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**Improving the Code of Practice for Victims of Crime Consultation – a response from the Institute for Criminal Policy Research.**

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We welcome the opportunity to respond to the ‘Improving the Code of Practice for Victims of Crime’ consultation.

**About Us**

The Institute for Criminal Policy Research (ICPR) carries out multi-disciplinary research into all aspects of crime and criminal justice. Our aim is to improve criminal justice policy and to contribute to academic knowledge and public debate about crime and criminal justice. Our audiences include policy-makers and their advisors, practitioners, academics and the wider public.

We have recently completed an Economic and Social Research Council (ESRC) funded study into victims’, witnesses’ and defendants’ experiences of the Crown Court. The study was conducted between February 2011 and September 2012 in two Crown Court centres in England. As part of the study we conducted in-depth interviews with 45 prosecution witnesses, of whom 15 were also direct victims of the offence. In addition to this we conducted interviews with over 50 criminal justice professionals (including judges, barristers, CPS advocates and Victim Support volunteers); observed trials and sentencing hearings in two Crown Courts; and interviewed defendants. We will be publishing a policy report of the findings in conjunction with *Victim Support* this summer.

ICPR is also engaged in two restorative justice evaluations on behalf of *Restorative Solutions*, one of which focuses on pre-sentence restorative justice; the other is of the impact of restorative justice training.

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### **Restructuring the Victims' Code (questions 1-3)**

ICPR welcomes the re-structuring of the Code and agrees that the current code is process oriented and not user-friendly. Many victims will be unfamiliar with the criminal justice process (the majority of victims and witnesses in our study had never been in a court before) and the Code should reflect this. We are concerned that some victims may find the flowchart 'A victim's journey through the Criminal Justice System' overly detailed and therefore somewhat confusing. A simpler flow diagram, with additional details provided in a supplementary chart, would be better.

While victims may say that they do not require information, support and advice from the state, restricting the type of victims who are eligible to be automatically referred to victims' services may mean that the needs of some victims are missed. We would suggest that the police *offer* to refer all victims to victims' services, rather than imposing a requirement on those who fall outside the categories of 'most serious crimes', 'persistently targeted' and 'vulnerable or intimidated' to request that they are referred. If the three categories are to remain then they need to be more fully explained so that victims are aware whether or not they fall into one or more of the categories; otherwise how do victims know which crimes fall into the 'most serious crime' category?

### **The role of Police and Crime Commissioners (question 4)**

As Police and Crime Commissioners (PCCs) will assume responsibility for delivering victims' services, we feel that they should have clear duties in the revised Code. Possible areas where PCCs have a role to fulfil include providing information to victims on how to access support and assisting victims with accessing the complaints process.

### **Victim Personal Statements (questions 5 and 26)**

We welcome the move to include the Victim Personal Statement (VPS) in the revised Victims' Code. Consistent with the findings of other research on this topic,<sup>1</sup> we found that not all our victim interviewees knew whether they had been offered the opportunity to make a VPS, or understood how the statement had been or could have been used.

Our findings show that more clarity is required about the role of VPSs. Victims need to be clearly informed about when such a statement is being taken and how it may be used in court; equally, criminal justice professionals need to be better informed about the format of these statements and how and when they are taken and can potentially be used.

The difference between making an evidential statement and a VPS should be made clear to victims by the police at the earliest possible stage of the investigation process, as we have found that some victims make several different statements to the police at this early stage and are sometimes unsure about whether or not they have made a VPS. For this reason it may be useful for civil society organisations to be contracted to take the VPS on behalf of the police. This would make clear the distinction between evidential statements and VPSs and may help to address concerns aired by some of the professionals we interviewed about VPSs being written using police terminology rather than in a victim's own words.

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<sup>1</sup> Only 43% of victims and witnesses in the final Witness and Victim Experience Survey (WAVES) recalled being offered the opportunity to make a VPS (Franklyn, 2012). See also Commissioner for Victims and Witnesses in England and Wales (2011) and Roberts and Manikis (2011).

There needs to be more clarity about the extent to which and ways in which judges and other criminal justice professionals take these statements into account. We suggest that victims are informed by the Witness Care Unit if their VPS is referred to or read out at the sentencing hearing.

