

Ministry of Justice Consultation
Getting it right for victims and witnesses
April 2012

Eaves Response

About Eaves

Eaves is a London-based charity established in 1977, that provides high quality housing and support to vulnerable women. We also carry out research, advocacy and campaigning to prevent all forms of violence against women.

At Eaves, we put the needs of women first. We are determined to give a voice to the most excluded women in society and provide direct, innovative services to support and empower women to help themselves. There are different projects run by Eaves.

The Lilith Project

Lilith Research & Development have a wide remit ranging from research into various aspects of violence against women, to training and education for the women's sector, to lobbying for legislative change and to working directly with women who have experienced sexual violence.

Sexual Violence Action and Awareness Network (SVAAN) – Under the Lilith Project we co-ordinate the SVAAN Network – a network of 68 organisations working with women and girls who have experienced sexual violence. The network began in 2003 as a support network for the voluntary sector.

The Scarlet Centre

The Scarlet Centre is an Eaves service providing advice and drop-in support to women who are affected by violence – including homelessness, rape or sexual abuse, prostitution or domestic violence – and the consequences of violence – including mental health and/or substance misuse problems.

The Poppy Project

The Poppy Project provides support, accommodation and advocacy for women trafficked into domestic slavery and sexual exploitation in the UK. We have 54 bed spaces throughout England and Wales. We also run an outreach service which works with women who cannot be housed in Poppy accommodation, either because there is no room for her or she does not meet the criteria for support set by Poppy's funder, the Office for Criminal Justice Reform (reporting to the Ministry of Justice)

To find out more about our work please visit our website on www.eaves4women.co.uk

Q1 Are there 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?

Even though it's good to see rape and sexual violence mentioned as serious crimes, the consultation **omits the vast amount of serious crimes committed against women and girls** – domestic violence, female genital mutilation, forced marriage, 'honour' based violence, stalking, prostitution and trafficking. (*We understand there are ranges of other crimes that must also be considered as serious, however, since our expertise and work is on violence against women and girls, or responses will be only in relation to those crimes*).

The consultation states those victims the Government believes should be prioritised are **victims of serious crimes, the most persistently targeted and the most vulnerable**. VAWG are some of the most serious crimes and in most cases the victims are persistently targeted and are vulnerable. Up to three million women across the UK experience rape, domestic violence, forced marriage, stalking, sexual violence, trafficking, female genital mutilation (FGM) or so called 'honour' based violence each year. There are nearly 3000 cases of 'honour' violence every year in the UK and some 24,000 girls are at risk of FGM.

The victims are persistently targeted; for instance 44% of victims of domestic violence are involved in more than one incident and thousands of women who are victims of 'honour' based crimes suffer repetitive and high levels of abuse before they seek help. Victims of VAWG are also highly vulnerable; for instance victims of so-called 'honour' crime are usually very young and the perpetrators tend to be close family members which adds to the vulnerability of the victim.

Other group of very vulnerable women are women in prostitution - 63% of women in prostitution experience violence, more than half of women in prostitution have been raped and or seriously assaulted and at least 75% have been physically

assaulted at the hands of the pimps and punters. Women in prostitution are actually 18 times more likely to be murdered than the general population.

When discussing vulnerability the Government should recognise features such as disability, sexuality, being part of BAMER community and having insecure immigration status such as migrant domestic workers, asylum seekers as elements of vulnerability.

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?

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

Assessing outcome only through support provided to cope with the immediate impacts of crime cannot be an accurate assessment especially when dealing with VAWG. Though it is important to provide immediate intervention it's equally important to understand the long term impact of the VAWG. One study found that 50% of all women surveyed who had experienced violence had a clinical mental health diagnosis. Risk of developing depression, post-traumatic stress disorder (PTSD), substance use issues or becoming suicidal is 3 to 5 times higher for women who have experienced violence in their relationships compared to those who have not. Besides, though recovery from harms is important it is not clear what would constitute "recovery", how this would be assessed and by whom.

Victim support services should not just be assessed against the services they provide to address immediate and emergency issues but the long term, expert and holistic support they provide in dealing with complex and inter-related consequences of VAWG and the role they play in empowering the victim.

