. It is the right thing to do.

It is also essential at a practical level, in order to ensure that we have the most effective justice system. By reporting crimes to the police, engaging with prosecutors to make sure their evidence and testimony is heard in court, they enable criminal justice agencies to secure convictions and make our communities safer.

Too many victims feel that the system does not deliver justice for them. Too many feel let down by the system, which can compound the pain and suffering from the original crime. As a result, a worrying number of victims disengage from the justice process altogether, meaning that justice is not delivered in those cases, and the public is left exposed to criminals who remain free to carry on offending.

This must change, and the Government is determined to improve the service and support that victims receive – from the moment a crime is committed right the way through to their experience in the courtroom. I want to guarantee that victims are at the heart of the criminal justice system. Rather than feeling peripheral to the process, we want victims to be supported so that they can participate properly at every step.

Our plan for delivering a world-class service to victims has five critical elements.

**First, we need to amplify victims' voices in the criminal justice process.** We want to ensure agencies communicate with victims better, so, we are consulting on the requirement for the prosecutor in a case, or certain types of cases, to communicate directly with victims before they decide whether to charge a suspect and again before trial. We also want to strengthen the voice of communities, by making explicit provision for community impact statements in the Victims' Law and Code, so that their use is mainstreamed in appropriate cases and the police, CPS and court understand the wider scale and extent to which crime can blight whole neighbourhoods.

**Second, we need to increase the transparency of the performance of our criminal justice agencies.** We want to make criminal justice more open than ever, so that we can measure and manage what's important, understand the problems in the system, and address them more effectively. Alongside this consultation, I am separately publishing the first national criminal justice scorecards so we can see where in the system victims are being failed and take steps to fix it. They will bring together data to give a cross-system

view of performance, including measures that matter to victims, such as how long it takes for cases to progress across the criminal justice system. They will drive up standards, so that we can see how the system is delivering for victims and can spread the very best practice. In the new year, we will follow up with the publication of localised scorecards – to enable geographic comparisons in performance.

**Third, we need to make sure that there are clear lines of accountability for when victims do not receive the right level of service.** We will enshrine the Victims' Code in law to send a clear signal about what victims can and should reasonably expect from the criminal justice system. It follows that we must also hold the respective agencies to account for delivering for victims. We propose to strengthen oversight mechanisms and their focus on victims across the board, from complaints procedures through to reinforced inspection regimes nationally, and Police and Crime Commissioners locally. That will give victims more effective redress, when something does go wrong, and improve accountability for those responsible.

**Fourth, we want to support victims to rebuild their lives through accessible and professional services, and ensure that criminals pay more to support these services.** Under our proposals, we will increase the victim surcharge, so criminals pay millions of pounds more towards crucial victim services. This will mean criminals paying more to right their own wrongs and help victims to recover from what has been done to them. We want to improve the commissioning and co-ordination of support services, and strengthen the support available from Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs), which we know make victims almost 50% more likely to stay engaged with the criminal justice process.

**And finally, we want to ensure there are better tools to protect victims and prosecute culprits.** We have already begun to improve the trial experience for victims, by rolling out pre-recorded cross-examination (known as Section 28) for vulnerable victims. That way, those who want to, can give evidence earlier and outside of the courtroom, subject to judicial discretion – to make the process less traumatic. I now plan to expand this provision for sexual and modern slavery victims to all Crown Courts nationwide, with the specific priority to make sure that any victim of rape, subject to the permission of the court, has the opportunity to record their evidence without the ordeal of having to take part in a live trial. This has the potential to increase successful prosecutions and earlier guilty pleas. We will be guided by ongoing evaluation of data from courts already trialling section 28, and we will work carefully with the judiciary and criminal justice agencies on a national roll-out.

Delivering a Victims' Bill will meet our manifesto commitment, giving victims the justice they deserve as we build back better, stronger and fairer after the pandemic.

**Rt Hon Dominic Raab MP**

Deputy Prime Minister and Secretary of State for Justice

# Introduction

After every crime, there are victims dealing with the consequences – physical, emotional, psychological and financial.<sup>1</sup> Sometimes these effects can last a lifetime. In 2019/20, it was estimated that 6.6% of 10-15 year olds and around one in five adults (19.3%) in England and Wales were victims of crime.<sup>2</sup>

Whatever the nature and circumstances of the crime that victims have experienced, they should know that there is the right support available and that if they report their crime, the criminal justice system will deliver them a fair and timely outcome. Their needs must be met, and their voices must be heard. Society is reliant on victims' confidence in the criminal justice system to enable police and prosecutors to fulfil their role of investigating crimes and prosecuting cases. Without this, we will never be able to win the fight against crime.

The Victims' Code entitles victims "to be treated with respect, dignity, sensitivity, compassion and courtesy".<sup>3</sup> Sadly, not all victims are treated with this dignity, nor do they all receive the quality service that they deserve when they take the brave step to report a crime or seek help to deal with its impact.<sup>4</sup> As a society, we must do better.

This consultation is the first significant step towards a landmark 'Victims' Law' – a Bill which will build on the foundations provided by the Victims' Code to substantially improve victims' experiences of the criminal justice system. It will make a tangible difference to ensuring they receive the support they need, whether they report a crime or not. We want to understand how victims can be better supported through and beyond the criminal justice process.

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<sup>1</sup> The definition of 'victim(s)' is taken from the Government's Victims' Code of Practice; The Code of Practice for Victims of Crime in England and Wales and supporting public information materials – GOV.UK (2021) <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>, which acknowledges that the terms 'complainant' and 'survivor' are also often used in the criminal justice system. A 'victim' is a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence, or a close relative (or nominated family spokesperson) of a person whose death was directly caused by a criminal offence.

<sup>2</sup> For the April 2019 to March 2020 period. Crime in England and Wales: Appendix tables, summary table 2 and table A11 – Office for National Statistics, <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesappendixtables>

<sup>3</sup> The Code of Practice for Victims of Crime in England and Wales and supporting public information materials – GOV.UK (April 2021) <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

<sup>4</sup> Victims statistics, year ending March 2019: victims services, restorative justice, and information, advice and support – Victims' Commissioner, <https://victimscommissioner.org.uk/published-reviews/victims-statistics-year-ending-march-2019-victims-services-restorative-justice-and-information-advice-support/>

The resulting legislation will be a Bill for all victims of crime. It will be the cornerstone of our work across government to ensure that victims' needs lie at the heart of the criminal justice system.

## **Our vision to help victims**

Our vision is for a cultural shift so that victims' experiences are central to the way our society thinks about and responds to crime. We want every crime recorded to be treated as an opportunity to prevent further crimes. We want to ensure that this Bill tackles the things that victims care about most. We want to make sure that all victims:

- receive the treatment and service they need, and benefit from consistent and high-quality engagement with criminal justice agencies so that their voices are heard at every stage
- know that there is a clear path if they do not receive a quality service, and that there is consistent oversight of the organisations that are there to help them
- are supported to rebuild their lives and recover from the impacts of crime through accessible, professional and well-co-ordinated services that receive funding from the Victim Surcharge

The Beating Crime Plan set out this government's vision for less crime, fewer victims and safer neighbourhoods, and a blueprint for achieving it. This included plans to cut homicide, serious violence and neighbourhood crime, expose hidden harms (such as domestic abuse and sexual violence), build capability and capacity to deal with fraud and online crime, and give the public a clear view of the performance of the criminal justice system through scorecards.<sup>5</sup> The Victims' Bill will play a critical part in achieving these aims by ensuring that victims are properly engaged throughout the justice system, empowering them to come forward and be confident that offenders will be brought to justice.

COVID-19 has complicated the Government's efforts to improve the justice system for victims and reduce crime. The pandemic meant that fewer cases reached court and victims had to wait longer to see justice served. It is our ambition to put this right, recovering the courts so that victims see tangible improvements in waiting times so that we keep our promise to deliver swift justice. The Victims' Bill will be a critical part of the Government's work to build back a better justice system.

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<sup>5</sup> Beating Crime Plan – GOV.UK (July 2021), p.38 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1015382/Crime-plan-v10.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015382/Crime-plan-v10.pdf)

## What we have done so far

This government has worked tirelessly to better support victims. Through increased investment, targeted legislation and improved ways of working across operational partners, we have ensured that the needs of victims have become a priority and received sustained attention.

The landmark 2018 Victims' Strategy was the first ever cross-government and agency strategy that considered the way in which a victim experienced crime and the criminal justice process, setting out a vision that a victim's journey – whatever the path and outcome – should not result in them becoming a victim of the process, as well as the crime.

This government has continued the vital work of the strategy, making significant progress on delivering this vision. We have:

- **strengthened the Victims' Code** by focusing on 12 key rights so that it is clearer for victims what they can expect as a minimum standard from organisations
- **invested significantly in victim support services**, spending £300 million this year across government and securing £185 million per year by 2024/25 for Ministry of Justice-funded services
- **improved the court experience for victims**, including the full roll-out of pre-recorded cross-examination (known as Section 28) for vulnerable witnesses, and piloting it further in seven Crown Courts for sexual and modern slavery offence complainants with the aim of further expansion
- **introduced several new offences across key areas** such as 'upskirting', non-fatal strangulation and 'revenge porn'
- **proposed tougher punishments for the worst offenders** in the Police, Crime, Sentencing and Courts Bill, including abolishing automatic halfway release for an additional cohort of serious sexual and violent offenders, building on changes already made through legislation last year
- **run critical public information campaigns**, including the 'It Still Matters' campaign on sexual violence and abuse and the 'You are not alone' campaign on domestic abuse
- **led global conversations with world leaders**, including on high-harm crimes at the June 2021 G7 Summit
- **set up a Crime and Justice Task Force chaired by the Prime Minister** to help reduce crime and improve outcomes for victims
- **published an end-to-end rape review and started rolling out the action plan** for a programme of work to improve every stage of the process for victims of sexual violence, and increase the low level of cases being charged so victims get justice
- **passed the Domestic Abuse Act 2021**, which will help to protect victims and their children and bring perpetrators to justice

- **published key strategies to support victims of particular crimes**, including the Tackling Child Sexual Abuse Strategy, the National Disability Strategy and the Tackling Violence Against Women and Girls Strategy<sup>6 7 8</sup>

The future Victims' Bill will not act in isolation. It will be just one part of a multi-pronged effort to improve the criminal justice system for victims of crime.

One of the key pillars of this work is the new criminal justice system scorecards. These bring together data to give a cross-system view of performance. The scorecards will measure victim experience by looking at victim engagement at each stage of the system – from arrest to charge through to court. The scorecards will also measure other things that matter to victims, including how long it takes for cases to be investigated and charged, and how long cases are waiting in the courts before they go to trial. The scorecards will ensure transparency. They will allow us to identify where things need to improve, and to learn from areas where things work well. The first scorecards, providing a national picture, will be published in December 2021 and regional scorecards will be published in early 2022.

Section 28 will be an important part of our work to support victims. We recognise that pre-recorded evidence increasingly can help to improve the experience of victims, who might prefer to give their evidence earlier in the process and outside of the courtroom. This is why we are committed to extending the provision of Section 28 to ensure that complainants in sexual and modern slavery offences, where a successful application has been made by the Prosecution and subject to judicial discretion, can pre-record their cross-examination in all Crown Courts nationwide.

We are undertaking the next steps required to press ahead with a full roll-out, working with criminal justice system partners to make the operational changes needed to increase Section 28 availability to all Crown Courts as soon as practicable.

We are also making progress on a number of issues and plans, which include:

- targeted and improved support for victims of a range of different crime types and experiences – for example, through a new strategy for domestic abuse to build on the landmark Domestic Abuse Act 2021, a new strategy for tackling hate crime, a new strategy for tackling modern slavery and consideration of ways to better tackle anti-social behaviour through Beating Crime Plan commitments

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<sup>6</sup> Tackling Child Sexual Abuse Strategy – GOV.UK (January 2021)

<https://www.gov.uk/government/publications/tackling-child-sexual-abuse-strategy>

<sup>7</sup> National Disability Strategy (July 2021) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1006098/National-Disability-Strategy\\_web-accessible-pdf.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1006098/National-Disability-Strategy_web-accessible-pdf.pdf)

<sup>8</sup> Tackling Violence Against Women and Girls Strategy – GOV.UK (July 2021)

<https://www.gov.uk/government/publications/tackling-violence-against-women-and-girls-strategy>

- delivering NHS England's five-year strategy for trauma-informed and integrated sexual assault and abuse services<sup>9</sup>

## Where we need to go further – this consultation

We have made significant progress, but we know that problems remain and we need to go further to achieve our vision. We think legislation and the surrounding work will be a critical piece of the puzzle to deal with the challenges we face.

This is an open consultation that seeks to gather information and data about victims' experiences and knowledge of the justice system so that the Bill and surrounding work is well evidenced. We will carefully consider and engage with victims, their families, those that support them and other experts. We will also consult criminal justice partners, their agencies, the judiciary and a range of professionals who work with victims every day.

This consultation considers how we can make concrete improvements to victims' experience of and confidence in the criminal justice system, and the support they receive. We are consulting on the issues that really matter to victims, focusing on:

- **What victims should expect:** we are consulting on how to enshrine the Victims' Code in law, sending a clear signal that the justice system must deliver for victims. We are considering whether and how to strengthen what victims should expect in key areas – in particular how the Crown Prosecution Service (CPS), police and other agencies communicate with victims, how victims might engage with the parole process and how to mainstream the use of Community Impact Statements in appropriate cases.
- **Performance and accountability:** criminal justice agencies work hard for victims. But we know that not all victims consistently receive the service to which they are entitled, and there is more to do to ensure that the Victims' Code is universally applied. The structures to monitor the Victims' Code are fragmented and insufficient. We think a bolstered oversight framework is necessary so that agencies can be better held to account for delivering a quality service to victims. We are looking closely at the role of different oversight mechanisms to see where improvements can be made. This will build on the work of the criminal justice scorecards, which will increase transparency and help to improve performance across the whole system. We are also looking at how we can better use victims' feedback to drive improvements, in particular by examining the use of surveys and data collection.
- **The Victim Surcharge:** we are consulting on further increases to ensure that criminals take greater responsibility for the cost of supporting victims, and to reinforce funding for victims' services.

