

The logo for the Prison Reform Trust, consisting of the words "PRISON REFORM TRUST" in white, uppercase, sans-serif font, stacked vertically on a dark red rectangular background.

PRISON
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PRISON REFORM TRUST RESPONSE TO

Getting it right for victims and witnesses

The Prison Reform Trust 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.

N.B. In completing this response the Prison Reform Trust has confined itself to topics in which it has some expertise and experience.

Introduction - the case for change

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Dates: Consultation is Open - Runs from 30 Jan 2012 to 22 Apr 2012)

1 Are there groups of victims that should be prioritised that are not covered by the definitions of victims of serious crimes, those who are persistently targeted and the most vulnerable? If so, can you provide evidence of why they should be prioritised and what support needs they would have?

Prisoners, former prisoners and ex-offenders should receive the same services as those who have not been convicted of offences. This principle of equivalence is fundamental in a just and humane criminal justice system.

If it is decided, as the consultation paper suggests (section 35), that *'Victim services should be targeted at those who have suffered the greatest impact from crime, including victims of serious crimes, those who are persistently targeted, and the most vulnerable'*, then victim services should be available to prisoners who fall within these criteria.

For example, research undertaken by the Prison Reform Trust showed that prisoners with learning disabilities and difficulties were almost twice as likely to be subjected to bullying and 'harm' as were prisoners without such impairments ([Prisoners Voices – Experiences of the criminal justice system by prisoners with learning disabilities and difficulties](#)).

It is a matter of concern that there is no systematic referral to the police when an offence happens in prison and the victim is a prisoner, unless the offence is extremely serious. Currently no support is available from victim services for people who are victims in prison.

It should also be noted that many people who have been coerced or trafficked into criminal behaviour are in prison either on remand or serving a sentence. As the report [No Way Out](#), published by Hibiscus and the Prison Reform Trust makes clear, they should be dealt with humanely and appropriately. For the majority this would mean being recognised as victims and being afforded support and protection. Those foreign nationals who are shown to be culpable, with little mitigation should usually be repatriated to a prison in their own country.

Ministry of Justice figures show that, while most women in prison are serving short sentences for non-violent offences, very many have been victims of serious crime such as rape, sexual assault and domestic violence.

A comprehensive survey of children in custody [Punishing Disadvantage](#) produced by ICPR and published by the Prison Reform Trust indicated that high numbers of children and young people in custody had themselves been victims of crime, abuse and neglect.

Part 1 - Supporting victims to cope and recover

4 Is a mixture of locally-led and national commissioning the best way to commission support services for victims of crime?

Victim Support has, in recent years, overcome major obstacles to create successfully a national network of services. Care should be taken to avoid fragmentation and a loss of a consistent application of agreed standards. The present arrangement also allows for the easy transfer of information when a victim moves to a different area.

5 Should police and crime commissioners be responsible for commissioning victim support services at a local level? Who else could commission support services?

The Prison Reform Trust would, for the reasons expressed in 4 above, prefer to see the provision of services by Victim Support strengthened by increased funding and by retaining current arrangements for commissioning.

6 Who do you think should commission those services at a national level?

The current arrangements for funding and supporting Victim Support should be the basis for future service provision, as explained in 4 above.

7 Which services do you think should be commissioned at a national level?

See 4 above.

8 Should there be a set of minimum entitlements for victims of serious crimes, those who are persistently targeted and the most vulnerable?

Yes.

9 Is there further support that we need to put in place for victims of terrorism, and bereaved family members affected by such incidents, to help them cope and recover?

Services should continue to evolve through learning from the experiences of victims and their families.

Part 1 - Supporting victims and witnesses through the criminal justice process

10 How could the Victims' Code be changed to provide a more effective and flexible approach to helping victims?

The penultimate principle should be strengthened to read:

- *Victims have the right to ask to participate in restorative justice at any stage in the criminal justice process and arrangements should be in place to facilitate this.*

11 What do you think of the proposed principles for the new Code?

The Prison Reform Trust welcomes the introduction of principles to underpin the new code.

12 Are there additional needs for bereaved relatives which should be reflected in a new Victims' Code?

Bereaved relatives should also be entitled to ask to participate in restorative justice at any stage in the criminal justice process. There is considerable concern about delays in inquests. It should be recognised that in regard to the needs of bereaved relatives, inquests should be conducted in a timely manner.

16 How could our existing processes be changed so that Victim Personal Statements are taken into account in sentencing and at other stages of a case, as appropriate?

A Victim Personal Statement will usually have far more impact on the defendant if it is given as part of a restorative justice process. Offenders will sometimes say that statements read out by legal representatives or officials as part of the court process are the equivalent of 'water off a duck's back'. Hearing directly from a victim of the effect of a crime on them and those close to them is more likely to cause an offender to take responsibility for their behaviour and work to make amends.

