

Title: Improving the code of practice for victims of crime IA No: MOJ187 Lead department or agency: Ministry of Justice Other departments or agencies: Police forces in England and Wales, British Transport Police and the Ministry of Defence Police, Crown Prosecution Service, Her Majesty's Court and Tribunals Service, Parole Board, HM Prison Service, Probation Service, Youth Offending Teams, Joint Police / Crown Prosecution Service Witness Care Units, National Offender Management Service, The Criminal Cases Review Commission, Criminal Injuries Compensation Authority, First Tier Tribunal (Criminal Injuries Compensation), formerly known as the Criminal Injuries Compensation Appeal Panel, UK Border Agency	Impact Assessment (IA)	
	IA No: MOJ187	
	Date: February 2013	
	Stage: Consultation	
	Source of intervention: Domestic	
Type of measure: Other		
Contact for enquiries: Tim Charlton (0203 334 5180; tim.charlton@justice.gsi.gov.uk) and Hannah Meyer (0203 334 2863; hannah.meyer@justice.gsi.gov.uk)		
Summary: Intervention and Options	RPC Opinion: AMBER	

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as	
Not Quantified (NQ)	NQ	NQ	Out of scope	N/A	

What is the problem under consideration? Why is government intervention necessary?

The Code of Practice for Victims of Crime (Victims' Code) sets out how victims should be treated by the criminal justice system. Presently the Code is not a very accessible document for victims. The Government is consulting on how to revise the Victims' Code so that victims are clear about the services they are entitled to receive from criminal justice agencies under the Code and so that agencies can better tailor services to individual needs. Only the Government can revise the Victims' Code under section 32 of the Domestic Violence, Crime and Victims Act 2004 and this is the first time that the Victims' Code has been revised since its introduction.

Victims and the public at large need to have confidence in the system. There is a link between victims' satisfaction and confidence with the criminal justice system and their willingness to engage with the system in the future. By revising the Victims' Code to make it more user-friendly and by improving the transparency of the complaints process, the Government aims to improve victim confidence and engagement.

Victims do not currently have a loud enough voice in the criminal justice process and anecdotally victims and witnesses often feel that they are accessories in the criminal justice system (CJS). The Government aims to strengthen the voice of victims in the criminal justice system. The Victim Personal Statement (VPS) will be included in the Victims' Code for the first time. All victims will be entitled to make a VPS at the same time as they make an evidential witness statement.

The Government is revising the Code as part of its wider domestic policy strategy to reform the CJS and to improve services and support to victims and witnesses. The revised Code will also transpose part of the EU Directive establishing minimum standards on the rights, support and protection of victims of crime, which is due to come into force on 16 November 2015 along with part of the EU Directives on human trafficking and on child sexual exploitation

What are the policy objectives and the intended effects?

To improve victims' experience of, and satisfaction with, the criminal justice system.

To make the criminal justice system easier to understand for victims of crime by creating a set of clear entitlements of what victims can expect from the services provided by criminal justice agencies at each stage of the criminal justice process. The level of such services will vary according to need.

To provide an enhanced level of service for victims of serious crime, vulnerable and intimidated victims (including all victims who are under 18 years of age) and the most persistently targeted and to allow criminal justice agencies to tailor and focus services to those most in need.

To provide an entitlement enabling all victims of criminal conduct who make an evidential witness statement and all victims in the three groups listed above (victims of serious crime, vulnerable and intimidated victims and the most persistently targeted) to make a VPS, giving them a stronger voice in the criminal justice process. Businesses will also be able to make an Impact Statement to explain the impact a crime has had upon them.

To create a more transparent, user-friendly and effective process of registering complaints for victims of crime.

To signpost and offer information on Restorative Justice (RJ) to victims, where available. This information on RJ will be provided to victims of adult offenders for the first time.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following options have been considered:

Option 0: Do Nothing. Continue with the current set of obligations.

Option 1: Implementing the revised Code of Practice for Victims of Crime:

- (a) The Code will be rewritten in a more user-friendly style, structured around the criminal justice process, so that victims can better understand how the system works and what they are entitled to at each stage. The Victims' Code will be revised to provide a tailored and flexible service to all victims and an enhanced service to three categories of victims, namely victims of serious crime, vulnerable and intimidated victims (including a separate section for children under the age of 18) and the most persistently targeted. Agencies will need to carry out effective needs assessments to identify which victims fall into the three categories, and assess what level of support the victim requires accordingly. Victims will also have the opportunity to withdraw from services provided if they no longer need them, or opt back in at a later stage if they previously declined services.
- (b) Reforms to the Victim Personal Statement (VPS): requiring the VPS to be offered to all victims who give an evidential witness statement and all victims in the three groups listed above (victims of serious crime, vulnerable and intimidated victims and the most persistently targeted); expanding the number of bodies able to take a VPS from victims to include voluntary organisations.
- (c) Rewriting the victims' complaints process in order to create a more clear and effective process of registering complaints for victims of crime. CJS agencies will have a duty to a) provide victims with a clearly defined complaints procedure (contact, progression, time frame); and b) provide a substantive response to the complaint. For the first time, if an agency receives a complaint which should be dealt with by a different agency, there will be a duty on the receiving agency to ensure that the complaint reaches the right agency. The victim would also have the option to refer their complaint through the Parliamentary and Health Service Ombudsman via their local MP if they are not satisfied with the outcome of the complaint which they have received through the internal complaints procedure of an agency..
- (d) The Code will include a separate section on Restorative Justice (RJ) for victims of adult offenders for the first time. The current Code provides information on RJ for victims of youth offenders only. This will explain to victims what RJ is in simple terms and its potential availability both before and after criminal proceedings have taken place, with a concurrent duty that the police, Witness Care Units, Youth Offending Teams and victim support organisations should signpost and offer information on RJ to victims, where available.

