



Response to: Delivering justice for victims: A consultation on improving victims' experiences of the justice system

About Rights of Women

Rights of Women is a legal rights organisation which specialises in supporting women who are experiencing – or at risk of experiencing – all forms of Violence Against Women and Girls (VAWG), including domestic and sexual violence. In our approach, we recognise the additional barriers posed by the intersection of gender-based abuse, racism, structural inequality and other forms of discrimination and oppression that impact on women's vulnerability, exclusion and marginalisation.

By offering a range of services – including specialist telephone legal advice lines, legal information and training for professionals – we aim to increase women's understanding of their legal rights and improve their access to justice. We empower women to make informed choices where they come into contact with the criminal, family, employment or immigration and asylum legal systems so they can live free from violence.

Rights of Women is a registered charity 1147913 and Company Limited by Guarantee.

Rights of Women's consultation response

Before answering the specific questions asked in the consultation we would point out that as a women's legal organisation we will confine our responses to law and legal policy issues within our skills and experience.

Rights of Women
February 2022

Foreword

Rights of Women provide free legal advice to approximately 3500 women annually across England and Wales, the majority of whom are survivors of Violence Against Women and Girls (VAWG).

We would state from the outset of our response that the timeframe for this consultation has been too short and this has impacted on our ability to provide the detailed feedback we would have wished to provide, given the extent of our contact with victims and depth of our experience and expertise of supporting women survivors.

We were a signatory to letter sent to government in December 2021 signed by 35 organisations working across the VAWG sector requesting an extension on the response deadline, which set out the difficulties posed by the timeframe. However, this request was rejected.

We highlight this as a significant failing in the consultation process and a missed opportunity to truly transform approaches to victims, which has impacted not only on ourselves but a wide range of other organisations.

CHAPTER 1: MEETING VICTIMS' EXPECTATIONS - QUESTIONS 1-8

Question 1: Do you agree that the key principles set out in the consultation are the right ones? If not, do you have any other suggestions?

The consultation is concerned in the main with victims within the criminal justice system (CJS) with only Chapter 3 considering those who do not engage with the CJS.

However, we are also fully aware that very few victims engage with the CJS at all. **In the year ending March 2020, an estimated 1.6 million women in England and Wales suffered from offences of domestic abuse¹.** Additionally, there are an estimated 128,000 victims of rape a year. Less than 20% of victims of rape report to the police and only 1.6% of rapes reported result in someone being charged². The numbers of women victims that do not engage with or gain justice through CJS process has remained staggeringly low for many years.

Beneath these statistics is the lived experience of thousands of women survivors who have been failed as victims and deserved better. They indicate the severity of the structural and systemic inequalities and barriers that need to be understood through robust research and addressed to transform the current system.

We support the four principles³ in general but want to see a different approach to what is put on a statutory and legislative footing. The Consultation document refers to placing the principles in primary legislation to “*send a clear signal to all listed agencies that they must comply with delivering it*” and the detail of the Code in accompanying regulations or guidance. However, it is evident not least from the statistics above, that far more than a ‘signal’ is needed as this does not mandate agencies or guarantee enforceable rights.

The existing Victims’ Code and its predecessors have already served the purpose of signalling what is needed for years, but the continued shortcomings and persistent areas of concern highlighted in the consultation document show this is insufficient.

We support the recommendations made by the Victims’ Commissioner in relation to the need to place the Victims’ Code on a statutory footing with a statutory duty on those agencies listed in the Victims’ Code to ensure all their policies and practice are compliant and the Rights are delivered in every case without exception.

¹ [ONS Data from the Crime Survey for England and Wales](#), Nov 2020

² [The end-to-end rape review report on findings and actions](#), June 2021

³ Summarised from [Delivering justice for victims A consultation on improving victims’ experiences of the justice system](#) as: 1. Ensuring victims are informed 2. Ensuring victims are supported 3. Ensuring victims have their voices heard 4. Victims’ right to review

Question 2: What more can government and agencies listed in the Code do to ensure that frontline professionals are aware of what is required of them under the Code?

Awareness of the Code can only be gained by putting it on a statutory footing which makes it a mandatory part of the framework that frontline professionals in the statutory sector must adhere to.

Training on the Code should be compulsory for government departments and agencies listed in the Code to ensure they are not only aware of the Code but also the realities of lived-experience of victims, particularly on societal groups that face the intersection of the highest levels of inequality, disproportionate crime, marginalisation and discrimination. Third sector partners should be paid fairly for their time and expertise.

We believe introducing the Code on a statutory footing would also be the best way to support oversight, accompanying methods of enforcement and penalties or sanctions for failure to comply. These are needed to ensure a robust and accountable framework for the Code to embed and become part of routine practice.

We believe these steps are necessary not least to avert the breaches of the code that we currently hear about from our beneficiaries. Some examples are given below of common scenarios, but this list is not exhaustive:

- Women who have been victims of an assault in a domestic abuse context are told by the police that there is insufficient evidence to prosecute their perpetrator partner without being given any further reasons or explanation for the decision not to prosecute.
- Women are not informed until many months after a decision not to prosecute has been taken.
- Women are not informed when their perpetrator is released on police bail and this only comes to their attention when bail has been breached.
- Women are not informed when their perpetrator is released from prison following the end of their sentence.

