



Rights of Women response to Ministry of Justice Consultation *Getting it right for victims and witnesses*

Responder details

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About Rights of Women

Rights of Women aims to achieve equality, justice and respect for all women. Rights of Women advises, educates and empowers women by:

- Providing women with free, confidential legal advice by specialist women solicitors and barristers¹.
- Enabling women to understand and benefit from their legal rights through accessible and timely publications and training.
- Campaigning to ensure that women's voices are heard and law and policy meets all women's needs.

Rights of Women is a not-for-profit organisation that provides free legal advice to women and engages on a policy level concerning access to justice and violence against women issues. We provide training on legal issues to statutory and third sector professionals, write legal publications designed to assist individual women, and those supporting them, through the law and provide three legal advice lines offering legal advice to women on immigration and asylum issues, sexual violence and criminal law, and family law (including domestic violence, divorce, contact

¹ For advice on family law, domestic violence and relationship breakdown telephone 020 7251 6577 (lines open Mondays 11.00am-1.00pm, Tuesdays and Wednesdays 2.00pm-4.00pm and 7.00pm-9.00pm, Thursdays 7.00pm-9.00pm and Fridays 12noon – 2.00pm). For advice on sexual violence and criminal law telephone 020 7251 8887 (lines open Tuesdays 11.00am-1.00pm and Thursdays 2.00pm-4.00pm). For advice on immigration and asylum law telephone 020 7490 7689 (lines open Mondays 2.00pm-4.00pm and Wednesdays 11.00am-1.00pm).

disputes). Our advice lines are staffed by qualified practising women solicitors and barristers.

We therefore have significant experience and understanding of supporting women who have experienced domestic and/or sexual violence through the criminal justice system. Our staff train professionals from the third sector and local authorities, police and NHS on how to support women as victims in the criminal justice system, and specifically advise on the the Code of Practice for Victims of Crime and criminal injuries compensation. Staff on our criminal law advice line have expertise in all aspects of the criminal justice system, and advise callers as to their rights under criminal injuries compensation. Our renowned publication *From Report to Court*, which explains the law and criminal justice system process to victims who have experienced sexual violence, was commissioned for its fourth edition last year by the Home Office and copies were provided to every police force, rape crisis centre and Sexual Assault Referral Centre in the country. We are uniquely placed to be able to comment on significant aspects of this consultation, with a background in direct support of victims and witnesses experiencing the criminal justice system combined with the legal knowledge and training of qualified solicitors and barristers.

General Comments

- The consultation document, and the questions asked, covered a very wide range of information. We would submit that the experience of responding to this consultation was similar to responding to 5 or 6 consultations at the same time. For this reason, we feel that a number of areas should be consulted on further – in particular the creation of a new Victims Code and Witness Charter, and the re-consideration of support available for victims giving evidence in trial proceedings. These are issues we consider on a daily basis with the women we assist, and we would appreciate the chance to comment when full documents and proposals have been confirmed and drawn up.
- The nature of this consultation meant that whilst some areas consulted upon fell within our expertise, others did not, and we have stated as such when this arises.
- Overall, we welcome the consistent attention to, and recognition of, the experiences and needs of victims of domestic and sexual violence throughout this consultation and the proposals therein.

Questions for consultation

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

- If certain victims are going to receive priority for support over others our concern is that all victims of violence against women are correctly identified as needing priority at the first point of contact with criminal justice agencies. This is most likely to be when they make a report of a crime to the police.

- The consultation relies heavily on the suggestion that a large proportion of victims of crime say that they do not need ongoing support and information. As is correctly pointed out in the consultation itself, though, the majority of this information comes from the WAVES research which does not include research taken from interviews with victims of sexual or domestic violence for reasons of risk. Therefore, when victims state that they do not need ongoing support and information this is not likely to include any victim of domestic and sexual violence, or other crimes relating to violence against women (for example, honour based violence). Indeed, our experience from callers to our advice lines is that women who have experienced domestic and sexual violence and who have reported this to the police, often say that *they do not feel supported enough*. It is very important to recognise this, and to, if anything, increase levels of support and information available to women in this situation.
- Women who have experienced violence against women, and criminal offences associated with this, are likely to come under the 'Victims of serious crime' (for example, rape, sexual assault, GBH) or 'The most vulnerable'. It is not explicitly stated, however, that 'the most vulnerable' will include victims of violence against women. This should therefore be added in to the definitions. Criminal justice agencies will need to be explicitly informed that domestic, sexual and other violence against women will often leave a woman being isolated and vulnerable and she should be identified as such at the earliest opportunity and offered the priority support.
- It is particularly important to explicitly mention domestic violence in 'the most vulnerable' category because crimes associated with domestic violence may not be automatically considered as 'serious crime'. A woman could be raped or seriously assaulted by her partner, in which case she would be identified as receiving 'priority' support, but much domestic violence consists of emotional and verbal abuse over significant periods of time. This may only occasionally result in the perpetrator committing low level criminal offences. Therefore, there needs to be an explicit mention to police and other criminal justice agencies that low level crimes such as criminal damage, common assault and theft can be as a result of domestic violence and that these victims will need to be correctly identified and given priority support, even if the offences they are victims of do not immediately link to 'classic' domestic violence. How these cases will be identified needs to be given careful thought. It is our understanding that police conduct initial assessments after a report of a crime. If victims are going to receive different levels of information and assistance as a result of this assessment, it is crucial that the importance of the assessment is explained to the victim, and a full account of the victim's circumstances and fears must be taken and the assessment filled in comprehensively. It is suggested that time should be taken to undertake this assessment after a witness statement has been made, and a full assessment should *always* be done. Police officers, or staff making the assessment, should receive training on violence against women, and the fact that the crimes themselves may not always indicate the full extent of the victim's vulnerability. Police should also have access to a full list of sexual and domestic violence services in their local area to signpost a victim to.

- We would also suggest that victims of harassment (and ‘stalking’) are explicitly included in ‘the most persistently targeted’ category. The offence of harassment itself has to show a course of conduct (i.e. two or more incidents), and this should be made obvious to those conducting initial victim assessments. So, even if someone is a victim of just one incident of harassment, this in itself should mean the victim is included in the ‘most persistently targeted’ category. It is commonly accepted that women are often harassed or ‘stalked’ upon leaving an abusive relationship, and sometimes within it. They will need the same support, and are likely to have the same vulnerabilities, as a woman who has been assaulted by her partner in the course of domestic violence. This is particularly the case if the more serious s.4 PfHA 1997 harassment offence has been charged, which involves threats of violence.
- Women who are victims of sexual or domestic violence, harassment, and other violence against women crimes do not need just one type of support, but in our experience, they all do need support from criminal justice agencies. Sara Payne’s report on victim’s experiences within the criminal justice system found that victims of sexual violence wanted:

“to be believed; to be treated with dignity; to be reassured that it was not their fault; to feel safe and comforted; not to feel like a ‘victim’; services that support them and their family; to feel in control; to be able to make informed choices”²

- In our experience this can be applied to all victims of violence against women and means, in its most basic form:
 1. Having a point of contact within the police or witness care unit to regularly update them on the progress of the case, and whom they can easily access if they have any issues or questions.
 2. Providing truthful, balanced information at the start of the proceedings i.e. before someone makes a witness statement if possible, about the witness statement, the investigation and court process, bail possibilities for the offender, giving evidence etc.
 3. A meeting after a witness statement is made so that a VPS can be given, a victim can be assessed for receipt of services, special measures can be discussed and relevant support organisations referred to.
 4. Having in mind, at all stages, the victim’s safety and ensuring the victim knows this is a priority.
 5. Explaining all decisions made in as much detail as the victim requires.
- We suggest that as a result of this consultation, the Ministry of Justice also conduct in depth research with violence against women support organisations about the nature and frequency of support that victims might need. This could be done in consideration of the EU Directive.