Part 1 - Restoration and reparation

19 What measures could be put in place to ensure the safety of the victim when undertaking restorative justice?

Restorative justice should be integrated at each stage of the criminal justice process, with public servants having a duty to raise awareness of the opportunities and to facilitate the process. At each stage the well-being and particular support needs of *all* participants in the restorative justice process should be the primary concern. High numbers of offenders – and many victims – will have impairments that, if left unrecognised and unsupported, will compromise the restorative process. For example, 60% of children who offend and 10% of children in the general population have communication difficulties; between 5 and 10% of the adult offender population has a significant learning disability compared to 2% of the general population; while almost a quarter of children who offend have very low IQs of less than 70, which affects their level of communication and comprehension. This requires trained and qualified workers to guide the process with particular emphasis on the planning and follow-up phases. The timing of restorative justice should be for the victim to decide, with their feelings of safety and readiness for the encounter taking precedence wherever possible over other considerations.

20 How can we change attitudes and behaviour towards reparation and demonstrate how reparative outcomes can be achieved in innovative ways?

The public is more receptive to reparation than the consultation paper would suggest. In summer 2011, one month after the disturbances, the Prison Reform Trust commissioned an ICM telephone poll of 1,000 members of the public across Great Britain. The key findings from the briefing paper ['Public want offenders to make amends'](#) were:

- *An overwhelming majority of the public (94%) want people who have committed offences such as theft or vandalism to be required to do unpaid work in the community as part of their sentence to pay back for what they have done*
- *Nearly nine out of 10 people (88%) agree that victims of theft and vandalism should be given the opportunity to inform offenders of the harm and distress they have caused*
- *Almost three quarters (71%) believe victims should have a say in how the offender can best make amends for the harm they have caused*
- *Offered a range of measures to prevent crime and disorder, most people (84%) consider that better supervision of young people by parents would be effective*
- *There was widespread support for 'better mental health care' (80%); 'making amends to victims' (79%); 'unpaid community work' (76%); and 'treatment to tackle drug addiction' (74%). Less than two-thirds (65%) consider that a prison sentence would be effective in preventing crime and disorder.*

Victim Surcharge: questions 21 – 32:

The Prison Reform Trust supports constructive ways for offenders to make amends to victims. If a Victim Surcharge is to be introduced it will need to be fair, proportionate and determined at the time of sentence. Prisoners should in turn receive reasonable pay for work undertaken whilst serving a sentence, and adequate provision for those unable to work through illness, age or disability.

Financial reparation is likely to have more impact on an offender if it is given on a voluntary basis as part of a restorative justice process. The surcharge as proposed is highly unlikely to prompt feelings in an individual of having made some amends for the crime(s) committed, damage done and distress caused.

The current reality of prison life and economic considerations mean that many prisoners will continue to receive very limited wages. The Prison Reform Trust would suggest that Government examine the concept of 'payback' hours or a local community 'time bank' scheme. This could be developed with a charity and would allow people in prison to contribute to the community in kind, rather than being restricted to a somewhat detached financial arrangement. The Butler Trust Award citation in 2009 for the Castlemilk Community Timebank Team stated:

"The team at HMP Shotts have developed links with a local community "time Bank" in which people can exchange their time and skills with others, without money changing hands. Prisoners' time spent in voluntary work (such as Listeners) is "banked" on behalf of the elderly and infirm so that they can "buy" help from other members of the scheme."

The current deductions from earnings provisions are not applied if a person in prison will be working for less than a month, because it is too expensive administratively. The consultation does not make clear the costs of deducting a surcharge from a prisoner's wages.

The Prison Reform Trust has, together with UNLOCK published a report [Time is Money](#) detailing the financial problems faced by prisoners and former offenders.

Prisoner pay has remained at the same level for more than a decade. A one-off survey of prisoner pay was conducted in 2007 and found that the average rate of pay for activity inside prisons was £9.60 per week. In 2008 the Prime Minister Gordon Brown blocked a planned increase. When the idea of a Victim Surcharge was first announced in 2010, it was alongside a statement from the Secretary of State for Justice that inmates will effectively be required to do full-time jobs in jail and in exchange they will earn a "real" wage, a portion of which would be withheld and paid to victims' support funds.

The first three months of moving in to the community are a key time for resettlement and the time when most reoffending happens. The government's [Social Exclusion Unit Report in 2002](#) stated 'Not having enough money is likely to increase the danger of a prisoner reoffending within the first few weeks after release.'

Although the discharge grant (provided to eligible people by the prison service) was introduced to cover the benefit gap, it doesn't. The discharge grant is £46 (for people over

25) and £37 (for those between 18 and 24). The rates were set in 1995. There are also many prisoners that are ineligible for the discharge grant, such as those released from remand, fine defaulters and those serving less than 15 days.

The discharge grant is currently the sum total of financial support people will receive on leaving prison. Despite the assumed safety net of the discharge grant and the social fund, people leaving prison are often left without financial support.