Additional area that is vital and is not included here is the need to support victims to know, access and enforce their legal rights. It may be that this is implicit in delivering effective support but we would urge that it should be made explicit. With the increasing weakening of equalities legislation, health and safety legislation, employers' obligations, access to legal aid it will be vital that many vulnerable victims, particularly those with complex legal needs such as immigration advice, receive the sort of one-one, advocacy, legal aid and support that enables them to access their rights.

The consultation document identifies eight categories of need that support services should address - mental and physical health, shelter and accommodation, family, friends and children, education, skills and employment, drugs and alcohol, finance and benefits, outlook and attitude,

social interaction. In addition support services should be able to meet the reproductive and sexual health needs of victims, shelter and accommodation provided should be appropriate i.e. women-only, accessible for victims with disabilities, sensitive for culture & religion for those from BAMER communities and access to advocacy and support to use the law to access and enforce their rights.

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

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

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

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

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

Q9 Is there further support that we need to put in place for victims of terrorism, and bereaved family members affected by such incidents, to help them cope and recover?

Commissioning

The consultation proposes:

That services provided by voluntary, community and social enterprise organisations should be funded ***through a competitive commissioning process***, on a multi-year basis where appropriate.

Based on the Government's localism agenda, ***the majority of services be commissioned at the local level, with a single funder of victims' services in each area.***

Police and Crime Commissioners (PCCs) would be responsible for the commissioning process at a local level.

The current trend of moving away from grants to commissioning is having huge impact on services providing support to women who are victims of violence as it's getting harder to compete against big and generic organisations. Competitive commissioning even more damages these services as funders favour bigger and generic organisations which means women-only and specialist services are being

lost. The drive for lowest unit cost, rather than the provision of quality services is also a worrying trend. A report by IMKAAN focusing on the dismantlement of specialist services for BAME women and children fleeing violence states: ***“There has been an emphasis on efficiency savings through streamlining the number of contracts and purchasing similar services from a single provider. This has a disproportionate effect on women’s organisations, particularly BAME services, as they are typically small providers that do not have the capacity to bid for large generic contracts”***.

Besides, local commissioning without any coherent and national priorities, directions, targets and standards is/will lead to fragmented, uneven and unjust access to services where women fleeing violence who desperately need support are subjected to a ‘postcode lottery’, which means that it is entirely down to chance they get the service they need depending on whether they live in an area where a specialist service exists or not.

The danger was well stated by a recent report, ***Everywoman Safe Everywhere***, which consulting over 100 organisations and experts across the country - ***“The localism agenda sees local bodies having more autonomy in determining the minimum level of support that survivors of violence can expect to receive, and setting differing priorities in a range of areas that are crucial to women’s safety. Unless central safeguards or a framework that recognises the disproportionate impact of violence on women are introduced alongside local commissioning, there is a danger that moving away from a national policy-making framework and towards more locally set agendas, will not only limit the input of national experts with real expertise in VAWG services, but that cultural biases and a potentially weak understanding of the complexities of VAWG will lead to gaps in services and support for women survivors of violence at the local level.”***

There is already a huge disparity in the UK in terms of VAWG services as was highlighted by the ‘Maps of Gaps’ report. The reports found that over one-third of local authorities have no specialist service provision at all, only a minority had a range of services - as nine or more, covering different forms of violence (domestic violence, rape and sexual assault, trafficking, female genital mutilation and forced marriage) and types of support (safe shelter, advocacy, advice and self-help). Ethnic minority women are especially poorly served - of the 408 local authorities in England, Scotland and Wales, just one in 10 have a specialist service for ethnic minority women.

The situation is worsened now, due to the current economic climate, where public bodies around the country are implementing widespread funding cuts which could mean there are actually even fewer services left. A recent report by the University of Lancaster, North Rock Foundations and Trust for London revealed that **thirty-one percent of the funding to the domestic violence and sexual abuse sector from local authorities was cut between 2010/11 to 2011/12, a reduction from £7.8**

million to £5.4 million - smaller, specialist organisations were hit harder than larger ones. On a typical day in 2011, 230 women, seeking refuge, were turned away by Women's Aid due to lack of space.

