

**Dame Vera Baird QC
Victims' Commissioner for England and Wales**

Office of the Victims' Commissioner for England and Wales
5th Floor, 70 Petty France
London SW1H 9EX

e: victims.commissioner@victimscommissioner.org.uk

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Alex Chalk MP
Parliamentary Under Secretary
Ministry of Justice
sent by email

Dear Alex

RESTORATIVE JUSTICE

I have been approached by the Criminal Justice Alliance expressing concern about proposed changes to the wording of the Victims' Code in respect of victim access to Restorative Justice.

As Victims' Commissioner, I recognise Restorative Justice can be a valuable tool in helping some victims to understand and come to terms with the crime and maybe to help them achieve closure. My recent statistical report, based upon CSEW victimisation data found that the percentage of victims who were offered such a meeting decreased from 7.8% in 2017-18 to 4.8% in 2018-19. Of those victims who were not offered such a meeting, the percentage who would have accepted such an offer was 26.2% in 2018-19. This has remained stable over the past five years.

These findings tell me that despite a clear entitlement in the current Victims' Code for victims to have Restorative Justice explained to them, it is rarely happening. This is unacceptable given there is a clear appetite on the part of approximately a quarter of victims to find out more.

The CJA have sent me a copy of their submissions in response to the recent government consultation on the new Victims' Code. Having reflected upon their concerns, I find I share their view that there appears to have been a conscious decision water down the language on access to restorative justice from 'must' to 'may' and the inclusion of caveats such as 'where applicable'.

Putting aside the fact this conditional language undermines the stated purpose of the Code to be a 'clearly defined state of rights' – a matter I have raised in my own response to the consultation, the outcome of these changes can only be a further diminution of victim access to Restorative Justice.

For example, under 7.7 of the Victims' Code 2015 it states that victims are '*entitled to receive information on Restorative Justice from the police or other organisation that delivers Restorative Justice services.*' In the revised version, the Code stipulates that victims should be provided with information about the criminal justice process when reporting a crime which '*might include services where you can meet with the suspect or offender known as Restorative Justice.*'

In paragraph 3.4 of the revised Code states '*the police will explain to you, **where applicable**, how to seek compensation and how to access Restorative Justice services.*' It is unclear to when it might not be applicable and presumably, will be at the discretion of the police to decide.

In the 2015 Code 6.34 states that if the person who committed the crime is under 18, '*the victim is entitled to be offered the opportunity by the Youth Offending Team in your area to participate in Restorative Justice where appropriate and available.*' In the revised Code, Paragraph 11.5 says '*the Youth Offending Team **may** seek your views prior to sentencing and explore whether you want to get involved in any Restorative Justice initiatives, **where appropriate and available.***' Again, I assume the discretion is left in the hands of the agency.

In the 2015 Code, 7.3 says '*First the police must pass the victim's contact details to the organisation that is to deliver Restorative Justice services for victims to enable the victim to participate in Restorative Justice, unless asked not to do so by the victim.*' However, in the revised Code, 3.4 states '*The police will explain to you, **where applicable**, how to seek compensation (see Right 5) and how to access Restorative Justice services.*'

The pattern appears to be consistent in moving away from a clear entitlement to an offer that is entirely at the discretion of local police and other agencies. A "right" cannot be at the discretion of the agency responsible for delivering it. Furthermore, it suggests a change in policy and practice, although no explicit explanation is offered in the consultation document that might account for the change.

I am therefore asking that you re-word the references to Restorative Justice so that they are consistent with the wording in the 2015 Code. Otherwise, it would be helpful to understand the reasons behind this change in policy and practice.

In line with my usual practice, a copy of this letter will be placed on my website.

Yours sincerely



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Victims' Commissioner for England and Wales