To ensure frontline specialist VAWG organisations can continue to provide primary support and a safe space to women to understand their rights under the Code and support those whose rights have been denied it is important to resource them financially to support victims to do this and challenge breaches.

Furthermore, the insight of specialist VAWG organisations will be vital to government and agencies monitoring the implementation and adherence to the Code through their feedback, for example to consultations or via stakeholder groups. A dedicated funding pot is needed to achieve this.

Recommendations:

- **Place the Victims' Code on a statutory footing with training mandatory**
- **Fund specialist VAWG services to raise awareness and support victims**

Question 3: What more can government and agencies listed in the Code do to ensure every victim is made aware of the Code and the service they should expect to receive under it?

Our experience indicates that the number of victims that are even aware of the Code is minimal. A copy of the Code must be provided to the victim during their first point of contact with the police, NHS or other statutory services dealing with the victim. Translated copies of the code should be available for this.

As outlined in our answer to Q3, the voluntary and community sector will also inevitably play an important role in raising awareness of the Code and providing support to ensure victims access these rights. This is considerable work for the specialist VAWG sector and must be funded, particularly the smaller 'by and for' organisations who will play a critical role in supporting the most vulnerable victims.

Recommendations:

- **Statutory bodies provide a copy of the Code to every victim**
- **Fund specialist VAWG services to raise awareness and support victims**

Question 4: Do the current procedures around timing and method of communication between the police/CPS and victims about key decisions work for victims? Are there any changes that could be beneficial?

Our experience is that the procedures are not consistently adhered to and this is the primary problem rather than necessarily the procedures themselves. As a general observation based on our beneficiaries' experiences, our impression is that communication between victims and the police/CPS is poor and ad hoc depending on who is dealing with the case both in terms of the officer in the case or prosecutor thereafter - if the case gets that far.

Typically, victims **are not** made aware of key decisions in the majority of cases and certainly their opinion/views are not asked for. The Code currently outlines the right for the victim to understand and be understood, be provided with information and kept up-to-date. It even highlights the enhanced entitlements available for vulnerable or intimidated victims, but this is not adhered to. Again, our recommendation is to place the Code on a statutory footing with powers of penalty/sanction to ensure adherence.

Police and prosecutors also appear to be reliant on standard letters in providing victims with what can be devastating information/updates on their case which is hugely distressing; we do not think this is appropriate although it is important that victims have a record in writing. A victim-centred approach when delivering updates should include provision of the opportunity for victims to meet the decision makers and ask questions and this should include with access to other relevant support needed by the victim such as ID(S)VAs.

Additionally, support should be made available by an independent legal professional so they can act on behalf of the victim and explain legal responses. The legal tests used by police and prosecutors in making their decisions to charge or continuing with a charge are very difficult to understand. In fact, the wrong legal tests are sometimes even applied by the 'experts' in relation to decisions to charge.

Recommendations:

- **Place the Code on a statutory footing with powers of penalty/sanction to ensure adherence**
- **Provide the opportunity to meet with decision-makers about important updates**
- **Provide victims with access to ID(S)VAs for support**
- **Provide victims with access to an independent legal professional to understand key legal decisions**

Question 5:

- a) Should the police and CPS do more to take victims' views into account in the course of their duties, particularly around decisions to proceed with cases?
- b) Should there be an explicit requirement for the relevant prosecutor in a case or types of cases to have met with the victim before the charging decision, and before a case proceeds to trial?
- c) What changes, if any, could be made to the Code in relation to information about the Victims' Right to Review Scheme?

In relation to (a) and (b) please see our answer to Q4. In short 'yes' and importantly, the victim should receive independent legal support in relation to this. More efforts need to be made to ensure that the victim is fully informed of the process and to receive assurance that their voice is heard. The victim cannot reasonably be expected to understand the rules of evidence, disclosure, the Full Code Test to be applied when considering charge; this remains the responsibility of the police and prosecutor but nevertheless additional support should be given to victims to empower them to understand.

On the wider issue of engagement with and consultation with victims, we would highlight the specific barriers faced by some migrant women. We have come across migrant victims of a crime who have been informed that a prosecution will only proceed if they remain in the UK. There could be issues with the victim's immigration status that means they are not able to remain in the UK to participate in Court proceedings and obtain justice, for example their visa may be expiring before the date of the trial or they may be undocumented. They would either need to apply for permission to stay or to extend their visas in order to remain in the UK. The immigration rules do not contain any provision for victims of crime to apply for permission to remain in the UK to participate in criminal proceedings and/or to undergo a period of recovery and reflection. The Government should introduce appropriate measures to enable a victim of crime to participate in a criminal trial; one option could be the granting of permission to remain in the UK until proceedings

have concluded. The proposed option would meet the UK's obligations under article 59 (3) (b) of the Istanbul Convention.