Commissioners should have comprehensive understanding of the issues surrounding VAWG and the service needs for victims. For instance it should be well known that most victims of DV, rape, FGM, FM do not report the crime to the police and these are severely under-reported crimes – almost 75% of victims do not report to police or come into contact with the criminal justice system. However, these victims access specialist non-statutory support services which play vital role in meeting the wide range of victims needs and the commissioning process should reflect that. Especially, it is vital that women can seek help and access services which are not linked to the police, immigration or social services. The emphasis on the role of police as commissioners and indeed the proposal to prioritise those cooperating with the police is therefore obviously a major concern given that so many victims do not engage with police and given that victims should be able to receive support regardless of their engagement with police.

Victims from BAMER communities often experience higher levels of isolation and marginalisation and due to fear or experience of institutional discrimination, language barriers and lack of culturally sensitive services they might not be able to access mainstream services. Other victims cannot access mainstream services and require additional support needs – women with disabilities, victims with alcohol and substance misuse problems – if the support provided is not appropriate - leading to these very vulnerable groups ending up in the most high risk situation.

Another concern is the Police and Crime Commissioners (PCCs) would be responsible for the commissioning process at a local level. These are new people, who until recently, were in other jobs and lack of expertise of commissioning VAWG services. The report from Lancaster University *et al* states – ***“There is concern that the newly constructed commissioning bodies such as the PCCs and GP Consortia, may lack the expertise in the field of VAW that is necessary for good judgments in deciding on the most effective service mix to reduce VAW.”***

Commissioners should be required to engage with the women's sector and also those who have used and benefited from such services to have understanding of the needs of victims. Otherwise, as stated in the report mentioned above, ***“The lack of involvement by experts could give rise to the inference of myths and stereotypes about domestic and sexual violence, such as that domestic violence is caused by alcohol abuse, and that funding could therefore be diverted away from escape routes for vulnerable women and towards alcohol reduction interventions.”***

It is true that women's organisations play an important role in supporting victims and witnesses - providing woman-centred, lifesaving, holistic and financially practical

solution to meet both women's multiple needs and wider societal problems. ***SROI analysis by the Women's Resource Center found that for every £1 of investment in services, the social value created by women's organisations ranges between £5 and £11 and the total social value created by women's organisations and specific services within organisations ranges between £1,773,429 and £5,294,226.***

Commissioning processes should also have due regard to Equality laws ensuring that those groups that need specific support are catered for.

See below some of the international and regional obligations of the UK government to adequately support victims of VAW:

As it's imminent for the Council of Europe's Convention on Violence Against Women to be ratified by the UK (On International Women's Day last month, the Prime Minister David Cameron and Deputy Prime Minister Nick Clegg issued a joint statement saying: "***The UK already has some of the most robust protections against violence towards women in the world. But we know we've got to do better. So today we can confirm that we are working towards signing the Council of Europe's Convention on Violence Against Women and Domestic Violence before ratifying the treaty and incorporating it into UK law.***") please see below some of the relevant articles of the convention:

Article 8 – Financial resources

Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by non-governmental organisations and civil society.

Article 9 – Non-governmental organisations and civil society

Parties shall recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.

Article 20 – General support services

Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.

Article 22 – Specialist support services

Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.

Parties shall provide or arrange for specialist women's support services to all women victims of violence and their children.

Article 23 – Shelters

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.

The United Nations Fourth World Conference on Women (Beijing Platform of Action) – the document states actions that need to be taken including:

124. By Governments:

h. Provide women who are subjected to violence with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm they have suffered and inform women of their rights in seeking redress through such mechanisms;

125. By Governments, including local governments, community organizations, non-governmental organizations, educational institutions, the public and private sectors, particularly enterprises, and the mass media, as appropriate:

- a. Provide well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological and other counselling services and free or low-cost legal aid, where it is needed, as well as appropriate assistance to enable them to find a means of subsistence;
- b. Establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence;
- c. Recognize the vulnerability to violence and other forms of abuse of women migrants, including women migrant workers, whose legal status in the host country depends on employers who may exploit their situation;
- d. Support initiatives of women's organizations and non-governmental organizations all over the world to raise awareness on the issue of violence against women and to contribute to its elimination;
- e. Organize, support and fund community-based education and training campaigns to raise awareness about violence against women as a