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<sup>9</sup> Strategic direction for sexual assault and abuse services; Lifelong care for victims and survivors, 2018-2023 – NHS England (April 2018) <https://www.england.nhs.uk/wp-content/uploads/2018/04/strategic-direction-sexual-assault-and-abuse-services.pdf>

- **Community-based support services:** we want to understand how to improve aspects of community-based support services (that is, services accessed by those not living in refuge or safe accommodation), particularly for victims of traumatic crimes that are often hidden from view such as domestic abuse, sexual violence and other serious violence offences. The effects of these crimes on victims are clearly severe and we want to make sure that they feel fully supported. We are looking closely at the commissioning and co-ordination of community-based services.
- **Improved advocacy support:** we are looking at ways to improve support from independent advocates for victims of traumatic and often hidden crimes, to help them recover and stay engaged in the criminal justice system.

## Devolved administrations

The areas examined within this green paper consultation document broadly apply to England or England and Wales only, including some relating to health and care, education and local authorities that are devolved matters in Wales.

As we move forward with a package of legislative and non-legislative proposals, we will continue to discuss them with the Welsh Government. In the normal way, the Government of the United Kingdom will seek a legislative consent motion for any legislative measures that may impact or fall within the legislative competence of the Welsh Parliament/Senedd Cymru. Any resulting legislation is intended to apply to both England and Wales, other than devolved social and health matters which will apply only to England. During the consultation period, we intend to engage with Welsh victims, criminal justice partners and third sector organisations to make sure that we hear their voices and understand their views on how this legislation will distinctly affect Wales.

The matters dealt with in this consultation are generally devolved to the Scottish Parliament and Northern Ireland Assembly. Nonetheless, responses to this consultation are invited from individuals and organisations throughout the UK. We will continue to discuss with the Scottish Government and Northern Ireland Department of Justice whether any legislative measures should also apply to Scotland and Northern Ireland respectively, subject to a legislative consent motion where appropriate.

A Welsh language consultation paper is available at <https://consult.justice.gov.uk/victim-policy/delivering-justice-for-victims>

# Chapter 1 – Meeting victims’ expectations

## Our vision

Our vision is for a cultural shift so that victims' experiences are central to the way our society thinks about and responds to crime. We want to ensure that the criminal justice system delivers for victims, so that all victims are treated with dignity and receive the level of service that the Victims’ Code (‘the Code’) requires.<sup>10</sup>

We want every professional across the criminal justice system and beyond to understand what is required of them and deliver a high-quality service. And we want every victim to know the treatment and services they should expect.

We aim to empower victims and want them to know the importance of their role in bringing offenders to justice. We want them to be kept informed at key points throughout the case, and for their voices to be heard and embedded into the criminal justice system. We propose to use the Victims’ Bill to enshrine the key principles of the Code in primary legislation, sending a clear signal that the justice system must deliver for victims (Chapter 2 discusses strengthening how this delivery will be held to account), and we will seek views on further key expectations.

In this chapter we seek views on:

- **existing expectations for victims (the Code)** – considering our commitment to enshrine the Code in law and how to ensure that every professional and victim is made aware of what is expected for victims
- **new expectations for victims** – considering whether and how to strengthen processes to ensure that victims are heard and informed at key points, in particular communications from the police, CPS and other agencies, victim engagement in the parole process, the use of Community Impact Statements and the arrangements for victims of mentally disordered offenders

## Existing expectations for victims: the Code

### Background and where we are now

All victims of crime have legitimate expectations which are set out in the Code. These are the minimum levels of service that victims can and should expect from criminal justice agencies such as the police, CPS, Her Majesty's Courts and Tribunals Services (HMCTS)

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<sup>10</sup> Victims’ Code – GOV.UK (April 2021), p.4, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/974376/victims-code-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974376/victims-code-2020.pdf)

and Her Majesty's Prison and Probation Service (HMPPS). Other partners, such as the National Health Service (NHS), also have a vital role in providing support for victims of crime. A list of agencies that have responsibilities under the Code can be found in Annex A.

The Code was revised following two years of extensive work with victims and victims' groups, and this came into effect in April 2021. It sets out the following key rights:

- to be able to understand and to be understood
- to have the details of the crime recorded without unjustified delay
- to be provided with information when reporting the crime
- to be referred to services that support victims and have services and support tailored to your needs
- to be provided with information about compensation
- to be provided with information about the investigation and prosecution
- to make a Victim Personal Statement
- to be given information about the trial, trial process and your role as a witness
- to be given information about the outcome of the case and any appeals
- to be paid expenses and have property returned
- to be given information about the offender following a conviction
- to make a complaint about your rights not being met

Agencies responsible for delivering the Code are working hard to embed it. However, we know that there is a long way to go to ensure comprehensive delivery.

Office for National Statistics data shows that only 18% of victims recalled being given the opportunity to make a Victim Personal Statement, and only 45% felt that the police and other criminal justice agencies kept them informed.<sup>11</sup> The Code specifies that vulnerable and intimidated victims be asked their views on which special measures will suit their needs, but a survey of rape victims showed only two-thirds (32 out of 51 victims) who appeared in court recalled being given this choice.<sup>12</sup>

We want victims to understand the level of service they can expect so that they are confident to engage with the criminal justice system and hold agencies to account when the standards haven't been met. The revised Code is intended to be easier to understand

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<sup>11</sup> Experience of the criminal justice system for victims of crime, England and Wales, year ending March 2020; Office for National Statistics, GOV.UK  
<https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/adhoc/13635experienceofthecriminaljusticesystemforvictimsofcrimeenglandandwalesyearendingmarch2009toyearendingmarch2020/awarenessofthevictimscodedefinaloctoberreview.xlsx>

<sup>12</sup> Next steps for special measures: A review of the provision of special measures to vulnerable and intimidated witnesses – Victims' Commissioner (2021), p.17,  
<https://victimscommissioner.org.uk/published-reviews/next-steps-for-special-measures/>

and has been made widely available for victims and professionals, but we know that most victims of crime in recent years were unaware of their rights under the Code.<sup>13 14</sup>

## What government action might address

We want to test the best way of meeting our commitment to enshrine the Code in law.

The Code currently takes the form of a Code of Practice. We propose placing the key principles of the Code in primary legislation to send a clear signal to all listed agencies that they must comply with delivering it.<sup>15</sup> We also want to make sure that the legislation allows us a degree of flexibility to strengthen the specific minimum expectations if policies and practices change in the future. This may be best achieved by placing the detail of the Code in accompanying regulations and/or guidance. We think the key principles are:

- **ensuring victims are informed** – to ensure that victims can fully understand the criminal justice process, criminal justice agencies must pay due consideration to providing victims with the information they need throughout the entirety of their case, from reporting through to post-conviction
- **ensuring victims are supported** – although victims do not have to report a crime to access support, when they do, the Code stipulates that victims must be referred to a service that helps them cope and recover, supported during their journey at court, and assessed as to whether they need any specialised assistance, such as eligibility for special measures
- **ensuring victims have their voices heard** – victims must have their voices heard in the criminal justice process and be offered the opportunity to make a Victim Personal Statement to explain how the crime has had an impact on them
- **Victims' right to review** – victims must be able to challenge decisions that directly impact them, and the Code specifies that they have the right to ask for a review under the National Police Chiefs' Council or CPS Victims' Right to Review Schemes, which allow complainants to request a review of certain decisions not to pursue a prosecution or to stop a prosecution

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<sup>13</sup> To ensure that the Code is comprehensible for all victims, we are also developing an easy-read version of the Code and resources for children and young people.

<sup>14</sup> Victim Statistics, year ending March 2019: police, courts and criminal justice system – Victims' Commissioner (March 2019), <https://victimscommissioner.org.uk/published-reviews/victims-statistics-year-ending-march-2019/>. 80.2% of victims had not heard of the Code of Practice for Victims of Crime in 2017-18 – a minimal reduction from 82.7% of victims in 2014-15. Awareness of the Code of Practice for Victims of Crime, Crime Survey for England and Wales, year ending March 2020: In 2019-20, 23.4% of victims were aware of the Code of Practice for Victims of Crime.

<sup>15</sup> See Annex A

## Questions

**Question 1:** Do you agree that the key principles set out in the consultation are the right ones? If not, do you have any other suggestions?

**Question 2:** What more can government and agencies listed in the Code do to ensure that frontline professionals are aware of what is required of them under the Code?

**Question 3:** What more can government and agencies listed in the Code do to ensure every victim is made aware of the Code and the service they should expect to receive under it?

## Additional support for victims

### Background and where we are now

We want to ensure that victims know that they are at the heart of the criminal justice system. The police and CPS will take into account the circumstances of a particular case before ultimately deciding whether or not to investigate or prosecute an offence. We know that it is important to victims to be heard and have their views taken into account during this process, and to be kept informed at key points throughout the case.

There are existing processes in place aiming to achieve this. For example, under the Code, victims have a right to make a Victim Personal Statement.<sup>16</sup> This allows them to explain in their own words how the crime has affected them and is different from a witness statement. It is considered by the judge or magistrate when determining what sentence the offender should receive, and can help service providers consider the right support needed. It can help victims to have a voice in the system and means that those making decisions about offenders take account of their views. Victims must be provided with information about the Victim Personal Statement when they report a crime. Victims should be offered the opportunity when they give a witness statement. However, they can choose to make a Victim Personal Statement at any time prior to the sentencing of the offender. The Parole Board may also consider a Victim Personal Statement as part of the parole review process. We have heard that the use of Victim Personal Statements can be inconsistent, leaving victims feeling that they are not always listened to.

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<sup>16</sup> Victims' Code right 7, <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

Victims also have the right to be provided with information about the investigation and prosecution and, where applicable, to have the reasons for key decisions explained.<sup>17</sup>

Under this, victims have:

- the right to have their views taken into account when the police or CPS are considering dealing with a case without taking it to court (an 'out of court disposal')
- the right to be told if the police or CPS decide not to investigate or prosecute the suspect, change the charge or stop the case
- the right in specified cases only (such as child abuse, sexual offences and offences aggravated by hostility based on protected characteristics) to be offered a meeting with the CPS following a decision not to charge, unless the CPS decide it would not be appropriate

Bereaved close relatives in other cases (such as murder and manslaughter) also have the right to be offered a meeting with the CPS before or after a decision about whether to charge a suspect.

The Code also sets out the right to ask for a review of a police or CPS decision not to prosecute, or to stop the case, under the National Police Chiefs' Council or CPS Victims' Right to Review Schemes.

Finally, Crown Prosecutors (who are independent from the police, agencies and individuals, including the victim) consider – alongside the evidence against the defendant – whether it is in the public interest to bring the case to court. The factors considered are set out in the Code for Crown Prosecutors (which is issued by the Director of Public Prosecutions under Section 10 of the Prosecution of Offences Act 1985 and is out of the scope of this consultation). These include the circumstances of and harm caused to the victim, and the impact on the community.<sup>18</sup> As part of this, prosecutors should take into account the views expressed by the victim, and sometimes their family, about the impact that the offence has had.

We are seeking views on how this works in practice and whether more should be done to take victims' views into account. In particular, we wish to consult on whether there should be a more explicit requirement for the relevant prosecutor in a case or certain types of cases to have met with the victim before the charging decision, and before a case proceeds to trial.

### **Informing victims and taking account of their views**

Being given timely information about the progress of a case is hugely important to victims, as is the quality and manner in which criminal justice agencies communicate with victims. The Code indicates how quickly victims need to be informed about key decisions made in

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<sup>17</sup> Victims' Code right 7, <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

<sup>18</sup> The Code for Crown Prosecutors (2018), <https://www.cps.gov.uk/publication/code-crown-prosecutors>

the case.<sup>19</sup> We want to know if the current structures in place work for victims, or if there are key points where it would be beneficial for victims to receive communications earlier or in a different way. This could take the form of ensuring agencies take victims' views into account at key points in the process, or enabling victims to better understand the reasons behind agency decision-making – for example, before the decision on whether to charge the suspect is finalised.

We also want to understand what works in the ways that victims are involved in reviews of police and CPS decisions. The National Police Chiefs' Council and CPS Victims' Right to Review Schemes allow victims to ask for a review of certain decisions, as set out above. In 2019/20, the CPS made 91,912 decisions that could have been subject to review; they received 1,996 requests for reviews and overturned 288 decisions (this means that decisions were overturned in 14% of requests, and in 0.25% of overall decisions).<sup>20</sup> The scheme allows the victim to make representations within the review, which will be considered if submitted within the relevant timescales.<sup>21</sup> However, there is currently no duty on either the CPS or police to invite the victim to make representations within that review.<sup>22</sup> We are interested in understanding whether there are changes to the Code that could help ensure that victims' voices are more clearly and effectively heard within this process.

### **Parole Board review process**

Victims have the right to submit a Victim Personal Statement and to read out their statement in person at a parole hearing if they wish. This statement provides victims with the opportunity to directly tell the Parole Board about the impact the offending had on them and their families, the impact it continues to have and to express their concerns about the risk the offender may present if the Board were to direct release. The statement also helps to inform the need for any licence conditions which may be placed on the offender if they are released.

Victims are not currently allowed to stay for the duration of the hearing and cannot hear any of the evidence. Following previous consultations on the parole process in 2020, we have already announced our intention to introduce public parole hearings in some cases

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<sup>19</sup> This is set out for each right, usually within 5 working days (1 working day under Enhanced Rights): <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

<sup>20</sup> Victims' Right to Review Data 2019-2020 – The Crown Prosecution Service (March 2020), <https://www.cps.gov.uk/underlying-data/victims-right-review-data-2019-2020>

<sup>21</sup> Victims' Right to Review Scheme – The Crown Prosecution Service (May 2021), <https://www.cps.gov.uk/legal-guidance/victims-right-review-scheme>

<sup>22</sup> The role and rights of victims of crime in adversarial criminal justice system: Recommendations for reform in England and Wales – Victims' Commissioner (December 2020), <https://victimscommissioner.org.uk/news/victims-need-to-be-acknowledged-as-participants-in-the-criminal-justice-system-says-victims-commissioner/>

and allow victims to attend hearings in full for the first time at the Parole Board's discretion. Some evidence, such as a prisoner's medical information will likely need to remain private.

