

## SCHEDULE

### Armed Forces Code of Practice for Victims of Crime

## PART 5

### Duties on Service Providers

#### CHAPTER 4

#### Charge and Pre-trial/Summary Hearing

##### **General**

**242.** The relevant service providers below must ensure that they provide the entitlements in Part 3, Chapter 3, and Part 4, Chapter 3 which fall to them.

##### **Commanding Officer's consideration of charge and Summary Hearing**

**243.** Where a Commanding Officer, following a Service Police investigation or their own investigation has initial powers(1) in respect of a case, the Victim Liaison Officer must inform the victim, without unreasonable delay, of:

(1) any decision to charge or to refer the case to the Director of Service Prosecutions;

(2) any decision not to charge or not to refer(2) a case in which a suspect has been identified and questioned after caution to the Director of Service Prosecutions. They must give reasons for the decision to the victim, how they can access further information about the decision and how they can seek a review of the decision if they are dissatisfied with it in accordance with the Commanding Officers' victims' right to review scheme. Sufficient information must be provided to enable the victim to decide whether or not they wish a review to take place.

**244.** The Victim Liaison Officer must inform victims, without unreasonable delay, of:

(1) the date, time and location of any Summary Hearing; and

(2) the date, time and location of any Service court hearing.

**245.** The Victim Liaison Officer must advise the victim that they may ask to be informed(3) of a suspect being released from Service custody and of any Service custody release requirements which are imposed, changed or cancelled.

**246.** The victim is entitled to the information requested pursuant to paragraph 245 of this Code only where there is a danger or an identified risk of harm to the victim, in which case the information will be provided without unnecessary delay(4).

**247.** The Victim Liaison Officer must inform victims of decision to:

(1) substitute for the charge another charge against the accused;

(2) substantially alter a charge;

(3) bring an additional charge against the accused;

(4) discontinue proceedings on the charge; or

---

(1) In accordance with sections 119 and 120 of the Armed Forces Act 2006 (2006 c. 52).

(2) This only applies where a Commanding Officer does not have power to charge without first referring the case to the Director of Service Prosecutions.

(3) Note paragraph 246 of this Code.

(4) You are not, however, entitled to this information if there is an identified risk of harm to the suspect which would result from the notification.

(5) refer the charge to the Director of Service Prosecutions.

**248.** Where the Commanding Officer discontinues proceedings on the charge the Victim Liaison Officer must also give reasons for the decision to the victim and must inform the victim how they can access further information about the decision and how they can seek a review of the decision if they are dissatisfied with it, in accordance with the Commanding Officers' victims' right to review scheme. The notification of the decision must include sufficient information to enable the victim to decide whether or not they wish a review to take place.

**249.** Victims must be provided with the information at paragraphs 247 and 248 without unreasonable delay from the decision being made.

### **Director of Service Prosecutions' consideration of a charge**

**250.** Where the case has been referred to the Director of Service Prosecutions(5), the Service Prosecuting Authority prosecutor responsible for the case must inform the victim without unreasonable delay of:

(1) any decision to charge(6), allocate the charge for trial by a Service court or to refer the case to the Commanding Officer;

(2) any decision not to charge. They must give, the reason for the decision (insufficient evidence or on public including Service interest grounds), how they can access further information about the decision from the Service Prosecuting Authority and how they can seek a review of the decision if they are dissatisfied with it, in accordance with Service Prosecuting Authority's victims' right to review scheme. The notification of the decision must include sufficient information to enable the victim to decide whether or not they wish a review to take place.

**251.** The Military Court Service must inform victims and the Victim Liaison Officer without unreasonable delay of the date, time and location of any court hearings in the case.

**252.** In cases where there is a danger or an identified risk of harm to the victim, the Service Prosecuting Authority must inform the Victim Liaison Officer without unnecessary delay if the suspect is released from Service custody, together with any Service custody release requirements imposed, and any changes to those requirements with reasons if provided by the judge advocate(7).

**253.** The Victim Liaison Officer must advise the victim that they may ask to be informed of a suspect being released from Service custody and any Service custody release requirements which are imposed, changed or cancelled(8).

**254.** The victim is entitled to the information requested pursuant to paragraph 253 of this Code only where there is a danger or an identified risk of harm to the victim, in which case the information will be provided without unnecessary delay(9).

**255.** The Service Prosecuting Authority must provide information on Service Prosecuting Authority prosecution decisions to the Commanding Officer and the Victim Liaison Officer so they can also inform victims of the decision.

**256.** The Service Prosecuting Authority must inform victims of decisions to:

(1) substitute for the charge another charge against the accused;

---

(5) Under the Armed Forces Act 2006, section 116(2) (referral of case following investigation by civilian or service police) or section 120(3) (referral of case by Commanding Officer).

(6) This includes directing the bringing of a charge.

(7) The victim is not, however, entitled to this information if there is an identified risk of harm to the suspect which would result from the notification.

(8) Note paragraph 254 of this Code.

(9) You are not, however, entitled to this information if there is an identified risk of harm to the suspect which would result from the notification.

- (2) substantially alter a charge;
- (3) bring an additional charge against the accused;
- (4) discontinue proceedings on the charge;
- (5) offer no evidence in all proceedings;
- (6) refer the charge to the accused's Commanding Officer;
- (7) make a direction barring further proceedings.

