



## Consultation on the Draft Code of Practice for Victims of Crime

### Introduction

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective prison system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for prisoners and their families.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- Improving treatment and conditions for prisoners and their families.

[www.prisonreformtrust.org.uk](http://www.prisonreformtrust.org.uk)

We welcome the opportunity to respond to this consultation. We have limited our answers to the questions that relate to our work.

Questions on the proposals:

**Q1. Do you agree with our proposal to amend the definition of a victim entitled to services under the Code so that victims of any criminal offence become eligible rather than victims of crimes notifiable under the National Crime Recording Standards (NCRS)? Q2. Please give your reasons to your response in Q.1**

Although we support the intention behind the proposals our concern is whether already stretched criminal justice agencies can cover the potential workload. The rights stipulated under the Code are considerable and the number of people the code will now cover will increase. More people will have the right to a written report from the police, a referral to Victim Support and to read out their statements in court. We are not clear how these rights can be facilitated in practice without additional resources.

**Q3. Should any more organisations be added to paragraph 8 of the Introduction to the Code because they are competent authorities for the purposes of the Directive? Q4. If yes, what organisations should be added?**

We are unclear about the status of Community Rehabilitation Companies (CRCs) in the proposed new arrangements. The proposal is that the definition of victim is widened (for the purposes of the Victims' Code), to cover victims of any criminal offence. We would therefore expect the work of the CRCs to be relevant. It would be helpful to clarify the responsibilities/potential responsibilities of CRCs under the new code. If all victim services are to be covered by the National Probation

Service, then there must still be additional duties on CRCs to provide information and updates to the National Probation Service.

The revision of the Victims' Code also presents an opportunity to review procedures and services for victims of crimes carried out in prison. Assaults and victimisation in prison remain high. The recent annual report from the Chief Inspector of prisons found that over the last year there were over 300 assaults a week on prisoners and more than 40 of them were serious. A blunt instrument or blade were the most common weapons. In addition in an average week, there were about 70 assaults on staff and nine of them were serious, and four prisoners were murdered during the year.

In theory, victims, regardless of whether they are staff or prisoners, are entitled to services under the Victims' Code. However, in practice, prisoners are not always given the opportunity to report crimes committed against them whilst in prison and consequently are unable to access victims' services. There is currently inequitable provision for prisoners. NOMS, the police and CPS have duties to comply with their responsibilities as set out in the Code of Practice for Victims of Crime. The implementation and operation of these duties need far greater oversight. The process should be monitored and data around the numbers of victims receiving services in prison should be publically available.

Prison staff also needs greater awareness of the rights prisoners can access under the Victims' Code. This would ensure they assist prisoners to report incidents to the police when the victim has requested to do this. We are aware that in some situations, where the circumstances of the crime meet certain criteria and the circumstances are sufficiently serious, the prison must report the crime to the police, even without the victims consent. We are concerned that appropriate safeguarding does not always take place in these situations. It would be particularly useful for victims services to be made available in these cases, as the victim may not feel able to access support from prison staff. Provision of victim services in prisons would support this process, provide advice and advocacy both for prisoners and staff and enable prisoners to access their rights as victims.

**Q7. To comply with the Directive, have we imposed the right duties on the additional service providers in Chapter 5 of the Code? Q8. If not, what should we add or amend?**

No. If victims are entitled to receive information about the criminal justice system, and the aim of the European Directive is to protect the rights of victims across Europe, then the Victims' Code and the information leaflet should be provided in EEA languages. We understand that 'information about the availability' of interpretation and translations services is an entitlement. This entitlement is only meaningful if information is provided in other languages.

**Q10. Do we need to make any other amendments to the Code to implement the Directive? Q11. If yes, what amendments need to be made?**

The European Directive refers to further established protection for specific groups of victims, including victims of human trafficking. The review of the code therefore presents an opportunity to proactively attempt to identify, engage with and provide support for victims of trafficking in prison. We do not know how many people in prison have been trafficked. People who have been the victims of abuse may be reluctant to talk about their experiences to police, courts or prison staff. People who have acted under pressure, with threats made against their family are unlikely to provide information from a prison cell. At the moment, the legal system is not good at recognising when people have been coerced into committing crimes. Too often it is the victims of human

trafficking, instead of the person responsible for the trafficking, who end up being prosecuted and imprisoned. We need to recognise that people commit offences because they have been intimidated or threatened with violence. Not only is protection a human right for victims but enforcement processes against traffickers are less effective without the evidence and participation of victims. This will only happen in a system that victims trust and that offers adequate support.

Secondly, the Victims' Code would be more effective if it created an entitlement for all victims to be considered for participation in a restorative justice scheme. At the moment there is an entitlement to 'information about restorative justice schemes'. Provision is patchy and this entitlement is not relevant in an area where restorative justice is not established. A Victim Support Survey showed that less than one per cent of victims of adult crime currently have access to restorative justice. A Home Office research study showed that:

- Most victims agreed to participate in a face to face meeting with the offender;
- 85 per cent of victims said they were satisfied with the process;
- Participation in restorative justice reduced the frequency of re-offending by 14%.

Restorative justice brings victims and offenders into communication, so that victims can tell offenders the impact of their crime and receive an apology; and so that offenders take responsibility and make amends. While resources have been made available for more restorative justice projects, it is not established nationally and we would like to see this embedded in all criminal justice agencies across the UK.

Questions on the Equalities Statement

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

Yes, but more consideration needs to be given to provision of services in different languages. The Directive explicitly mentions language and nationality, although these are not protected characteristics under domestic legislation.

Questions on the Impact Assessment

**Q14. Do you think we have adequately assessed the impacts of our proposals in the impact assessment? Q15. If not, are you aware of any evidence or sources of information that will help us to understand and assess impacts further? Please supply the evidence. What is the effect of this evidence on our proposals?**

No, we believe that the resources implications have potentially been underestimated. The impact assessment states that by covering all victims of crime, it is expected that there will be modest extra resource costs for the police in providing support to more victims but we believe that the number of additional victims receiving support in practice will be small, so it is believed the additional costs to the police will be low. However, this appears to be based on what happens now when victims outside of the code are offered services on a discretionary basis. This may change when it is a statutory entitlement.

Secondly, we understand that victims may currently access services commissioned by PCCs to help them cope and recover, without the need to report a crime. We believe that it is impossible to quantify the potential resource impact of extending this to all victims. We understand that this is

current practice, but in light of public awareness and media coverage of child sexual exploitation, historic sexual abuse (crimes less likely to be reported) alongside cuts in voluntary sector support services we expect that these services may be needed more. An article in the Guardian (11<sup>th</sup> August 2015) states that up to 10,000 victims of sexual abuse are estimated to be waiting more than a year for counselling, with thousands potentially never receiving treatment, due to a funding crisis gripping specialist charities across the UK. Data from the NHS and voluntary sector organisations about the number of people seeking support following a crime would help to develop a more accurate picture of need. This is particularly important as the European Directive refers to legislation that established additional support and protections for victims of child sexual exploitation and child pornography.

Thirdly, we believe the provision of a meaningful service to prisoner victims will pose logistical and practical issues, including the careful selection and appropriate training of those who deliver the service. This will have a resource consequence that is different and in addition to the resource consequence of the general widening of the criteria for assistance.

Lastly any of the organisations being added to the Victims' Code will have new responsibilities and this will not be cost neutral.

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