- violation of women's enjoyment of their human rights and mobilize local communities to use appropriate gender-sensitive traditional and innovative methods of conflict resolution;
- f. Recognize, support and promote the fundamental role of intermediate institutions, such as primary health-care centres, family-planning centres, existing school health services, mother and baby protection services, centres for migrant families and so forth in the field of information and education related to abuse;
 - g. Organize and fund information campaigns and educational and training programmes in order to sensitize girls and boys and women and men to the personal and social detrimental effects of violence in the family, community and society; teach them how to communicate without violence and promote training for victims and potential victims so that they can protect themselves and others against such violence;
 - h. Disseminate information on the assistance available to women and families who are victims of violence;

Q10 How could the Victims' Code be changed to provide a more effective and flexible approach to helping victims?

Q11 What do you think of the proposed principles for the new Code?

Q12 Are there additional needs for bereaved relatives which should be reflected in a new Victims' Code?

Q13 How could services and support for witnesses, throughout the criminal justice system, work together better?

Q14 How could the Witness Charter be improved to ensure that it provides for the types of services and support witnesses need?

Paragraph 63 & 64 of the consultation states:

Justice depends on the public having trust in the system; it depends on victims or witnesses of crime coming forward to report an incident, provide a statement and, as a case progresses, give evidence in court.

For some, criminal activity will cause practical problems. For others – particularly the victims of the most serious crimes – the effects will be traumatic. They may be at risk from intimidation and ongoing threats to their safety. ***It is only right that victims and witnesses should have adequate support and protection as they help bring offenders to justice.***

Even though it's helpful for victims and witnesses to be supported to help bring offenders to justice, this shouldn't be a condition, by any means, in accessing the support they need and are entitled to as per the above legislation.

The proposed principles for a New Code are very broad and general at this stage – it is therefore quite difficult to comment on them without more detail, clarity, definitions, criteria and substance.

Q15 How can the processes which allow victims and witnesses to make complaints to CJS agencies be improved to make accessing redress easier?

Q16 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?

Q17 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?

Q18 What could be done to improve the experience of witnesses giving evidence in court?

Victims and witnesses attending court to give evidence should be provided with 'special measures' such as, specialist courts, giving evidence from behind a screen or giving evidence by live video link. The reality in the UK, however is far from what is desired - despite the fact that, in 2005, 59 per cent of all domestic violence cases recorded by the CPS led to convictions and 71 per cent of these tried in specialist courts led to successful outcomes, 23 Specialist Domestic Violence Courts (SCDVs) are closing as part of the planned closure of 142 courts by the Ministry of Justice. The Government should recognise that these measures are vital in order to improve the experience of witnesses giving evidence in court.

Article 56 of the Convention on Violence Against Women states measures of protection that need to be provided to the victim:

- f. ensuring that measures may be adopted to protect the privacy and the image of the victim;
- g. ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible;
- h. providing victims with independent and competent interpreters when victims are parties to proceedings or when they are supplying evidence;

i. enabling victims to testify, according to the rules provided by their internal law, in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies, where available.

Q19 What measures could be put in place to ensure the safety of the victim when undertaking restorative justice?

The Convention on Violence Against Women rightly, prohibits mandatory dispute resolution mechanisms such as, restorative justice for VAWG cases.

Article 48 – Prohibition of mandatory alternative dispute resolution processes or sentencing

Parties shall take the necessary legislative or other measures to prohibit mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence covered by the scope of this Convention.

There are significant concerns relative to using restorative justice in cases of violence against women and girls. These processes can minimize the effect that violence has had in women's lives, can perpetuate discrimination against women, and can risk women giving up their individual rights so as to preserve harmony within a social group. As there is often an imbalance of power between the victim and the perpetrator in cases of violence against women and girls, restorative justice practices can create risks associated with bringing the victim and offender together for negotiation and dialogue. Even offering these measures as a choice in such cases is not to be recommended. The reality of that choice for a woman living in an abusive relationship with her partner and his extended family or community may mean she has not chosen but been pressured by those around them to use these mechanisms instead of the criminal justice system.