The preferred option is Option 1.

Following this public consultation, any changes will be made by laying a revised Victims' Code of Practice before Parliament under Section 32 of the Domestic Violence, Crime and Victims Act 2004. A statutory instrument will be laid to bring the revised Code into force.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 04/2015

Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option 1(a)

Description: Revising the Victims' Code to ensure a flexible service which responds to the particular needs of all victims and an enhanced service to victims of serious crime, vulnerable and intimidated victims and the most persistently targeted.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised costs by 'main affected groups'

None

Other key non-monetised costs by 'main affected groups'

Criminal justice agencies may be required to undertake internal reviews and assessments of current procedures and potentially adapt to a new system, which may result in transitional costs.

The police and Witness Care Units will be required to amend their needs assessments to ensure they are compliant with the Code in order to identify victims of the most serious crime and the most persistently targeted victims as well as the vulnerable and intimidated victims, with a possibility that this may result in administrative costs.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

Revising the Code to make it easier to follow and make entitlements clearer should increase transparency and may lead to improved victim satisfaction through greater understanding and take up of entitlements

Amending the needs assessment in order to identify victims who fall within the three categories as defined by the revised Victims' Code should enable agencies to tailor services to meet the specific needs of these types of victims.

Criminal justice agencies will be better able to target resources to victims. An improved level of service may reduce the current level of complaints from victims and therefore the burden on the CJS as a whole.

Improving the information and support provided to victims may improve victims' engagement with the CJS, increasing victims' participation in the system by increasing the likelihood that they report crimes and come forward to give evidence and thereby improving the effectiveness of the CJS as a whole.

Failure to fully implement a European Directive may lead to infraction proceedings: revising the Victims' Code will transpose part of the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime.

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

Impacts are sensitive to the assumption that clearer entitlements will make it easier for victims to understand the CJS. This may lead to an increase in uptake of services which may have resource implications for the agencies.

It is assumed that it is possible to accurately identify the needs of victims through their first contact with the criminal justice agency and through the initial needs assessment by the police which will take place in order to signpost victims to the appropriate referral service (where a further needs assessment will be conducted).

BUSINESS ASSESSMENT (Option 1(a))

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	N/A

Summary: Analysis & Evidence

Policy Option 1(b)

Description: Reforms to the Victim Personal Statement.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised costs by 'main affected groups'

None

Other key non-monetised costs by 'main affected groups'

There could be costs to the police force across England and Wales due to the additional time spent with victims to support the writing of the VPS.

There may be additional costs for the CPS in ensuring the VPS is contained within the court file if the changes to the Code lead to an increased VPS uptake.

Witness Care Units, mainly staffed by the police, may incur administrative and training costs for offering and recording the VPS. There may be additional costs incurred if voluntary organisations are engaged or contracted to take the VPS on behalf of the police or Witness Care Unit.

There will be further administrative costs to criminal justice agencies recording and processing Impact Statements from larger businesses.

While businesses' choosing to make an Impact Statement implies a net benefit to them of doing so, there may be costs associated with the time involved to make it.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

Victims of crime who make an evidential witness statement and victims who are entitled to enhanced services under the Code (victims of the most serious crime, the most persistently targeted victims and vulnerable and intimidated victims) will benefit from an increased offer rate of the VPS by criminal justice agencies and a greater understanding of the VPS. This may allow them to participate to a greater extent in the criminal justice process. All businesses will benefit from the opportunity to make an Impact Statement.

The opportunity for all businesses to make an Impact Statement will give them a voice in the criminal justice process and allow them to fully articulate the impact a crime has had upon them.

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

The impact on the police is not clear, as while other agencies or voluntary organisations may take the VPS therefore reducing the burden on police, overall volumes of uptake may increase therefore increasing the burden. The police are already expected to take a VPS from victims at the same time as taking an evidential statement.

BUSINESS ASSESSMENT (Option 2(b))

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	N/A

Summary: Analysis & Evidence

Policy Option 1(c)

Description: A more effective means of registering complaints for victims of crime.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised costs by 'main affected groups'

None

Other key non-monetised costs by 'main affected groups'

Agencies may need to carry out internal reviews and assessments of current complaints procedures to make sure they have a clearly identified complaints process. This may have transitional costs.

Where agencies don't already do so, there may be costs involved in publishing new information on how to make complaints and in providing updates if complaints involve more than one agency.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

Victims will have a clearly identified set of entitlements and a greater understanding of the duties on agencies should they need to make a complaint and will have access to greater information on how agencies handle complaints. This may increase victim engagement and satisfaction with the CJS.

For the first time, if an agency receives a complaint which should be dealt with by a different agency, there will be a duty on the receiving agency to ensure that the complaint reaches the right agency. This should prevent victims having to re-submit the complaint and avert further delay to the complaints process.

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

It is assumed that agencies will have a clearly identifiable complaints process, will provide the victim with the contact details of who is dealing with their complaint and that agencies will be able to publish more information on how they handle complaints under the Code.

Reforms to the Code may drive up the quantity of complaints as victims will be more aware of their entitlements and this may place an additional burden on agencies.

