

Our approach

1 Are there any specific areas/issues that you think we should also focus on in our second consultation?

question 1:

Birmingham and Solihull Women's Aid (BSWA) welcome the proposed areas of reform to the forthcoming Code.

BSWA's main recommendation for the second consultation is that local specialist support organisations be more involved at crucial points into the victims response structure which currently exists as part of victims entitlements. Specialist and established support organisations provide a huge amount of expert support to victims which they cannot access through generic services. BSWA holds over 40 years of experience in domestic violence and abuse and violence against women and girls. The knowledge base that organisations like BSWA hold are invaluable to generic support providers.

Some of the ways we suggest this would work is firstly, by recruiting local specialist support organisations to work alongside the Office of the PCC on the monitoring of compliance with entitlements in the Code through Local Criminal Justice Partnerships. Specialist support organisations would be able to provide insight into the nuances of impact of different types of crime on the victim, meaning that monitoring would be carried out alongside experts. These experts would also be best positioned to advise and provide recommendations on solutions to issues, since they understand and advocate for victims through their organisations. Monitoring in this way also results in victims' voices being heard and having an impact over their rights; specialist support organisations prioritise the rights of their service users and work with service users to navigate these systems together, thus, they would know the difficulties victims are faced with first hand. The second consultation could look further into how a team made up of specialist local organisations and the Office of the PCC could work together and the influence that organisations would have in this capacity.

Secondly, BSWA recommends that specialist support organisations are signposted to victims at first point of contact. This could be crucial to a victim's journey through the criminal justice system; as it is known that there are a percentage of victims who feel apathy towards the system, or do not understand the system enough to be able to advocate for their rights. Working alongside specialist support organisations early on could mean that more victims feel empowered to exercise their rights fully, which could result in a more effective justice system in cases which rely on more input from the victim (i.e. victim personal statements etc).

Thirdly, BSWA recommend that the second consultation explore compulsory training for all in the criminal justice system who have contact with victims of crime. This training should be delivered by local specialist support organisations who are able to accurately portray the impact of crimes on victims. Training in this way should mean that those in contact with victims understand the impact of the crime/s, meaning they are able to support victims in their roles more sensitively. It would also impact the way victim personal statements are read and understood by Magistrates and Judges, and in relation to bail and parole.

1. Information and communication

2 Do you agree with the proposal to have separate guidance alongside the Code aimed at victims and practitioners?

Please give reasons for your response:

We agree with the proposal to have guidance alongside the Code aimed at victims and practitioners. One of the main reasons for this is because of the difficult usability of the current Code. Women BSWA work with are usually still experiencing trauma as a result of the abuse they have experienced. Women who have been affected by domestic violence and abuse have the right to be supported, have their experiences validated and to access safety and justice. The language used in the Code of Practice for Victims of Crime is not sensitive towards people's experiences, utilising a style more fit for those dealing with policy and management. We suggest that the Code should adopt a style and tone with more empathy, which sets out clearly the rights victims have. The Code needs to be simplified, expecting victims of domestic violence and abuse to be able to process the vast amount of information in the existing code is not fair, especially considering the impact on mental health that this type of crime has. Simplification for children to be able to access the Code more easily should also be a priority in the new revisions.

A clearer Code would also be welcome for practitioners who would be able to work more effectively; a simplified Code would mean front line staff supporting women would be able to operate a process which ensures that all of the victim's rights are met at each stage of the criminal justice system. This would also create more accountability for the criminal justice system, effectively providing a check and balance to the new Code. It would mean that women accessing their rights through support organisations such as BSWA would be better equipped in being able to recall and recount their rights and entitlements.

However, BSWA do have concerns relating to a Code which would be fit for purpose both for practitioners and victims. This Code would presume that victims are

working with support organisations and thus may not be relevant to women who are seeking the information out on their own. We recommend that the new Code be formatted in a way which reads as a tool of advocacy within the system.