Q20 How can we change attitudes and behaviour towards reparation and demonstrate how reparative outcomes can be achieved in innovative ways?

Q21 Should the Surcharge on conditional discharges be set at a flat rate of £15 for those over the age of 18?

Q22 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%?

Q23 Should there be a minimum Victim Surcharge amount applied to fines? If so, should this be set at £20?

Q24 Should the maximum level for Surcharge on fines be set below the Victim Surcharge on a custodial sentence of over 2 years?

Q25 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?

Q26 Should Penalty Notices for Disorder be increased by £10? Should the additional revenue this raises be used to fund victim support services?

Q27 Should the same increase be applied to both lower and higher tier Penalty Notices for Disorder?

Q28 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?

Q29 For multiple offences, resulting in concurrent or consecutive orders, should the Surcharge be ordered on the highest individual sentence?

Q30 Should offenders be required to pay the Victim Surcharge whilst in prison?

Q31 Should the Surcharge be extended to the full range of disposals for juvenile offenders?

Q32 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?

Q33 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?

Q34 What other circumstances do you believe should, or should not, be a “crime of violence” for the purposes of the Scheme?

Q35 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?

Q36 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?

Eaves consider all forms of violence – including, rape, sexual assault, domestic violence, forced marriage, female genital mutilation, trafficking, stalking to be ‘crimes of violence’ and therefore should be dealt under this section.

We have concerns as regards to issue of eligibility for compensation. The consultation states:

We propose that eligibility to claim from the Scheme should be tightly drawn so as to restrict awards to **blameless victims of crime who fully co-operate with the criminal justice process**, and close bereaved relatives of victims who die as a result of their injuries. **Applicants should have a connection to the UK which is more than temporary.**

The main purpose of the Scheme is to provide payments to those who suffer serious physical or mental injury as the direct result of deliberate violent crime, including sexual offences, of which they are the **innocent victim**.

Those conditions stated in the consultation like ‘fully co-operate with the criminal justice process’, ‘blameless victim’ and ‘innocent victim’ are worrying. Intensive research over the years has shown that the reality is that, most victims of violence against women and girls, for different reasons, do not want to go through the criminal justice system. We believe as long as it could be proved that the violence has happened, the victims should be entitled to compensation.

For instance, many women in prostitution could have criminal records for soliciting, drug use, etc. However, they are also the most vulnerable group were it comes to violence - women in prostitution are 18 times more likely to be murdered than the general population, 63% of women in prostitution experience violence, more than half of women in prostitution have been raped and or seriously assaulted. These women are mostly in prostitution because of poverty and according to one study 92% of women in prostitution want to escape prostitution immediately if they can. It’s concerning to see that the consultation proposes that these women who are assaulted, raped and abused will have no recourse to compensation because they are not ‘blameless victim’ or ‘innocent victim’

Given that one third of the British population partially or entirely blame a woman for her own rape if she were drunk, flirting or wearing sexy clothes (Amnesty International UK poll 2005 and repeatedly similar findings NSPCC, Sugar Magazine, Zero Tolerance, EVAW), any such nebulous and relative notions of “blameless

victims” or “innocent victims” risk reinforcing prejudicial and discriminatory attitudes that scrutinise the conduct of victims rather than hold the perpetrator to account.

There may be a case to exclude those who are injured, other than by a police officer, while committing a crime though this is already in practice the case but otherwise the fact that someone may have a criminal record is irrelevant to the fact that they have suffered harm from also being a victim of crime which is the purpose of the legislation.

The consultation also proposes other eligibility criteria – connection to the UK

Currently, anyone injured by a crime of violence whilst in Great Britain is entitled to claim, subject to claims officers withholding or reducing an award based on conduct, character or other specified grounds.