The Root and Branch Review of the parole system is considering further ways to make the process more transparent and accessible for victims. We want to explore whether there is more we could do to enable victims to engage in the parole process and to feed any findings into the work of the Review.

### **Community Impact Statements**

We know that the effects of crime can be far-reaching, and communities can be directly or indirectly the victim of an offence.<sup>23</sup> This might involve offences such as attacks on public places, hate crimes or anti-social behaviour.

There is provision in Criminal Practice Directions for Community Impact Statements, which can allow the community to explain to the court and the offender how a crime has affected them.<sup>24</sup> The CPS can make use of them to inform charging decisions and the court can make use of them to inform sentencing decisions.

The statement could be in relation to the specific offence being prosecuted and applied to the case involving the noted case (a 'specific statement'). Or it could be in relation to a type of offence that has caused harm to a particular community, and the statement could be attached to numerous cases where the type of offence committed matches that described in the statement (a 'generic statement').<sup>25</sup> We have heard from the Centre for Social Justice that this could be useful in cases where the crime might otherwise appear 'victimless', such as in cases of child sexual abuse material online. They cite an example in Canada, where a Community Impact Statement was produced by many victims of child sexual abuse material, with the ambition for it to be made use of in the courts to facilitate appropriate sentencing for that offence.<sup>26</sup>

However, the option to make a Community Impact Statement is not included in the Code or expressly provided for in legislation. As far as we know, they are rarely used. We think that there could be benefit in increasing their use to amplify the voice of communities and ensure that the police, CPS and court understand the wider scale and extent to which crime can blight whole neighbourhoods and communities. This could be done through revising their status in legislation – within the Victims' Law and Code – so that there is

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<sup>23</sup> We are using the CPS guidance definition of community: "A community does not just have to be determined by geographic areas. A community can also be defined as a group of people who interact and share certain characteristics, experiences or backgrounds, and/or are located in proximity to each other." <https://www.cps.gov.uk/legal-guidance/community-impact-statements>

<sup>24</sup> Criminal Practice Directions Sentencing (2013), p.79, <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Practice+Directions/Consolidated-criminal/criminal-practice-directions-2013.pdf>

<sup>25</sup> See 'generic' and 'specific' statements: Community Impact Statements – The Crown Prosecution Service (2019), <https://www.cps.gov.uk/legal-guidance/community-impact-statements>

<sup>26</sup> Centre for Social Justice, Unsafe Children: Driving up our country's response to child sexual abuse and exploitation (2021) p.87, CSJJ8804-Unsafe-Children-210325-WEB.pdf ([centreforsocialjustice.org.uk](http://centreforsocialjustice.org.uk))

more explicit provision for them. We want to hear more about when they are beneficial, in what sort of cases, and how they might be used more in practice.

### **Victim Personal Statements for victims of mentally disordered offenders**

Mentally disordered offenders can be detained in mental health hospitals, and the need for their ongoing detention is reviewed by the First-Tier Tribunal (Mental Health). Victims of mentally disordered offenders are not currently able to submit a Victim Personal Statement as part of this process, nor can they attend the tribunal hearing to read the statement. This means that these victims are not on an equal footing with other victims, because victims whose offenders are serving prisoners and are in the Victim Contact Scheme have a right under the Code to submit a Victim Personal Statement, allowing them to share the impact of the offence as part of the parole review process.<sup>27</sup>

We have heard that allowing Victim Personal Statements at Mental Health Tribunals would be cathartic and empowering for victims, and allow them to explain to the tribunal the impact of the patient's offending on them.<sup>28</sup> It could assist the tribunal in understanding the context of the offence and why victims have requested certain conditions be attached to the patient's discharge. This could still be considered in a way that is consistent with the statutory test, which the tribunal has to apply when considering discharging a detained patient.<sup>29</sup>

## **What government action might address**

We want to explore whether what victims can expect can be strengthened in key areas to ensure that victims' voices are clearly heard in the criminal justice system. This includes: considering how and when the CPS, police and other agencies communicate with victims and take their views into account; how victims might engage with the parole process; whether more explicit provision for Community Impact Statements can mainstream their use in appropriate cases to ensure that the wider impact of crime is understood by the police, CPS and court; and how victims of the crimes of mentally disordered offenders can be put on a more equal footing with other victims.

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<sup>27</sup> Victims Strategy – GOV.UK (2018), p. 40, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/746930/victim-strategy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/746930/victim-strategy.pdf)

<sup>28</sup> Victims' Commissioner (2018), p.1, p.6, <https://victimscommissioner.org.uk/published-reviews/entitlements-and-experiences-of-victims-of-mentally-disordered-offenders/>

<sup>29</sup> Mental Health Act 1983, legislation.gov.uk, <https://www.legislation.gov.uk/ukpga/1983/20/contents>: The tribunal can only take into account criteria relating to whether the patient is suffering from a mental disorder of a nature or degree which makes it appropriate for them to be detained in hospital for medical treatment; that it is necessary for the health and safety of the patient and protection of others that they should receive that treatment; and that appropriate medical treatment is available.

## Questions

**Question 4:** Do the current procedures around timing and method of communication between the police/CPS and victims about key decisions work for victims? Are there any changes that could be beneficial?

**Question 5:**

- a) Should the police and CPS do more to take victims' views into account in the course of their duties, particularly around decisions to proceed with cases?
- b) Should there be an explicit requirement for the relevant prosecutor in a case or types of cases to have met with the victim before the charging decision, and before a case proceeds to trial?
- c) What changes, if any, could be made to the Code in relation to information about the Victims' Right to Review Scheme?

**Question 6:**

- a) What are the benefits and costs to greater or different use of Community Impact Statements?
- b) Can you provide an example of where one has been used effectively?

**Question 7:**

- a) What changes, if any, could we make to allow victims to be more engaged in the parole process?
- b) What do you think would be the advantages and any risks of implementing those changes?

**Question 8:** Should victims of mentally disordered offenders be allowed to make and submit a Victim Personal Statement when the offender's detention is being reviewed by the Mental Health Tribunal? Please explain your answer.

## Chapter 2 – Improving oversight and driving better performance

### Our vision

We know that while criminal justice agencies work hard to deliver the Code and provide an excellent service to victims, it can be challenging to understand how well the system is working, especially as data and feedback from victims is not systematically collected.

It is our mission to ensure that victims receive a good service from all parts of the criminal justice system. To do this, we want effective and consistent oversight of agencies responsible for interacting with victims, and want to consider whether and how existing structures for reporting into Parliament have sufficient focus on victims. We want to ensure that victims trust that the oversight mechanisms in place make sure that agencies consistently provide a quality service. We want to collate and use data more effectively to enable us to build up a better picture of performance across the criminal justice system, so that we can identify and robustly address issues.

This should be underpinned by an improved understanding of victims' experiences. We will make better use of victims' feedback, enabling frontline professionals, agencies and government to deliver a better service for victims locally and nationally.

We have heard that complaints processes about the service delivered to victims are not clear, not transparent and not easy to navigate. We want clear and swift mechanisms to, as far as possible, remedy failures and prevent future recurrence on an individual and systemic level. It should be clear to victims how to seek redress to problems if they do not receive the service they are entitled to, and they should know that they will receive the appropriate outcome promptly and effectively. We want to ensure that there are consistently robust processes in place for the handling of victims' complaints and that there is public confidence in those processes.

We will achieve this by:

- strengthening the prioritisation of victims' experiences in oversight mechanisms so that component parts of the system, including Police and Crime Commissioners (PCCs), are relentlessly focused on these issues
- creating an easy-to-use, transparent process for victims to raise complaints about their experience, with consistency across their justice system journey and across the different criminal justice agencies

- ensuring that the voices of victims drive our improvements of victims' experiences, providing them with the opportunity to feed back at key and regular points in the lifecycle of their case and across criminal justice agencies

In this chapter we seek views on:

- **oversight mechanisms and structures**, examining how effectively the current system oversees victims' experiences and what an improved system might look like
- **ensuring delivery of a quality service**, examining how we can better incentivise delivery of a quality service and ensure that action is taken to drive improvements, as well as imposing consequences if it is not
- **embedding the victim's voice**, examining how we can better collect local and national data about victims so that we can monitor and assess how victims are treated within the system, and use this to drive improved performance
- **complaints about the application of the Code**, examining how to make it easier for victims to complain when things go wrong

This work will complement measures outlined in Chapter 1 and the work we have already done across government to ensure that there are mechanisms in place across the criminal justice system to increase transparency and drive up performance.

We will also be increasing transparency across the criminal justice system through published scorecards. Not only will these directly measure victim engagement (where they feel able to progress their case through the criminal justice system), but they will also monitor performance on things that we know matter to victims, like the time it takes for cases to get through the criminal justice system. In 2022, regional scorecards will give us a more granular view, allowing us to identify areas for improvement and to find areas of good performance and cascade good practice.

## Oversight mechanisms and structures

### Background and where we are now

A variety of criminal justice partners work to collect performance data, identify issues and address potential problems with victims' experiences. It is a complex landscape made up of different agencies who are operationally independent from each other and from the Government. This operational independence works to maintain public confidence in the criminal justice system and its fairness. Ministers are then accountable to Parliament for criminal justice agencies through superintendence structures.

However, as the responsibility for the issues relating to victims' experiences is spread across many different areas and organisations, it can be challenging to establish an overview of how well the system is working for victims and to identify and address key concerns.

Most agencies do not systematically collect data on victims, including delivery of the Code, which leaves us with blind spots about victims' experiences and agencies' compliance. However, from the data that we do have, we know that most victims of crime in recent years did not feel that some rights under the Code were delivered. In 2019/20, 45% of victims felt that the police and other criminal justice agencies kept them informed, and only 18% of victims recalled being offered the opportunity to make a Victim Personal Statement.<sup>30</sup>

This tells us that delivery of Code rights is inconsistent, and that we need to improve the current approach to ensuring performance and delivery. Below we examine the current oversight mechanisms in turn.

### **The Victims' Commissioner for England and Wales**

The Victims' Commissioner is a powerful voice for victims. The Victims' Commissioner is appointed by the Secretary of State but is independent of the Government. The functions of the Victims' Commissioner are set out in statute and are as follows.<sup>31</sup>

The Victims' Commissioner must:

- promote the interests of victims and witnesses
- encourage good practice in the treatment of victims and witnesses
- keep the operation of the Code under review
- publish an annual report, to be shared with the Justice Secretary, Home Secretary and Attorney General
- give advice to ministers on particular issues when asked to do so

The Victims' Commissioner may:

- make recommendations around changes to the Code
- make a report to the Secretary of State for Justice
- make recommendations to an authority within their remit
- consult anyone as appropriate

The Victims' Commissioner must not:

- act in relation to a particular victim or witness
- act in particular legal proceedings
- do anything in relation to acts done by the judiciary or on their instruction

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<sup>30</sup> Experience of the criminal justice system for victims of crime, Crime in England and Wales: Appendix tables – Office for National Statistics (March 2020), <https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/adhoc/13635experienceofthecriminaljusticesystemforvictimsofcrimeenglandandwalesyearendingmarch2009toyearendingmarch2020/awarenessofthevictimscodedefinaloctoberreview.xlsx>

<sup>31</sup> Domestic Violence, Crime and Victims Act 2004, legislation.gov.uk, Section 49, (2004) <https://www.legislation.gov.uk/ukpga/2004/28/contents>

The Victims' Commissioner's office carries out detailed research into victims' services and produces comprehensive reviews to highlight issues, recommending changes aimed at improving the support offered to victims. For example, recent reviews by the Victims' Commissioner have covered:

- the provision of special measures to vulnerable and intimidated witnesses<sup>32</sup>
- rape survivors and the criminal justice system<sup>33</sup>
- children's experience of domestic abuse and criminality<sup>34</sup>
- entitlements and experiences of bereaved families following homicide abroad<sup>35</sup>

The Victims' Commissioner does not have the powers to fully oversee the delivery of the Code by keeping its operation under review. There is no requirement for criminal justice agencies to co-operate with the Victims' Commissioner, and no duty on them to provide the Victims' Commissioner with performance data or to respond to any recommendations for improvement. The Victims' Commissioner's recommendations are often not implemented as they are advisory in nature.<sup>36</sup>

The position of the Victims' Commissioner should also now be seen alongside that of the Domestic Abuse Commissioner, provided for by the Domestic Abuse Act 2021, whose role is to provide public leadership on domestic abuse issues and to play a key part in overseeing and monitoring the provision of domestic abuse services in England and Wales. A range of public authorities will have statutory duties under the new legislation to co-operate with, and respond to, recommendations made by the Domestic Abuse Commissioner.<sup>37</sup>

### **Local and national agency performance and accountability**

Responsibility for the delivery of the Code lies with a number of different agencies and organisations. It is crucial that these agencies work together to effectively deliver the Code and provide victims with a good service across the board. PCCs work in partnership across agencies at the local and national level to ensure a joined-up approach, and are responsible for compiling and monitoring performance data and measuring criminal justice

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<sup>32</sup> Next steps for special measures: A review of the provision of special measures to vulnerable and intimidated witnesses – Victims' Commissioner (May 2021), p.56, <https://victimscommissioner.org.uk/published-reviews/next-steps-for-special-measures/>

<sup>33</sup> Rape survivors and the criminal justice system – Victims' Commissioner (October 2020), <https://victimscommissioner.org.uk/published-reviews/rape-survivors-and-the-criminal-justice-system/>

<sup>34</sup> Sowing the seeds: Children's experience of domestic abuse and criminality – Victims' Commissioner (April 2020), <https://victimscommissioner.org.uk/published-reviews/sowing-the-seeds-childrens-experience-of-domestic-abuse-and-criminality/>

<sup>35</sup> Struggling for justice: Entitlements and experiences of bereaved families following homicide abroad – Victims' Commissioner (October 2019), <https://victimscommissioner.org.uk/published-reviews/struggling-for-justice-entitlements-and-experiences-of-bereaved-families-following-homicide-abroad/>

<sup>36</sup> Constitutional powers of the Victims' Commissioner for England and Wales – Victims' Commissioner (December 2020), <https://victimscommissioner.org.uk/published-reviews/constitutional-powers-of-the-victims-commissioner-for-england-and-wales/>

<sup>37</sup> The Domestic Abuse Commissioner's full functions and others' duties to cooperate etc are set out in Part 2 of the Domestic Abuse Act 2021, which is due to be commenced shortly, although the Designate Commissioner has been in post since 2019.

partners' compliance with the Code at a local level. Findings are discussed at Local Criminal Justice Boards (LCJBs) to identify issues and determine effective local intervention. This has been taken forward by most PCCs. However, as this model is still in its infancy, it is difficult to assess its efficacy.

