



Consultation on Improving the Victims' Code: IARS response

IARS International Institute

May, 2020

IARS INTERNATIONAL INSTITUTE
14 Dock Offices, Surrey Quays Road,
Canada Water, SE16 2XU, UK
Office Mobile: **0044 (0)7833224442**
Email: contact@iars.org.uk





IARS Publications

14 Dock Offices, London, SE16 2XU, United Kingdom

contact@iars.org.uk | www.iars.org.uk

IARS Publications an independent publisher specialising in social and political sciences. IARS Publications is a member of the Committee on Publication Ethics (COPE) and has a non-profit mission. IARS Publications is supported by The IARS International Institute, which is a leading international NGO with a charitable mission to give everyone a chance to forge a safer, fairer and more inclusive society.

Published in the UK by IARS Publications

© 2020 IARS Publications

The moral rights of the author have been asserted

First published April 2020

Graphic design: Rita Seneca

© 2020 The right of The IARS International Institute to be identified as the author of the editorial material, has been asserted in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from IARS Publications. You must not circulate this book in any other binding or cover and you must impose the same condition on any acquirer.

Trademark notice: Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

Database right IARS Publications (maker)

British Library Cataloguing in Publication Data

IARS INTERNATIONAL INSTITUTE
14 Dock Offices, Surrey Quays Road,
Canada Water, SE16 2XU, UK
Office Mobile: **0044 (0)7833224442**
Email: contact@iars.org.uk





Table of Contents

Open Letter to Alex Chalk, Parliamentary Under Secretary of State at the Ministry of Justice.....	4
About the IARS International Institute	5
Our values.....	5
Background and impetus of the consultation response.....	6
Methodology.....	6
Section 1 - Improving the Victims' Code	8
1.1 Restructuring the code into 12 overarching rights.....	8
Layout of the code	8
Language.....	8
1.2 Covering the scope of victims' needs	9
Provision of Restorative Justice	9
Empowerment of Victims	9
Safeguarding Victims	10
1.3 Key stages of a victim's journey in the criminal justice system.....	10
Clarity on when Restorative Justice can take place.....	10
Section 2 - Information	11
2.1 Practical Advice and Information in the draft revised Code	11
Signposting.....	11
2.2 Additional Information to be included.....	11
Right to compensation.....	11
Travel expenses.....	12
Protection of Victims' data	12
Section 3 - Impact Assessment and Equalities Statement.....	13
3.1 Additional Evidence to Assess Equality and Economic Impacts	13
Section 4 - The Draft Revised Code Recommendations	14
4.1 Clarity and accessibility	14
4.2 Additional information required.....	14
4.3 Policy recommendations.....	15
References	16



Open Letter to Alex Chalk, Parliamentary Under Secretary of State at the Ministry of Justice

To the Parliamentary Under Secretary of State, Ministry of Justice

We are writing in response to your request for consultation on [Improving the Victims' Code](#) with our response, which is formally submitted by the [IARS International Institute](#). We welcome this latest review of the Victim Code, and acknowledge that it has been redrafted in response to last year's consultation with organisations such as ourselves. We aim to support you in the next steps by way of this response.

The IARS International Institute is a user-led NGO, which emphasises the need for users' voices to be heard in matters that impact them directly. The consultation response has a dual purpose; to both inform your next steps in implementing the strategy, and to raise awareness of the Victim Code and the wider Victim Strategy amongst our users.

We would like to emphasise the need not only to strengthen the law in protecting victims and bringing this law in line with the Victims' Directive, but also the importance of working with communities. The law alone cannot help you deliver your strategy. Speaking with victims, you will also understand that the line between who is a victim and who is an offender are blurred, and that those who are affected by crime goes wider than those who have been immediately impacted. It includes our communities, those working in the Criminal Justice System, offenders, and their families. We recognise the paradox whereby there is a need for top-down, state implemented solutions; but also an inherent power imbalance at play – as even using the term victim suggests a lack of agency, as this is a status or label that is conferred upon them by someone else. Thus, we hope that this revised Victim Code will be considered within a wider remit of empowering all who are affected by crime to decide what happens next; along with acknowledging the part that local communities, agencies that work with those who have been affected by crime, and those who have perpetrated crime have to play in repairing the hurt that is caused by crime.

[The IARS International Institute](#) are at your disposal should you require clarifications or further evidence. As a membership organisation, we will also share this submission with our members and database subscribers, and we would also be happy to disseminate any response that you might have to our proposals.