**257.** Where the Service Prosecuting Authority discontinues or offers no evidence in all proceedings, the Service Prosecuting Authority must also give reasons for the decision to the victims and must inform the victim how they can access further information about the decision and how they can seek a review of the decision if they are dissatisfied with it, in accordance with the Service Prosecuting Authority's victims' right to review scheme. The notification of the decision must include sufficient information to enable the victim to decide whether or not they wish a review to take place.

**258.** Victims must be provided with the information at paragraphs 257 and 258 of this Code without unreasonable delay from the decision being made.

### **Pre-Summary Hearing**

**259.** This paragraph outlines the duties that the Victim Liaison Officer must provide to victims prior to a Summary Hearing. The Victim Liaison Officer must:

(1) notify victims of the time, date, location, adjournment, postponement and outcome of any Summary Hearing without unreasonable delay;

(2) in cases where the victim may be required to give evidence in a summary hearing the Victim Liaison Officer must discuss any needs the victim may have and refer the victim to victim support services where appropriate<sup>(10)</sup>;

(3) notify victims who are required to attend a summary hearing to give evidence without unreasonable delay and inform them what to expect including how to access the Military Court Service witness information leaflet;

(4) the Victim Liaison Officer must advise the victim that they may ask to be informed<sup>(11)</sup> of a suspect being released from Service custody and any Service custody release requirements which are imposed, changed or cancelled;

(5) the victim is entitled to the information requested pursuant to paragraph 259(4) of this Code only where there is a danger or an identified risk of harm to the victim, in which case the information will be provided without unnecessary delay<sup>(12)</sup>.

**260.** The Commanding Officer must offer a full needs assessment to victims who are required to give evidence at a Summary Hearing. In cases involving victims of the most serious crime, persistently targeted victims and vulnerable or intimidated victims (a child victim is automatically eligible for the enhanced services provided to vulnerable victims of crime) where a Needs Assessment has identified that any Special Measures are either appropriate or have been requested by the victim, and the victim may be required to give evidence at the Summary Hearing, a Commanding Officer should not hear the case and must instead refer the case to the Director of Service Prosecutions so that an appropriate decision can be made as to whether Special Measures are required.

---

<sup>(10)</sup> See paragraphs 16 to 18 of this Code.

<sup>(11)</sup> Note paragraph 259(5) of this Code.

<sup>(12)</sup> You are not, however, entitled to this information if there is an identified risk of harm to the suspect which would result from the notification.

*Status: This is the original version (as it was originally made).*

**261.** The Commanding Officer must arrange for victims to be shown their video-recorded, or written, statement shortly before the Summary Hearing to refresh their memory.

### **Pre-trial**

**262.** This paragraph outlines the duties that the Victim Liaison Officer must provide to victims. In some cases, the Service Police might provide the information in this paragraph to victims instead. The Service Police must tell victims if this is the case and agree with the Victim Liaison Officer which of the following services they will provide. The Victim Liaison Officer must:

(1) notify victims of the time, date, location and outcome of any Service court hearing without unreasonable delay;

(2) following a not-guilty plea, discuss any needs the victim may have and refer the victim to victim support services where appropriate**(13)**;

(3) notify victims who are required to attend court to give evidence without unreasonable delay and inform them what to expect, including how they can access the Military Court Service witness information leaflet;

(4) inform victims of the outcome of the Special Measures applications;

(5) the Victim Liaison Officer must advise the victim that they may ask to be informed**(14)** of a suspect being released from Service custody and any Service custody release requirements which are imposed, changed or cancelled;

(6) the victim is entitled to the information requested pursuant to paragraph 262(5) of this Code only where there is a danger or an identified risk of harm to the victim, in which case the information will be provided without unnecessary delay**(15)**.

**263.** Military Court Service court staff must ensure wherever possible that the Service Police and Victim Liaison Officer are notified within 1 working day of the following decisions being made for victims of the most serious crime, persistently targeted, and vulnerable or intimidated victims (in cases in which the court staff have been notified that these categories of victims are involved), and within 3 working days in cases involving all other victims:

(1) court dates in relation to all hearings;

(2) the outcome of Service custody and administrative Special Measures applications;

(3) adjournments and postponements of scheduled hearings;

(4) ensure that the Service Police, and the Victim Liaison Officer are notified as soon as possible of a suspect being arrested after charge.

**264.** Military Court Service court staff must also offer, in a timely manner, victims of the most serious crime, persistently targeted, and vulnerable or intimidated victims who will be witnesses in the case, and who will be giving evidence in court, a pre-trial visit to the court to familiarise themselves with the court room and to practise using Special Measures equipment.

**265.** The Service Prosecuting Authority must:

(1) offer a full needs assessment to those victims who are required to attend court to give evidence to assess what support they may require. Victims must be informed what to expect including how they can access the witness information leaflet;

(2) where appropriate explain the Special Measures that may be available to assist the victim in giving their best evidence in court;

---

**(13)** See paragraphs 16 to 18 of this Code.

**(14)** Note paragraph 262(6) of this Code.

**(15)** You are not, however, entitled to this information if there is an identified risk of harm to the suspect which would result from the notification.

(3) provide Military Court Service and the Victim Liaison Officer with the list of witnesses attending court as soon as it is finalised so that Military Court Service and the Victim Liaison Officer or in some instances, the Service Police if they are acting as the main point of contact for the victim, can inform victims who are required to give evidence;

(4) if appropriate, consider making a Special Measures application to the court taking into account any views expressed by the victim and record the outcome of that consideration.