The necessary independence of respective players in the criminal justice system can, in some circumstances, make local criminal justice partnership working challenging. For example, PCCs have a co-ordination and oversight role, so they cannot compel criminal justice partners to provide information as only local police forces are accountable to PCCs. This can lead to data-sharing issues which impact the ability of areas to measure compliance with the Code and drive improvements meaningfully. Additionally, some agencies do not routinely share data at a local level. This is, in part, because as national agencies, they consider the responsibility for compliance to rest with the agency as a whole and not at the local level. Furthermore, there are also practical difficulties as regional areas do not map directly onto the PCC areas but instead cover multiple PCC areas.

### **The role of PCCs**

PCCs are elected by the public and have a vital role in improving and championing services for victims. They do this directly through their commissioning of support services, and indirectly by offering local democratic accountability and chairing LCJBs in many areas. Victim support services are commissioned at both national and local levels by various bodies, including PCCs who are allocated local funding to commission emotional and practical support services for victims in their area. The range of bodies involved in victim support commissioning makes the landscape complex.

PCCs consult with local people to understand the community's needs and must produce Police and Crime Plans that set out their key priorities. Although not a requirement, Police and Crime Plans often include measures to improve victims' experiences with the police and the delivery of services to victims.<sup>38</sup> Additionally, PCCs are required to produce an annual report to highlight the progress made in delivering the objectives of their Police and Crime Plans.<sup>39</sup> Each PCC's work and decisions are scrutinised publicly at local police and crime panels.<sup>40</sup>

The Government's manifesto committed to strengthening and expanding the role of PCCs to help carry out their duties effectively and continue to provide local communities with a stronger voice. To help achieve this, last year this government launched a two-part review

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<sup>38</sup> Police Reform and Social Responsibility Act 2011, Section 5, <https://www.legislation.gov.uk/ukpga/2011/13/contents>

<sup>39</sup> Police Reform and Social Responsibility Act 2011, Section 12, <https://www.legislation.gov.uk/ukpga/2011/13/contents>

<sup>40</sup> Police Reform and Social Responsibility Act 2011, schedule 6, <https://www.legislation.gov.uk/ukpga/2011/13/contents>

into the role, and the first stage of the review delivered recommendations to sharpen the accountability, visibility and transparency of PCCs.

### **Agency inspectorates**

Inspectorates are independent bodies which assess the efficiency and effectiveness of different criminal justice agencies, working to promote improvements in the services provided. The inspectorates monitor and report on the relevant agencies within their remit on a rolling basis over varying timeframes. They conduct inspections where they collate relevant evidence and ask questions that they believe the public would wish to have answered. Following this, they publish their findings, conclusions and recommendations in reports, to which the agencies usually respond with action plans on how they intend to address the recommendations, although these are not binding and are not necessarily always implemented.

All four criminal justice inspectorates (Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS), Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI), Her Majesty's Inspectorate of Prisons (HMI Prisons) and Her Majesty's Inspectorate of Probation (HMI Probation) monitor the treatment of victims in different ways. The scope of their assessments in relation to victims' experiences is as follows.

- HMICFRS's assessment framework for police forces looks at how good the force's service for victims of crime is, how good the force is at engaging with the people it serves and treating them fairly, appropriately and respectfully, and how good the force is at protecting vulnerable people.
- HMCPPI's assessment framework for the CPS and the Serious Fraud Office covers whether reviews and decisions contribute to successful outcomes and provide an effective service to support victims and witnesses and the public. It assesses, amongst other things, the appropriate use of remand or bail conditions, Victim Personal Statements and ancillary orders at sentencing.
- HMI Probation inspects probation and youth offending services. Their assessment framework covers whether initial contact with the victim(s) encourages engagement with the Victim Contact Scheme and provides information about sources of support, and whether there is effective information exchange to support the safety of victims.<sup>41</sup>
- HMI Prisons' assessment framework looks at whether prisons and young offender institutions provide relevant and accurate information in a timely manner in statutory victim contact cases.<sup>42</sup>

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<sup>41</sup> The Victim Contact Scheme is available to victims or bereaved relatives where the offender was convicted of a specified violent or sexual offence and sentenced to 12 months or more in prison (or detained in a hospital for treatment under the Mental Health Act 1983 with or without a restriction order). Under the Victim Contact Scheme, those eligible are entitled to receive information at key stages of the offender's sentence.

<sup>42</sup> This list is not exhaustive – it does not describe all the victim-related assessment criteria used by the criminal justice inspectorates.

The inspectorates also play a role in promoting best practice on thematic issues, producing reports on broad topics within their remit and undertaking relevant research and analysis. The Chief Inspectors also collaborate to carry out criminal justice joint inspections, working together to address complex issues that involve multiple parts of the criminal justice system. They use their joint inspections to focus on end-to-end and cross-cutting justice processes, including on victim and witness experience. The Criminal Justice Joint Inspectorates Programme delivers two main types of inspection: core programmes (a series of localised inspections each year on the same core subject) and joint thematic inspections (usually a one-off bespoke inspection visiting several localities to contribute to a single final report on a thematic issue – for example, rape investigation and prosecution).<sup>43</sup>

The inspectorates do not directly cover all the agencies that have a role in delivery of the Code. For example, their remit does not extend to delivery partners such as the NHS (although inspectorates will co-operate with bodies such as the Care Quality Commission), nor is there dedicated oversight of HMCTS (although the Public Bodies Act 2011 enabled ministers to transfer its powers to other inspectorates).

The work of the inspectorates is well established and, as detailed above, does include assessing victims' experiences to differing degrees. However, victims' issues form just one part of a broader assessment framework (and in some cases are a smaller part of this framework, for example for HMI Prisons), and so are not their sole or higher priority focus. Information on victims is not typically collated in a systematic way, nor routinely brought together across the inspectorates for overall analysis, except in the case of thematic reports. Approaches to assessment, rating and performance improvement also vary, and often focus less on delivery (i.e. investigating the detail around Code compliance) and more on service delivered and outcomes achieved.

## **What government action might address**

Government work already underway on criminal justice scorecards is designed to make a tangible difference towards improving victims' experiences of the criminal justice system. However, we believe that we need to go further to ensure that a quality service is delivered to victims and we need to build a better picture of victims' experiences across the system. To do this, we will examine the current oversight mechanisms.

PCCs have a unique directly elected role in ensuring that their community's needs are met. They commission services for victims and improve local relationships through building confidence and restoring trust in the criminal justice system. They work in partnership

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<sup>43</sup> To note that recommendations are also made by other bodies as to what joint inspections could take place, for example the Independent Inquiry into Child Sexual Abuse recommended in their Interim Report of 2019 that there should be a joint inspection of compliance with the Code in relation to victims and survivors of child sexual abuse.

across a range of agencies at the local and national level to ensure there is a unified approach. We want to consider PCCs' role and duties concerning victims, establishing what works well and what could be improved. The current review of the role of PCCs and its findings will feed into the formulation of our policy.

We want to understand what works and what could be improved about the current inspectorate regime in terms of their oversight of, focus on and approach to victims' issues, and the way in which they collate and report on victims' issues across the inspectorates. We will consider whether there is scope to do things differently.

We want to gather views on the benefits of the current role of the Victims' Commissioner. Through this consultation we will:

- explore what measures we could take to improve PCCs' commissioning of support services, and collaboration and data-sharing at a local level to ensure agencies are effectively empowered to drive improvements for victims in their area
- consider where the Government can do more to bolster existing functions to enable a greater focus on, and more consistent approach towards, assessing and improving the service delivery to victims
- consider options for more effectively collating victim data and ensuring it is reported on in detail on a regular basis.

## Questions

### Question 9:

- a) Local-level partnership working is vital to ensuring the delivery of a quality service to victims. How can agencies better collaborate locally to deliver and monitor compliance with the Code?
- b) How could agencies be encouraged to consistently share data at local and national levels to support monitoring of Code compliance and drive improvements?

**Question 10:** What should the role of PCCs be in relation to the delivery of a quality service and commissioning victims' support services, and what levers could be given to PCCs to deliver this role and enhance victims' experiences of the criminal justice system at a local level?

### Question 11:

- a) Do you think the current inspectorate frameworks and programmes adequately focus on and prioritise victims' issues and experiences and collaborate effectively across the criminal justice system to do so?
- b) Could inspectorates be reinforced further in relation to victims?

**Question 12:** Do you think that the current inspectorate arrangements allow sufficient collation of, and reporting on, victims' data and issues across the criminal justice system? Could they be utilised further for this?

**Question 13:** What are the most critical functions to enable an effective Victims' Commissioner?

## Ensuring delivery of victim support

### Background and where we are now

We need to ensure that oversight bodies and structures incentivise and support criminal justice agencies, individually and collectively, and those that work within them, to consistently deliver a quality service to victims.

Currently, criminal justice inspectorates have varying means to ensure that action is taken to address issues identified.

As a first step, relevant parties have to respond to the report in question. For example, PCCs are required to publish their comments on a HMICFRS report within 56 days of publication, and include an explanation of the steps to be taken in response to each recommendation. CPS responds to HMCPSI reports by commenting on each recommendation and explaining what action has already been undertaken and will be undertaken to address the issue. HMPPS also responds to HMI Prisons and HMI Probation recommendations with an action plan on how they will address each recommendation.

The inspectorates also have options to escalate either very serious concerns, or cases in which they feel a lack of progress has been made in addressing recommendations. For example, HMI Prisons can undertake 'independent reviews of progress' to assess how far prisons have implemented recommendations following a particularly concerning inspection. In more serious cases, 'urgent notifications' flagging significant concerns can be issued to the Secretary of State for Justice, to which they must respond within 28 calendar days, although this is typically not used for victim-related matters.

In the case of HMICFRS, if a force is not responding to a cause of concern, or if it is not succeeding in managing, mitigating or eradicating a cause of concern, this will be escalated to the Police Performance Oversight Board and it is probable the force will be moved to the 'engage' phase – an advanced phase of monitoring whereby the force will develop an improvement plan and may receive support from external organisations such as the College of Policing or the National Police Chiefs' Council.

However, as inspectorates are not regulators, they lack the power to ultimately enforce compliance with their recommendations.<sup>44</sup>

Some inspectorates use different methods to incentivise good practice. HMI Probation use a rating system across the probation service. It will rate probation providers on their overall performance as either 'outstanding', 'good', 'requires improvement', or 'inadequate', alongside individual standards level ratings (although this does not apply to all parts of their assessment framework). They then use these to create ratings tables that show performance across services. This is similar to approaches taken in other sectors, such as health and education.

In other sectors, we have seen the development of robust inspection and oversight frameworks with stronger powers to ensure that the relevant organisations co-operate and respond to recommendations, with consequences for those that fail to do so. Although, we are mindful that these operate in very distinct sectors from the criminal justice system, and do not include constitutionally independent agencies. In some cases, these consequences for failures or non-compliance will fall on individuals. In others, the consequences fall at an organisational level.

- The Care Quality Commission (CQC) has a robust rating system and a wide set of powers, both criminal and civil, that allow them to protect the public and hold registered providers and managers to account.<sup>45</sup>
- Ofsted provides transparent ratings and assessment of services providing education and skills for learners of all ages, as well as inspecting and regulating services that care for children and young people. Ofsted also has broad remedial options, including bringing in new leadership or terminating funding where significant issues are identified.
- The Financial Conduct Authority (FCA) is the conduct regulator for financial service firms and financial markets in the UK, and the prudential supervisor for firms. It sets specific standards for many, aiming to make markets work well and to promote the safety and soundness of firms. It uses a wide range of enforcement powers (criminal, civil and regulatory), including withdrawing a firm's authorisation, suspending firms and individuals from undertaking regulated activities, issuing fines against firms or individuals who breach the FCA's rules or commit market abuse, and applying to courts for injunctions, restitution orders, winding-up and other insolvency orders.

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<sup>44</sup> Care Quality Commission: Driving improvement. Case studies from eight independent hospitals, CQC, (June 2019), <https://www.cqc.org.uk/publications/evaluation/driving-improvement-case-studies-eight-independent-hospitals>

<sup>45</sup> Care Quality Commission: Enforcement policy | Care Quality Commission (May 2017), <https://www.cqc.org.uk/guidance-providers/regulations-enforcement/about-guidance>

## What government action might address

We want to identify what currently works well to incentivise performance and ensure that action is taken, and consider whether these could be applied more regularly and uniformly across the victim landscape. We also want to consider whether there are examples of good incentives and support from other sectors or jurisdictions that could be effectively applied to victims' issues.

We want to carefully consider to whom any new measures would apply. If our accountability measures are to be effective, we must target action taken in the right way. We want to consider how consequences resulting from new or enhanced measures – such as more regular victim feedback or improved oversight – could work. We want to explore the benefits and drawbacks of the different models that could be utilised.