There is provision for victims of modern slavery in the guidance on 'Discretionary leave consideration for victims of modern slavery'⁴. to apply for discretionary leave 1) due to their personal circumstances 2) to obtain compensation from the trafficker and 3) to help police with enquiries. Where a victim is helping police with their enquiries the general practice is for the police to apply to UKVI directly for discretionary leave for the victim although the victim can also apply without having to pay an application fee. A similar process could be adopted for migrant victims of crime participating in a criminal trial as per this extract from the guidance below:

Victims who are helping police with their enquiries

Where a person is conclusively found to be a victim of modern slavery (and has agreed to assist with police enquiries in the UK, the victim, or the police, may apply for leave to be granted, or extended, on this basis. Initial considerations of DL for non-European Economic Area (EEA) national victims will take place automatically.

In relation to (c) the VRRS, this needs to be a statutory right and legal support is vital for a victim to properly address their right to review. The MOJ in their own findings have shown how few victims exercise their right to review – a review is requested in just over 2% of decisions eligible for VRR and of those 2% of decisions challenged only 14% of decisions are overturned.

The review process often involves legal arguments and victims (while often in an extremely distressed state after having received a decision that can often be overwhelming) cannot be expected to challenge the various aspects/ technicalities of the decision made, let alone understand them.

In addition to this, how decisions are made to terminate proceedings has a bearing on the eligibility of the victim to review the decision. In circumstances where 'no evidence is offered', although technically a victim can still exercise their right to review, the proceedings cannot be reinstated which is again shattering for the victim and also pointless – the purpose of the review is to challenge the decision with the potential of it being overturned.

Recommendations:

- **Provide victims with access to an independent legal professional to understand key legal decisions**
- **Introduce provisions to enable migrant women with immigration status issues to participate in criminal proceedings**
- **The Victims Right to Review should be made statutory and victims provided with independent legal support to exercise their rights under it**

⁴ [Discretionary leave consideration for victims of modern slavery](#), Home Office, 2021

Question 6:

- a) What are the benefits and costs to greater or different use of Community Impact Statements?
- b) Can you provide an example of where one has been used effectively?

We can see the benefits of Community Impact Statements being strengthened and included both within the Victims' Law and Code but are reticent to endorse this further without far more detail about how representatives will be identified and supported.

A benefit would be to ensure a wider number of victims voices are heard within the justice system and would be extremely beneficial in assisting the courts and the CJS more widely in understanding how crimes regularly impact on different types of communities.

We would highlight the value of these in relation to communities sharing one or more common characteristics or identities, for example women or Black and minoritised women, where there are histories of structural inequalities that are often intersectional. Particular crimes, such as murders, can have a very specific and traumatic impact on communities longer term that it would be beneficial to give greater recognition to this.

However, we are concerned about how such representative of communities might be identified, put forward and supported. In relation to crimes related to gender-based abuse which is primarily experienced by women and perpetrated by men, we would suggest that specialist VAWG organisations would be well placed to fulfil this role due to their expertise and contact with women survivors.

We would urge meaningful community consultation as the starting point to inform a sensitive and supportive approach. Also, the issue of whether other additional support is required to ensure a best practice and ethical approach should be formally considered.

Question 7:

- a) What changes, if any, could we make to allow victims to be more engaged in the parole process?
- b) What do you think would be the advantages and risks of implementing those changes?

This question is outside our specific specialism but we would suggest that this is a decision that has to be made on a case-by-case basis. Victims may not always want to attend a parole hearing but do want their voices to be heard, for example as to the release of the defendant or conditions of licence. The victim should have the right for a representative to attend on their behalf if they do not wish to attend themselves.

Question 8: Should victims of mentally disordered offenders be allowed to make and submit a Victim Personal Statement when the offender's detention is being reviewed by the Mental Health Tribunal? Please explain your answer.

Yes, the victim personal statement (VPS) is solely to do with the impact on the victim and therefore should not take into account the mental health of the defendant. The VPS is for the benefit of the victim – the tribunal will then attach what weight it sees fit bearing in mind the mental health of the patient, medical factors and whatever other evidence is available to the tribunal. It is not the victim's fault or responsibility as to the mental state of the offender when they committed the crime – the impact on the victim is not changed or reduced as a result of the defendant's mental state – the victim is still the victim and the purpose of the VPS is to explain the impact of the offending on the victim. The expertise of the tribunal and professionals involved in the process then decides how the VPS is used and what value it has. All victims, whatever the status of the defendant, should have the same rights and this includes parity at a Parole Hearing or Mental Health Tribunal.

CHAPTER 2: IMPROVING OVERSIGHT AND DRIVING BETTER PERFORMANCE – QUESTIONS 9 - 22

Question 9: a) Local-level partnership working is vital to ensuring the delivery of a quality service to victims. How can agencies better collaborate locally to deliver and monitor compliance with the Code? b) How could agencies be encouraged to consistently share data at local and national levels to support monitoring of Code compliance and drive improvements?

Agencies do not need to share personalised data on individuals to support monitoring of Code compliance. We have concerns regarding the often unnecessary collection and sharing of data in local partnerships. Data-sharing threatens individual privacy and places victims, particularly minoritised and migrant women, at great risk. Increased data-sharing does not necessarily protect the rights of victims and should never be used for the purposes of immigration enforcement. There must be additional safeguards on data protection and any collection of data must comply with all data protection and privacy principles. Only this will engender trust.