² The Victim Experience Review [November 2009], p14

Questions 2-9:

- Rights of Women does not have sufficient expertise in local authority commissioning or the new commissioning process to answer these questions. We do, however, endorse the Women's Aid response to this consultation for these questions, set out below.

Q2 Should supporting victims to cope with the immediate impacts of crime and recover from the harms experienced be the outcomes that victim support services are assessed against?

Women's Aid recognises that there is a need for high quality protection and support for victims and their children and that services and funders require appropriate criteria to assess effectiveness of services provision and welcomes an outcomes focused approach.

Whilst it is vital that victims are given support to cope with the immediate impact of the crime and recover from the harm experienced victim recovery takes place at different rates according to the nature of the crime, the identity and experiences of the victim as well as the quality of support provided. It is vital that victims receive appropriate, high quality support for as long as is required to recover from the violence.

Violence against women impacts on significant numbers of women and in various ways:

- Violence against women has affected almost 1 in 2 women in the UK. [Coleman, K., Jansson, K., Kaiza, P., Reed, E., (2007) Homicides, Firearm Offences and Intimate Violence 2005/2006. Home Office, Editor]
- Among female victims of intimate violence, less serious sexual assault was most likely to be committed by a stranger (62%). Serious sexual assault was most likely to be committed by a partner (51%), with one in five female victims reporting that a current partner, boyfriend or girlfriend had been an offender (19%). The victim-offender relationship was more evenly spread for stalking with 33 per cent of female stalking victims reporting a partner, 34 per cent someone known to the victim other than a partner or family member, and 42 per cent reporting a stranger as an offender. [Domestic violence, sexual assault and stalking: findings from the 2004/05 British Crime Survey Andrea Finney]

Domestic and sexual violence can have different impacts that take varying lengths of time to address and recover from including:

- Feel ashamed about what has happened or believe that it is her fault.
- Be scared of the future (where she will go, what she will do for money, whether she will have to hide forever and what will happen to the children).
- Worry about money, and supporting herself and her children or not having the money to leave.
- Feel too exhausted or unsure to make any decisions.
- Serious physical injuries
- Depression, anxiety, post-traumatic stress
- Be isolated from family or friends or be prevented from leaving the home or reaching out for help.
- Not know where to go.
- Have low self-esteem as a result of the abuse.
- Where there is domestic violence in some women often believe that it is better to stay for the sake of the children (e.g. wanting a father for her children and/or wishing to prevent the stigma associated with being a single parent)
- Have a very real feel that the perpetrator will hurt and/or kill her

- Fear rejection from family or community
- Fear being 'outed' as a lesbian
- Fear of real or perceived racism by services, the police, immigration officers or other professionals

Women's Aid recommends that:

- Victim outcomes are a key element of the quality assessment framework for services
- Other outcomes are also assessed to identify the quality of service and that existing quality frameworks for domestic and sexual violence services are acknowledged and developed where appropriate
- Government supports the development and implementation of an outcomes framework for victims of violence against women and girls that incorporates national quality frameworks for domestic and sexual violence that are already implemented by organisations such as CAADA, Rape Crisis, Respect and Women's Aid.

Q3 Are the eight categories of need identified correct? Are there any other categories of need that support services should address?

Domestic and sexual violence victims and their children have a range of needs and staff from specialist domestic and sexual violence services play a key role in advocating for the survivors that they support in order to get their needs met for example supporting victims to access housing or health services, enabling children in refuge services to get a school place etc. To provide effective support and protection for victims of all forms of violence against women local areas have to be able to address the following needs through outreach and refuge service provision:

- Accommodation
- Access to information
- Protection
- Civil legal advice
- Civil legal representation
- Support through the CJS
- Children's support
- Primary prevention
- Drug and alcohol support
- Interventions with perpetrators
- Community awareness
- Emotional support
- Peer support
- Financial advice
- Health services
- Immigration advice
- Interpreter and translation services

Plus: space to disclose without consequences

Women's Aid welcomes the categories identified.

Women's Aid recommends that the following must also be included:

- Advocacy and protection
- Legal information, advice, support and representation

Q4 Is a mixture of locally-led and national commissioning the best way to commission support services for victims of crime?

Women's Aid agrees that there is a mixture of national and local commissioning for specialist domestic and sexual violence victim support services to ensure access to safety for victims of all forms of domestic and sexual violence and their children across England. The development of the capacity of the voluntary sector to respond to the needs of victims and

offenders needs to lead nationally through the recognised second tier structures. Direction and guidance for minimum levels of provision and quality of service for vulnerable victims would be helpful. These services have to provide safe separate services for women and men need appropriate services as well. It is vital that services are accessible and appropriate to meet the needs of victims from many diverse communities and backgrounds to include victims from black, Asian and other minority communities, refugees and asylum-seekers, victims with no recourse to public funds, disabled victims, lesbian, gay and bisexual victims, transgender victims. Commissioners also need to take into account that many victims have complex needs as a result of the violence and abuse and misuse use substances, have mental health needs and services have the resources allocated to have the capacity to provide higher levels of specialist support to enable these victims to recover and take control of their lives and this can be medium and long term.

Women's Aid welcomes that HO has allocated funding for national helplines and Rape Crisis centres, Whilst we welcome funding for IDVA's and ISVAs these posts only support victims linked to specific processes linked to MARACs and victims going through court processes and research shows that victims need support before, during and after court proceedings. IDVAs work closely with specialist domestic and sexual violence services, refuge and outreach, in order to provide safety and support for victims in the short, medium and longer term. . However funding for refuge and outreach services from the Department of Communities and Local Government is no longer ring fenced and there is no dedicated funding available to support children and young people who are in specialist domestic violence services, refuge or outreach.

Women's Aid recommends that:

- Government develop and implement a national framework for commissioning support services for victims of all forms of violence against women and their children and that this is underpinned by commissioning outcomes and service standards. The national commissioning framework must be based on the well recognised quality frameworks that have already been developed by Respect, Rape Crisis and Women's Aid and CAADA
- Local commissioners use the national commissioning framework to inform the commissioning of high quality services for victims and to address the perpetrator behaviour in their areas and that the quality framework reflects the minimum standards of support and safety for victims and local areas.
- That government provides guidance for commissioners of violence against women services in all local areas. The guidance has to highlight effective ways to inform the commissioners from a variety of strategic bodies such as Health and Wellbeing Boards, Police and Crime Commissioners, GP Commissioning. Bodies such as these have to also recognise the need for well as the need for a multi-agency, co-ordinated services and interventions that are provided by statutory services and specialist domestic and sexual violence services. Brighton and Hove Council provide a useful example and have developed a violence against women strategy and Joint Strategic Needs Assessment to inform the commissioning specialist domestic and sexual violence services.