We are interested in hearing what measures to ensure that action is taken have worked well in other sectors, whether they could be utilised effectively in relation to victims' issues and whether consequences should fall to individuals or organisations, or both. For example, we are considering whether powers utilised by the CQC (which can take action against providers and also certain individuals) or the FCA (which can impose consequences on individuals as well as firms), would work best, or whether it is more appropriate for individual consequences to remain as part of agencies' own staff management processes and an improved complaints framework (covered below). We are aware that there is evidence of practical difficulties around individual sanctions in the criminal justice system, such as identifying who is at fault.

Whilst considering these options, we remain mindful of the operational independence of our criminal justice partners, the constitutional independence of the judiciary, and the key constitutional principle of independence in decision-making by prosecutors. We are also aware that the criminal justice system is a system, and agencies may at times be dependent on other organisations in order to effectively fulfil their responsibilities in relation to delivery of a quality service for victims.

## Questions

**Question 14:** Are there any oversight mechanisms, measures or powers used in other sectors (for example by the CQC, Ofsted, and FCA) which would be beneficial and appropriate to be used within the criminal justice system to ensure that victims receive a high-quality service?

**Question 15:** Would a more standardised and consistent approach to oversight, and to incentivising and supporting agencies in relation to delivery of a quality service for victims across the criminal justice system, be beneficial?

**Question 16:** What should the consequences be for significant failures in relation to delivering a quality service for victims, including complaints relating to the Victims' Code? Should those consequences be directed at criminal justice agencies as a whole and/or individuals responsible for the failure(s)?

## Embedding the victim's voice

### Background and where we are now

To ensure that victims are at the heart of the criminal justice system and that we drive up the quality of services they receive, we need to develop how we use data on victims' experiences. We want to make sure that when we collect data, we use a methodology that is trauma-informed and avoids making victims relive the crime.

At present, there is a fragmented approach to collecting data about the service delivery to victims and the awareness and enforcement of the Code.

We want to use victims' voices to identify issues and drive up performance across the system, to ensure that a quality service is delivered effectively and consistently. We know that there is good practice already, but this needs to become commonplace.

Police forces collect victim feedback locally to implement improvements suited to the community's needs and measure their performance within the Police and Crime Plan.

Each CPS area hosts local scrutiny and involvement panels, where local issues are discussed with people from the community. They allow the CPS to hear the community's voice directly and clearly.

Local advisory panels also offer victims an opportunity to feed into the delivery of services.<sup>46</sup>

Existing national, cross-system surveys are important in understanding victim experience. KANTAR conducts the Crime Survey for England and Wales on behalf of the Office for National Statistics, where households in England and Wales are asked about their

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<sup>46</sup> End-to-end rape review report on findings and actions – GOV.UK (June 2021), p.42, <https://www.gov.uk/government/publications/end-to-end-rape-review-report-on-findings-and-actions>

experiences of a range of crimes in the previous 12 months.<sup>47</sup> Additionally, the Victims' Commissioner's office conducts an annual self-selecting victims' survey. Neither survey covers all victims of crime so the data does not give a full picture of victim experience, nor do they provide insight around local variations in the level of service.<sup>48</sup>

## What government action might address

To drive improvements in service delivery, we want to ensure that those responsible for the oversight and delivery of a quality service for victims (including the Government, PCCs, criminal justice agencies and frontline professionals themselves) have the right data on how victims experience the criminal justice system, including understanding if this is different for people with specialised needs.

We want to build on the good practice that already exists, allowing victims the opportunity to feed back on their experience at key points to drive improvement across the criminal justice system. The use of trauma-informed methodology will help measure the impact of services, understand what works well and highlight areas for improvement both locally and nationally.

## Questions

**Question 17:** What do you consider to be the best ways for ensuring that victims' voices, including those of children and young people, are heard by criminal justice agencies?

**Question 18:**

- a) What data should criminal justice agencies collect about victims' experiences, and at what key points in the process?
- b) Can you provide any examples – in the UK or elsewhere – of this being done effectively?

**Question 19:** How might victims provide immediate feedback on the service they receive and its quality (such as text message, online surveys etc.)?

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<sup>47</sup> Face-to-face interviews for the Crime Survey in England and Wales (CSEW) were suspended on 17 March 2020 as part of efforts to minimise social contact and stop the spread of the coronavirus (COVID-19). Consequently, a new telephone survey was designed to continue measuring crime during the coronavirus pandemic period and whilst face-to-face interviews are not possible. The Telephone operated Crime Survey for England and Wales (TCSEW) was launched on 20 May 2020 and has ran on a continuous basis ever since.

<sup>48</sup> Victims' Commissioner, Victims' Experience: Annual Survey (September 2021), <https://victimscommissioner.org.uk/publications/2021-victim-survey/>

## Complaints about the application of the Code

### Background and where we are now

Our intention is that the steps suggested so far in Chapters 1 and 2 should lead to victims having their legitimate expectations of support and treatment under the Code met more consistently, as issues that arise are more quickly resolved. However, if things go wrong, there should be an easy-to-use, transparent complaints process with robust outcomes.

Under the Code, victims can make a complaint if they believe that they have not received what they should have done – for example, where a victim is not informed of the time and date of a court hearing.

All agencies responsible for delivering services under the Code must have a clearly identified complaints process through which victims can make such a complaint.<sup>49</sup>

In the first instance, complaints should be directed to the relevant agency responsible for delivering the right or rights in question. This may not always be clear, and the Code requires agencies to inform victims if they have sent their complaint to the wrong place or if it needs to be dealt with by more than one organisation.

Complaints processes for agencies vary in structure. For example, HMCTS and the CPS both have a three-stage process for handling complaints, while the CPS also has an Independent Assessor of Complaints who publishes an annual report.<sup>50</sup> Processes for handling complaints have been found to be unclear and lacking transparency.<sup>51</sup>

Victims who are dissatisfied with the outcome or handling of their complaint by the police can contact the local PCC to express their concern. They can also make an application for a review or appeal to the Independent Office for Police Conduct (IOPC).<sup>52</sup> An application must be made within 28 days from the day after the date on the letter explaining the outcome of the complaint. The IOPC can direct that the police reinvestigate the complaint or reconsider its findings. It can also make recommendations that the police must consider and respond to. Recommendations may involve organisational learning, so that the force can make sure it does not happen again (for example, a police force should change its

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<sup>49</sup> Complaints procedure, HM Courts and Tribunals Service – GOV.UK, <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/complaints-procedure>; Feedback and complaints – The Crown Prosecution Service, <https://www.cps.gov.uk/feedback-and-complaints>

<sup>50</sup> Independent Assessor of Complaints – The Crown Prosecution Service, <https://www.cps.gov.uk/independent-assessor-complaints>

<sup>51</sup> Independent London Victims' Commissioner's Review of Compliance with the Victims' Code of Practice (VCOP), p.28, [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>52</sup> Whether an application is treated as a review or an appeal depends on the complaint that was made. This is because from 1 February 2020, new laws took effect replacing the former right of appeal with a new right of review.

policies or training procedures), or it may identify that an officer could benefit from extra learning or training.

Victims who are dissatisfied with the handling of their complaint by an agency responsible for delivering the Code other than the police can contact their MP, who may refer the matter to the Parliamentary and Health Service Ombudsman (PHSO). The PHSO can require the agency to apologise, make recommendations for change to processes (although agencies are not required to comply) or provide financial compensation using a severity of injustice scale.<sup>53</sup>

The PHSO has expressed concern that this “MP filter” means that “members of the public face an additional obstacle to bringing their complaints”.<sup>54</sup> They have only received a small number of complaints relating to victims’ issues in recent years.

There is no requirement under the Code for agencies to record or publish information about the complaints received or the outcome, or for them to use information from these complainants to identify systemic issues or inform performance and disciplinary considerations.

The Crime Survey for England and Wales indicates that in 2019/20, of 125 victims who made complaints to the police, 74% were very dissatisfied with how their complaint was handled.<sup>55</sup> This suggests that there is a considerable issue. However, agencies do not routinely collect information about victims’ satisfaction with the outcomes of their complaints, so it is difficult to gauge the extent to which those complaints are Code-related to know whether the level of dissatisfaction seen in the survey provides an accurate picture, or to understand the reasons why victims are dissatisfied.

Victims also tell us that complaints processes are unclear and difficult to navigate, and that there is little transparency in the system.<sup>56</sup>

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<sup>53</sup> Our guidance on financial remedy – Parliamentary and Health Service Ombudsman, <https://www.ombudsman.org.uk/sites/default/files/Our-guidance-on-financial-remedy-1.pdf>

<sup>54</sup> The Ombudsman’s Annual Report and Accounts, 2020-2021 – Parliamentary and Health Service Ombudsman (July 2021) p.24, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005942/Parliamentary\\_and\\_Health\\_Service\\_Ombudsman\\_s\\_Annual\\_Report\\_and\\_Accounts\\_2020-2021\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005942/Parliamentary_and_Health_Service_Ombudsman_s_Annual_Report_and_Accounts_2020-2021__1_.pdf)

<sup>55</sup> Table S.27, Crime in England and Wales: Annual supplementary tables – Office for National Statistics, <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesannualsupplementarytables>

<sup>56</sup> Independent Victims’ Commissioner for London Review of Compliance with the Victims’ Code of Practice (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)

## What government action might address

We believe that the framework for complaints by victims about the application of the Code can be improved significantly and, in turn, that this will improve the services provided by agencies. We know that other complaints procedures have been set out in legislation or regulations.<sup>57</sup> Formalising the process by which complaints are handled and better understanding the lessons learned would provide a more consistent approach to complaint handling. It could also be used to create robust obligations on agencies to co-ordinate with one another in the reallocation of complaints. Our intention is that making the complaints process easier to navigate, trauma-informed and more transparent will, in turn, make agencies more responsive to victims' concerns and more alert to getting it right first time to avoid complaints.

We want to see improved oversight of agencies' handling of complaints to ensure consistent outcomes. We want to ensure that robust and transparent actions are routinely taken to address victims' complaints, such as additional training and feedback for staff. Agencies should not be waiting until they are instructed to do this by either the PHSO or IOPC. We want agencies to take a more proactive approach to complaints, shifting to a culture where they are seen by both the agencies and practitioners as an opportunity to further improve performance.

## Questions

To note: If you do wish to refer to a complaints process in a specific agency in your response to the following questions, please be clear which agency you are referring to.

**Question 20:** How do you think we could simplify the existing complaints processes to make them more transparent and easier for victims to use? How could we secure a swifter resolution while allowing for a more consistent approach?

**Question 21:** What more can be done to improve oversight of complaints handling, including where victims are dissatisfied with the outcome of the complaint process?

**Question 22:** What more might agencies do to embed complaints relating to the Victims' Code into their operational and performance management processes?

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<sup>57</sup> For example: The Police (Complaints and Misconduct) Regulations 2020, <https://www.legislation.gov.uk/uksi/2020/2/contents/made>

## Chapter 3 – Supporting victims of crime

### Our vision

Our vision is for all victims of crime – and particularly those of traumatic crimes like domestic abuse, sexual violence and other forms of serious violence – to have the right support at the right time to recover and rebuild their lives. We also want them to be in a position to engage with the criminal justice system so that they give their best evidence, to ensure that offenders are brought to justice.

We want clear pathways to access and seamless movement between NHS health services and third sector support services, which can often provide more holistic support for victims. We want to ensure that tailored services providing the right support at the right time are available where appropriate, so that all victims, no matter who they are, feel able to access support and that these services are a key part of the support landscape. We want this to be achieved through effective collaboration between those commissioning and providing services so that the right services are available to meet victims' needs.

In addition, we propose an increase to the Victim Surcharge, which is one mechanism through which we fund victim support services. This will ensure that all offenders are making a larger financial reparation towards support for victims.

In this chapter we seek views on:

- how further intervention might improve the provision of support services
- the best way to increase the Victim Surcharge

### Background and where we are now

Under the Code, victims are entitled to be referred to services that support them, and have services and support tailored to their needs. Support for victims, particularly of traumatic crimes like domestic abuse, sexual violence and other serious violence crimes, is essential to help them cope and recover.

We know that these crimes can have long-term effects on victims' psychological, emotional and physical wellbeing. It is right that we give victims of these crimes the support that they deserve to rebuild their lives after traumatic offences. Supporting victims to cope and recover is a moral imperative. There are also wider benefits, as the right support can reduce demand on costly and acute provision later, such as refuges, emergency services and statutory mental health provision. For children and young people alone, we know that nearly £17 billion per year is spent in England and Wales on the cost

of late intervention.<sup>58</sup> There are also significant downstream costs to society of not adequately supporting victims, with domestic abuse estimated to cost £66 billion in the year ending March 2017 (about £74 billion in today's prices) and sexual violence estimated to cost £12.2 billion.<sup>59</sup> <sup>60</sup> The physical and emotional harms and the strain on individuals and resources make these crimes a public health issue.

We also know that supporting victims to deliver their best evidence and stay engaged helps them to continue to progress through the criminal justice system. This is well evidenced in cases of sexual violence. For example, research involving 585 reported rapes found that victims who received support from services such as Independent Sexual Violence Advisors (ISVAs) were 49% less likely to withdraw from the criminal justice investigation process when compared to those victims who did not receive support.<sup>61</sup>

Victims are likely to experience a range of impacts following a crime and may require services across both the statutory and third sectors. There is a range of different support services available to victims in the community ('community-based support') following a crime. From engagement with the support sector, our working definition of community-based support provision covers the following services:

- **advice services** providing information to victims on a range of topics to support them through or out of their current situation
- **advocacy services** providing support to victims to re-establish safety, reduce risk, manage specific needs and provide emotional support, which can also include advocacy through the criminal justice system
- **recovery and support work** providing long-term support to victims to help with their wellbeing and manage symptoms resulting from the impact of a traumatic event – support is offered to victims in either one-to-one or group settings

Health services also play a vital role in supporting victims' mental and physical health needs, including mental health services and sexual assault referral centres (SARCs), which provide people with acute healthcare and support, follow-up services and direct access or referral to an ISVA.<sup>62</sup>

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<sup>58</sup> Early Intervention Foundation (2016), <https://www.eif.org.uk/report/the-cost-of-late-intervention-eif-analysis-2016>

<sup>59</sup> The economic and social costs of domestic abuse – Home Office (2019), p.5; <https://www.gov.uk/government/publications/the-economic-and-social-costs-of-domestic-abuse>

<sup>60</sup> The report suggest that much of this cost is due to lost economic output when victims can no longer work: The economic and social costs of crime – Home Office (2018), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/732110/the-economic-and-social-costs-of-crime-horr99.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732110/the-economic-and-social-costs-of-crime-horr99.pdf)

<sup>61</sup> 'Rape, inequality and the criminal justice response in England: The importance of age and gender', Walker et al (2019), p.304, <https://journals.sagepub.com/doi/pdf/10.1177/1748895819863095>

<sup>62</sup> PTSD following sexual assault or rape – PTSD UK, <https://www.ptsduk.org/what-is-ptsd/causes-of-ptsd/sexual-assault/>

## Challenges for community-based services

We know that there continue to be challenges for victims in accessing the support that they need.