An independent body should be required to collect data regarding breaches of the Code which will be easier to monitor with an independent streamlined single complaints procedure. If the Code is placed on a statutory footing then this will inevitably improve compliance.

It is not the responsibility of the different agencies to better collaborate to deliver and monitor compliance of the Code. The duty should instead be on each agency to simply deliver the service they are commissioned to carry out. If failure to comply is due to limited availability or resources, then this is a matter for the PCC and the Government at local and national level to adequately fund relevant services for victims.

Question 10: What should the role of PCCs be in relation to the delivery of a quality service and commissioning victims' support services, and what levers could be given to PCCs to deliver this role and enhance victims' experiences of the criminal justice system at a local level?

We support the recommendations put forward by the EAW (End Violence Against Women and Girls) Coalition⁵, of which we are a member, to this question.

Question 11: a) Do you think the current inspectorate frameworks and programmes adequately focus on and prioritise victims' issues and experiences and collaborate effectively across the criminal justice system to do so? b) Could inspectorates be reinforced further in relation to victims?

⁵ For more information, refer to [EAW's website](#)

No, the current inspectorate frameworks and programmes do not focus on victims' issues or experiences sufficiently.

The inspectorate framework could be utilised more powerfully on behalf of the victim if their voices are really sought and their experiences listened to. However inspectorates need to do more to ensure their genuine independence, as their make-up is often from former members of the bodies they are supposed to scrutinise and this has compromised their delivery, reputation and reduced victim confidence.

Of additional concern, is the fact that even if direct engagement with the victim is achieved, there is no mechanism in place to enforce compliance/adherence to the recommendations and conclusions identified by the inspectorate reports in any event.

Question 12: Do you think that the current inspectorate arrangements allow sufficient collation of, and reporting on, victims' data and issues across the criminal justice system? Could they be utilised further for this?

There is currently no inspection solely for victims regarding agencies compliance with the Code and the victims' experience of this. Reports compiled by the inspectorate are dependent on the data provided, if at all. Dip sampling is insufficient and very little account for how these figures relate to the different demographic groups.

Question 13: What are the most critical functions to enable an effective Victims' Commissioner?

We support the Victims' Commissioner's response to this question in the increasing of their powers.

An important critical function from our perspective is having the resources and powers necessary to monitor the delivery of the Code and to be able to enforce compliance and impose sanctions for failure, as at present the Code is neither enforceable in law nor subject to effective review.

Additionally, the Victims' Commissioner can only make recommendations to the Government who can decide whether or not they wish to follow them. For the role of the Victim Commissioner to be meaningful the Government should be held accountable for ignoring any recommendations and be obliged to explain why recommendations have been ignored. Limitations such as these to the Victims' Commissioners powers undermine their ability to fulfil their role in an effective manner and fail victims.

Question 14: Are there any oversight mechanisms, measures or powers used in other sectors (for example by the CQC, Ofsted, and FCA) which would be beneficial and appropriate to be used within the criminal justice system to ensure that victims receive a high-quality service?

This question is outside our area of expertise.

Question 15: Would a more standardised and consistent approach to oversight, and to incentivising and supporting agencies in relation to delivery of a quality service for victims across the criminal justice system, be beneficial?

There needs to be a more consistent approach to oversight to ensure parity and this would be beneficial to the services for victims, however this relies on a robust review and enforcement framework that encompasses delivery, monitoring, accountability and compliance. This will challenge the systemic weaknesses, 'postcode lottery' of availability and standard that currently prevails. However, the intersectional discrimination issues faced by women victims from Black and minoritised backgrounds, migrant women, children, the LGBTQ+ community, and victims with disabilities must be considered when standardising any approach. The delivery and quality of service must be available to all and monitored to ensure this.

There must be a recognition and strengthening of the already established community stakeholder groups, who have an advisory/scrutiny role in relation to their work. This particularly concerns the specialist 'by and for' sector that carry out beneficial, invaluable professional services to the most vulnerable sections of our society. It is achieved through developing approaches underpinned by an intersectional lens on equality which provides a useful framework to define and address the issues that many victims face.

Question 16: What should the consequences be for significant failures in relation to delivering a quality service for victims, including complaints relating to the Victims' Code? Should those consequences be directed at criminal justice agencies as a whole and/or individuals responsible for the failure(s)

Consequences for significant failures should have the effect of challenging and changing the problematic behaviour or actions at its root and preventing their recurrence.

Our experience of thematic significant failures reported by our beneficiaries are commonly an indicator of an underlying and embedded problematic institutional culture that is reproduced by individuals within it. These failures often relate to deep-rooted misogynistic and discriminatory approaches to justice. When failures arise, the consequences should therefore be directed both at the criminal justice agencies as a whole and also at individuals. However, individuals should not be scapegoated at the expense of addressing institutional failures.

There should therefore be a clear framework in place to ensure this and ensure accountability on these factors.

Question 17: What do you consider to be the best ways for ensuring that victims' voices, including those of children and young people, are heard by criminal justice agencies?