BUSINESS ASSESSMENT (Option 3(c))

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	N/A

Summary: Analysis & Evidence

Policy Option 1(d)

Description: Signposting and offering information on Restorative Justice to victims where available and extending this to victims of adult offenders for the first time.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		NQ	NQ	NQ
High		NQ	NQ	NQ
Best Estimate		NQ	NQ	NQ

Description and scale of key monetised costs by 'main affected groups'
None

Other key non-monetised costs by 'main affected groups'
Agencies may incur costs involved with publishing information on Restorative Justice (RJ) for victims of adult offenders. There may also be costs to the police, WCUs and voluntary organisations from the additional time required to offer RJ information to victims.

Signposting RJ in the Code could lead to increased use of the range of different forms of RJ if there is the capacity for it. This would impose additional costs (e.g. running costs) for organisations providing and funding RJ programmes through the potential greater use of RJ.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		NQ	NQ	NQ
High		NQ	NQ	NQ
Best Estimate		NQ	NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'
None

Other key non-monetised benefits by 'main affected groups'
Signposting RJ in the Code could lead to increased use of the range of different forms of RJ if there is the capacity for it. A previous study which considered both pre- and post-sentence RJ approaches found a victim satisfaction rate of 85%¹ from RJ conferences and a 14%² reduction in frequency of reoffending rates. Therefore this reform could indirectly lead to a reduction in crime.

Key assumptions/sensitivities/risks	Discount rate (%)	N/A
There are severe data limitations for figures on RJ as it has yet to be scoped or tested on a national scale for adult offenders and is currently only offered by a limited number of charitable providers.		

BUSINESS ASSESSMENT (Option 4(c))

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	N/A

¹ Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2007) Restorative justice: the views of victims and offenders. The third report from the evaluation of three schemes. Ministry of Justice Research Series 3/07

² Ministry of Justice (2010) Green Paper Evidence Report. Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders

Evidence Base (for summary sheets)

Introduction

1. This Impact Assessment focuses on proposed changes to the Code of Practice for Victims of Crime (Victims' Code). The Victims' Code governs services provided by relevant bodies within the criminal justice system in England and Wales to victims of crime. The Victims' Code places obligations on criminal justice agencies to provide victims with a universal minimum level of information and other services such as notification of important developments in their case and an enhanced service to vulnerable and intimidated victims.
2. The Government response to the "Getting it right for Victims and Witnesses" consultation in July 2012 contained a commitment to hold a consultation on a revised Victims' Code in 2013. Responses to the consultation indicated that the current Code is not user-friendly.
3. The strict procedural wording of the Code was necessary when it was introduced as the Code established, promoted and embedded the principles and procedures of services by criminal justice agencies to victims for the first time. However, the mandatory step-by-step guide is no longer appropriate. The way the Code is currently written means it is difficult for victims to understand and constrains local criminal justice agencies who may be best placed to determine their own procedures.
4. We are proposing to revise the current Victims' Code in order to tailor services according to individual need. The revised Code will outline the minimum entitlements for all victims of crime, but also focus entitlements and resources on the three categories of victim most in need, as originally defined in the "Getting it right for victims and witnesses" consultation:
 - (a) victims of serious crime
 - (b) the most persistently targeted
 - (c) the most vulnerable (hereafter referred to as vulnerable and intimidated victims)
5. These categories are flexible (with definitions provided in the introduction to the revised Code) and provide agencies with the ability to decide, in dialogue with victims, the needs and service requirements on a case-by-case basis.
6. Criminal justice agencies and victims will be able to decide jointly what services an individual victim requires. This could either take the form of an enhanced service for those falling within the three categories of victims most in need, or a tailored service which cuts down unnecessary contact with victims who do not need it or want it. This more tailored support should mean that criminal justice agencies will be better able to target resources to victims and at an appropriate level. An improved level of service may help reduce the level of complaints from victims and therefore the burden on the wider criminal justice system.
7. The Victim Personal Statement (VPS) was piloted in 1996 (initially known as the Victim Impact Statement) and introduced as the VPS across England and Wales in October 2001. The VPS is a statement which can be made by victims to explain how a crime has affected them. The statement is usually given by the victim during an early conversation with the police at the same time as an evidential statement is taken, although it can be made at any time during the proceedings. The primary purpose of the VPS is to give victims a voice in the criminal justice process and criminal proceedings when a case goes to court. The legal purpose of the VPS is to give sentencers a more accurate picture of the impact of the offence on the victim. It can also be used to inform bail and Parole Board decisions.
8. Difficulties with the VPS include:
 - Low offer rate - Victims recalled being offered the opportunity to make a VPS in only 9% of all incidents reported to the police.³ (Crime Survey for England and Wales).
 - Lack of integration between criminal justice agencies. For example, the VPS may not be included in the CPS file due to the speed at which court cases are processed.

³ 07/08 and 08/09 Crime Survey for England and Wales analysis. (Franklyn (2012) Satisfaction and willingness to engage with the Criminal Justice System).