Q5 Should police and crime commissioners be responsible for commissioning victim support services at a local level? Who else could commission support services?

Women's Aid is concerned that police and crime commissioners may not consider the meeting needs of victims of violence against women a priority despite the fairly high prevalence of these forms of crime and that for example, domestic violence is a volume crime.

Police and crime commissioners may be partially responsible for commissioning victim support services at local level and if so require guidance to inform them about the needs of victims and witnesses of violence against women and how to provide effective protection and support. However if police and crime commissioners have resources for provision of victim services they must work in partnership with Local Authorities, Health and Wellbeing Boards,

PCT/GP commissioners and with NGOs and service users and local communities. Pooled budgets require the various commissioners to be able to work together and one voice should not be allowed to have a disproportionate influence over the makeup for local services.

Women's Aid recommends that:

- There is a national framework for commissioning domestic and sexual violence services – see Question 4
- Police and crime commissioners that do commission services for domestic and sexual violence survivors and their children do this in partnership with Local Authorities, Health and Wellbeing Boards, PCT/GP commissioners and with NGOs and service users and local communities.

Q6 Who do you think should commission those services at a national level?

Women's Aid recommends that:

- The Home Office with the Ministry of Justice commission VAWG services at national level since those departments already have experience of commissioning violence against women and girls services and that this may also be done in partnership with other departments such as health, as appropriate.

Q7 Which services do you think should be commissioned at a national level?

Women's Aid recommends that the following should be commissioned at national level:

- Specialist domestic and sexual violence services to support and protect victims of all forms of violence against women and girls and their children and this should also include domestic violence perpetrator prevention programmes, national helplines for domestic and sexual violence survivors and perpetrators. See Q 4
- National phone lines
- Training and professional development for the domestic and sexual violence sector
- Quality assurance mechanisms Some of these are already in place but central support for these would take the financial burden for this away for individuals VCS services
- Resource development and piloting of innovation (while new ideas and innovative ways of working are piloted at the local level the evaluation and dissemination of the learning from this is best handled at a national level through the second tier organisations who have developed experience in getting these processes right)
- Learning and skills transfer – the need for national networks that facilitate dialogue and the sharing of knowledge between local areas is essential both as way to bolster the resilience of local service but also to prevention “reinventing the wheel”.
- Capacity building support for national networks of services that provide safety and support for vulnerable victims. This work is required to continue the work that is underway by Women's Aid and Respect to develop accredited service standards for specialist domestic and sexual violence services, including perpetrator programmes and also to pilot and outcomes framework for commissioning and quality assessing domestic and sexual violence services provision and being taken forward in a partnership with the Home Office.

Q8 Should there be a set of minimum entitlements for victims of serious crimes, those who are persistently targeted and the most vulnerable?

Yes

Women's Aid recommends that all violence against women services are commissioned nationally using a commissioning and quality framework that is based on existing quality and accreditation frameworks for domestic and sexual violence services. See Q 4 above.

Question 9: *Is there further support that we need to put in place for victims of terrorism?*

- Rights of Women do not have sufficient expertise in these issues.

Question 10: *How could the Victim's Code be changed to provide a more effective and flexible approach to helping victims?*

- We wish to concentrate our attention on how the Victim's Code document can be more flexible and effective. We will address the principles of the Victim's Code in the next question.
- *The Code of Practice for Victims of Crime: a guide for victims*, already prioritises those victims who are 'vulnerable and intimidated' for contact within 24 hours rather than other victims who are to be updated on developments in their case within 5 days. In our view, it is a reasonably effective document addressed to victims and sets out what they can expect from various criminal justice agencies.
- This document could be improved by a clearer introduction that sets out the principles upon which the Victim's Code is founded and that every victim has a right to be treated with dignity and respect by the various staff and authorities (see reference to Sara Payne's assessment of victim needs in *The Victim Experience* above). There could also be an overall summary of what to expect at the start and a map of corresponding victim support services (importantly statutory and voluntary) so that reader's have an overview of the whole document, and can refer to what they need for what relevant stage in the criminal justice process their case has reached, and what support may be available to them at that stage.
- We assume that it will need to be clearly marked in *The Victim's Code: guide for victims*, what services are available to victims depending on whether they are classed as needing more support or not. An explanation of the basic information and support a victim is entitled to if they are not classified as 'in priority need' should be provided, as well as an explanation of what being 'in priority need' means. This is important to explain so that victims who feel that they are entitled, or would like, to be classified as 'in priority need' can contact the police and ask for another assessment or an explanation as to why they are not 'in priority need'.
- We would ask that the services for victims 'in priority need' are clearly stated, and what services are given from each criminal justice agency, as is in the Victim's Code already. Initially it must be clearly set out who may be the victim's continuing point of contact, and that they should expect to receive these details when they make a witness statement. We feel very strongly from our years of advising victims experiencing the criminal justice system, and as the authors of *From Report to Court*, that the 24 hour time limit for updates on developments in the case to be provided should be maintained and explicitly stated. It is rarely adhered to in practice by the police and CPS, so it is important for victim's 'in priority need' to be clearly told they are entitled to it. We also suggest that an obligation on the police would be to hold an initial

meeting with the victim (perhaps when conducting the risk assessment/taking the witness statement) to identify with the victim a contact plan, including how often the victim would like to be generally updated about progress (or not) in their case.

- Special measures information, details about the Victim Personal Statement and criminal injuries compensation should be set out in the Code.
- Support organisations and their roles should be set out as appropriate.
- We would suggest that due to the depth and breadth of this consultation, interested groups are approached further in relation to the design and aims of *the Victim's Code: guide for victims*, and a clear, concise, user-friendly victim's code is drafted for victims.
- When we deliver training courses to professionals supporting women through the criminal justice system, many of them are unaware of the current *Code of Practice for Victims of Crime*. As such, they are unaware of what treatment they can demand and what they cannot expect. This is almost always the case with callers to our advice line too. It is *vital* therefore that the new Code is well publicised on government websites, and is handed as a matter of course to victims of crime who make initial reports at the police station.

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

- We accept the principles as set out for the new Code in general, however we have a few additions to the principles to suggest.
- We agree with the principle that “Information on their case is to be readily available to all victims and offered pro-actively” but think that mention should be made here of time scales. There would be no point in victims receiving information on their case, even pro-actively, if that information was offered very late. An example of this would be, and this has happened to callers to our advice line, that they are informed days later that the perpetrator was granted bail, or conditions had been changed, all the while the victim could be completely unaware of a changed safety risk. Victims ‘in priority need’ should be informed of developments, as vulnerable and intimidated victims should be now, within 24 hours. We are unsure what is proposed with other victims, but thought should be given to timely responses for these victims as well.
- We note that mention is made of a Victim Personal Statement, and practical help at court (which we welcome) but it would be useful to make explicit mention also of the right to ask for, and have considered, special measures and information on criminal injuries compensation. We suggest special measures be mentioned alongside supporting vulnerable and intimidated victims to feel safe and protected, as it naturally extends from that point.
- It should be clear in the principles that vulnerable and intimidated victims will not only be supported to feel safe and protected, but that reducing risk is a key priority of all the criminal justice agencies.
- It is clear from the consultation document that the government considers working alongside support services a key part of their proposals. This should be stated, therefore, as a priority in the Victim's Code, and an explicit

commitment should be made to provide victims with key support services in their areas.