Dr. Claire Bonham
Director, The IARS International Institute
May, 2020

IARS INTERNATIONAL INSTITUTE
14 Dock Offices, Surrey Quays Road,
Canada Water, SE16 2XU, UK
Office Mobile: 0044 (0)7833224442
Email: contact@iars.org.uk





About the IARS International Institute

The IARS International Institute is a leading, user-led, international think-tank with a charitable mission to give everyone a chance to forge a safer, fairer and more inclusive society. It is staffed with an expert and dedicated team of [researchers, interns and volunteers](#), and achieves its charitable aims by producing evidence-based solutions to current social problems, sharing best practice, and supporting young people and the community to shape decision making. IARS is an international expert in user-led research, evaluation, human rights and inclusion, citizenship, criminal justice and restorative justice.

We deliver our charitable mission:

- **By** carrying out action research and evaluation that is independent, credible, focused and current.
- **By** acting as a network that brings people and ideas together, communicates best practice and encourages debates on current social problems.
- **By** supporting the individual (with an emphasis on young people) to carry out their own initiatives to shape decision-making.
- **By** being an authoritative, independent and evidence-based voice on current social policy matters.
- **By** thorough, high quality user-led (youth-led) evaluations; increasing the effectiveness of how organisations work and deliver.

Our values

IARS was set up by volunteers as a user-led and user-focused think tank with an emphasis on changing society from the bottom up through evidence-based research. IARS' stated vision is "a society in which everyone is given a chance to actively participate in social problem solving", and our mission is "to give everyone a chance to forge a safer, fairer and more inclusive society". We believe that the best solutions to social problems are found in those who are directly affected by them. We were founded upon the principles of:

- User & civic participation
- Restorative justice and dialogue
- Individual empowerment and responsibility

We act in the spirit of partnership, dignity, integrity and honesty and we remain independent, fearless and respectful of diversity and equality issues for all.

IARS INTERNATIONAL INSTITUTE
14 Dock Offices, Surrey Quays Road,
Canada Water, SE16 2XU, UK
Office Mobile: **0044 (0)7833224442**
Email: contact@iars.org.uk



Background and impetus of the consultation response

The Victims Strategy was published on 10 September 2018, setting out the government’s vision of a justice system that aims to support victims to speak up with certainty that they will be understood, protected and supported, whether or not they report a crime. One of the commitments in the strategy was to develop a Victims’ Code (the Code) designed to build both victim confidence and trust in the system.

As part of IARS’ public policy work, we monitor governmental policies and strategies that impact on our users and the public. The initial consultation on the Victims Code carried out in 2019 set out to address the complexity and accessibility issues with the current Code; updating the entitlements to better meet victims needs and ensuring that the right support is available at the right time.

The current consultation of the revised Code is a key step that will have serious implications for those we aim to serve. We strongly believe that the latest proposals to change the structure of the existing Code so it becomes a clearly defined set of rights that are easy for victims to understand, and which set out the minimum level of service they can expect from criminal justice agencies, are welcome. The consultation also represents an important opportunity for civil society and our organisation to engage with government efforts and work with relevant stakeholders in identifying gaps and weaknesses in the Criminal Justice System.

Methodology

We used a mixed methodology to reach the conclusions and recommendations of this publication. First, we carried out desk-based research and an analysis of existing documents and relevant projects including the ones that we have carried out at our Institute. Our desk-based research also consisted of the Victims Strategy documents, relevant academic and grey literature sources, previous consultations and policy responses conducted by IARS, and our project reports. Subsequently, we engaged with members of our Youth Advisory Board and the Women’s Advisory Board to shape our response.

IARS currently has two standing user groups:

1. [The Women’s Advisory Board](#) (WAB) consists of young women, who evaluate our gender-related projects.
2. [The Youth Advisory Board](#) (YAB) consists of young people aged 18 to 25, and they evaluate our youth led projects.

The following IARS projects have also been used as sources of information in this report:

- [Restore:London - Pan - London Restorative Justice Service](#)
- [Restore:Respect Pilot Project](#)
- [Gender And Justice Empowerment Programme](#)
- [Abused No More: Safeguarding Youth & Empowering Professionals \(Erasmus\)](#)
- [International Victims' Pledge](#)
- [Gender And Migration Project \(Erasmus\)](#)
- [Victims' Voices In Restorative Justice](#)
- [Restorative Justice In Europe:
Safeguarding Victims & Empowering Professionals](#)
- [Restorative Justice In Cases Of Domestic Violence](#)
- [Abused No More: The Voices Of Refugee & Asylum-Seeking Women](#)

The consultation asks for a series of responses to different aspects of the code, and we have addressed these issues in turn below.