### **Restorative Justice (questions 11-13)**

In our view, restorative justice (RJ) should be included in the Victims' Code in relation to *all* offenders, including young offenders and young adult offenders. The youth conferencing system in Northern Ireland, in which RJ conferences are widely available for victims of youth crime, is one example of RJ working well with under-18s. Victim satisfaction rates and offender compliance with RJ plans is consistently high.<sup>2</sup>

Including the section on RJ in the revised Code is a step in the right direction towards improving victim awareness of RJ and their entitlement to RJ. However, if victim awareness of RJ is to be increased via the Code, providers/police need to be more proactive in alerting victims to the existence of the Code, as well as of RJ and their entitlements regarding access to RJ information. While including the RJ section in the Code is a welcome reform, further action needs to be taken if this is to help to increase in the uptake of RJ. This might include police proactively informing victims about the Code and RJ, and investing in RJ to ensure that it is better available to victims.

### **Complaints under the Code (questions 14-16)**

We are pleased that the new Code seeks to ensure that complaints are dealt with more effectively, however we are concerned that the proposals outlined will not be able to deliver effective redress to victims. The proposals outlined in the Draft Code remain vague, and while we appreciate the concern about information becoming very quickly out of date, we think that the new Code should aim to provide more practical guidance that will help victims to complain as quickly and simply as possible. It may be beneficial, for example, for PCCs to have a role in the complaints process. We would suggest that there is a single point of contact for victims who wish to complain, and that this contact has overall responsibility for following the complaint through the system.

### **Children and Young People (questions 17-19)**

We welcome the introduction of a dedicated section of the Code for children and young people and agree that the duties set out towards them are correct; however it may be more beneficial if this section took a different format. While the language has been simplified, greater efforts could be made to ensure that the Code is accessible to children and young people. The section is still very dense and therefore the production of an EasyRead guide (as outlined in the consultation) which encompasses visual aids to break the process down would be very beneficial. Also, because the Code covers children up to the age of 18, there will be vast differences in comprehension and reading ability. One way to resolve this is to provide two sections; one for children (aged 12 and under) and one for young people (aged

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<sup>2</sup> DOJNI (2011) A Review of the Youth Justice System in Northern Ireland, Belfast: DOJNI

13-18). It may be useful for this section of the Code to be in an interactive web-based format, rather than a word heavy document.

Ensuring that children and young people are able to access the Code easily is very important given that they may have certain emotional needs and responses to victimisation that can differ from those of adults; for example, they may feel embarrassed about the prospects of their peers knowing that they have been victims of crime, and maybe particularly fearful about the possibilities of bullying and intimidation following the reporting of an offence.

### **Communication and dissemination (question 20)**

Communication and dissemination of the revised Code is vital; none of the 45 victims and witnesses interviewed in our study directly referred to the current Code. The approach to communication and dissemination could have two strands:

- 1) Communication to criminal justice agencies and professionals (including the police, PCCs, Witness Care Units, lawyers and the judiciary): criminal justice agencies and professionals should be alerted to and engaged with the new Code in order for it to be effective. All stakeholders such as these should be made aware of the new Code and its importance, in order for the benefits of the Code to filter down to victims of crime. Conferences and workshops should be held for all stakeholders in order to disseminate and explain the new Code.
- 2) Communication to victims and victims' organisations: the second tier of the communication strategy would be to fully engage victims with the revised Code. The Code should be made available to victims in a variety of locations including police stations and Witness Service offices at Crown and magistrates' courts. The Code should be published widely online and through social media, for example on government and victims' services websites and Twitter accounts. Efforts should be made to engage victims' organisations with the new Code as they are ideally placed to explain the entitlements afforded in the Code to victims. As the draft Code is quite long (59 pages), it may also be beneficial to disseminate a summary version which succinctly sets out the main entitlements for victims.

### **Other points**

Given the stress experienced by many witnesses during the course of giving evidence, we feel that victims should be afforded more entitlements when they are giving evidence in court. The Witness Charter outlines what witnesses can expect when they are giving evidence but at present victims and witnesses have few rights at this stage. For example, the new Code jumps from outlining victims' entitlements when waiting to give evidence to their entitlements following the trial. We understand that this may be difficult to achieve due to the adversarial nature of the criminal justice system, however there are 'softer' ways in which their role can be given more recognition. For example, legal concepts such as the

burden of proof and 'reasonable doubt' should be explained to victims in the way that that are explained to juries at the beginning of trials. Cross-examination will always be nerve-racking, but fears can be reduced where witnesses know what to expect and are reassured that it is not a personal attack but an integral and necessary part of the court process. If improvements such as these are to be achieved, there needs to be more clarity about whose role it is to provide this information.

Finally, we would welcome a chance to comment upon the revised version of the Witness Charter as we have considerable knowledge to share about the real-life experiences of victims and witnesses at court.

## **References**

Commissioner for Victims and Witnesses (2011) *Victims' Views of Court and Sentencing: Qualitative Research with WAVES victims*, London: Ministry of Justice.

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