- Currently the VPS is only available for small businesses, and there is no mechanism for larger businesses to explain the impact a crime has had upon them.
9. Including the VPS in the revised Code and enabling businesses to make a separate Impact Statement, along with clarifying its purpose, will increase awareness amongst victims that this mechanism enables their voice to be heard in criminal proceedings.
 10. The current process for making a complaint under the Victims' Code can be unclear for victims and does not always provide an effective means of redress. It currently lists thirteen routes of complaint to criminal justice agencies, plus an ability to refer complaints to the Parliamentary Ombudsman. Only a third (32%)⁴ of victims whose cases resulted in a charge recalled being made aware of how to make a complaint.
 11. There is a need to provide a clearer and more effective process of registering complaints for victims of crime and improve the way in which complaints are dealt with under the Code. The revised Code will explicitly include victim entitlements with regards to complaints and the duties that each agency has in relation to any complaints made. Victims will receive information on who they should contact should they need to complain, confirmation that the complaint is being addressed and how to escalate their complaint..
 12. Restorative Justice (RJ) provides opportunities for individuals to be heard and to have a say in the resolution of offences, and enables offenders to face the consequences of their actions and the impact that it has had upon others.
 13. RJ also makes offenders face the consequences of their actions. If the offender has admitted guilt and is willing to participate in a meeting or communicate with the victim, the victim will be able to explain to the offender how the incident has affected them. The victim may then decide to seek an apology, and may be able agree an activity that the offender has to undertake as part of making good the harm that has been done. However the offender will not escape punishment as RJ is used in addition to a CJS penalty or sentence.
 14. Currently, information on RJ availability is not offered consistently. In the current Victims' Code information on RJ is only provided for victims of youth offenders. In the RJ action plan, published in November 2012, the Government set out its intention that RJ is to be an embedded growing part of the Criminal Justice System where available, with victims feeling comfortable and confident requesting it at any stage of the criminal justice system.
 15. Imposing a duty on agencies to offer and signpost information on RJ, where appropriate, and extending this to victims of adult offenders will increase awareness amongst offenders on other types of additional services which may be available to them.

Rationale for Intervention

16. The conventional economic approach to Government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).
17. The primary purpose of the proposed interventions is to improve the experience of the criminal justice system for victims of crime by making their entitlements from agencies clearer and by introducing more flexible duties on agencies that can be better tailored to individual victim-need. The revised Code maintains existing minimum entitlements for victims, but enables criminal justice agencies to agree with victims what services they need. By moving to a system which is based on tailored outcomes rather than rigid processes, CJS agencies will have more flexibility in the provision of services.

⁴ Data from Witness and Victim Experience Survey 2009/10, Franklyn (2012) Satisfaction and willingness to engage with the Criminal Justice System

18. Government intervention through revisions to the Code could reduce the inefficiency created by resources being allocated to victims who do not require them and the inequity created by inadequacy of resources allocated to the victims who require more services.

Policy objectives

19. We propose to set out what victims of crime should expect to receive ensuring that entitlements are tailored to the individual needs of victims. All victims of crime will be entitled to a minimum standard of service. We propose that enhanced services will be made available to victims of serious crime, vulnerable and intimidated victims, as well as the most persistently targeted victims.

Policy Options considered

20. We considered two approaches which are reflected in our consultation paper. The first is to do nothing, leaving the current system as it is.
21. The second is Government intervention to review and rewrite the Victims' Code to improve clarity and performance. This would mean:
- (a) The Victims' Code will be rewritten in a more user-friendly style, structured around the criminal justice process, so that victims can better understand how the system works and what they are entitled to at each stage. The Code will be revised to provide a tailored and flexible service to all victims and an enhanced service to three categories of victim, namely victims of serious crime, vulnerable and intimidated victims (including a separate section for children under the age of 18) and the most persistently targeted.

The police already conduct an initial needs assessment to identify vulnerable and intimidated victims and Witness Care Units conduct detailed follow-up assessments for victims who are witnesses. The only change to the current process is that agencies will have to identify which victims fall into the three categories instead of only vulnerable and intimidated victims, and assess what level of support the victim requires accordingly. Criminal justice agencies can agree, after discussion with the victim, what services they need. This may fall below the minimum standard outlined in the Code if the victim decides they do not need this, which gives criminal justice agencies greater flexibility. Victims will also have the opportunity to withdraw from services provided if they no longer need them, or opt back in at a later stage if they previously declined services.

- (b) Reforms to the Victim Personal Statement (VPS): requiring the VPS to be offered to all victims who give an evidential witness statement and all victims eligible for enhanced services under the Code (victims of serious crime, vulnerable and intimidated victims and the most persistently targeted); expanding the number of bodies able to take a VPS from victims to include voluntary organisations; allowing all businesses to make a separate Impact Statement.
- (c) Rewriting the victims' complaints process in order to create a clearer and more effective process of registering complaints for victims of crime. CJS agencies will have a duty to a) provide victims with a clearly defined complaints procedure (contact, progression, time frame); and b) provide a substantive response to the complaint. For the first time, if an agency receives a complaint which should be dealt with by a different agency, there will be a duty on the receiving agency to ensure that the complaint reaches the right agency. The victim would also have the option to refer their complaint through the Parliamentary and Health Service Ombudsman via their local MP if they are not satisfied with the outcome of the complaint which they have received through the internal complaints procedure of an agency.
- (d) The Code will include a separate section on Restorative Justice (RJ) for victims of adult offenders for the first time. The current Code provides information on RJ for victims of youth offenders only. This will explain what RJ is to victims in simple terms with a concurrent duty

that the police, Witness Care Units, Youth Offending Teams and victim support organisations should signpost and offer information on RJ to victims, where available.

Under the Code, victims of crime:

- Will be entitled to receive information on RJ and the possibility of taking part.
- May have the opportunity to take part in RJ, led by a trained Restorative Justice facilitator, whilst criminal proceedings are ongoing.
- May also have the opportunity to take part in RJ, led by a trained Restorative Justice facilitator, after the conclusion of criminal proceedings.