- The mention of 'vulnerable and intimidated' victims (as per the Youth and Criminal Justice Act 1999) and then victims 'in priority need' is confusing. We suggest that these terms are either explained clearly or 'in priority need' is used, if that will be the basis upon which it is decided what services victims are entitled to or not.

Question 12: *Are there additional needs for bereaved relatives which should be reflected in the Victims' Code?*

- We do not have sufficient expertise to answer this question.

Question 13: *How could services and support for witnesses, throughout the criminal justice system, work together better?*

- Criminal justice agencies (including the police, CPS, court staff and probation) do signpost victims to voluntary and statutory support agencies, but much more of this could realistically be done. If there is a principle in the Victim's Code to signpost to support services, and this is publicised, it might be a way of overhauling the way that signposting is done currently so that, particularly the police and/or the Witness Care Unit, approach signposting as a duty rather than a discretion.
- It should be the responsibility of the main point of contact for a victim 'in priority need' to co-ordinate the different court and legal services available i.e. contact the witness service at court, liaise with CPS regarding special measures and Victim Personal Statement.
- Ensure that there is effective multi-agency working at strategic and operational levels in all local areas across justice agencies and relevant statutory and voluntary sector services. The Home Office run a Sexual Violence Forum on a quarterly basis (the Ministry of Justice is a member), at which support for victims of sexual violence is discussed with representatives of voluntary services and government departments. Thought could be given to local or national forums set up by the Ministry of Justice in relation to victim needs and run on the same multi-agency basis to share information.

Question 14: *How could the Witness Charter be improved to ensure that it provides for the type of services and support witnesses need?*

- In our view the Witness Charter is a fairly helpful and comprehensive document that ultimately runs the risk of being confusing because it does not initially define the terms 'witness' and 'victim', and does not necessarily clarify that a victim is always also a witness for the purposes of court proceedings. This should be explained in any revision.
- Presumably, if victims are to receive different levels of support according to a classification of 'in priority need' this will also need to be explained in the Witness Charter.

- The basic provision of services to witnesses are set out in the current Witness Charter, but from our experience and, as with the Victim's Code, it needs to be much more widely publicised and available for all witnesses in criminal proceedings.
- It would also be useful, as in the Victim's Code, to add an overview section at the beginning, perhaps in a flowchart form, to summarise the overall process and what services are available. The Witness Charter could then be read in sections rather than the detail being off-putting to a potential witness.

Question 15: *How can the processes which allow victims and witnesses to make complaints to CJS agencies be improved to make accessing redress easier?*

- There should be central, well publicised, information, either in the Victim's Code, or on the Ministry of Justice website, as to how to complain for each criminal justice agency. We tentatively suggest a central complaints body that then distributes the complaints to the various different agencies as necessary, to make the process of complaining much simpler for the victim.
- Very importantly, for complaints about the police and CPS *how* a victim complains about treatment should depend on what remedy they are seeking. If they wish to seek a review of their case, it should be made clear what their recourse path is, and if they seek to complain about treatment but not change a particular decision, then it should be made clear that their recourse is the traditional lines of complaint for these organisations. Women who call our advice line are often left frustrated by complaining to the IPCC, for example, when what they seek is a review of a decision made in the investigation. In which case, it should be made clear that they should contact the head of the particular police unit responsible for making the decision, and then to more senior levels if necessary.
- Often victims are unable to pursue complaints due to obvious vulnerabilities, and support workers are asked to advocate. Therefore, we suggest IDVAs and ISVAs should be trained in how to make appropriate complaints on behalf of victims. We already assist with training of ISVAs in this respect, but it should be an element of training for all specialised support workers funded by the government.

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

- It is the responsibility of the CPS to ensure that the Judge receives the Victim Personal Statement before sentence, and to alert the Judge to the need to take it into consideration. The CPS are currently proposing to change their obligations to victims and witnesses in line, we understand, with this consultation. This is being piloted at the moment. We suggest that one of the stated obligations of the CPS would be to

- ensure that a Victim Personal Statement has been taken by the police and has been handed to the Judge before sentence for consideration.
- The Ministry of Justice could consider judicial training so that Judges and Magistrates are aware of the changes to the Victims Code and always consider a Victim Personal Statement, so that if one is not presented to them, they ask for this document. It could easily be made routine for the court to ask for the Victim Personal Statement to be served along with the pre-sentence report, and to potentially adjourn hearings if one was not supplied. Some Judges already place importance on the presence of a Victim Personal statement.
 - In terms of using a Victim Personal Statement throughout the process in addition to sentencing, the Ministry of Justice report *Achieving Best Evidence in Criminal Proceedings* (published March 2011) clearly states that police should take a Victim Personal Statement for a vulnerable victim immediately after conducting an ABE with the victim and discussing special measures with them. This then enables the Victim Personal Statement to inform decisions about special measures and other support throughout the process. The victim is then able to make an addendum Victim Personal Statement with an update if necessary at a later stage. This excellent policy is not always followed in practice, but would allow for the Victim Personal Statement to be used throughout the investigative and court process as necessary. We recommend that this practice is adopted for all victims, whether they are vulnerable or not.
 - An additional practice could also be for the allowance of a Victim Personal Statement to be written by the victim themselves in some cases, for example where it was not possible to take an initial statement from them at the time of making a witness statement, or where an updated Victim Personal Statement is needed to be supplied quickly to the courts.
 - Overall, practice needs to become increasingly routine in taking and considering a Victim Personal Statement so that the burden for creating the statement, or asking for one to be done, is not left to the victim who may not know they are entitled to make one. There has been significant progress in the taking and use of Victim Personal Statements over the last few years according to our advice line callers, but more can be done.

Question 17: *What process could be put in place so businesses can explain the impact of crime on individual members of staff and the business as a whole?*

- Rights of Women only supports individuals who are victims of a crime, and do not have the expertise to answer this question. A suggestion might be that the representatives of a business prepare a Victim Personal Statement themselves using at their disposal whatever documents they need to demonstrate impact.