We believe that applicants to the Scheme should have a **defined connection to the UK**. We propose to award compensation only to those who have been **lawfully resident in the UK for at least six months at the time of the incident**. We consider that a minimum requirement of 6 months’ residence demonstrates sufficient connection with UK society, such that it remains right that they should be eligible to claim under the Scheme. **The intention is that those in the UK in the short-term (i.e. less than 6 months) for whatever reason, will no longer be eligible** (This does not apply to Nationals of EU and EEA Member States and their family members)

Asylum seekers who are not ultimately given leave to remain in the UK will have their claim rejected.

The purpose of the Criminal Injuries Compensation is to give financial support to a victim recognising the injuries suffered by the victim due to the crime of violence. In certain circumstances it also compensates for future loss of earnings or special expenses caused by the crime.

The proposal above does not follow this purpose of the scheme and is very discriminatory. We urge that the government keep the current system where a victim is compensated regardless of the colour of her/his skin or where that person is from as long as the crime has been committed in the UK.

Even using the threshold of the new proposal to claim compensation the exception rule that is proposed to apply to asylum seekers is the most discriminatory – seeking asylum is a lawful way of staying in the UK and during this process if an asylum seeker is a victim of crime she/he must be able to seek compensation regardless of the outcome of their asylum case. The two cases are not related in any way or interdependent on each other. Particularly since this is precisely a ‘vulnerable’ group who are ‘repeatedly targeted’ their claim for compensation should not be rejected.

Q37 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?

Q38 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?

Q39 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?

Paragraph 197 of the consultation states:

We propose to:

Clarify and strengthen reporting provisions, requiring **that the offence must be reported to the police (rather than any other body) as soon as reasonably practicable after the incident**, unless the claims officer is satisfied that the usual rules in respect of timing should not apply due to the age or mental capacity of the applicant or particular circumstances relating to the incident. This would include cases in which trauma resulting from a sexual offence has led to a delay in reporting it to the police.

Require that the applicant cooperate so far as reasonably practicable in bringing any assailant to justice (for example, by agreeing to become a witness at trial) in order to qualify for any award.

Again the purpose of the scheme is to return someone to the state they were in prior to being a victim of crime, their level of engagement with whichever service is irrelevant. To bring in such stipulations is likely to conflict with government obligations under a raft of laws and could give rise to challenge. Most noticeably there will be a discriminatory impact in that there are already known vulnerable groups who are at once those most likely to be a victim of crime and those most likely to find it difficult to engage with the police.

As mentioned before the reality is women who are victims of different forms of violence don't involve in the criminal justice system for many reasons including fear of reprisals, due to lack of trust in the CJS, due to lack of adequate mechanisms and special measures available for the victim to be comfortable to give evidence or cooperate with the CJS. Therefore, making cooperation with the CJS a condition to receive compensation leaves many vulnerable victims of most horrendous crimes

without any financial support. Besides, there are other institutions recognised and used by the police and others in the CJS – such as MARACs, Havens, NHS and other voluntary organisations, and reporting shouldn't be limited only to the police.

We are pleased to see that the document recognises the delay in reporting which could be caused by trauma resulting from sexual offence, however, we would also like to see other forms of VAWG included as they are comparably traumatic – DV, FM, FGM, stalking, etc.

Q40 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)?

Q41 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?

Q42 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?

Q43 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?

Q44 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?

Option A which excludes all with unspent criminal convictions does not recognise the complexities of some cases. As discussed above for instance women in prostitution

who are criminalised for soliciting but are murdered or raped will be excluded from the scheme if option A is implemented.

Option B however, gives discretion to the authority to consider the nature of the offence, the sentence and other issues before reducing or excluding a victim from the scheme. Therefore of the two we would recommend Option B though we have serious reservations about any such exclusions as indicated above.

Q45 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 to 12 of the tariff except in relation to sexual offences, patterns of physical abuse, fatal cases and for loss of a foetus?**
- Protecting all awards in bands 13 and above?**

Q46 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?

We don't agree with the reduction and removal of any of the tariffs, we rather see an increase in them.

We do agree with the proposal to 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.

Q47 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?

Q48 What are your views on our proposal that applicants must demonstrate that they have no capacity to earn, or very limited earning 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?