Groups Affected

22. The proposals under consultation involve a wide-ranging reform of services given to victims in the criminal justice system. Therefore many groups will be affected by whatever policy option is chosen.

The Main Affected Groups:

23. The main groups affected by these proposals are:

- Victims of crime
- Wider society
- The 11 agencies with specific obligations in the Victims' Code:
 - All police forces in England and Wales, the British Transport Police and the Ministry of Defence Police
 - The Crown Prosecution Service
 - Her Majesty's Court and Tribunals Service
 - The Prison Service
 - The Probation Service
 - Youth Offending Teams
 - Joint Police / Crown Prosecution Service Witness Care Units
 - National Offender Management Service
 - The Parole Board, the Criminal Cases Review Commission, the Criminal Injuries Compensation Authority; the First Tier Tribunal (Criminal Injuries Compensation), formerly known as the Criminal Injuries Compensation Appeal Panel⁵

Note on territorial application

24. The proposals as set out in this Impact Assessment will have effect in England and Wales only. Measures to transpose part of the EU Directive establishing minimum standards on the rights support and protection of victims of crime will differ in Scotland, Northern Ireland and Gibraltar.

Cost and Benefits

25. In this section, 'criminal justice agencies' refers to the 11 agencies specifically covered by the Victims' Code.

26. It has not been possible to quantify the impacts proposed in this IA due to data limitations. In addition, many of the impacts depend on behavioural changes which cannot be modelled. In

⁵ While these agencies are in scope to be affected by changes to the Code, it is anticipated that the impacts will be minimal.

most cases, we anticipate the impacts would be marginal and therefore we believe it would be disproportionate to commission research in attempt to produce quantifiable data.

Base Case/Option 0

27. The base case is the “do nothing” option, making no changes to the current Victims’ Code. This means that as this option can only be compared with itself, the costs and benefits will be zero initially, as is the option’s Net Present Value.

Option 1(a): Revising the Code of Practice for Victims of Crime to ensure a flexible service which responds to the particular needs of all victims and an enhanced service to victims of serious crime, vulnerable and intimidated victims and the most persistently targeted.

Costs of Option 1(a)

Costs to Criminal Justice Agencies

28. All criminal justice agencies required to provide services to victims of crime under the Code will need to create updated practice guidance in order to decide how to meet victims’ entitlements. This may require internal reviews and assessments of current procedures and transitional costs associated with moving to the new system.
29. Needs assessments will need to be amended to enable identification of victims who fall within the three categories as defined by the revised Victims Code (victims of serious crime, the most persistently targeted and vulnerable or intimidated victims). The police and Witness Care Units, which are jointly run by the police and CPS, currently carry out needs assessments but only to identify vulnerable and intimidated victims. The police should conduct a needs assessment on all victims and witnesses who complete a witness statement. The WCU will undertake a more thorough assessment on victims required to give evidence in court. Amending the needs assessment to ensure that victims of serious crime and the most persistently targeted are identified at this initial stage may result in administrative costs. It may also result in the police or WCU spending more time with each victim, with subsequent resource costs.

Benefits of Option 1(a)

Benefits to victims of crime

30. Victims would be provided with a clear set of entitlements that they can expect from criminal justice agencies at every stage of the criminal justice process (CJS). The revised Code is victim focussed and can be read as a manual allowing the victim to track what they are entitled to throughout their journey through the CJS. There will also be a separate section within the Code outlining what young victims under the age of 18 are entitled to. These policies should increase transparency and may lead to improved victim satisfaction through greater understanding and uptake of entitlements.
31. Criminal justice agencies and victims will be able to decide jointly what services an individual victim requires. This could either take the form of an enhanced service for those falling within the three categories of victims most in need, or a tailored service which cuts down unnecessary contact with victims who do not need it or want it.
32. A simplified system may improve transparency and local accountability.

Benefits to Criminal Justice Agencies

33. Criminal justice agencies will be better able to target resources to victims more appropriately and at an appropriate level. An improved level of service may help reduce the level of complaints from victims and therefore the burden on the CJS as a whole.
34. We know from WAVES that keeping victims informed of the progress of their case process and the outcome of the case are strongly associated with victims’ satisfaction. Also, victims’ and witnesses

who are satisfied with their contact with the CJS are more likely to be willing to engage with the CJS again in future⁶. Therefore improving the information and support provided to victims by agencies throughout the process may also improve victims' engagement with the CJS, increasing victims' participation in the system by increasing the likelihood that they report crimes and come forward to give evidence and thereby improving the effectiveness of the CJS as a whole.

Other potential benefits

35. Revising the Victims' Code is an existing Government commitment made in the Government's response to the "Getting it Right for Victims and Witnesses" consultation, in order to provide clear entitlements for victims of crime and strengthen their voice in the criminal justice system.
36. It is estimated that there will be no regulatory impact on business as duties under the Code all fall on criminal justice agencies.
37. The Code will also transpose part of the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime. According to Article 1 of the Directive, its aim is "to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings"; and that "victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice agencies or a competent authority, operating within the context of criminal proceedings". This dovetails with the aims and objectives of broader criminal justice policies in the UK, as well as reforms to the Victims' Code in England and Wales. The revisions to the Victims' Code will contribute to moving towards implementation of the Directive.
38. The Directive must be implemented by 16 November 2015. Much of the Directive reflects existing practice in the UK. It will be transposed by a number of means including revising existing statutory Codes of practice, such as the Victims Code, and enacting secondary legislation. By moving towards full implementation of the Directive by November 2015, the UK will benefit by reducing the risk of legal infraction proceedings from the European Commission, which can be brought against an EU Member State if an EU Directive has not been transposed properly. The maximum fine that could be imposed on the UK by the European Court of Justice is €703,000 per day or £256 million per year. The UK has not been fined to date.