Question 18: *What could be done to improve the experience of witnesses giving evidence at court?*

- We could write and inform the Government extensively on this issue and we would ask that consideration is given to this complex area outside of this already extremely wide consultation.
- Some of our suggestions for improvement (based on our work with victims and those that support them) would be:
 - Early and consistent communication – the victim is informed *before giving a witness statement*, or perhaps just after, what giving evidence at court consists of. She is given a copy of *From Report to Court* by the police (this should happen currently) which sets out what to expect from the court system and giving evidence. She should then be given information on special measures and these should be discussed with her by the police, who inform CPS *at the time of making a charging decision*, what she requires. She should be told that if she has made an ABE video she will still need to answer questions in court in cross-examination. She should be told the rules of cross-examination at an early stage and the CPS duty to object if they think she is cross-examined aggressively.
 - A routine meeting with the Prosecutor for her case before trial to discuss special measures, and where the rules of cross-examination are reiterated, should be offered to all victims 'in priority need'. Basic information should be given to the victim regarding the overall court process and the various outcomes in the meeting. This can be done by the police officer or the Prosecutor. It is our opinion that this can be achieved without discussing the victim's evidence. Indeed, it is achieved now if CPS discuss special measures with a victim at a pre-trial meeting. This would simply make a meeting routine.
 - The opportunity for a court visit, and a pre-trial CPS meeting, should be mentioned by the police to the victim at the time of informing them of a positive charging decision, and confirmed in writing.
 - When viewing their ABE video before giving evidence a victim should be informed that the ABE video may have been edited, and roughly what these edits are if it has been. The victim should be given an opportunity to discuss with the Prosecutor any anxieties that have been caused by the editing and the Prosecutor should explain as far as possible why the edits have been made. Victims' should be assured that the salient points of the ABE are featured and limited additional questions can be asked after the playing of the video.
 - It should be made more routine for Judges to clear the public gallery for the victim's evidence upon application by the Prosecution, and support workers should always be allowed to sit in court (rather than in the public gallery) when the

victim is giving evidence if the victim wishes their support worker to be present.

- We suggest that serious, long term, consideration is given by this Government to the use of victim advocates in court proceedings where there are victims identified as 'in priority need'. We appreciate that this cannot be considered in any more detail here.

Restorative justice

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

- A victim should only be *offered* restorative justice, and this we are pleased to note, is clearly recognised.
- Although we do not have expertise in organising these sessions, it would be logical for those responsible for the restorative justice programme to always engage in risk assessment planning, as should be done by CAF/CASS in private law children contact proceedings where there has been domestic violence. This would include holding documents separately and securely so that the offender does not find out details of the victim, supervision of the sessions, and planning with the victim beforehand the details of the session so that individual safety issues or fears can be addressed. It is recommended that all safety planning should be documented and required as part of the case file. There should be a mechanism for checking/auditing this.

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

- As we have had little experience of supporting victims who have sought, or wanted to seek, restorative justice we do not have many points to add in answer to this question. We would mention that reparation and its possibility needs to be publicised to the criminal justice community i.e. the judiciary and magistrates, court staff, police (particularly custody sergeants and those initially responding to victim complaints), the CPS, probation, the youth offending team.

Victim Surcharge

Question 21: *Should the Surcharge on conditional discharges be set at a flat rate of £15 for those over the age of 18?*

- Rights of Women accepts this proposal. Conditional discharges reflect a minor and first time offence, or extensive mitigation, so it is only right this should be reflected in a low Victim Surcharge rate.

Questions 22-24 combined: *When applied to fines, should the Victim Surcharge be set as a percentage of the fine amount? If so, should the percentage be set at 10%?*

Should there be a minimum Victim Surcharge amount applied to fines? If so, should this be set at £20?

Should the maximum level for Surcharge on fines be set below the Victim Surcharge on a custodial sentence of over 2 years?

- There are offences e.g. s5 Public Order Act 1986, which give the court no option but to impose a fine. This may be even if the defendant has little income and no capital. In these situations fines are usually paid at £5 a week. It is in recognition of these situations that although we primarily agree with the 10% Victim Surcharge on a fine, we recommend that the sentencing Judge or Magistrates should have the discretion to depart from the percentage rate and set a Victim Surcharge at a minimum of £5 or £10, if the defendant can show circumstances where this should apply.
- It is for this reason also that we suggest a minimum Victim Surcharge amount should be lower than £20. It is better to receive smaller amounts of money from a defendant than impose larger amounts which are never paid because the defendant has had to serve their fines as time served instead.
- We think that there is a danger, should a defendant sentenced to custody be asked to pay a Victim Surcharge, that the defendant's family (who could potentially be victims of his/her offending) will pay it. If it was imposed, this would need to be guarded against.

Question 25: *Should the Victim Surcharge, as applied to adult community sentences, be set at a flat rate? If so, should the flat rate be set at £60?*

- Although we have little expertise in this, we suggest as above that the Judges and Magistrates sentencing should have a discretion to deviate from the flat rate in extenuating circumstances, but we primarily accept the principal of having a flat rate. In certain circumstances, we suggest, it may also be possible for the court to deviate in excess of £60, to reflect the fact that the defendant has not received a custodial sentence *and* has the means to pay (up to a set amount of £120). This could also be considered where the defendant has the means and it has been established that the offence is part of a pattern of behaviour but that this has not necessarily been prosecuted before e.g. domestic violence cases.

Questions 26 and 27 combined: *Should Penalty Notices for Disorder be increased by £10? Should the additional revenue this raises be used to fund victim support services? Should the same increase be applied to both lower and higher tier Penalty Notices for Disorder?*

- We do not have any objections to these proposals.

Questions 28-30 combined: *Should the Surcharge on custodial sentences be set at a higher value than that for adult community sentences? If so, should this be set according to length of sentence?*

For multiple offences, resulting in concurrent or consecutive orders, should the Surcharge be ordered on the highest individual sentence?

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

- We think that there is a danger, should a defendant sentenced to custody be asked to pay a Victim Surcharge, that the defendant's family (who could potentially be victims of his/her offending) will pay the Surcharge. If it was imposed, this would need to be guarded against.

Questions 31 and 32 combined: *Should the Surcharge be extended to the full range of disposals for juvenile offenders?*

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

- We do not work with young offenders, but it seems obvious here to keep any Victim Surcharge imposed on young offenders to what they could afford with no income of their own.

Criminal injuries compensation

Question 33 and 34 combined: *How should we define what a "crime of violence" means for the purposes of the Scheme? What are your views on the circumstances we intend to include and exclude from the definition? What other circumstances do you believe should, or should not, be a "crime of violence" for the purposes of the Scheme?*

- Whilst we accept the definition of a crime of violence as a "direct, hostile, physical attack", we would disagree that this has to cause immediate mental or physical injury, and we also suggest that harassment offences (including the new offence of 'stalking') are included as a crime of violence, even if the harassment does not lead to a "direct, hostile, physical attack".
- Callers to our advice line who have experienced sexual violence often have a subsequent diagnosed mental injury that they would wish to seek compensation for – and this is almost always not immediately after the incident has occurred. It would not accurately reflect the nature of mental illness experienced by most victims of sexual or domestic, or indeed childhood abuse, if the word "immediate" was included.
- In our view harassment offences (and now potentially 'stalking' offences) should be included as a crime of violence because the impact on a victim of these offences can be as destructive in terms of mental injury as a "direct..physical attack". Many women face harassment in, or upon leaving, an abusive relationship (and much hate crime also manifests itself as harassment). It would be inconceivable to deny these victims the opportunity to claim for any injuries sustained, even if the behaviour does not include direct threats of physical harm. The fact that stalking/harassing behaviour has been explicitly excluded from compensation schemes under paragraph

179 is remarkably incongruous with the Government's publicised focus on tackling the issue of stalking, with recent National Stalking Awareness Day events at the House of Lords and the introduction of new legislation to mark the offence of stalking. Surely, as part of the protection the Government wishes to offer victims of stalking, there should be a recognition of the impact that it can have, and therefore that victims should be able to claim compensation.

