

From the Ombudsman Robert Behrens CBE



Victims Consultation  
Victims and Witness Policy  
Ministry of Justice  
7<sup>th</sup> Floor  
102 Petty France  
London SW1H

By email: [victims.consultation@justice.gov.uk](mailto:victims.consultation@justice.gov.uk)

28 May 2020

Dear Mr Alex Chalk MP

### **The Victims' Code: Consulting on improving the Victims' Code**

Thank you for the opportunity to respond to the consultation on the revised Victims' Code.

As Parliamentary and Health Service Ombudsman (PHSO) I have responsibility for looking at complaints under the Victims' Code where they have not been resolved by the organisation(s) complained about.

We welcome many of the suggested improvements to the existing Code. This is a positive step towards ensuring victims of crime receive adequate information and prompt support. We hope the revised Code will improve the experience of victims of crime within the justice system.

#### **Awareness of the code**

In the complaints we have received about how organisations have responded to Victims under the Victims' Code, we have heard that victims find navigating the justice system and victims' rights complex. Many victims are under intense emotional strain and can find the justice system unsupportive and confusing. We have heard that not only do victims not know their rights, but organisations do not know their obligations to uphold victims' rights.

Simplifying the Victims' Code is therefore an important step in the right direction to ensure victims receive the support from the justice system. The revised code clearly sets out the rights of victims and obligations of the various organisations in the justice system. This is welcome.

We remain concerned, however, about whether people will be sufficiently aware of their rights, including their ability to come to my office, if more is not done to raise awareness alongside the improvements you propose. The low number of cases we currently receive indicates this is a problem. I would therefore welcome the opportunity to take part in any work your department and the Victims' Commissioners themselves plan to do in this regard to ensure that the role of my office is appropriately highlighted and described.



Printed on 100% recycled paper

Millbank Tower  
Millbank  
London SW1P 4QP

Telephone: 0300 061 4308

Email: [Rob.Behrens@ombudsman.org.uk](mailto:Rob.Behrens@ombudsman.org.uk)

[www.ombudsman.org.uk](http://www.ombudsman.org.uk)

## Access to Justice

PHSO plays a critical role in helping individuals achieve justice when public services let them down, and in supporting public services to learn from those failings. This includes complaints about the Victims' Code. The existing Code accurately explains that someone wishing to bring a complaint to us on this issue needs to have their complaint referred to us by their MP. This is known as the MP Filter.

The MP Filter is a barrier to people pursuing a complaint and achieving justice when they have been failed by the public services that should be supporting them. It is outdated and we want to see it removed for all complaints to us, not just those under the Victims' Code. This would require primary legislation. We hope that the removal of the reference to the MP Filter from the revised Code may be a sign of intent that the forthcoming proposals for a Victims' Law will make provisions to remove the MP Filter for complaints brought to PHSO under the Victims' Code and if possible for all complaints in our parliamentary jurisdiction.

This is already, of course, Government policy under the long-delayed draft Public Service Ombudsman (PSO) Bill. We would therefore welcome this barrier to accessing our service being removed through another legislative vehicle such as the proposed Victim's Law. We would welcome the opportunity to work with you on this if possible. If not, until the MP Filter is removed, we would expect the Victims' Code to fully explain the process people need to follow under the law as it stands to complain.

I hope you find these comments useful and I look forward to seeing the outcome of the consultation. A response to the specific consultation questions is provided at Annex A, followed by an example of a case we upheld about how a Community Rehabilitation Company failed to provide the family of a murder victim with a Victim Summary Report, at Annex B.

I am copying this letter and its annexes to the Minister for the Constitution, the Victims' Commissioner for England and Wales and the Victims' Commissioner for London. A copy will also be placed on my website.

Yours sincerely,

*Rob Behrens*

Rob Behrens CBE  
**Ombudsman and Chair**  
Parliamentary and Health Service Ombudsman



Millbank Tower  
Millbank  
London SW1P 4QP

Telephone: 0300 061 4308  
Email: [Rob.Behrens@ombudsman.org.uk](mailto:Rob.Behrens@ombudsman.org.uk)

[www.ombudsman.org.uk](http://www.ombudsman.org.uk)

## **Annex A: Response to consultation questions**

### **Improving the Victims' Code:**

**1) Do you think our proposal to restructure the Code into 12 overarching rights is the correct one? Please give reasons for your response.**

We welcome efforts to simplify and streamline support for victims, so it is easier for people to access support and justice. Setting out the overarching rights makes it clearer what victims should be able to expect from public services. As well as helping victims understand their rights more easily, this new structure also makes it clearer what public bodies will be expected to do when they are supporting someone who is a victim. This will be used in PHSO's consideration of complaints about the Code in future.

**2) Do you agree that the rights we have identified cover the most important needs for victims? Please give reasons for your response.**

We agree that the right to complain is fundamental to ensuring the effective operation of the code. As is the case with other complaints, it is also right that people should firstly go to the organisations and, if the complaint is not resolved, the right to bring a complaint to PHSO.