### Demand for services

We know from providers that demand for domestic abuse and sexual violence support services continues to outstrip supply, and that waiting lists are growing. Referrals to NHS secondary mental health services, a key service for victims of crime, increased by 85% from April 2020 to May 2021: from 208,829 to 385,430.<sup>63</sup> For victims who are involved in cases being prosecuted, pandemic-related delays have risked them dropping out of the system. We expect demand for support through the criminal justice system to remain high as courts work through outstanding cases at a higher rate than before the pandemic.

Whilst sexual violence and domestic abuse are distinct crime types, the commissioning landscape to provide support for these victims is complex and has a tendency to overlap. We also know that support offers across local areas vary, and that this can lead to a ‘postcode lottery’ of available services.<sup>64</sup>

The Government is tackling calls for more provision. We have invested more than £300 million for victims’ support services this year across departments (excluding NHS spend). £150.5 million in funding has been committed by the Ministry of Justice to community-based victim and witness support services in 2021/22. This includes an extra £51 million to further increase support for rape and domestic abuse victims, building on the emergency funding from the last financial year to help domestic abuse and sexual violence services to meet COVID-19-driven demand. This additional funding included £2 million to help organisations supporting ethnic minority, LGBT or disabled victims, and £27 million to enable up to 700 Independent Sexual Violence Adviser (ISVA) and Independent Domestic Violence Adviser (IDVA) posts. The 2021 Spending Review further bolsters support for victims of crime by increasing annual Ministry of Justice funding for support services to £185 million by 2024/25 – an uplift of 85% from 2019/20. This compares to a total budget of £48.5 million for these services delivered in the community in 2010/11.

### Tailored services

We know that tailored or specialised services can be instrumental for certain victims, and there are calls for this kind of provision to form a more prominent part of the commissioning landscape. For example, the Home Office’s call for evidence on violence against women and girls found that there were clear calls for an improved, ‘by and for’ trauma-informed provision of services. A third of victim and survivor respondents felt that

<sup>63</sup> Mental Health Services Monthly Statistics Performance (2020 and 2021) <https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-services-monthly-statistics/performance-april-provisional-may-2020#key-facts>

<sup>64</sup> Domestic Abuse Commissioner submission to HM Treasury Autumn Budget and Spending Review 2021 - representations (2021), <https://domesticabusecommissioner.uk/wp-content/uploads/2021/11/FINAL-2109-Spending-Review-submission-from-the-Domestic-Abuse-Commissioner-for-England-and-Wales.pdf>

their identity or personal characteristics acted as a barrier to accessing support or other services.<sup>65</sup> Male victims of domestic abuse have reported that services did not seem appropriate for them, as they felt that they are often spaces specifically for women survivors.<sup>66</sup> Galop's survey showed that of those LGBT respondents who accessed support, a higher proportion were satisfied with that service when it was specific rather than generic.<sup>67</sup>

### **Catering for victims of different ages and victims of different crimes**

As well as hearing about services for victims of domestic abuse and sexual violence, we want to use this consultation to understand how well services work for victims of other forms of serious violence, and victims who are children and young people.<sup>68</sup>

We think that victims of other serious violence, such as knife crime and gun crime, are likely to benefit from similar community-based support to victims of domestic abuse and sexual violence. Victims of these crimes may also suffer similar long-term impacts, experience harm hidden from public view and typically under-report, with low levels of engagement with the criminal justice system. Latest trends show a 41% increase in NHS hospital admissions in England and Wales for assault with sharp objects between 2014/15 and 2018/19.<sup>69</sup> Serious violence support services are likely to see considerable demand, with 1.6 million violent offences in the year ending March 2021 and 2015 research showing that 23.5% of victims of violent crimes engaged with initial contact from Victim Support.<sup>70</sup>

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We understand that when it comes to serious violence, commissioners may largely focus on prevention and early intervention, not just on support for victims after a crime. The support landscape for victims of serious violence is therefore complex. Through this

<sup>65</sup> VAWG Call for Evidence, Tackling violence against women and girls strategy – GOV.UK (October 2021), p.52 <https://www.gov.uk/government/publications/tackling-violence-against-women-and-girls-strategy/tackling-violence-against-women-and-girls-strategy>

<sup>66</sup> Help-seeking by male victims of domestic violence and abuse (DVA): a systematic review and qualitative evidence synthesis – BMJ Open, <https://bmjopen.bmj.com/content/9/6/e021960>

<sup>67</sup> 8 in 10 respondents who accessed LGBT specific support were satisfied with the service they received (80%), compared to only 4 in 10 respondents who accessed generic support (38%); Hate Crime Report 2021 – Galop (June 2021), p.8, <https://galop.org.uk/wp-content/uploads/2021/06/Galop-Hate-Crime-Report-2021-1.pdf>

<sup>68</sup> For the purpose of this consultation, the definition of 'serious violence' within the Serious Violence Strategy will be used: knife crime, gun crime, homicide and areas of criminality where serious violence or its threat is inherent e.g. county lines and gang-related activity. Home Office – Serious Violence Strategy, April 2018 ([publishing.service.gov.uk](https://publishing.service.gov.uk))

<sup>69</sup> Crime in England and Wales: Other related tables – Office for National Statistics ([ons.gov.uk](https://ons.gov.uk)), Table F5, <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwales/otherrelatedtables>

<sup>70</sup> Crime in England and Wales: Appendix Table 2A – Office for National Statistics – year ending March 2021, <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwales/appendix2a>

<sup>71</sup> Lowe et al., A UK investigation into engagement with victim support after a violent crime (2015), p.6, [https://www.researchgate.net/publication/304607500\\_A\\_qualitative\\_examination\\_of\\_engagement\\_with\\_support\\_services\\_by\\_victims\\_of\\_violent\\_crime/link/5a75acf345851541ce574811/download](https://www.researchgate.net/publication/304607500_A_qualitative_examination_of_engagement_with_support_services_by_victims_of_violent_crime/link/5a75acf345851541ce574811/download)

consultation, we want to establish a better understanding of the models of support that currently exist for victims, and to determine whether this support is effective.

We also know that children and young people are disproportionately affected by domestic abuse, sexual violence and other serious violence (for example, within country lines and child criminal exploitation). We have heard that children and young people need tailored packages of intervention and support that is appropriate to them.<sup>72</sup> Central and local commissioners have the ability, but are not generally required, to commission bespoke victim support services for children and young people. Funding across central government for victims is not generally ringfenced for a particular age group.

Through this consultation, we want to better understand how well services work for victims who are children and young people, and how support for them should sit within provision of community-based services. We also want to understand about the challenges in providing tailored services.

### **Pathways and co-ordination**

It can be difficult for a victim to know which type of service will best support them at which time, and from where to initially seek support. We have heard that pathways between third sector and statutory health services are disjointed, particularly for those services that provide emotional and psychological support. The inability to access the right support at the right time can lead to the compounding of trauma and contribute to symptoms deteriorating over time.

#### **CASE STUDY – JOINT WORKING FOR SEXUAL VIOLENCE SUPPORT**

To ensure that victims of sexual violence who accessed health services could also access appropriate further support, the Lancashire PCC and Blackpool Teaching Hospital worked with LimeCulture (a national sexual violence and safeguarding organisation) to pilot placing sexual violence liaison officers in hospital safeguarding teams. Sexual violence liaison officers were able to provide immediate crisis support and advice to patients, as well as refer them on to other services such as ISVAs in the community, counselling services and the police.

The model was found not only to have helped referrals from the health setting to other services, but also to have raised awareness of sexual violence with NHS staff and enabled ISVAs to help clients access appropriate healthcare support.

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<sup>72</sup> Victims' Commissioner: Sowing the seeds, children's experience of domestic abuse and criminality (April 2020), p.7, [https://s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2020/03/Sowing-the-Seeds\\_final\\_web.pdf](https://s3-eu-west-2.amazonaws.com/victcomm2-prod-storage-119w3o4kq2z48/uploads/2020/03/Sowing-the-Seeds_final_web.pdf)

### **Co-ordination of commissioning support services**

The commissioning landscape is complex. Support services can be commissioned by a mix of groups, with some commissioned nationally by government departments and/or NHS England (such as the domestic abuse helpline, rape support fund and SARCs), and others commissioned locally by PCCs, clinical commissioning groups (CCGs) and local authorities.

This means that in many cases, there is no coherent strategy across a local area to co-ordinate service provision. We have heard from the sector that some challenges are structural, including a lack of effective partnership working and a lack of clear roles and responsibilities between different providers. The capacity of service providers can also be stretched to meet the commissioning, monitoring and reporting requirements associated with different funding streams, limiting the funding they can access and services they can provide. It can also be difficult for smaller organisations focusing on specialised support to access locally commissioned funding pots, given economies of scale and mixed local need.

Challenges in co-ordination can present barriers to targeting expenditure to meet demand and need. This risks duplication of resource in commissioning, as well as gaps in service provision. Some local areas have developed forums that bring together commissioners of relevant services to approach issues strategically and jointly. However, this is not the case in all areas, and success is often dependent on relationships rather than structures.

#### **CASE STUDY – JOINT COMMISSIONING OF VICTIM SUPPORT SERVICES**

Cheshire PCC saw a 45% rise in demand for support for victims of rape and sexual abuse, with static funding (over five years between April 2016 and March 2021). They identified a need for a joint commissioning framework to better meet the needs of people across such a large area.

They brought together the four local authorities within their area and NHS England to commission their Victims Aftercare Contract. Whilst the local authorities maintain their responsibility to provide aftercare services, this creates efficiencies in funding and delivery capacity. Involving NHS England, which commissions the local SARCs, alongside the police creates better join-up with the acute and aftercare pathway for victims, and facilitates improved access to mental health provision.

The joint commissioning relationship is maintained and managed through quarterly meetings of senior representatives. This provides the opportunity for all relevant groups to understand strategic and operational issues within the area. It enables the PCC to have clearer oversight of the funding and commissioning arrangements, which means that they can make better decisions to ensure that victims' needs are met.

We are therefore committed to consulting on the provision of community-based support for victims of domestic abuse and sexual violence to better understand how we can improve the commissioning and co-ordination of community-based services. This consultation is closely aligned with the work being undertaken by the Department of Health and Social Care, NHS England and NHS Improvement to ensure that reforms to establish statutory integrated care systems in health and social care in England (replacing CCGs) also ensure collaboration of the right groups to plan how to meet the needs of each area.

## **What government action might address**

We think that there is room to better co-ordinate how support services are commissioned and to clarify commissioning roles and responsibilities. Local commissioners could work together to strategically target funding, ensuring that the right services are commissioned to meet local need.

More formalised structures can help improve effective joint working between multiple agencies (we set out some examples below), enabling collaborative and locally-led strategies to meet shared aims. Requirements on local bodies can range from non-statutory grants through to legislation detailing prescriptive duties.

Examples include the duty and statutory guidance that require relevant agencies to work together to manage sexual and violent offenders (multi-agency public protection arrangements).<sup>73</sup> This was evaluated and found to have reduced reoffending and enabled a more committed multi-agency approach than before.<sup>74</sup> The formalised approach in legislation set out a lead 'responsible authority' and put a 'duty to co-operate' on other services, such as local authorities and CCGs.

Another example of formalised collaboration is in the Crime and Disorder Act (1998), which required each local authority and PCC to formulate and implement a strategy to reduce local crime and disorder. A review found that this had steadily improved delivery of local crime and disorder reduction partnerships and recommended further clarification of individual roles and responsibilities within them.<sup>75</sup> The upcoming serious violence duty proposed in the Police, Crime, Sentencing and Courts Bill will place a legal requirement on public authorities including the police, local authorities and health bodies to take a multi-agency approach, focused on prevention and early intervention to reduce serious violence.

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<sup>73</sup> Multi-agency public protection arrangements (MAPPA): Guidance – GOV.UK (2021), <https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-mappa-guidance>

<sup>74</sup> Multi-agency public protection arrangements – Justice Inspectorates (GOV.UK), <https://www.justiceinspectorates.gov.uk/hmiprobation/research/the-evidence-base-probation/specific-types-of-delivery/mappa/>

<sup>75</sup> Crime and Disorder Act Review (2005): <https://moderngov.harlow.gov.uk/documents/s15829/Crime%20and%20Disorder%20Act%20Review%20Recommendations%20APPENDIX%20A.pdf>

The Domestic Abuse Act 2021 placed a duty on local authorities in relation to the provision of support to victims of domestic abuse and their children residing in safe accommodation, which was implemented in October 2021 and will be evaluated in due course.

We want to hear what more formalised collaboration structures and how more clearly defined roles and responsibilities could help to improve service provision, while retaining flexibility for local services to best meet local need. We also want to hear views on what could help to make sure that due consideration is given to the provision of tailored services, and how pathways between services can be clarified and improved.

## Questions

### **Question 23:**

- a) What legislative duties placed on local bodies to improve collaboration where multiple groups are involved (such as those set out above) have worked well, and why?
- b) What are the risks or potential downsides of such duties?