Section 1 - Improving the Victims' Code

The responses from the 2019 consultation made it clear that the Code was complex, unwieldy and lacking in the practical information necessary to help victims understand their rights. The updated code focuses on a streamlined smaller number of rights, set out in one chapter. Our responses to this are set out below.

1.1 Restructuring the code into 12 overarching rights

We are broadly supportive of restructuring the code into twelve overarching rights, as we believe that this makes the Code easier to digest and more accessible. The layout of these twelve rights is clear and will help victims who might otherwise be overwhelmed by (what they may see as) an onslaught of information.

We agree that providing an overview and brief explanation of the rights at the beginning before going into more detail later is more user-friendly. It will help people identify which rights are pertinent to them, meaning they don't have to trawl through pages of information that doesn't apply to them.

Layout of the code

However, we would recommend that the layout of the Code is amended slightly. It would be helpful for the information to be signposted more obviously - perhaps starting each right on a new page, or otherwise providing a clear demarcation or separation between them when they occur on the same page.

Page 2 of the Code sets out which rights apply to victims, depending on whether the crime is reported to police or not. We believe it would be helpful on the following page (where all 12 rights are set out), to have a visual symbol next to the rights that apply to all to make this as clear as possible and not require readers to have to keep turning between the different pages to see which rights apply in which circumstances.

Language

The language used throughout the Code is generally easy to understand, and we are pleased to see that the 'right to understand and be understood' is the first right identified; as we are particularly

concerned for victims with learning difficulties, whose mother tongue is not English, or who would otherwise struggle with understanding the language of the Code.

1.2 Covering the scope of victims' needs

We believe that the revised Code broadly covers the rights that we would expect to see in order to meet the needs of victims.

Provision of Restorative Justice

We welcome the inclusion of restorative justice as a potential intervention under the explanation of Right 3 once they have reported a crime. As we have reported in other publications (Gavrielides, 2018), restorative justice is not routinely offered to victims when a crime is reported; but there is evidence to suggest that as few as 4.1% of victims were given the opportunity to meet the offender, but as many as 28.1% would accept the opportunity, had they been offered it (ONS, 2019).

However, we would question whether Right 3 '*to be provided with information when reporting the crime*' is the correct place for this provision to be located, as this reads as a one-way flow of information from service provider to victim, rather than genuine dialogue on ways in which victims can choose to interact with the Criminal Justice System.

Empowerment of Victims

One of the strengths of the Victims Strategy is the concept of victim empowerment. Giving victims a choice in how they communicate with police and whether they want to report the crimes against them or not is central to the Victims Strategy. The strategy offers alternative courses of action outside of court for any victims who do not want to engage in the formal criminal justice process, such as compensation, formal apologies, or restorative justice (Ministry of Justice, 2018; 30). These courses of action help empower victims in making their own decisions about how they'd like their cases handled, while also promoting confidence in the criminal justice process. We believe that this needs to be better reflected in the Code, so that those who have been affected by crime are empowered to be able to take decisions as to potential ways to remedy the situation. As we recommended in our previous consultation, alternatives to prosecution for victims (who want them) should be provided and suitable options should be carefully evaluated and discussed with the victim (IARS, 2018b).

If the government is committed to improving the victims' experience and placing them at the heart of the process, we would recommend that an extra right is added – that is the right to engage victims in a dialogue about the different options for pursuing justice. Alternatively, this should be added to and made explicit in Right 4 – the right to have services and support tailored to victims' needs.

Safeguarding Victims

We acknowledge the importance in the code under right 8 '*to be given information about the trial, trial process and your role as a witness*'. However, we would welcome a more explicit commitment to safeguarding of all victims from being cross-examined unfairly and on irrelevant material, which could undermine their credibility. This was first raised by Claire Waxman (Waxman, 2018) and highlighted in our previous submission that, although the Victims Strategy includes the need for safeguarding children and individuals involved in domestic abuse cases, this right is not clearly stated for all victims of crime nor is the protection from being unfairly cross-examined mentioned. We believe that this concern hasn't been fully addressed, and so adding a brief statement to Right 8 would go some way to resolving this.

1.3 Key stages of a victim's journey in the criminal justice system

The rights cover the time period from reporting a crime, to following a conviction and thus we would agree that they do cover the key stages of a victim's journey in the criminal justice system. We particularly welcome the proposal for victims to have a single point of contact wherever possible, and note that this was in response to clear feedback from previous consultations.