Although children and young people is not our focus, a significant proportion of our beneficiaries would be considered young people (18-24 years old) and many of our beneficiaries that we advocate on behalf of have children impacted by the issues they approach us for advice on such as gender-based domestic abuse.

The approach by the CJS to victims must be consistent with trauma-informed approaches to reflect the wide range of backgrounds and experiences they have and address specific vulnerabilities relevant to children and young people. Specialist advocates must be available to support this group.

Question 18: a) What data should criminal justice agencies collect about victims' experiences, and at what key points in the process? b) Can you provide any examples – in the UK or elsewhere – of this being done effectively?

We have perceived significant gaps in existing data collection that, through their absence, are missing the opportunity to understand the reality of experiences of victims and therefore effect change.

Our key recommendation would be to have an accessible independent process that is designed to empower feedback from those facing vulnerability and marginalisation. This should include a far more robust and direct focus on whether victims are experiencing discrimination on the basis of protected characteristics from CJS agencies. For example, an appropriate and straight forward system that enables any victim who has experienced sexism or racism to feed this back would be transformative. We support the use of a trauma-informed methodology to do this. Every victim should have the opportunity to be able to contribute this feedback safely and anonymously at any point during their journey through the criminal justice process.

In any data collection, victims must be protected and safeguarded. It must be ensured that victims do not face barriers reporting their experience, for example for fear of reprisals or through fear of information being transferred regarding an insecure immigration status.

We would reinforce that it is vital that a 'firewall' is implemented to prevent criminal justice agencies sharing immigration details of such victims with the Home Office.

Feedback systems should also never run the risk of damaging live investigations or enabling individuals to inadvertently incriminate themselves. This must inform the design of any system.

Question 19: How might victims provide immediate feedback on the service they receive and its quality (such as text message, online surveys etc.)

We advise robust consultation with victims and organisations that represent victims before the introduction of any of these measures as all have potential benefits and drawbacks.

We are keen to see more accessible feedback collection methods but there is a clear danger of this being meaningless unless informed by a diversity of survivor views underpinned by research and a robust methodology. We are concerned that overly simplistic approaches will lack nuance and fail to grapple with how traumatic the victim journey is or the inherent power imbalance between victims and institutions. We do not think it will be remedied by technological gimmicks but only by a long-term culture shift.

Investigations are very personal and intrusive for the victim. The onus should be on fostering an environment and culture where victims can easily and safely provide feedback.

The differing needs of minoritised and excluded groups needs to be front and centre of informing this process.

Question 20: How do you think we could simplify the existing complaints processes to make them more transparent and easier for victims to use? How could we secure a swifter resolution while allowing for a more consistent approach?

Our recommendation would be to focus on increasing the accountability of those bodies responsible for handling complaint processes and ensure independent oversight to improve outcomes to complaints for victims. A danger of simplifying existing complaint processes without addressing these fundamental problems within these bodies will be ineffective and only worsen the problems victims face with them.

Current complaint systems across the CJS vary widely and are hard to navigate or use as a layperson. Furthermore, it is clear from our contact with women survivors that there is little trust and confidence in complaint systems to either resolve ongoing problems in a fair and timely manner or provide redress for failings in the past. Our experience is that this lack of trust and confidence is well-founded and that CJS complaint systems have a history of failing complainants through a lack of transparency and through discriminatory responses.

In our experience, women are often frightened to complain and feel that any complaint would have a negative impact on the outcome through reprisals from

those in authority that are investigating their case and holding the responsibility to help them to achieve justice.

These experiences exemplify why the bodies that handle complaints are often not fit-for-purpose. Complaint processes should fundamentally support and empower victims to assert their rights rather than conversely, as they often do now, empower institutions to evade scrutiny.

The police complaints system

By way of example of the problems highlighted above, in relation to the police complaints system, measures that appear on the face of it to 'simplify' the process for victims (often set in motion through the lack of information provided at the outset), frequently combine to undermine the entire process:

- The different 'levels' of police complaint handling (local resolution, local resolution, IOPC investigation) are well known for enabling the police to minimise serious complaints and deal with them at the most basic and inappropriate level.
- Complainants are often persuaded by police officers to go for simple and quicker lower-level investigations carried out by the police themselves, which lack independence and enable the police to evade deeper scrutiny for serious failings.
- Simplistic online complaint forms do not empower the complainant to put forward their best and full case which then enables the complaint to be minimised and not fully investigated.
- Complainants are not made aware of the full set of standards of professional behaviour and the code of ethics that police must comply with to help them structure their complaint around breaches of conduct, which enable the police to avoid scrutiny for misconduct.
- Complainants are not made aware of the level of expertise – often legal – of those handling their complaints which in turn would indicate to them that they are at a disadvantage in approaching the process unrepresented and as a layperson. This reinforces the existing power inequalities between the complainant and the police.
- Complainants are not made aware of timescales in relation to the bringing of criminal charges for any wrongdoing by police officers against them and are therefore not empowered to understand that delays in the handling of their complaint could mean that even if successful, the subsequent appropriate action may be time-barred. Again, this can be an enabler for the police to avert criminal charges.

The above list is not exhaustive; there are many other well-known problems with the current police complaint system including the oversight by the IOPC.