- As a general point, we would mention that the phrase "innocent victims" when referring to those who can claim compensation sits uncomfortably in the consultation. We assume it is phrased in this way so as to reflect the wish to exclude those who have previous unspent convictions from claiming compensation. However, it is our view that victims are victims whether they are "innocent" or not, even if the circumstances around the offence may be complicated. Violence against women groups have long struggled to change societal attitudes to victims and to stop 'victim blaming' and the idea of a true victim being "innocent". We recommend that this language is changed even if the lack of unspent convictions requirement remains.

Question 35: *To be eligible for compensation, should applicants have to demonstrate a connection to the UK through residence in the UK for a period of at least six months at the time of the incident?*

- Rights of Women do not agree with the proposal that applicants under the Scheme will have to demonstrate residence in the UK of at least 6 months at the time of the incident before they can claim compensation. No one can predict when they become a victim of a violent crime, and those who have just arrived in the UK are particularly vulnerable to crime. Women migrants (particularly asylum seekers) are at a very high risk of physical and sexual violence upon first arriving in the UK, and this can be perpetuated with little knowledge of UK life or customs, no financial stability or access to funds or safe accommodation. The vulnerability of migrants and those who wish to settle in the UK should not be increased by being excluded from compensation.

Question 36: *What are your views on our alternative proposal to exclude from eligibility for compensation only those who were not legally present in the UK at the time of the incident?*

- Although this proposal will allow recent settlers and visitors to the UK to claim compensation should they be a victim of a violent crime whilst in the UK, we are concerned that if the category of applicants is limited in this way the Scheme will fail to provide compensation for victims of trafficking, many of whom will have been transported to the UK for exploitation without the appropriate (or any) visa. This not only goes against the Government's commitment to protecting trafficking victims, but also is potentially in breach of the UK Government's obligations under the *Council of Europe Convention on Action against Trafficking in Human Beings 2005*, ratified by the UK government in December 2008, and in force since April 2009. Article 15 of the Convention states the

necessity for victims of trafficking to have redress to compensation and Article 15(4) states that:

“Each party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation”.

- Although access to compensation does not have to be through access to a central fund, it has for many years been the case that the UK meets its obligations to victims of trafficking under Article 15 by providing access to criminal injuries compensation under the 2008 Scheme³ and has been a vital tool for claiming redress for victims of trafficking.
- We would suggest, therefore, that either if this limitation is brought in, an explicit exception is given for victims of trafficking, or, more preferably (because not all victims of trafficking are correctly identified by the NRM or wish to enter the NRM identification system), that all victims of a violent crime in the UK, no matter what their immigration status, would be able to claim compensation. We believe this is the case under the current Scheme. Whilst we appreciate that the Government wishes to save money, we propose the limited number of cases this would affect (i.e. victims of a violent crime with no status who report the offence to the police and then claim compensation) would have a minimal impact on the amount of money paid out in awards, but would have a great and lasting effect on some of the most vulnerable people in the UK.

Questions 37, 38 and 39 combined: *What are your views on our proposal not to make any award where the crime was not reported to the police as soon as reasonably practicable?/ Where the applicant has failed to cooperate so far as practicable in bringing the assailant to justice?*

What considerations should be taken into account in determining what is reasonably practicable for the applicant with respect to reporting the incident and co-operating with the criminal justice system?

Do you agree that there should be an exception to the rule that the incident should be reported as soon as reasonably practicable in certain cases? What should those cases be?

- Whilst Rights of Women would prefer the complete removal of the bar to claiming compensation because the victim did not report to the police as soon as reasonably practicable, we recognise that the Government has no desire to make this change to the Scheme.
- We welcome the recognition that trauma resulting from a sexual offence may lead to a delay in reporting to the police and that this does not have to lead to the denial of an award of compensation. However, if this is to be at the discretion of the claims officer,

³ The first case where compensation was awarded to victims of trafficking was MM and EM in 2007, where an award of £66,000 was made to MM and £36,500 to EM.

appropriate training needs to be given so that claims officers are aware of the reasons why people may not wish to report after experiencing a sexual assault. Callers to our advice line are often refused compensation on this basis, even though a thorough explanation of why the victim of rape or childhood sexual abuse has not reported to the police at first instance has been provided. If the Government intends to keep and strengthen this condition, therefore, the training for CICA officers needs to reflect the position of the criminal justice system i.e. that victims should never be penalised for choosing to eventually report a sexual assault⁴.

- We suggest that “particular circumstances relating to the incident” should explicitly include not only sexual offences but childhood abuse of any kind and domestic violence assaults. These offences also lead to the same ‘shame’ and pressures upon the victims as they would in sexual offences, and victims of these crimes should not be given detrimental treatment because the assault was of a physical rather than sexual nature.
- The condition that the applicant must co-operate so far as practicable in bringing the assailant to justice is in operation for the current Scheme. As with the above condition, we would stress that claims officers continue to operate discretion in circumstances where a victim is clearly experiencing the effects of trauma, or a mental or physical condition, that may limit their ability to respond to criminal justice agency communications. Training to claims officers on the effects of sexual and domestic violence should be given to enable them to exercise their discretion properly and thoroughly in these cases. It is felt amongst our callers and those professionals we train who work with victims of crime that this has not been done to a satisfactory extent previously.
- We would also ask that in exercising a discretion as to “particular circumstances relating to the incident” for late reporting or in judging co-operation with the authorities, claims officers do not solely refer to the police file and comments, but exercise their own judgment regarding the victim’s circumstances and ability to report or comply with the demands of an investigation.

Question 40: *What are your views on our proposal to make an award where previously it would have been deemed to be against the applicant’s interests (e.g. in cases of sexual or physical injury to a very young child)?*

- Whilst our services do not extend to children who have experienced sexual or physical violence, we welcome this proposal. From our work with adult victims of childhood abuse, we know that effects of this abuse can be experienced throughout adult life, and in some circumstances can lead to mental health issues that only develop later. In our view, it would always be in the best interests of an applicant to receive an award, even if they

⁴ See Crown Court Bench Book, March 2012, chapter 17: Sexual Offences

are not necessarily aware that they have been the victim of violence. It is unlikely that this award would be the 'trigger' for a child to discover that they have been abused.

Questions 41, 42 and 43: *What are your views on the options for limiting eligibility to the scheme for those with unspent convictions:*

- *Option A, our preferred option, to exclude from the Scheme all those with unspent criminal convictions? Or*
- *Option B, to exclude those with unspent criminal convictions for offences that could lead to an award under the Scheme (i.e. violent and sexual crimes), with a discretion to withhold or reduce an award in the case of other unspent convictions?*

Question 42: Under option A, what circumstances do you think are exceptional such that it might be appropriate for claims officers to exercise their discretion to depart from the general rule on unspent convictions?

Question 43: Are there any further impacts that you consider that we should take into account in framing our policy on unspent convictions, and any discretion to depart from the general rule?