We also welcome the additional information regarding the Victim Personal Statement and when this can be completed or added to during the victims' journey.

Clarity on when Restorative Justice can take place

In regards to the provision of restorative justice, as discussed above, we do not think that this has been sufficiently developed. There are several stages at which either a victim or an offender may be able to request or engage with restorative justice – pre-sentencing or an out of court disposal, during a custodial sentence, post-release/during probation. This should be made more explicit in the Victims Code, rather than the current wording which states that 'you can ask to participate in Restorative Justice at a time that is right for you' (p. 8).



Section 2 - Information

The revised Code sets out the services and a minimum standard for these services that must be provided to victims of crime. It also includes a number of changes within the Criminal Justice System that have now come into force. The revised Code contains more practice advice and information, and we reflect on this below.

2.1 Practical Advice and Information in the draft revised Code

We welcome the inclusion of practical information in the Code, and believe that the level of information is generally about right. The separate text boxes are clear and helpful in providing additional information without breaking up the flow of the text.

Signposting

However, there are occasions where the content could be improved. Throughout the report there are references to support and information that can be accessed through the Gov.uk portal. Although this is helpful, the Gov.uk website is vast can be quite challenging to navigate, and so we recommend that when directing people to the Gov.uk website, you also provide some narrative to give useful search terms to find the page you are directing people to. For example, “*more information is available on Gov.uk – type X into the search engine to find the information quickly.*”

2.2 Additional Information to be included

Right to compensation

Right 5 addresses the right to compensation, and while we welcome this right, we are concerned that sections 5.9 and 5.10 do not completely consider the different backgrounds of victims. Our previous report made note of the disadvantages faced by refugee and asylum-seeking women, yet no mention of support for this group has been made in the Code. We would reiterate that these individuals are disproportionately affected by hate crimes and violence against women, whilst also being less likely to have sufficient knowledge of their rights and the host society’s legal and institutional systems. They usually don’t have the financial resources to bear the cost of remedy proceedings, and legal aid cuts have exacerbated this problem. We would recommend that more information in the form of a booklet or a text box explaining the role of solicitors is provided here.

Travel expenses

Right 10 points to the fact that victims can claim for certain expenses (travel, childcare, loss of earning etc.) from the CPS if they attend court. Whilst this does respond to a point we made in our previous response ('The Accessibility of Support'), we feel it does not go far enough in addressing the issue. We believe that it should be possible for victims to access a bursary *prior* to their spending of money, as it should not be assumed that all victims will be able to afford the outlay of these expenses in advance.

Protection of Victims' data

One area of the Code that we believe needs to be made explicit is the way in which victim's data will be handled. With the introduction of GDPR legislation it is clear that a key area of the Code that needs to be revised is ensuring that agencies are able to obtain explicit consent for their data to be referred to other partners rather than implied consent.

As part of our previous response we consulted our user group, the Independent User Scrutiny Panel (IUSP), and they emphasised the following good practices to ensure victim privacy during their engagement with the Criminal Justice system. They stated that, "*privacy notices, giving full information on data sharing, must be enforced; including the victim's clear and unambiguous consent to take part.*" (IUSP)

Therefore, we recommend that an explicit point about how a victim's data will be kept safe is added to the code.



Section 3 - Impact Assessment and Equalities Statement

3.1 Additional Evidence to Assess Equality and Economic Impacts

Our final recommendation is that any future consultations around equality and impact assessment explicitly broadens the definition of ‘victim’. We have found that broad studies looking at equality often fail to encompass the views of those worst affected by inequality. As noted by Gavrielides (2017), the Victims' Directive captures “groups who have traditionally been excluded from protection including migrant, refugee and asylum-seeking people...”

Whilst it would be unreasonable to base all changes on the views of a small group, we do think that discussing this with those it affects holds more value than simply reading studies alone. At IARS we base a large part of our findings on user-led research, and we hope that this will be a model that is also employed by the government.



Section 4 - The Draft Revised Code Recommendations

A number of recommendations have been identified throughout this consultation response, and for clarity they are summarised here in three areas:

- Clarity and accessibility
- Additional information required
- Policy recommendations

4.1 Clarity and accessibility

1. That the layout of the Code is revisited. It would be helpful for the information to be signposted more obviously - perhaps starting each right on a new page, or otherwise providing a clear demarcation or separation between them when they occur on the same page.
2. That it is clearly indicated as to which rights apply to victims, depending on whether the crime is reported to police or not. This could be via a visual symbol next to the rights that apply to all to make this as clear as possible.
3. That where people are directed to the Gov.uk website, you also provide some narrative to give useful search terms to find the page you are directing people to.