**Question 24:** What works in terms of the current commissioning landscape, both nationally and locally, for support services for victims of:

- a) domestic abuse
- b) sexual violence (including child sexual abuse)
- c) other serious violence?

**Question 25:** How could the commissioning landscape be better brought together to encourage and improve partnership working and holistic delivery of victim services for:

- a) all victims of domestic abuse
- b) all victims of sexual violence
- c) all victims of other serious violence
- d) children and young people who are victims of these crimes?

### **Question 26:**

- a) What can the Government do to ensure that commissioners are adequately responding and implementing the expertise of smaller, 'by and for' organisations in line with local need?
- b) Should national commissioning play a role in the commissioning framework for smaller, 'by and for' organisations?
  - Yes – please explain why
  - No – please explain why

**Question 27:** What can local commissioners (local authorities and PCCs) do to improve the commissioning of specialist 'by and for' services for their area?

**Question 28:**

- a) What challenges exist for victims in accessing integrated support across third sector and health service provisions?
- b) What and how could practical measures or referral mechanisms be put in place to address these?

## Increasing the Victim Surcharge

Finally, we want to make sure that the Victim Surcharge ('the surcharge') – one way through which we fund victim support services – ensures that offenders are making adequate financial reparation towards the cost of support for victims. As set out earlier in this chapter, there is a high demand for support services which has been compounded by the pandemic. We are considering proposals to increase the surcharge to generate further income for the provision of victim support services. This section seeks views on how this may be achieved.

## Background and where we are now

The surcharge was introduced in 2007 to ensure that offenders hold some responsibility towards the cost of supporting victims and witnesses. The court must order all offenders to pay the surcharge except where an offender does not have the means to pay both compensation to the victim and the surcharge. Compensation to individual victims is always paid before the surcharge is collected.

The surcharge was first introduced as a flat rate of £15 for only those offenders who received a fine. It has since been expanded to apply to all offenders that receive a sentence from the courts. It has only seen very moderate increases since its introduction. Adult offenders and offending organisations currently pay between £22 and £190 depending on the severity of the crime. The highest surcharge is applied to those who receive custodial sentences or receive a large fine.

Income collected from the surcharge is ringfenced and contributes to the Ministry of Justice's budget that is allocated to victim and witness support services.<sup>76</sup> In 2021/22, the budget is £150.5 million, and the surcharge contribution is around 25%. The budget funds PCCs to deliver local support services for victims in their communities. It also funds national support such as:

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<sup>76</sup> The income collected is around £39 million ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/936835/moj-annual-report-accounts-2019-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936835/moj-annual-report-accounts-2019-2020.pdf)) and the collection rate in 2019 over 18 months was 61% (<https://www.gov.uk/government/collections/criminal-court-statistics>).

- rape support centres across England and Wales
- the Court Based Witness Service
- the National Homicide Service

## What government action might address

The need for victim support services has continued to increase in demand, and this government is committed to ensuring that victims are able to access the support they need. This means that we need to look at further ways to fund these services, and one route could be through increasing the surcharge. The surcharge represents a tangible way for offenders to make reparation towards victims and help to fund the services that support them. Any income from the surcharge has to be used to fund victim and witness support services, which means that any further income will be contributing directly to these organisations from an increased surcharge.

In a pre-election pledge, the Government committed that the surcharge would be increased by 25% by 2024. An increase of 5% was completed last year, leaving a further 20% to deliver. The proposed increase would change the surcharge rates as below:

Sentence	Surcharge rate		
	Previous	Current – 5% increase	Proposed – further 20% increase
Conditional discharge	£21	£22	£26
Fine (individuals / organisations)	10% of fine. Min £32, max £181	10% of fine. Min £34, max £190	10% of fine. Min £40, max £226
Community order	£90	£95	£113
Sentence of imprisonment (six months or less)	£122	£128	£153
Suspending sentence of imprisonment (over six months)	£149	£156	£186
Immediate custodial sentence (six months or less)	£122	£128	£153
Immediate custodial sentence (more than six months up to and including two years)	£149	£156	£186
Immediate custodial sentence (two years to life)	£181	£190	£226

Building on this pledge, we are seeking views on increasing the minimum rate for the surcharge above the 20% increase. As set out in the table above, the current lowest rate is £22 and the highest is £190. This variation of rates is due to the severity of the offence. However, this does not preclude increasing the minimum level that an offender has to pay.

We also propose to explore increasing the minimum level of surcharge to £100. This would change two surcharge rates: conditional discharge and minimum-cap fines (based on the 20% increase being implemented). For example, this means that conditional discharge could increase further from £26 to £100. For organisations and adult individuals sentenced to a fine, the current surcharge is 10% of the fine value with a minimum cap of £34 and a maximum cap of £190 (payable on fines of £1,900 and above). This could mean that the fine minimum cap could increase from £40 to £100. The remaining surcharge rates would be subject to the 20% increase as set out above in the table.

The surcharge for fines differs from the surcharge payable on community or custodial sentences, as it can be paid by both organisations and individuals. The majority of individual offenders are sentenced to a level of fine that means they will pay the surcharge at the minimum cap (i.e. a fine of £340 or less). Organisations typically receive higher fines and will pay either 10% or £190. This means that individuals are more likely to pay £34 (which can be higher than 10% of the fine) whereas, despite receiving larger fines, some organisations will pay £190 (which can be lower than 10% of the fine). We are seeking views on whether we should address this disparity.

We also wish to consider whether to increase the minimum rates for other more serious sentences both to reflect the impact on victims and for proportionality, with an increase in the minimum surcharge for fines and conditional discharges. The amount of income any increase will generate will vary as this is dependent on collection rates remaining consistent. There is no time limit to pay the surcharge so it can be paid over many months.

We will use evidence gathered to inform any final proposal and will produce an impact assessment with a response to this consultation. If it looks likely that the cost and benefit analysis of the proposal demonstrates burdens on businesses or charities of over £5 million per year, then we will endeavour to seek a Regulatory Policy Committee opinion.

## Questions

### Question 29:

- a) Do you agree that we should explore increasing the surcharge?
- Yes – please explain why
  - No – please explain why
  - Don't know / no answer
- b) Should we consider an overall percentage increase (for example, increasing the surcharge rate by 20%)? If so, do you have any views on what the percentage increase should be?
- c) Should we increase the minimum rate (for example, to £100)? If so, do you have any views on what the minimum rate should be?

**Question 30:** The surcharge for fines differs to the other surcharge impositions, as it is paid by both individuals and organisations and is calculated as a percentage amount of the fine with minimum and maximum caps.

- a) Do you agree that we should review the surcharge paid for fines?
- Yes – please explain why
  - No – please explain why
  - Don't know / no answer
- b) Should we review the cap rates for surcharge amounts for fines? If so, do you have any views on what the minimum / maximum caps should be?
- c) Should we review the percentage amount? If so, do you have any views on what the percentage amount should be?

# Chapter 4 – Improving advocacy support

## Our vision

It is our vision that victims are supported to rebuild their lives and recover from the impacts of crime through accessible, professional and well-co-ordinated services. Victims' advocates – ISVAs, IDVAs and other kinds of advocates – have a crucial role to play in helping vulnerable victims to access support, cope, recover and engage with the criminal justice system.

We are looking at the role of victim advocates in this consultation because we understand their vital role in improving victims' journeys. Victim satisfaction with ISVAs and IDVAs is second only to their satisfaction with trained counsellors/psychologists, highlighting the critical and beneficial role they provide.<sup>77</sup> Research has also shown that 93% of rape victims receiving support from an ISVA or other support service reported the offence to the police, compared to 54% without this support.<sup>78</sup>

We think there are ways in which government action could help overcome challenges that advocates face in delivering support. We have worked hard to increase provision so that more victims can benefit from the support of an ISVA and an IDVA – ringfencing £27 million, which enabled up to 700 roles in 2020/21, and securing additional funding in the next Spending Review period. Through this consultation, we also want to consider how further government action can support professional advocates for adult and child victims of hidden-harm crimes (in particular ISVAs and IDVAs) to be as well-equipped as possible to provide the best support and services. We will seek to build our knowledge of best practice and consider where and whether it would be beneficial to standardise and strengthen advocate roles, and where government action could help do so. Victims should have a consistent and trusted service, whatever their experience, and wherever they are in the country. We also want to examine how advocates should work with other agencies to provide victims with a joined-up and seamless experience of the criminal justice system, and in what ways the Government can or should intervene to facilitate better multi-agency working.

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<sup>77</sup> Tackling violence against women and girls strategy – GOV.UK, (July 2021) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005630/Tackling\\_Violence\\_Against\\_Women\\_and\\_Girls\\_Strategy-July\\_2021-FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005630/Tackling_Violence_Against_Women_and_Girls_Strategy-July_2021-FINAL.pdf)

<sup>78</sup> Rape survivors and the criminal justice system – Victims' Commissioners Office (October 2020), p.14 <https://victimscommissioner.org.uk/published-reviews/rape-survivors-and-the-criminal-justice-system/>. This is an association, rather than causal. Survivors may be more likely to report because they have an ISVA or those who report are more likely to be referred to an ISVA.

This consultation focuses primarily on ISVAs and IDVAs as we have a more developed understanding of these positions and the Government funding for these roles.<sup>79</sup> However, we do appreciate that similar advocate roles exist, and there are questions in this consultation that can apply equally to all advocate services.<sup>80</sup>

In this chapter we seek views on:

- the ‘on the ground’ experiences of ISVAs, IDVAs and similar advocate roles that support victims of domestic abuse, sexual violence and other hidden harms, alongside the organisations which train and recruit them
- how these roles interact with other agencies within and outside of the criminal justice system and family justice system
- best practices and consideration of what more could be done to further develop ISVA and IDVA roles, including in relation to children and young people
- whether statutory and/or non-statutory standards, guidance or other frameworks could strengthen advocate roles
- if and how the Government can play a role in improving and standardising work in the advocate space

## Defining functions

### Background and where we are now

Victim advocates come in many forms, but will all largely provide a crisis intervention role, with the goal of improving safety of and reducing risk to the victim. Advocates also work to ensure that victims can make informed choices and enable access to a range of services and agencies, including the criminal justice system.<sup>81</sup>

However, there are no clear, set definitions of victim advocacy in England and Wales. This results in inconsistent standards and difficulty in tracking supply and demand, measuring impact, and monitoring victim support and experience. Research from the Victims’ Commissioner suggests that without definitions of the roles and responsibilities of advocates, roles may overlap with existing services provided by other agencies.<sup>82</sup> We believe that greater understanding of the key functions of advocates and improved sharing of knowledge and standards could be useful, helping to avoid duplication and confusion in

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<sup>79</sup> Extra £40m to help victims during pandemic and beyond – GOV.UK (February 2021), <https://www.gov.uk/government/news/extra-40m-to-help-victims-during-pandemic-and-beyond>

<sup>80</sup> Other advocate roles in existence include Independent Gender Violence Advisors (IGVAs), Refuge Advocates to Independent Stalking Advocacy Caseworkers (ISACs), Homicide Caseworkers, Young People’s Violence Advisors (YPVAs), and Family Court IDVAs, alongside a range of caseworkers who provide similar functions. There are also specific advocates to care for children and young people.

<sup>81</sup> National scoping exercise of advocacy services for victims of violence against women and girls – GOV.SCOT (August 2017), <https://www.gov.scot/publications/national-scoping-exercise-advocacy-services-victims-violence-against-women-girls/pages/11/>

<sup>82</sup> Victim Advocates: A Rapid Evidence Assessment – Victims’ Commissioner (February 2019), p.24 <https://victimscommissioner.org.uk/published-reviews/victim-advocates-a-rapid-evidence-assessment/>

the system. This would help victims to know that when they access advocacy services, they will always receive high-quality and timely support.

We want to make sure that any government interventions do not detract from the rich, complex and varied work that these roles can provide. We want to make sure that any definitions, standards or guidance allow for continued innovation and creativity in advocacy delivery, as spearheaded by the sector to date.

IDVAs and ISVAs serve similar functions but are distinct from one another. While there may be some overlap in common understanding and practice, both roles have unique knowledge and skills. They also share common challenges.

We are also aware that there are other roles which provide similar support to victims of sexual violence and domestic abuse, who do not self-describe as IDVAs or ISVAs. This is particularly prominent within services supporting children and young people and critical specialist services run by 'by and for' organisations serving those from particular communities or with specific needs.

## What government action might address

We believe that defining key functions of advocates could increase victims' awareness of the support they should expect to receive, and so improve access, and likewise increase other agencies' understanding and willingness to engage with these roles.

We want to deepen our understanding of advocacy support, including advocates working in 'by and for' organisations, noting the specific challenges they face in accessing resources and engaging other agencies, to inform the development of potential definitions to underpin these roles.

## Questions

**Question 31:** How do IDVAs fit into the wider network of support services available for victims of domestic abuse?

**Question 32:** How might defining the IDVA role impact services, other sector workers and IDVAs themselves?

**Question 33:** How do ISVAs fit into the wider network of support services available for victims of sexual violence?

**Question 34:** How might defining the ISVA role impact services, other sector workers and ISVAs themselves?

**Question 35:** What are the challenges in accessing advocate services, and how can the Government support advocates to reach victims in all communities?

**Question 36:** What other advocacy roles exist that support victims of hidden crimes, such as forms of other serious violence? Please outline the functions these roles perform. To what extent are the challenges faced similar to those experienced by ISVAs and IDVAs? Are there specific barriers?

## Quality standards

### Background and where we are now

There are several organisations that set quality standards for ISVA and IDVA practice, which advocate services work to meet. These organisations also provide training and accredited qualifications that ISVAs and IDVAs undertake to gain tools, skills, knowledge and expertise to support victims. While training and accreditation may vary, there are similar principles in place. From conversations with providers and stakeholders, we know that the different approaches reflect differences in ethos and ideological approach of the various providers.