Our view is that victims require legal advice and representation to navigate complaint systems that are frequently weighted against them.

Question 21: What more can be done to improve oversight of complaints handling, including where victims are dissatisfied with the outcome of the complaint process?

To be effective, the oversight of complaints - including where victims are dissatisfied with the outcome of the complaint process - need to be independently carried out and acted on swiftly.

This is particularly resonant for women victims of VAWG, for whom delays and dysfunction in relation to complaint handling and oversight, may also carry consequences for their safety and place them at risk; for example, where the complaint relates to their treatment or breaches of the Code by the police in how they investigated a VAWG crime against them.

Alongside this, victims should have full access to independent legal advice and representation to improve their chances of swift and effective access to justice and safety.

Question 22: What more might agencies do to embed complaints relating to the Victims' Code into their operational and performance management processes

We do not believe individual CJS agencies should be responsible for investigating complaints against themselves as this compromises the process.

CHAPTER 3: SUPPORTING VICTIMS OF CRIME – QUESTIONS 23 - 30

Question 23: a) What legislative duties placed on local bodies to improve collaboration where multiple groups are involved (such as those set out above) have worked well, and why? b) What are the risks or potential downsides of such duties?

Qu 23(a) is not an area we can comment on.

Qu 23(b) we do not support any collaboration between local bodies in terms of the sharing of victim's confidential information. This echoes our concerns about the serious violence duty being currently introduced in the Police, Crime, Sentencing and Courts Bill which seeks to put police-led data sharing practices on a statutory footing and poses great risks to women victims, particularly those from Black and minoritised backgrounds, of disproportionate contact and discrimination from statutory agencies.

Local bodies must ensure proportionality when collecting any data from victims.

There must be additional safeguards on data protection and any collection of data must comply with all data protection and privacy principles.

Commissioning

Question 24: What works in terms of the current commissioning landscape, both nationally and locally, for support services for victims of: a) domestic abuse b) sexual violence (including child sexual abuse) c) other serious violence?

Question 25: How could the commissioning landscape be better brought together to encourage and improve partnership working and holistic delivery of victim services for: a) all victims of domestic abuse b) all victims of sexual violence c) all victims of other serious violence d) children and young people who are victims of these crimes?

Question 26: a) What can the Government do to ensure that commissioners are adequately responding and implementing the expertise of smaller, 'by and for' organisations in line with local need? b) Should national commissioning play a role in the commissioning framework for smaller, 'by and for' organisations? • Yes – please explain why • No – please explain why

Question 27: What can local commissioners (local authorities and PCCs) do to improve the commissioning of specialist 'by and for' services for their area?

This is not a specialist area of knowledge for us, however we are aware that the current commissioning landscape is flawed and requires an overhaul, particularly in

relation to supporting provision of specialist ‘by and for’ services for women survivors of VAWG.

We are particularly concerned about how current commissioning and competitive tendering practices have favoured provision by generic services over specialist Black and minoritised women’s ‘by and for’ services leading in many cases to the closure of vital services.

We recognise the expertise of Imkaan⁶, the umbrella women's organisation dedicated to addressing violence against Black and minoritised women and girls, in this area and refer to key recommendations made previously by them:

- *Develop a ‘do no harm’ approach to commissioning, which should involve working with BME ending VAWG organisations as key partners in local ending VAW strategies including ensuring that needs assessments meaningfully include BME providers.*
- *One size does not fit all. It is important to recognise the role of BME ending VAWG organisations. While single contracts are easier to manage, multiple contracts preserve leadership, expertise and specialism.⁷*

Question 28: a) What challenges exist for victims in accessing integrated support across third sector and health service provisions? b) What and how could practical measures or referral mechanisms be put in place to address these?

The challenges include discrimination, re-victimisation, fear of reprisals against them (particularly for migrant women), lack of trust and a lack of support to access.

The rights of migrant victims of crime to access support services very much depends on their immigration status. All victims of crime should be able to access the support they need to recover from their experiences regardless of their immigration status and be able to access interpreters if needed.

Victim Surcharge

Question 29: a) Do you agree that we should explore increasing the surcharge?
• Yes – please explain why • No – please explain why • Don’t know / no answer
b) Should we consider an overall percentage increase (for example, increasing the surcharge rate by 20%)? If so, do you have any views on what the percentage increase should be?
c) Should we increase the minimum rate (for example, to £100)? If so, do you have any views on what the minimum rate should be?

⁶ For more information, refer to [Imkaan website](#)

⁷ From Survival to Sustainability: Black Services Matter, Imkaan, 2018

https://docs.wixstatic.com/ugd/2f475d_9cab044d7d25404d85da289b70978237.pdf

Question 30: The surcharge for fines differs to the other surcharge impositions, as it is paid by both individuals and organisations and is calculated as a percentage amount of the fine with minimum and maximum caps. a) Do you agree that we should review the surcharge paid for fines?

• Yes – please explain why • No – please explain why • Don't know / no answer

b) Should we review the cap rates for surcharge amounts for fines? If so, do you have any views on what the minimum / maximum caps should be?

c) Should we review the percentage amount? If so, do you have any views on what the percentage amount should be?