4.2 Additional information required

4. That there is a more explicit commitment to safeguarding of all victims from being cross-examined unfairly and on irrelevant material, which could undermine their credibility, under Right 8.
5. That an extra right is added – that is the right to engage victims in a dialogue about the different options for pursuing justice. Alternatively, this should be added to and made explicit in Right 4 – *the right to have services and support tailored to victims' needs*.
6. That the opportunities for restorative justice at various points in the victim's journey should be explained more clearly and replace the current wording which states that 'you can ask to participate in Restorative Justice at a time that is right for you'.
7. That for those who may struggle to understand the UK's Criminal Justice Services, more information in the form of a booklet or a text box explaining the role of solicitors is provided in Right 5 (5.9 and 5.10).
8. That an explicit point about how a victim's data will be kept safe are added to the code.



4.3 Policy recommendations

9. That it should be possible for victims to access a bursary from the CPS if they attend court *prior* to their spending of money, as it should not be assumed that all victims will be able to afford the outlay of these expenses in advance.
10. That when conducting impact assessments, The Victims' Code should broaden the definition of 'victim' to include groups who have traditionally been excluded from protection including migrant, refugee and asylum-seeking people.



References

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

Gavrielides, T. (2010). *Restoring relationships: hate crime and restorative justice in European best practices of restorative justice in the criminal procedures*: Budapest conference 2009, European Union: Hungary.

Gavrielides, T. (2012). *Contextualizing Restorative Justice for Hate Crime*. *Journal of Interpersonal Violence* 27(18), pp. 3640.

Gavrielides, T. (2015). *Is Restorative Justice Appropriate for Domestic Violence Cases?*. *Revista De Asistentă Socială*, 14(4), 105-121.

Gavrielides, T. (2017). *Collapsing the labels 'victim' and 'offender' in the Victims' Directive and the paradox of restorative justice*. *Restorative Justice: An International Journal*, 5(3), 368-381.
<https://doi.org/10.1080/20504721.2017.1390998>

Gavrielides, T. (2018). *Victims and the restorative justice ambition: a London case study of potentials, assumptions and realities*. *Contemporary Justice Review*,
<https://doi.org/10.1080/10282580.2018.1488129>

House of Commons. (2018). Volume 646 c480.

Ministry of Justice (2018). *Victims Strategy*. HM Government. Retrieved from:
<https://www.gov.uk/government/publications/victims-strategy>

The IARS International Institute. (2016). *Response to the Joint Committee on Human Rights, Human Rights & Business Inquiry*. IARS Publications

The IARS International Institute. (2016). *Response to the Justice Select Committee - Restorative Justice Inquiry*. IARS Publications

The IARS International Institute. (2016). *Response to the Home Affairs' Inquiry into Hate Crime & its Violent Consequences*. IARS Publications



The IARS International Institute. (2018). *Abused No More: Safeguarding Youth & Empowering Professionals*. IARS Publications

The IARS International Institute. (2018b). *Responding to the 2018 cross- governmental Victims' Strategy: A user voice*. IARS Publications

The Office for National Statistics (ONS). (2018). *People, Population and Community*. Retrieved from:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/adhocs/008615dataonvictimsservicesandrestorativejusticeyearsendingmarch2013tomarch2017crimesurveyforenglandandwales>

The Office for National Statistics (ONS). (2019). *People, Population and Community. Restorative Justice, year ending March 2011 to year ending March 2019: Crime Survey for England and Wales (CSEW)*, Retrieved from:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/adhocs/010238restorativejusticeyearendingmarch2011toyearendingmarch2019crimesurveyforenglandandwalescsew>

Victim's Commissioner. (2018). *New Victims Strategy pledges to deliver reform of victim rights*. Retrieved from <https://victimscommissioner.org.uk/new-victims-strategy-pledges-to-deliver-reform-of-victim-rights/>

Waxman, C. (2018). *Here is everything that's wrong with the government's new Victims Strategy*. Retrieved from: <https://www.independent.co.uk/voices/victims-strategy-uk-compensation-criminal-injuries-scheme-child-abuse-crime-a8531571.html>

IARS INTERNATIONAL INSTITUTE
14 Dock Offices, Surrey Quays Road,
Canada Water, SE16 2XU, UK
Office Mobile: 0044 (0)7833224442
Email: contact@iars.org.uk