- Rights of Women prefer the recommendations of *The Stern Review* to Options A or B, which states that there should remain a general discretion upon claims officers to still award a claimant compensation despite criminal convictions, and that the discretion not to grant an award or to reduce an award should not apply to victims of rape or sexual offences.
- In terms of the options given, we would prefer Option A as long as there remained a flexible discretion for a claims officer to make an award in "exceptional" cases. This would allow claims officers to apply a discretion to award compensation to victims who have any previous unspent convictions, rather than limited categories under option B. However, it is important to mention that we would only prefer this option if it was made obvious both to claims officers and to potential applicants (on the form and CICA website) that a discretion to award remained. With legal aid likely to be unavailable for a solicitor to assist with compensation claims in the future, individual victims must be made aware of the possibility of this discretion and the fact that they can still apply if they set out the circumstances of the conviction.
- Under the Option A "exceptional" cases there should remain an overall discretion on the part of the claims officer to make an award in any individual case, providing they can supply reasons why they deem the case "exceptional". We suggest that guidance as to what "exceptional" may, but does not always have, to be, should be; victims of trafficking who may have received convictions whilst they were being exploited or having escaped the exploitative situation (e.g. theft, cannabis cultivation, possession of a false document); women who have experienced sexual violence or assault as result of working in

prostitution, and who have previous convictions relating to prostitution; women who may commit minor offences in relation to domestic abuse situations (e.g. theft as a result of financial control). We would also welcome guidance to suggest that convictions received under the age of 18 (i.e. in the youth court) or minor summary offences that have not yet been spent could also be, if the claims officer considered appropriate, “exceptional cases”.

Question 44: *What are your views on our proposal to ignore the convictions of the deceased in bereavement claims? Should claims officers have discretion to depart from this rule and withhold payments when the deceased had very serious convictions? If so, what convictions should we consider as very serious for this purpose?*

- We accept the proposal to ignore the convictions of the deceased in bereavement claims. Whatever the victim’s situation in life may have been, they will have been killed as a result of a violent crime. As such, their families ought to have compensation to reflect this. The bereaved cannot benefit from the compensation, so it is right in our view to ignore whatever convictions they might have received in life, even if these were very serious.

Questions 45 and 46 combined: *What are your views on our proposed reforms to the tariff:*

- *Removing awards for injuries in bands 1 to 5 from the tariff except in relation to sexual offences and patterns of physical abuse?*
- *Reducing awards in bands 6-12 of the tariff except in relation to sexual offences, patterns of physical abuse, fatal cases and loss of a foetus?*
- *Protecting all awards in bands 13 and above?*

Do you agree that we should protect tariff awards for sexual offences, patterns of physical abuse, bereavement and loss of a foetus and re-categorise the award for patterns of physical abuse to clarify that it can be claimed by victims of domestic violence?

- Rights of Women welcomes the retention of bands 1-5 for sexual offences and patterns of physical abuse, the retention of current tariff rates for bands 6-12 for sexual offences, patterns of physical abuse etc and the retention of current tariff rates for all bands 13 and above. We also welcome the recognition that this means compensation for minor injuries, but received in relation to patterns of physical abuse, can be claimed by victims of domestic violence. We would also ask that consideration be given to add in the possibility of receiving an award for a minor or major injury (physical or mental) as a result of harassment/ ‘stalking’. A pattern of harassment may lead to only minor physical injuries but will almost always be traumatic to the victim in the way that domestic violence is. This is because harassment, like domestic violence, is not a one off incident, but something that becomes a feature of a victim’s life and can make them additionally vulnerable.

- We lack the expertise to be able to comment on whether it is preferable to keep the lower bands and tariffs as they are for victims of other types of violent crime. One issue that we thought confusing upon reading the consultation is that mention is made several times of how victims who sustain minor injuries can receive other types of help and support and “will be catered for by the NHS” (paragraph 217). Whilst we acknowledge that NHS treatment and counselling is available for anyone assessed by their GP as in need (although waiting times are long), and support through the criminal justice system should also be available, we are unsure as to why this is used as a reason not to award compensation.

Questions 47 and 48 combined: *What are your views on the options for changes to loss of earnings payments:*

- *Option A, to cap annual net loss of earnings at £12,600 and continue to reduce payments to reflect an applicant's other sources of income?*
- *Option B.1, to pay all applicants a flat rate equivalent to Statutory Sick Pay and not reduce payments to reflect to an applicant's other sources of income?*
- *Option B.2, as option B.1, but we would not make payments in any year where the applicant had employer-funded income in excess of £12,600?*

What are your views on our proposal that applicants must demonstrate that they have no capacity to earn, or very limited capacity, to qualify for a loss of earnings payment? What should be taken into account when deciding whether an applicant has very limited earning capacity?

- We do not have enough expertise on loss of earnings awards in personal injury claims to be able to comment thoroughly on these proposals, but we would seek to support a proposal that does not reduce payments to reflect an applicant's other sources of income. Most of the women we advise in relation to claiming criminal injuries compensation and the loss of earnings award are also in receipt of welfare benefits, and we would not want any award to be reduced simply because they have had to register for welfare benefits due to their inability to work. Similarly, if victims have other sources of income but still cannot work this should not lead to a reduction in loss of earnings award, as it may have already prevented them from accessing benefits and a compensation award is based on the principles of compensating that person, whatever their financial circumstances.
- We do not think that applicants should have to ‘prove’ that they cannot work – if the claims officer has reason to doubt that they are not in work, or can only do limited work, as a result of a physical or mental injury sustained from a violent crime, then they can access medical reports or documents from the DWP.
- Again we do not have enough expertise to be able to comment thoroughly on what criteria a claims officer should take into account when deciding whether an applicant has very limited earning capacity. We would point out, though, the applicants should not be penalised if

they are able to work a few hours a week, and consideration should be given to whether, although they may physically be able to function in a job immediately, whether this would increase their long term physical or mental injury. Many of the callers to our advice line have sustained mental injuries that have left them unable to work, and this has developed over time, even if at some limited points they could have physically performed a task for remuneration.

Question 49: *Should we retain all categories of special expenses other than for private medical care?*

- Our callers inform us repeatedly that they would, and do, find special expenses awards extremely beneficial, so we welcome the proposal to retain special expenses categories.
- One of the main aspects of special expenses awards that callers to our advice line particularly mention, however, is the ability to obtain counselling and the ability to pay for counselling using special expenses awards. This is because NHS counselling has long waiting lists, can only be accessed through a GP and often has a set time limit as to how many sessions a patient can have. Women who have experienced sexual violence are often in need of immediate therapy and special expenses can reimburse them for some of that initial outlay, if they have had to pay for private counselling. They also more often than not require extensive counselling and therapy for a longer period of time than can be offered on the NHS. It is for this reason that we recommend private medical care to still be included within special expenses. If it is not felt that this can be possible, then we suggest a separate special expenses category for payments for counselling, in recognition that it is not always accessible on the NHS to the degree needed for a victim of a violent crime.

Questions 50 and 51 combined: *Should we retain the bereavement award at its current level, and the existing categories of qualifying applicant for the bereavement award and other fatal payments?*

What are your views on our proposals on parental services:

- *To continue making payments for loss of parental services at the current level (£2,000 per annum up to the age of 18)?*
- *To continue to consider other reasonable payments to meet specific losses the child may suffer?*
- Rights of Women do not have extensive experience in supporting victims of crime who receive these types of payments, but we welcome the retention of these awards.

Question 52: *Should we retain dependency payments and pay them in line with loss of earning proposals?*

- We support any continuation of payments to dependants on those who have died as a result of a violent crime. Again, we think a rate

which does not make reductions to reflect other payments received by the dependant is preferable.