In response to the questions in this section, we do not agree that the availability of services to victims should in any way be dependent on the monies collected via the surcharge and this should not form part of the consultation on delivering justice for victims and improving their experience of the justice system. This token gesture enforced by the Government on perpetrators of crime should not be seen to relieve or payback the traumatic experiences felt by those who are victims of crime. In addition to this, to suggest that a certain level of support is not available in an area because of the low levels of surcharge or the collection of the surcharge will only seek to compound and intensify the injustice of their experience.

CHAPTER 4 – IMPROVING ADVOCACY SUPPORT – QUESTIONS 31 – 49

Question 31: How do IDVAs fit into the wider network of support services available for victims of domestic abuse?

Question 32: How might defining the IDVA role impact services, other sector workers and IDVAs themselves?

Question 33: How do ISVAs fit into the wider network of support services available for victims of sexual violence?

Rights of Women (RoW) does not have experience of the commissioning, training or accreditation of IDVAs or ISVAs and will not comment specifically on those areas. However, the importance and value of advocacy support is well documented⁸. RoW supports calls from other organisations and the Domestic Abuse Commissioner on the importance of secured funding for community-based services especially for specialist ‘by and for’ services.

The experiences of the survivors RoW supports demonstrates that it can often be difficult to access advocate support because of a lack of resources. Advocate services do their best but the funding problems they face leave them in an unenviable position and survivors can sometimes end up on waiting lists for many months to access support. In this time, the likelihood is that cases will have progressed, some survivors will have withdrawn from the process and opportunities to tackle abuse are reduced. It is also important to place the work of community-based services in the wider context and recognise that public spending cuts to statutory services make the work of support services extremely difficult whether it is difficulty accessing housing, mental health services or benefits, these issues all impact on the ability of survivors to free themselves of abuse and must not be overlooked.

In this section, RoW will focus specifically on the role that IDVAs and ISVAs play in the justice system, in particular the criminal and family justice systems. We recommend the following:

- ID(S)VA support in the criminal justice system improves survivors experience of the justice system and improves conviction rates. There is already a good and effective model of improving the criminal justice system’s response to domestic abuse in the form of Specialist Domestic Violence Courts (SDVC)⁹. RoW recommends this model is rolled out across England and Wales.

⁸ For example, [Coy, M. and Kelly, L. \(2011\) Islands in the stream: Final Report, CWASU](#)

⁹ See [Centre for Justice Innovation, Better Courts: A snapshot of domestic violence courts in 2013](#). Details of the court from Standing Together against Domestic Abuse and information on the impact, can be found on their website: <https://www.standingtogether.org.uk/criminal-justice>

- Reform of the family justice system is currently being piloted as a result of the damning conclusions of the Harm Report¹⁰. This is an opportunity to address the problems IDVAs and ISVAs face in providing support in the family justice system. Firstly, provision of these roles need to be increased as there are not enough IDVAs and ISVAs with specific family court experience¹¹. However, it is also important that work is done with the family justice system to improve attitudes to this support which is currently mixed. This attitude is exemplified by the fact that many court IDVAs and ISVAs struggle to even be allowed into the court room because of judicial attitudes. These problems could be alleviated by both increased availability of family court IDVAs/ISVAs and the development of a DA best practice lead within the court as explained below.
- **The Harm Report also provides an opportunity to improve practice within the family justice system.** RoW has long supported calls for a role within the family justice system the purpose of which is to improve response to domestic abuse. The SDVC run by Standing Together Against Domestic Abuse provide a model that would work within the family justice system and address some of the problems identified in the Harm Report by ensuring there is a coordinating role managing the response to domestic abuse, providing feedback and areas for improvement as well as providing an important co-ordinating role within the system. Part of this role would be to improve links between the family court and local support services, addressing some of the criticisms in the Harm Report around the siloed working of the family justice system. RoW supports the Domestic Abuse Commissioner’s call for this role, titled a ‘DA best practice lead’, to be rolled out across family courts.
- **Within both the family and criminal justice system, it is important that IDVAs and ISVAs are not placed in the unfair position of being viewed as a replacement for legal advice.** There are clear distinctions between the role of advocate and lawyer. Providing domestic abuse support is not a substitute for legal advice. RoW supports the Victim Commissioner’s call for the provision of legal advice to victims who report to the police. The successful pilot of the provision of legal advice shows the difference it can make not only to victims of abuse but to the functioning of the system as a whole¹². The Government must also commit to proper reform of the legal aid system to ensure that victims are able to access legal aid in the family justice system which includes a commitment to improving fees for legal aid providers to be able to continue to do this vital work.

Recommendations

- **Specialist Domestic Violence Courts (SDVC) rolled out across England and Wales**

¹⁰ [Hunter, R., Burton, M. Trinder, L. \(2020\) Assessing Risk of Harm to Children and Parents in Private Law Children Cases, Ministry of Justice](#)

¹¹ [Safelives, \(2021\) Understanding Court Support for Victims of Domestic Abuse](#)

¹² [Smith, O. and Daly, E. \(2020\) Evaluation of the Sexual Violence Complainants’ Advocate Scheme](#)

- **Support the Domestic Abuse Commissioner’s call for a ‘DA best practice lead’ to be rolled out across family courts**
- **Support the Victim Commissioner’s call for the provision of legal advice to victims who report to the police**
- **Government must also commit to proper reform of the legal aid system to ensure that victims are able to access legal aid in the family justice system**

Question 34: How might defining the ISVA role impact services, other sector workers and ISVAs themselves?