There is widespread agreement that benefits should be available from the day of release. The current system is inadequate and counterproductive. The insufficient discharge grant can force people leaving prison into debt and reliance on the crisis loan system. Additionally, Job Seekers Allowance claims create particular problems as it is paid in arrears and preceded by 3 waiting days. This results in claimants getting their first payment after 17 days, at the earliest. New arrangements for the JSA and the Work Programme are being piloted. We would expect the roll out to take full account of the findings.

The Department for Work and Pensions should initiate a new system which ensures that the application process for benefits, including pensions, disability benefits and all income based benefits is completed while the person is in custody.

Living without any money is difficult for anyone. For people leaving prison, who may not have social networks they can call on for personal loans, and are highly unlikely to be able to source credit, they are in a very difficult position. This situation is clearly not conducive to encouraging a crime free life style and re-offending rates on release bear this out.

Alongside the Social Exclusion Unit, other research such as [Locked up Potential](#) the report from the Centre for Social Justice and [Locked Out](#) from the Citizens Advice Bureau also recognised that delays in processing benefits means that many discharged people received no financial support when they most needed this. People leaving custody do not always have sufficient funds to maintain themselves, much less deal with existing debts and creditors, particularly whilst looking for work or waiting for benefits.

30 Should offenders be required to pay the Victim Surcharge whilst in prison?

It has to be made possible for all prisoners to be able to make the payments. This would require prisoners to be paid a “real” wage, as envisaged when the Victim Surcharge was first announced by the Secretary of State for Justice in October 2010. The Prison Reform Trust has also stated (page 5 above) that financial reparation is likely to have more impact on an offender if it is given on a voluntary basis as part of a restorative justice process. A further recommendation is that Government examine the concept of ‘payback’ hours or a local community ‘time bank’ scheme, which could be developed with a charity and would allow people in prison to contribute to the community in kind, rather than being restricted to a somewhat detached financial arrangement.

31 Should the Surcharge be extended to the full range of disposals for juvenile offenders?

The Prison Reform Trust is opposed in principle to the extension of the Victim Surcharge to disposals given to children who offend, for several reasons. Children who offend are unlikely to have the means to pay a surcharge themselves, and it is likely that such payments would invariably fall to their parents. [Punishing Disadvantage](#), for example, found that half of children in custody were living in deprived households (e.g. dependent on benefits) and/or in unsuitable accommodation before their imprisonment. [Care – a stepping stone to custody?](#), based on interviews with looked after children, found that lack of funds to meet their basic needs (such as food, clothing, and toiletries) was a driver to offending for some young people.

We believe restorative justice provides a more appropriate means for young offenders to take responsibility for their actions, make amends to their victims and contribute to putting right the harm they have caused. In some instances, financial reparation may well form part of the plan of action agreed during the restorative process, though this is unlikely in conferences involving younger children, or where the child themselves has no income. The Prison Reform Trust would, however, view such a 'surcharge' positively, because of the restorative process involved in reaching a mutual agreement.

The introduction, in 2003, of youth conferencing in Northern Ireland provides a model which could be replicated here. Our report, [Making Amends: restorative youth justice in Northern Ireland](#) has shown that youth conferencing delivered a reduction in the number of children sentenced to custody and significantly lower reoffending rates than other disposals. Crucially, victims have been present in the majority of conferences, with 89% expressing satisfaction with outcomes and 90% saying they would recommend it to a friend. Activities, an apology, reparation and unpaid work have been the most popular components of agreed conference plans, though compensation payments featured in nearly 1 in 5 conferences.

32 Should the Surcharge for juvenile offenders be set at three levels: £10 for conditional discharges; £15 for fines and community sentences; and £20 for custody of any length?

Please see our response to the previous question. In addition, we would also note that, in contrast to adults, children in custody are unlikely to be in paid employment and will therefore not be in a position to accrue funds to pay a £20 surcharge.

Part 2 – Compensation for victims of violent crime in Great Britain and victims of terrorism overseas: Eligibility

41 What are your views on the options for limiting eligibility to the scheme for those with unspent convictions: Option A, our preferred option, to exclude from the Scheme all those with unspent criminal convictions? Or Option B, to exclude those with unspent criminal convictions for offences that could lead to an award under the Scheme (i.e. violent and sexual crimes) with a discretion to withhold or reduce an award in the case of other unspent convictions?

As is stated in response to question 1, prisoners, former prisoners and ex-offenders should receive the same services as those who have not been convicted of offences. This principle of equivalence is fundamental in a just and humane criminal justice system and in wider society.

The Prison Reform Trust is wholly opposed to any restrictions imposed in relation to an applicant's unspent previous convictions. This is an example of double punishment meted out to offenders. It is unjust and offensive and would be counterproductive in meeting the professed aims of the 'rehabilitation revolution'.