Net Impact of Option 1(a)

39. We expect there would be a net benefit to victims. They would have a clearer set of codified entitlements. Victims of the most serious crime, vulnerable and intimidated victims and the most persistently targeted would benefit from a greater awareness of enhanced entitlements they can receive under the revised Code.
40. Criminal justice agencies will incur transitional costs when changing their processes and revising their procedures in order to meet the requirements of the revised Code.
41. In the longer term, there will be costs on criminal justice agencies associated with implementing the Code, such as ensuring needs assessments are carried out appropriately to identify those victims most in need. However, we anticipate there being a positive impact on criminal justice agencies, including less bureaucracy and greater freedom to tailor services according to individual need. They may also benefit from being able to target resources more efficiently at those most in need and, in the long term, from a reduction in the volume of complaints from victims.

Risks, assumptions and sensitivities for option 1(a)

⁶ Satisfaction and willingness to engage with the Criminal Justice System. Findings from the Witness and Victims Experience Survey, 2009-10, Franklyn, R (2012)

42. The main assumptions are:

- Current entitlements for victims are unclear and it would be easier for victims to understand the CJS if what they are entitled to is clearly outlined at each stage of their criminal justice journey.
- That a simplified system will increase transparency and local accountability.
- It will be possible to identify accurately the needs of victims through an initial needs assessment.
- A more efficient, visible system should reduce complaints. However, the concurrent improvements to the means of registering complaints for victims of crime for victims at **option 1(c)** may mean that victims are more likely to exercise their entitlement to complain about unsatisfactory service provision.
- Criminal justice agencies are willing to fund and implement the revised processes in the Code and have the resources to do so. Further information on the potential resource implications are outlined in options **1(b)-1(d)**.

43. The main risks and sensitivities are:

- If the entitlements prove to be too onerous and prescriptive, there may be resource implications for the criminal justice system.
- If the entitlements are too flexible and minimum standards are not met by the agencies, there may be a reduction in the quality of service for victims.
- The ability of agencies to tailor their services depend on a large proportion of victims of low level crime not wanting and needing contact with or support from criminal justice agencies.
- The costs and benefits of this option may be affected by wider changes in policy and resources across the CJS and by crime trends.

Data Limitations

44. It is not possible to estimate the amount of additional time and resource that would be required to rewrite the Code to make it a more user-friendly and understandable document or to update related practice guidance. In addition, whilst there are estimates available on the time taken to carry out current needs assessments, we are unable to estimate the additional time and resource that may be required to carry out the amended needs assessment and therefore the associated costs. However, since both involve amending current practices, we anticipate that these costs will be marginal.

45. Whilst we anticipate that victims will benefit from the proposed changes, we are unable to quantify the value that victims would place on this. It is also not possible to quantify the impact from a potential reduction in the level of complaints as we do not have figures on the current level of complaints from victims under the Code or the cost of processing these complaints. Given that complaints are initially made at a very local level it is difficult to calculate accurate total volumes. In addition, a reduction in the level of complaints is a behavioural change which cannot be accurately estimated.

Option 1 (b): Reforms to the Victim Personal Statement.

Costs of Option 1(b)

Costs to Criminal Justice Agencies

Police/Witness Care Units

46. There could be costs to the police force across England and Wales due to the additional time spent with victims to support the writing of the VPS

47. Additional administrative costs may fall on the police as all businesses will be able to make an Impact Statement following an incident of recorded criminal conduct. However, it is proposed that businesses would complete the Impact Statement themselves and submit it to the police or

relevant criminal justice agency. Nevertheless this will still result in administrative costs for the police and other agencies receiving the paperwork.

HMCTS

48. In addition, information presented in the VPS may be relevant to a court's assessment of the harm an offence caused. This, along with the culpability of the offender, will determine the type and severity of sentence so it is possible that an increase in the use of the VPS may have an impact on sentencers' behaviour and hence NOMS resources (both probation and prison costs).

CPS

49. The revised Code requires the CPS to ensure the VPS is contained within the court file. This already occurs as a matter of good practice, but the CPS may incur additional administration costs by requiring staff to spend more time ensuring that this takes place consistently.

Witness Care Units

50. Under the revised Code, Witness Care Units should offer the VPS to victims and record it in written, electronic format or over the telephone. Witness Care Units are not currently resourced to do this, so this will incur additional costs for them in terms of staff training and time.

Benefits of Option 1(b)

Benefits to victims of crime

51. Data from the Crime Survey for England and Wales indicates that Victims recalled being offered the opportunity to make a VPS in only 9%⁷ of all incidents reported to the police. We propose to include a duty on the police to offer each victim making an evidential statement the opportunity to make a VPS at the same time. All victims eligible for enhanced services under the Code (victims of serious crime, vulnerable and intimidated victims and the most persistently targeted) will also be entitled to make a VPS at any stage of the criminal justice process. This will be accompanied by a clear statement of purpose to address the lack of clarity about its function amongst victims of crime.
52. By increasing the offer rate of the VPS, victims will be able to participate to a greater extent in the criminal justice process and have a louder voice in criminal proceedings.
53. The reforms enable all businesses to make an Impact Statement, which will give business a voice in the criminal justice process and allow them to fully articulate the impact a crime has had upon them. Currently only small businesses are able to explain the impact a crime has had upon them by making a Victim Personal Statement.