Question 53: *Should we continue to make payments for reasonable funeral costs?*

- Again, this is not an area of the Scheme that we have particular expertise in, but logic suggests that if an application is made for reasonable funeral costs by relatives of the deceased, there is little money to pay for these reasonable funeral costs elsewhere and should be awarded.

Question 54: *What are your views on our proposals to require applicants to supply the information set out above?*

- Requiring the applicant to include with their application the information as set out in paragraph 260 will increase the burden on the applicant when making their initial application. As we understand, under the present Scheme, applicants fill in a form and the claims officer then contacts the police and relevant medical professionals for reports. Under these proposals applicants will have to present initial medical evidence to show that an injury has been sustained. Aside from the financial problems this may bring about (addressed in the subsequent questions), it may well also delay the applicant in making the application because there will be an inevitable delay whilst the relevant medical professionals find documentation/write reports. Similarly, evidence of employment history and other sources of compensation may be difficult and time consuming to obtain. This may hinder many applicants from making an application.
- Preparation difficulty will be increased if criminal injuries applications are removed from the scope of legal aid, as many of the most vulnerable injured victims will not have money to pay a solicitor to organise these documents privately. Resources of victim support and other support organisations are limited (and will be even after the proposed reforms), and so it may be difficult to find a support worker prepared to help with the preparation of an initial application to the CICA.
- We therefore would suggest that minimal evidence is required from the applicant at initial stages, claims officers being better equipped and more able to gather evidence than many victims wanting to apply for compensation.
- If these requirements are brought in, we recommend Victim Support workers are trained in how to access these documents and prepare applications, and that claims officers are given explicit guidance to accept applications over the 2 year limit if the applicant was waiting for the prescribed documents to be supplied to them.

Questions 55, 56 and 57 combined: *Please let us have your views on our proposal that applicants should pay a small cost (up to a maximum of £50) to*

obtain medical evidence to make out their claim? Where CICA continues to cover initial medical costs, should this be deducted from the final award (up to a maximum of £50)?

Should costs associated with medical expenses be deducted when:

- *An applicant misses medical appointments that the CICA is paying for?*
- *The applicant commissions additional medical evidence that is not required to determine the claim?*
- Rights of Women want to ensure that victims of sexual and domestic violence are not prevented by any barriers from claiming criminal injuries compensation. Whilst we welcome the proposal that, if an applicant cannot afford to pay for the commissioning of medical reports, these costs will be covered by the CICA, we are unclear as to how this will be demonstrated to the CICA if she has to include medical evidence with her initial application. Furthermore we are unclear as to the tests that will be applied to prove that the applicant cannot afford £50. We suggest that this may be confusing for applicants unless clearly stated on the application form and CICA website, and administratively may well prove more costly in trying to ascertain whether someone can afford to pay than the CICA covering the £50 initially. We recommend therefore, that it might be a simpler remedy for the CICA to cover the initial costs of obtaining medical evidence and accordingly leaving this task to the claims officers themselves.
- Whilst it would be our view that successful applicants should not have their awards reduced for costs in obtaining evidence, if this is limited to £50 and it is clearly explained on the initial application form and on the CICA website, we do not have any further points in relation to this.
- Similarly, if it is clearly stated in guidance for the applicant that medical expenses will not be covered if they miss medical appointments arranged or for additional medical evidence the applicant commissions that is not necessary, then we accept this proposal. We suggest that there is a mechanism by which the applicant can appeal against decisions to charge them or deduct from them any award for medical expenses because they may have a good reason for missing a medical appointment, or they may have a well-founded argument as to why a piece of medical evidence was necessary and therefore why it should be covered by the CICA. This should be decided on a case by case basis rather than a blanket rule with no exceptions.

Question 58: *What are your views on our proposal to reduce the time available for applicants either to accept the claims officer's decision, or seek a review, from 90 to 56 days, with a further 56 day extension for exceptional reasons?*

- We understand that the reasons for the above proposal are to attempt to shorten the criminal injuries compensation decision process. Callers to our advice line often do require the full 90 days to make a decision to accept, review or appeal a decision because it takes time for them to access legal or other advice, and make a comprehensive decision. This is especially the case if a caller has

been granted an award, but is considering asking for a review for a further award for loss of earnings and/or special expenses. Whilst many applicants do not need 90 days and will therefore respond sooner anyway, there are those that do need 90 days.

- We would suggest, if there is a wish to reduce the time taken for the entire process, that a working time limit is imposed upon the claims officer by which to process an initial claim, and that this time limit (or aim) is widely publicised so applicants know roughly when to expect a decision. At the current time feedback from applicants is that it can take many months to receive an initial decision with little correspondence in between.

Question 59: *What are your views on our proposals to extend the circumstances where repayment of all or part of the award may be requested?*

- It is our understanding that deliberately misleading a claims officer upon application or failing to co-operate would lead to a withheld award anyway, so it may well be unnecessary to have these criteria for paying back awards in addition. If these criteria are implemented, the evidence would need to be clearly explained and presented to the applicant, and a mechanism given to them to appeal a request for re-payment if necessary (especially considering they may have subsequently disposed of the award in good faith).

Questions 60 and 61 combined: *What are your views on our proposal to remove the option to request a reopening of a case on medical grounds? What are your views on our proposal for deferral of Scheme decisions?*

- We do not accept the proposal to remove the option to request a reopening of a case on medical grounds. The cases where this actually can happen must be very few, and so we do not comprehend how substantial savings would be made with the introduction of this limitation. Furthermore, for the cases where it does apply, the proposal fails to take into account a situation where symptoms may not have developed significantly at the time an application is made (e.g. for a rape) but then worsen to a great extent a period of time afterwards (e.g. for severe mental health problems or a discovered physical illness 'triggered' by the trauma of the rape). The option to request a reopening of the application maintains the possibility of receiving an additional fund to reflect worsening illness. This proposal would not be covered by powers to defer Scheme decisions, because that would mean depriving an applicant of an initial award which would be useful at the time of first application.

Question 62: *What are your views on our proposal to enable claims officers to withdraw a review decision under appeal and issue a decision in the applicant's favour?*

- Rights of Women welcomes this proposal as a way of shortening the claims procedure and reducing administrative and costs burdens and stress levels for applicants (appellants).

Question 63: *What are your views on our proposal to implement powers to recover money from offenders, where criminal injuries compensation has been paid to their victims, if a cost effective process for recovery can be developed? How could this process work?*

- We do not have objections to this proposal per se, if it can be ensured that victims receive their decided awards whether or not recovery can be made from the offenders.
- In relation to the workings of this proposal we can foresee that there would be potentially many initial problems. Primarily, when would it be decided appropriate to recover money? Some compensation awards are received where no perpetrator can be identified by the police, and some awards are received when a perpetrator has been identified, but for other circumstances a prosecution has not been pursued. It would be difficult to envisage circumstances where a perpetrator could legally be approached to cover an award when they had not been tried and found guilty for the offence committed. If they had received a conviction and sentence, though, they could be approached through probation staff, or an additional sum could be charged as part of the sentence if the victim expressed an intention to apply for compensation in the Victim Personal Statement.

Questions 64-66:

- The responder does not have sufficient expertise in conducting equality analysis to answer these questions.