Another worry would be that the new Code aimed at both practitioners and victim's would put the burden of support on specialist support organisations and victims, rather than on the criminal justice system to ensure victims are receiving what they are entitled to through the Code. The criminal justice system has a responsibility for ensuring sustainable attainment of victim's rights and support - including the Police, the Courts, Ministry of Justice and the National Probation Service. However, due to resource cuts and austerity measures third sector organisations have been taking on some parts of what was traditionally criminal justice system responsibilities. We call for the new Code to consider how they can be incentivised to provide funding to the services that they accrue financial benefits from, such as specialist support organisations as BSWA.

Another concern is that of the language and references in the Code if it is for the use of both practitioners and victims. BSWA suggest two Code's be produced, one specifically for victims and one for practitioners/ organisations which work with victims, clearly highlighting the responsibilities of the criminal justice system and that which falls out of its remit. This would also create clear boundaries and put onus on the criminal justice system to both deliver appropriate justice to victims, and to ensure they are accountable to the entitlements they are granting victims.

3 Do you agree with the proposal to change the structure to a smaller number of overarching rights?

Please give reasons for your response.:

We agree with the proposal to change the structure to a smaller number of overarching rights. This will make the Code simpler to digest and recall for victims, ensuring that victims are aware and understand their rights. It will also make it more manageable for practitioners working with victims since organisations can advocate with clarity.

A simpler Code also means it will be easier to interpret and should be more flexible to meet victim's needs.

4 How else could we improve the accessibility of the Code?

question 4:

The accessibility of the Code could be improved by producing both a hard copy and digital copy of a child friendly Code. One which child/ren can clearly deduce their rights from and the rights of others.

The digital version should be easily accessible, user friendly with easy to click through sections which redirect you to specific information and a search function. Therefore, we do not recommend that this is a PDF only document, but a webpage also.

Improved engagement

5 Do you agree that there is a particular need to strengthen communication from the point of charge?

Please give reasons for your response.:

BSWA agrees that there is a particular need to strengthen communication from the point of charge. Women who are affected by domestic violence and abuse and receiving support from BSWA all have different circumstances, women (and their children) may still be living with the perpetrator, they may no longer be in a relationship with the perpetrator (the increased risk to women of post-separation abuse can be read about in Finding the Costs of Freedom 2014), or may not want to leave the perpetrator. Thus, the information provided by the criminal justice system on the perpetrator and the process is vital in ensuring women have up to date safety plans and measures in place.

BSWA has seen some cases whereby women we are supporting have not been contacted by anyone within the criminal justice system at important points. Women are supposed to be kept informed by a designated Safeguarding Officer from the police 24 hours after the initial response to an incident and there onwards. In these instances, BSWA frontline staff are having to chase up information from the police in order to provide women with updates to help her effectively safety plan. Sometimes women find out this information through their networks, we have even had cases of perpetrators turning up at women's homes. MARAC staff sometimes find themselves chasing the police for updates and information on the perpetrator and the process for women during MARAC meetings, which are often weeks after the initial reported incident. This kind of practice poses huge risks for women (and their children), not knowing where the perpetrator is or the stage of the justice process they are in can mean they are left in vulnerable positions not knowing their risks to be able to try to mitigate them. This can be extremely distressing for women (and their children), and is what often causes apathy towards the criminal justice system.

Strengthening communication from the point of charge is welcome, although as a specialist support organisation we suggest that contact from incident report should also be improved. Expectations for victim's should also be laid out clearly in the new Code.

The implied 'varying levels' of 'victimhood' in the Code is also worrying, one example of such is that only victims with enhanced entitlements would receive certain services which are in fact needed across the board since the same issues exist for most 'levels' of victim. Although BSWA recognise that this could be due to resource management.