**3) Do you agree that these rights cover the key stages of a victim's journey in the criminal justice system? Please give reasons for your response.**

The Victims' Commissioners and other victims' advocacy organisations are better positioned than PHSO to answer this question.

### **Information:**

**4) We have included more practical advice and information in the draft revised Code, do you agree with our proposed approach? Please give reasons for your response.**

We welcome the inclusion of more practical advice and information in the Code. This advice makes the Code much more user-friendly and victim focused.

**5) Is there any important information that you feel we should also include?**

The revised Code clearly sets out the right to complain and, if the complaint is not resolved, the right to bring a complaint to PHSO. However, it does not accurately reflect the requirement for someone to have their complaint referred to PHSO by

their MP. The Code should include this information, unless the Government intends to remove the MP filter removed for complaints about the Code imminently.

If the MP filter will not be removed for these complaints, we suggest the following wording:

If you are still not satisfied after you have finished the service provider's complaints procedure, or they are taking too long to get back to you, you can ask your MP to refer your complaint to the Parliamentary and Health Service Ombudsman. The Ombudsman will consider any complaints referred to them and undertake an independent investigation where appropriate.

### **Impact Assessment and Equalities Statement**

**6) Are you aware of any evidence or sources of information that would help us to understand and assess equality and economic impacts in greater detail? Please supply.**

No.

**7) If you are aware, what do you believe would be the effect of this evidence/information on our proposals?**

N/A.

### **The Draft Revised Code:**

**8) Do you have any further comments about the draft revised Code?**

The Victims Code will only be as effective as awareness of the Code amongst service providers and victims. As we have outlined in our cover letter, we would be happy to work with Government and the Victim's Commissioner in any awareness raising activity that is planned to ensure people know their rights to ensure reference to our office is accurate.

Careful consideration should also be given to how public bodies that aren't covered by the code will be supported and challenged to uphold victims' rights and support victims effectively, and how they will be held to account if they do not.

## **Annex B: Family of murder victim failed by probation provider**

**Organisation: Dorset, Devon & Cornwall Community Rehabilitation Company**

### **The complaint**

Ms Sarah Compton complained on behalf of her mother, Mrs Michal Taylor, about the victim support service that Dorset, Devon & Cornwall Community Rehabilitation Company (the CRC) provided to them. The service was operated by Working Links at the time.

The complaint was about delays in producing the Victim Summary Report (VSR) Ms Compton and Mrs Taylor were entitled to as set out in the Ministry of Justice's guidelines; unnecessary delays caused by presenting a draft copy to the family and errors made in dating the report. Ms Compton complained that there was poor communication by the CRC and failings in its handling of the complaint: the CRC misunderstood the next stage of the complaint process and incorrectly directed the family to the Prison and Probation Ombudsman (PPO).

### **Background**

When someone on probation commits a serious further offence, such as murder, the probation provider supervising that person must carry out a Serious Further Offence (SFO) review. This review looks at whether or not the probation provider gave adequate supervision. The CRC completed the review in January 2016.

At the same time, the CRC is also required to write a Victim Summary Report (VSR) based on the SFO review. The CRC did not provide a VSR to the family until over a year later, and only after Ms Compton requested one when she was prompted by a third party. She was concerned that she did not know that she was entitled to see the VSR and the CRC failed to provide a reasonable response as to why this happened.

A copy of the VSR was presented to the family at a meeting in June 2017. Ms Compton emailed the CRC to say that she was unhappy with aspects of the report in July 2017 and she requested a hard copy. She did not receive this until November 2017, only to find a number of differences. This was because the June copy was a draft, not a final report. Ms Compton did not receive a reply to nine out of the ten aspects of the report she was concerned about in July until November. Furthermore, the hard copy she received in November was dated March 2017.

### **What we found**

We found that the CRC did not prepare the VSR at the correct time as set out in the Ministry of Justice's guidelines; did not make the VSR available on request; took too long to allow Ms Taylor to view the VSR; caused unnecessary delays by presenting a

draft copy to the family; made errors in the dating of the report and communicated poorly by not replying to emails in a reasonable time. We also found that there were failings in its handling of the complaint. The CRC misunderstood the next stage of the complaint process and incorrectly directed the family to the Prison and Probation Ombudsman (PPO).

We found that the failings identified added to Ms Compton and Mrs Taylor's distress at what was already a very difficult and traumatic time for the family.

### **Putting it right**

The CRC had apologised verbally for the delays and incorrect signposting. It took steps to reduce the risk of the failings being repeated.

However, we recommended that the CRC needed to do more to right these wrongs. The CRC should apologise in writing for the failings and acknowledge the impact its failings had on the family. We also said it should provide an updated version of the VSR and take action to address the failings we identified.