Net impact of option 1(b)

54. We expect there would be a net benefit to victims and businesses that are victims of crime. The duty on service providers to offer each victim who makes an evidential witness statement the opportunity to make a VPS will enable them to participate to a greater extent in the criminal justice process and have a louder voice in criminal proceedings.
55. While there may be costs on criminal justice agencies if there is an increase in uptake, it is anticipated that this will be outweighed by the benefits to victims of crime.

Risks, assumptions and sensitivities for option 1(b)

56. It is an existing national standard for the police to offer a VPS to a victim of crime in England and Wales. Expanding the number of agencies who can take a VPS to include appropriate support

⁷ 07/08 and 08/09 Crime Survey for England and Wales analysis. (Franklyn (2012) Satisfaction and willingness to engage with the Criminal Justice System).

services should decrease the resource burden on the police in cases in which a victim wants to make or update a VPS after the crime was recorded. However, the potential increase in uptake of VPS may increase the overall burden. Therefore the net impact is unclear

Data Limitations

57. When considering the potential additional costs for police resulting from extra time taken to support victims in writing a VPS, data on the potential volume of victims that would require a VPS, time taken to write a VPS and cost of police officer time is required. Whilst we have the hourly cost of a police officer⁸ and can estimate the additional time required, it is not possible to estimate the potential volume of victims who fall within the three protected groups and those who make an evidential witness statement. Businesses who are the victims of crime also have the option to accept or decline the offer to make an Impact Statement. As there is no data on the volume of small businesses that currently make a VPS, it is not possible to model this behaviour.
58. In addition, it is not possible to estimate the additional administrative costs resulting from agencies receiving paperwork. However we anticipate this impact to be marginal.
59. We are unable to quantify the value that victims would place on having a greater offer rate and clearer understanding of the function of a VPS as well as a louder voice in criminal proceedings. We are also unable to quantify the value that businesses who are victims of crime would place on having a louder voice in criminal proceedings through an Impact Statement being made available to them.

Option 1 (c): A more effective means of registering complaints for victims when they make a complaint to a criminal justice agency.

Costs of option 1(c)

Costs to Criminal Justice Agencies

60. Agencies may incur administration costs as they may need internal reviews and assessments of current complaints procedures. There may be transitional costs involved with setting up a clearly identifiable complaints process within the organisation.
61. Agencies may incur admin costs involved with publishing more information on how they handle complaints under the Code and providing updates on the status of the complaint if it involves more than one agency.
62. There is a potential for there to be costs involved with training staff on the complaints process within their agency.

Benefits of option 1(c)

Benefits to victims of crime

63. Victims will have a clearly identified set of entitlements and a greater understanding of the duties on agencies should they need to make a complaint and will have access to greater information on how agencies handle complaints. This may increase victim engagement and satisfaction with the CJS.

Benefits to Criminal Justice Agencies

64. Criminal justice agencies will benefit from having a consistent procedure for handling complaints which simplifies dealing with complaints that require input from more than one agency.

Net impact of option 1(c)

⁸ The hourly cost of a police officer (rank sergeant or below) is £37.81 in 2012/13 prices (provided by Home Office)

65. We expect there would be a net benefit to victims of crime. Although there may be costs involved with updating current complaints processes, we expect these will be outweighed by the benefits to victims of crime along with the benefits to agencies through having a more consistent procedure which will give them the opportunity to receive feedback from victims on their practices and to use this feedback to improve their processes, thereby improving the service for future victims.

Risks, assumptions and sensitivities for option 1(c)

66. It is assumed that agencies will have a clearly identifiable complaints process, will provide the victim with the contact details of who is dealing with their complaint and that agencies will be able to publish more information on how they handle complaints under the Code.

67. Reforms to the Code may drive up the quantity of complaints as victims will be aware of their entitlements and this may place an additional burden on agencies.

Data Limitations

68. There is no data to inform estimates of the additional costs which may be incurred by agencies establishing a more clearly identifiable complaints process, publishing clearer information and potentially further training staff on how complaints should be processed. However we anticipate that these one-off transitional costs will be marginal.

69. It is also not possible to estimate the value that victims would place on having a clearer and more effective process of registering complaints. Whilst we anticipate there may be an increase in the volume of complaints due to greater ease in doing so, as before, it is not possible to quantify the impact of this as we do not have figures on the current level of complaints from victims under the Code or the cost of processing these complaints. Given that complaints are initially made at a very local level it is difficult to calculate accurate total volumes. In addition, a reduction in the level of complaints is a behavioural change which cannot be accurately estimated.

Option 1(d): Signposting an offering information on Restorative Justice (RJ) to victims where available and extending this to victims of adult offenders for the first time.

Costs of option 1(d)

Costs to Criminal Justice Agencies

70. Agencies would be required to offer and signpost information on RJ to victims of adult offenders for the first time. There may be administration costs involved with publishing this information. Agencies may also incur costs through additional time required to consistently offer RJ to victims of crime both before and after criminal proceedings have taken place.

71. Signposting RJ in the Code could lead to increased use of the range of different forms of RJ if there is the capacity for it. This could impose additional costs for the organisation providing and funding the RJ programmes through greater use of RJ, such as running costs and capacity building among RJ practitioners.