Of these options it would seem that option B1 may be the fairest though there should be some discretion on a case by case basis

Q49 Should we retain all categories of special expenses other than for private medical care?

Q50 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?

Q51 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 other specific losses the child may suffer?

Q52 Should we retain dependency payments and pay them in line with loss of earnings proposals?

Q53 Should we continue to make payments for reasonable funeral costs?

Answer to Q 53- Yes

Q54 What are your views on our proposals to require applicants to supply the information set out above?

While on the face of it, this may seem reasonable, it would require some discretion to be able to deal with the variety of cases that come before you. So for instance women who are the victims of violence may not have access to their own documents, in some cases they may have relatively little English language or literacy or competence and confidence with administrative documents. With the ever reducing availability of key worker, advocacy support it is likely that many will find this hard to do. At the very least they may also need a longer time frame in which to gather and provide this information.

Q55 Please let us have your views on our proposal that applicants should pay a small cost (up to a maximum of £50) to obtain the initial medical evidence to make out their claim?

Q56 Where CICA continues to cover the initial medical costs, should this be deducted from the final award (up to a maximum of £50)?

Q57 Should costs associated with medical expenses be deducted when:

**-An applicant misses medical appointments that CICA is paying for?
-The applicant commissions additional medical evidence that is not required to determine the claim?**

We strongly disagree with the proposal to make the applicant pay cost (up to a maximum of £50) to obtain the initial medical evidence to make out their claim. For most of the women we support this amount is not 'small' as stated in the compensation – for those who are on benefit who get £50 - £71 per week this could mean that they will not have anything left after paying the 'small' cost for medical reports.

Equally we disagree with suggestions to deduct costs from final awards or for missed appointments. Many of our service users have complex lives, they may be chaotic or they may not even be in control of their own lives. There are umpteen reasons for missing appointments. There may be exceptional situations where someone gathers unnecessary information that you may want to dispute costs and some discretion should be allowed for this however in most cases people are not sure what is needed and err on the side of caution and should not be penalised for this.

Q58 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 strongly disagree with the 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. Many victims need time to process the decision; some might need assistance to understand the decision, etc.

Q59 What are your views on our proposals to extend the circumstances where repayment of all or part of the award may be requested?

Q60 What are your views on our proposal to remove the option to request a reopening of a case on medical grounds?

We strongly oppose this recommendation, as things might change we recommend that the current system that allows cases to be re-opened on medical grounds at the applicant's request if there has been a material change in their medical condition or where the victim has died as a consequence of their injury should be maintained.

Q61 What are your views on our proposal for deferral of Scheme decisions?

Q62 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?

We would support this.

Q63 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 support the principle that the criminal should pay however only if as implied here the money is paid to the victim without delay and the risk and cost of trying to recover it from the criminal falls on the state not on the victim.

Q64 Do you think we have correctly identified the range and extent of effects of these proposals on those with protected characteristics under the Equality Act 2010?

Q65 If not, are you aware of any evidence that we have not considered as part of our equality analysis? Please supply the evidence. What is the effect of this evidence on our proposals?

Q66 Given the fiscal climate in which these proposals are made, are there any other ways that you consider we could mitigate against the potential effects identified in the equality analysis?

We do not think the proposals are properly thought through with regard to their potential impact on a range of equality issues. As outlined above, immigrants, the homeless, women in prostitution, people who are non-British or EU nationals, asylum seekers, ex-offenders, racial and religious groups, women, disabled, the elderly, etc are disproportionately targeted for crime but many of these are also the groups that are least confident in liaising with the police and most likely to be scrutinised and judged as scroungers or not “blameless” and “innocent”. These proposals, alongside benefits cuts, legal aid cuts, cuts in employers' obligations, equality legislation weakening seriously add to the already huge obstacles many of these face in accessing justice. We believe that elsewhere in our answers we have cited various documents that demonstrate this with regard to our area of expertise – women affected by male violence.

Prevention is the most cost-effective way to reduce the need for criminal injuries compensation or for the inequalities of application of policy. Therefore we would urge a more thought through set of proposals drawn up on the advice of those groups who support the most vulnerable and repeatedly targeted. We would urge also better investment in resources and services for these groups.