As a legal charity, RoW would highlight the importance of legal advice and support being considered as part of the ‘wider network’ referenced in questions 31-34. See our comments above in relation to legal advice. It is important to draw a clear distinction between the provision of IDVA/ISVA support and the provision of legal advice. IDVAs/ISVAs should not be put in the position of having to provide their clients with legal advice. This is not appropriate; the roles of advocate and lawyer are distinct. Survivors of abuse should be provided with legal advice to enable them to understand both system and understand the legal consequences of decisions made both by the courts, agencies and themselves.

Recommendations

- **Draw a clear distinction between the provision of IDVA/ISVA support and the provision of legal advice**
- **Survivors of abuse should be provided with legal advice to enable them to understand both system and understand the legal consequences of decisions**

Question 35: What are the challenges in accessing advocate services, and how can the Government support advocates to reach victims in all communities?

Question 36: What other advocacy roles exist that support victims of hidden crimes, such as forms of other serious violence? Please outline the functions these roles perform. To what extent are the challenges faced similar to those experienced by ISVAs and IDVAs? Are there specific barriers?

Question 37: How useful is existing guidance, and how can this guidance be strengthened?

Question 38: Is more action needed to define standards for ISVAs and to ensure they are met? If yes, who is best placed to take this action?

Question 39: Is more action needed to define standards for IDVAs and to ensure they are met? If yes, who is best placed to take this action?

Question 40: What are the advantages and disadvantages of the current qualifications and accreditation structures? Are there any changes that could improve it?

Question 41: How can we ensure that all non-criminal justice agencies (such as schools, doctors, emergency services) are victim aware, and what support do these agencies need in order to interact effectively with IDVAs, ISVAs or other support services?

Question 42: What are the barriers faced by ISVAs preventing effective cross-agency working, and what steps could the Government take to address these?

Question 43: What are the barriers faced by IDVAs preventing effective cross-agency working, and what steps could the Government take to address these?

Question 44: What are the barriers facing specialist or 'by and for' services preventing cross-agency working, and what steps could the Government take to address these?

In response to questions 35, 41-44 which focus on barriers, RoW would reiterate what has been stated above about the problems with resourcing community-based support for survivors. The funding and co-ordinating structures of advocate services are outside RoW's remit but as an organisation that provides legal support to survivors and training to advocate services, it is clearly the case that a lack of resources is one of the most significant barriers to access, in particular, to accessing specialist 'by and for' services. There are clearly additional barriers and it must be recognised that black and minoritised, LGBTQ+, disabled and migrant victims often face intersecting forms of discrimination and additional barriers to accessing support. The work carried out by the specialist VAWG 'by and for' sector is invaluable and achieved through developing approaches to address the additional issues faced and the support that many victims require.

RoW would include the family justice system within the list of non-criminal justice agencies that needs to be made more victim-centred and aware. See our comments above about what can be done to improve the response of the family justice system.

Question 45: Please comment on the training required to support advocates for children and young people. How do these differ to adult advocate training, and are there barriers that exist to accessing this?

Question 46: What are the barriers to effective work with children and young people in this area, and what action could the Government take to address these?

Question 47: What best practice is there on referral pathways for children and young people who are victims of crime looking for advocacy support, including interaction with statutory services? Are there barriers to these pathways?

Question 48: Would providing clarity on the roles and functions of children and young people's advocates be helpful? In your experience, are these roles broad or do they focus on specific harms and crime types that children and young people have experienced?

These questions are outside of our expertise.

Equalities question

Question 49: Have we correctly identified the range and extent of the equalities impacts under this consultation in the equality statement? Please give reasons and supply evidence of further equalities impacts that are not covered as appropriate

No. We are disappointed by the Equality Statement and do not think it has correctly identified the range and extent of equalities impacts under the consultation.

The Statement has significant omissions and lacks meaningful detail. As a result of these shortcomings, it offers no recognition of or accountability towards specific societal groups who face severe inequality and disproportionate vulnerability to crime.

We have made reference below to a few of these groups but this list is by no means exhaustive:

The consultation document makes specific reference to victims of domestic abuse and sexual violence. These crimes are gendered with the majority of victims being women and the majority of perpetrators being men. However, the statement fails to address or provide any reference to this and the disproportionate effects of these crimes on women victims. This obscures inequalities faced by women and girls.

Furthermore, through this failure to acknowledge the gendered nature of domestic abuse and sexual violence it fails to address the additional barriers faced by women victims from backgrounds including Black and minoritised, migrant, LGBTQI+ and disabled.

The statement also makes no reference to migrant status, thus obscuring the inequalities faced by migrant women.

It is hard to have any confidence in the Victims' Law being transformative when these groups are made 'invisible' within those recognised as facing equalities impacts under this consultation.