Benefits of option 1(d)

Benefits to victims of crime

72. Victims of crime may benefit from being made aware of, and possibly utilising, RJ and may have greater engagement with the CJS as a result.

Benefits to wider society

73. Signposting RJ in the Victims' Code could lead to increased use of the range of different forms of RJ if there is the capacity for it. A previous study which considered both pre- and post-sentence

RJ approaches found a victim satisfaction rate of 85%⁹ from RJ conferences and a 14%¹⁰ reduction in frequency of reoffending rates. Therefore changes in the Code could indirectly lead to a reduction in crime.

Net impact of option 1(d)

74. We expect there would be a net benefit to victims of crime. It is anticipated that the administrative costs required to provide additional information on RJ will be outweighed by the benefits that victims of crime and wider society may receive from it.

Risks, assumptions and sensitivities for option 1(d)

75. It is assumed that current RJ entitlements are unclear to victims and that signposting this information will make it easier for victims to understand what they may be entitled to from RJ.

76. There are severe data limitations for figures on RJ as it has yet to be scoped or tested on a national scale for adult offenders and is currently only offered by a limited number of charitable providers.

Data limitations

77. It is not possible to quantify the additional administration costs which may be required to signpost information on restorative justice (RJ) or additional time that is required to offer RJ to victims of crime, although both are anticipated to be marginal. Whilst we expect there may be an increase in the use of RJ if there is the capacity for it, it is not possible to model such behavioural change or the potential cost associated with it.

78. Whilst we know there is a high satisfaction rate from RJ (85%) and a 14% reduction in frequency of reoffending rates due to RJ, it is not possible to quantify the value that victims place on being made aware of and possibly utilising some form of RJ.

⁹ Shapland, J., Atkinson, A., Atkinson, H., Dignan, J., Edwards, L., Hibbert, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2008) Does restorative justice affect reconviction? The fourth report from the evaluation of three schemes. Ministry of Justice Research Series 10/08

¹⁰ Ministry of Justice (2010) Green Paper Evidence Report. Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders

Specific Impact Tests

Statutory Equality Duty

A separate Equality statement is being produced.

Competition Assessment

No competition assessment is required.

Small Firms Impact Test

The provision for small firms to make a VPS is contained in the current Victims' Code. Therefore we do not expect any additional impact them by these proposals.

Greenhouse gas assessment

We do not expect any significant impact on carbon emissions.

Wider Environmental issues

We do not expect any significant impact on other environmental issues.

Health and Well-being Impact Assessment

The provision of effective support to victims of crime and enhanced services for victims of serious crime, vulnerable and intimidated victims and the most persistently targeted is a positive development. This should have a beneficial impact on the health and lifestyle of victims and reduce the need for social care. We do not expect the proposals to have a significant impact on the following wider determinants of health such as income, environment, transport, housing, education, employment, agriculture or social cohesion.

There may be a small impact on crime (particularly given any increase in the use of Restorative Justice which has been shown to lead to lower reoffending rates), which is considered a wider determinant of health.

Human Rights

The proposals are compliant with the Human Rights Act (1998).

Justice Impact Test

The overall impact on the Justice System is outlined in the evidence base of this Impact Assessment.

Sustainable Development

We do not anticipate the proposals having any negative effect on the principles of sustainable development.

The proposals may have a small positive effect on the principle of "ensuring a strong, healthy and just society" by improving the efficiency of the criminal justice system, by strengthening the voice of victims in the criminal justice process and by providing victims with a more effective means of registering complaints.

Privacy Impact Test (an MOJ Specific Impact Test)

Not applicable.

Post Implementation Review

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review

We intend to review any change to the Victim's Code two years after implementation. Although it is more usual to conduct a review after three years, we have decided on this review period given the need to assess whether the revised Code meets the needs of the new model for commissioning victims' services, both locally and nationally, which will have bedded in by this point.

Review Objective

The Review will be to assess whether the revised Victims' Code meets the needs of the new commissioning landscape, whether changes in the Victim's Code have successfully achieved the stated policy aims and whether the changes have had the expected impacts on identified groups.

Review approach and rationale

To assess the impacts on identified groups and to assess the achievements in relation to the policy aims. This is likely to be in the form of an implementation review, and could form part of a longer piece of work collating and publicising best practice in victim and witness services in the CJS. We will seek feedback from stakeholders (particularly Police and Crime Commissioners), victims, CJS practitioners and victim's organisations.

Baseline

For data on offer and uptake of VPS to victims reporting to the police: quantitative data from the Office for National Statistics' Crime Survey for England and Wales (CSEW) survey. Additional information is available from the Ministry of Justice's Witness and Victim Experience Survey (WAVES). (To note: WAVES was last conducted in 2009/10 and there are currently no plans to run this survey again).

Success Criteria

With regard to VPS offer and uptake, this will be determined by the future data from 2013/14 CSEW. The future data and statistics from reforms to how victims pursue means of redress will also help to determine the success of this policy. (To note: data from 2013/14 CSEW may not be directly comparable to earlier CSEW data).

Monitoring Information arrangements

We anticipate that future data with regards to VPS offer and uptake from 2013/14 CSEW, and data from the criminal justice agencies who are required to provide services to victims of crime under the Victims Code will enable suitable monitoring arrangements and encourage greater transparency. (To note: data from 2013/14 CSEW may not be directly comparable to earlier CSEW data).

Reasons for not planning a PIR

N/A