Despite the benefits that this range of perspectives brings, we are aware that having different qualifications can create complexities. Several stakeholders have raised the issue of qualified IDVAs or ISVAs retraining with a different organisation due to commissioning contract specifications, or facing barriers to securing training and accreditation due to time and financial constraints. This can be particularly problematic for those who provide specialist services as they often work across a larger area, encounter different commissioning requirements in each region or face challenges in securing funding.

At present, there is a limited amount of guidance for these roles, and none of it is legally binding or enforceable. This includes the Home Office's 2017 'essential elements of the ISVA role'. However, there is no equivalent government-issued guidance for IDVA roles.<sup>83</sup>

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<sup>83</sup> The end-to-end rape review report on findings and actions (June 2021), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1001417/end-to-end-rape-review-report-with-correction-slip.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001417/end-to-end-rape-review-report-with-correction-slip.pdf)

## What government action might address

We want to understand if further or updated guidance for these advocate roles would be beneficial, and whether additional measures relating to standards for the professional advocate roles would have an impact.

### Questions

**Question 37:** How useful is existing guidance, and how can this guidance be strengthened?

**Question 38:** Is more action needed to define standards for ISVAs and to ensure they are met? If yes, who is best placed to take this action?

**Question 39:** Is more action needed to define standards for IDVAs and to ensure they are met? If yes, who is best placed to take this action?

**Question 40:** What are the advantages and disadvantages of the current qualifications and accreditation structures? Are there any changes that could improve it?

## Advocate relationships with other agencies

### Background and where we are now

Advocates need to work with many agencies, including the police, CPS, HMCTS, health, housing, education, employment and social care sectors. All these agencies may play a crucial role in supporting victims' recovery. Advocates have been recognised for their work in engaging stakeholders to actively set direction and provide clarity so that victims can focus on important steps towards justice and recovery.<sup>84</sup> They also provide an interlink between victims' services and the wider support an individual may be receiving, particularly individuals with multiple needs. When an advocate builds strong relationships with partners across different sectors, victims feel better supported and, if engaged in the criminal justice system, more able to take their case forward.

However, advocates can face barriers to establishing strong working relationships. For instance, there is evidence that shows there is a need for advocates' roles to be better understood.<sup>85</sup> The evidence suggests that one in five domestic abuse services and one in

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<sup>84</sup> Victim advocates: A rapid evidence assessment – Victims' Commissioner (February 2019), p.24 <https://victimscommissioner.org.uk/published-reviews/victim-advocates-a-rapid-evidence-assessment/>

<sup>85</sup> Kohli, R.K.S., et al., Evaluation of Independent Child Trafficking Advocates trial: final report, Home Office Research Report 86 (2015), p.6 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/486138/iccta-horr86.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/486138/iccta-horr86.pdf)

three sexual violence services have been prevented on occasion from supporting victims in court. This suggests that there may be a need for better communication of their roles to court staff and the judiciary, to ensure effective working with IDVAs and ISVAs.<sup>86</sup>

### **CASE STUDY – THE CRUCIAL ROLE OF IDVAs IN SUPPORTING VICTIMS**

As part of the recent police engagement with women and girls thematic inspection, findings from Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) support what stakeholders have already told us about the importance of victim advocates and the crucial role they play in the wider system.

It conducted lived experience research, where a domestic abuse victim said: “We relied heavily on [named advocate]. They’ve been the link to it all, the consistent person to keep us updated, follow up, listen to us. I don’t know how anyone copes without that.... It was very, very hard going through it. The scaffolding we got from others was what sustained us, not [from] the police.”<sup>87</sup>

## **What government action might address**

Agencies are currently under no obligation to engage with advocates, and we believe that a lack of involvement could be due to other professionals not fully understanding the advocate role or believing this to be outside their remit. While there is good practice in some places, we are concerned that this is not consistent and can negatively impact victims – sometimes retraumatising them.

We want to understand how we could better raise the status of these roles and promote better collaboration between advocates and other agencies.

## **Questions**

**Question 41:** How can we ensure that all non-criminal justice agencies (such as schools, doctors, emergency services) are victim aware, and what support do these agencies need in order to interact effectively with IDVAs, ISVAs or other support services?

<sup>86</sup> Understanding court support for victims of domestic abuse – Safe Lives and Domestic Abuse Commissioner (June 2021), p.29, <https://safelives.org.uk/sites/default/files/resources/Court%20Support%20Mapping%20Report%20-%20DAC%20Office%20and%20SafeLives.pdf>

<sup>87</sup> HMICFRS, Police response to violence against women and girls: Final inspection report (2021), <https://www.justiceinspectorates.gov.uk/hmicfrs/publication-html/police-response-to-violence-against-women-and-girls-final-inspection-report/>

**Question 42:** What are the barriers faced by ISVAs preventing effective cross-agency working, and what steps could the Government take to address these?

**Question 43:** What are the barriers faced by IDVAs preventing effective cross-agency working, and what steps could the Government take to address these?

**Question 44:** What are the barriers facing specialist or ‘by and for’ services preventing cross-agency working, and what steps could the Government take to address these?

## Advocates for children and young people

### Background and where we are now

Children and young people are increasingly exposed to crimes hidden from public view. Domestic abuse is the most common type of abuse that children are referred to children’s services for, with one in seven (14%) children and young people under the age of 18 living with domestic abuse at some point in childhood.<sup>88</sup> Children and young people navigate a busy and complex support landscape, dealing with a host of voluntary, legal and statutory support roles, including children’s social care workers, all working to help children and young people to rebuild and recover.

To address children and young people’s distinct needs, a number of advocate roles have been created, including Young People’s Violence Advisors, Independent Trafficking Guardians, Children’s ISVAs and Children’s IDVAs. These roles are somewhat less developed and not as widespread compared to adult advocacy roles. In addition to these roles, children and young people who are victims in the criminal justice system may also be offered the support of Registered Intermediaries who will support children to provide their best evidence in court.

Despite the fact that children and young people are entitled to support under the Code when they are victims of crime, we know that not every child who needs support will meet the threshold for help from children’s social care, or will want to engage with statutory services. This leaves many children and young people without support, meaning that they may return to the system at a later date with higher risk concerns.

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<sup>88</sup> Impact on children and young people – Womens Aid, <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/impact-on-children-and-young-people/>

## What government action might address

Ensuring that children and young people get the right support at the right time is key, as we know that the more adversity a child faces, the greater likelihood of long-term impact, including risk of future harm. This is why working together to support young people who are victims of crime is a priority across government, and an approach that is mirrored on the ground as multiple agencies and bodies co-ordinate to try and best protect children, young people and their families.

We are interested in learning more about these existing roles, how they interact with adult-focused roles, and how they engage with other agencies working with children and young people.

## Questions

**Question 45:** Please comment on the training required to support advocates for children and young people. How do these differ to adult advocate training, and are there barriers that exist to accessing this?

**Question 46:** What are the barriers to effective work with children and young people in this area, and what action could the Government take to address these?

**Question 47:** What best practice is there on referral pathways for children and young people who are victims of crime looking for advocacy support, including interaction with statutory services? Are there barriers to these pathways?

**Question 48:** Would providing clarity on the roles and functions of children and young people's advocates be helpful? In your experience, are these roles broad or do they focus on specific harms and crime types that children and young people have experienced?

# Equality considerations

Section 149 of the Equality Act 2010 – the public sector equality duty – obliges ministers to have due regard when exercising their functions to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

Proportionate equality analysis should be used to consider likely impacts on people with the protected characteristics of disability, race, sex, gender reassignment, age, religion or belief, sexual orientation, pregnancy and maternity, marriage and civil partnership.

We know that there is more that we can do to make sure that all victims receive quality support from professionals across the system. Our proposals are designed to make it easier for all victims to report crimes, access support and engage with the criminal justice process.

We want to know about the impact of our proposals on people with protected characteristics. You can read more about the equalities considerations of this consultation in the equality statement.

We will provide a full equality impact assessment in response to the consultation and will consider the full impact of policy proposals on victims and other affected groups (for example, offenders in relation to the Victim Surcharge).

## Question

**Question 49:** Have we correctly identified the range and extent of the equalities impacts under this consultation in the equality statement? Please give reasons and supply evidence of further equalities impacts that are not covered as appropriate.

# **Annex A – Agencies with responsibilities to deliver services under the Victims’ Code**

The following organisations are required to deliver the Code:

- Police and Crime Commissioners
- all police forces in England and Wales, the British Transport Police and the Ministry of Defence Police
- police witness care units
- the Crown Prosecution Service
- Her Majesty’s Courts and Tribunals Service
- Her Majesty’s Prison and Probation Service
- the National Probation Service
- the Parole Board for England and Wales
- the Criminal Cases Review Commission
- the Criminal Injuries Compensation Authority
- the UK Supreme Court
- the youth offending team

Under the Code, some victims will receive a service through a combination of the service providers listed above, and other service providers including:

- the Competition and Markets Authority
- the Department for Business, Energy and Industrial Strategy (Criminal Enforcement)
- the Environment Agency
- the Financial Conduct Authority
- the Gambling Commission
- the Health and Safety Executive
- Her Majesty’s Revenue and Customs
- Home Office (Immigration Enforcement)
- the Information Commissioner’s Office
- the Independent Office for Police Conduct
- the National Crime Agency
- the National Health Service
- Natural Resources Wales
- the Office of Rail and Road
- the Serious Fraud Office

**Thank you for participating in this consultation exercise.**

# About you

Please use this section to tell us about yourself.

If you don't feel comfortable answering these questions then you may leave them blank.

<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)	<ul style="list-style-type: none"> <li>• Academics</li> <li>• Associations</li> <li>• Health or social care worker</li> <li>• Criminal justice practitioners</li> <li>• Governmental departments/agencies</li> <li>• Member of the public</li> <li>• Office of Police and Crime Commissioners</li> <li>• Police forces</li> <li>• Voluntary organisations                             <ul style="list-style-type: none"> <li>• If yes, how best describes your organisation (e.g. national, local, community, 'by and for')?</li> </ul> </li> <li>• Victims' advocate</li> <li>• Other</li> </ul>
If you are responding to this consultation exercise as a member of the public, have you been a victim of crime?	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
<b>Date</b>	
<b>Sex</b>	<ul style="list-style-type: none"> <li>• Male</li> <li>• Female</li> </ul>
<b>Is the gender you identify with the same as your sex registered at birth?</b>  This question is voluntary, so you can leave it blank if you would prefer.	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• If you answered "No", please give the term you use to describe your gender. This is also voluntary, so you can leave it blank if you prefer.</li> </ul>
<b>What part of the United Kingdom are you in?</b>	<ul style="list-style-type: none"> <li>• North East</li> <li>• North West</li> <li>• Yorkshire/Humberside</li> <li>• East Midlands</li> </ul>

	<ul style="list-style-type: none"> <li>• West Midlands</li> <li>• Wales</li> <li>• East Anglia</li> <li>• South East</li> <li>• South West</li> <li>• Greater London</li> <li>• Scotland</li> <li>• Northern Ireland</li> <li>• Other (please specify)</li> <li>• Prefer not to say</li> </ul>
<b>Age</b>	<ul style="list-style-type: none"> <li>• Under 18</li> <li>• 18-24</li> <li>• 25-34</li> <li>• 35-44</li> <li>• 45-54</li> <li>• 55-64</li> <li>• 65 and over</li> <li>• Prefer not to say</li> </ul>
<b>Ethnicity</b>	<p><b>White</b></p> <ul style="list-style-type: none"> <li>• English, Welsh, Scottish, Northern Irish or British</li> <li>• Irish</li> <li>• Gypsy or Irish Traveller</li> <li>• Any other White background</li> </ul> <p><b>Mixed or multiple ethnic groups</b></p> <ul style="list-style-type: none"> <li>• White and Black Caribbean</li> <li>• White and Black African</li> <li>• White and Asian</li> <li>• Any other mixed or multiple ethnic background</li> </ul> <p><b>Asian or Asian British</b></p> <ul style="list-style-type: none"> <li>• Indian</li> <li>• Pakistani</li> <li>• Bangladeshi</li> <li>• Chinese</li> <li>• Any other Asian background</li> </ul> <p><b>Black, African, Caribbean or Black British</b></p> <ul style="list-style-type: none"> <li>• African</li> <li>• Caribbean</li> <li>• Any other Black, African or Caribbean background</li> </ul>

	<p><b>Other ethnic group</b></p> <ul style="list-style-type: none"> <li>• Arab</li> <li>• Any other ethnic group</li> <li>• Prefer not to say</li> </ul>
<p><b>Are you part of a religious group?</b></p>	<ul style="list-style-type: none"> <li>• No religion</li> <li>• Christian</li> <li>• Buddhist</li> <li>• Hindu</li> <li>• Jewish</li> <li>• Muslim</li> <li>• Sikh</li> <li>• Any other religion</li> <li>• Prefer not to say</li> </ul>
<p><b>How would you describe your sexual orientation?</b></p>	<ul style="list-style-type: none"> <li>• Heterosexual or straight</li> <li>• Gay or lesbian</li> <li>• Bisexual</li> <li>• Other</li> <li>• Do not know/ prefer not to say</li> </ul>
<p><b>Do you have a disability?</b></p>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
<p><b>Are you married or in a civil partnership?</b></p>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
<p><b>Company name/organisation</b> (if applicable):</p>	
<p>If you would like us to acknowledge receipt of your response, please tick this box</p>	<input type="checkbox"/> (Please tick box)
<p>Address to which the acknowledgement should be sent, if different from above</p>	

**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 send your response by 3 February 2022 to:

**Victim and Witness Policy and Strategy Team**

Ministry of Justice

Family and Criminal Justice Policy Directorate

102 Petty France

London SW1H 9AJ

**Email:** [victimsbillconsultation@justice.gov.uk](mailto:victimsbillconsultation@justice.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 online at <https://consult.justice.gov.uk/>

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

### Publication of response

A paper summarising the responses to this consultation will be published in due course. The response paper will be available online 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 UK 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 Cabinet Office Consultation Principles 2018, which can be found here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691383/Consultation\\_Principles\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf)

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