A further concern is that all victims are not signposted specialist support agencies early on. Signposting victims to specialist support organisations would not be a costly or time-consuming thing to roll out, and could potentially save lives. Officers responding to these victims sometimes are not able to understand the nuances of being a victim of certain types of crime, thus, would not understand the distinct emotional and health related impacts. All victims should be signposted to specialist support organisations as regular practice. BSWA welcomes the new West Midlands PCC Victims webpage with a list of services for each area categorised by the type of crime.

6 Should the victim's preferences relating to frequency and preferred method of contact through their criminal justice journey be recorded as part of the initial communication? And if so, should these preferences form part of the referral process between agencies?

Please give reasons for your response.:

BSWA agree that victim's preferences relating to frequency and preferred method of contact be recorded as part of initial communication. Women affected by domestic violence and abuse are often the best people to be able to judge safety for themselves. Thus, having control over contact from the criminal justice system means women can mitigate risks accordingly, regarding perpetrator knowing, looking after their own wellbeing and to be able to safety plan properly. Women should be able to change their preferences on contact at any point. The perpetrator or someone connected to the perpetrator could be with the woman when she is asked about her contact preferences, women may not tell the truth at this stage due to managing her risk and reaction from the perpetrator. Thus, women's contact preferences should be clarified at a later stage so that she is given the option.

BSWA believe it best that it is made clear to victims that their information may be passed on through different agencies and for her to be given the option to know

when this happens and have a clear understanding of what that means. This would mean that women affected by domestic violence and abuse would have greater understanding of the system and process and be involved in it, rather than feel like they have been isolated. Therefore, this should form part of the referral process between agencies.

2. Victims voice

7 Do you agree with the proposal to provide agencies with more discretion on when the Victim Personal Statement (VPS) is offered?

Please give reasons for your response.:

BSWA welcomes the proposal to provide agencies with more discretion on when the VPS is offered. Taking VPS's soon after an incident often does not portray the fullest impact of the crime, it is also often the case that women are still experiencing the immediate aftermath of the crime on their health and wellbeing. This can mean women may be in shock and not processed the incident/s fully enough to give an accurate statement.

Due to BSWA's 40 years of experience in domestic violence and abuse, we understand that the full effects of the crime can sometimes take months to uncover. Examples of this include women losing their homes, jobs and still waiting for court dates, whilst simultaneously often still experiencing ongoing abuse. Therefore, for VPS's to be accurate of the full impact of the crime on women, they should be offered at different stages of the criminal justice process, especially given the weight they have on deciding bail conditions and even with Parole Boards.

VPS's represent women's voices within a system they have no control in. Submitting VPS's can be a very validating and empowering experience for women, it may be one of the only times their experience is truly heard, listened to and considered.

8 Do you agree that victims should be provided with a copy of their Victim Personal Statement?

Please give reasons for your response.:

BSWA agrees that victims should be provided with a copy of their VPS. Normally when they are taken at the start of proceedings women are often overwhelmed and cannot take in a lot of information due to the impact on their health and wellbeing. Allowing women to keep a copy means she is given the chance to process what she has said at a later date when she is able to find more clarity. Also, women's circumstances can change dramatically following the incident at hand. Thus, being able to pin point impact within a longer time frame means women are given the chance to reflect on how much has changed and add to the statement in an informed way.

BSWA recommends that women should be given the choice of being provided with a digital or hard copy of their VPS. For some women, having a hard copy may not be suitable as the perpetrator may get hold of it which could put her in danger, similar to some women having a digital copy, whereby the perpetrator may have access to the woman's emails which could put her in danger also. Women are the best judge of their own safety and risks, giving them these options means they can mitigate as they see fit.

9 Are there any additional comments you wish to make on changes to the Victim Personal Statement process?

question 9:

BSWA believes that for VPS's to have the best weighting which ever way it is used within the criminal justice system, that the people reading/ hearing it should have some level of training and awareness of the nuances of the crime i.e. domestic violence and abuse. For courts workers, Judges, barristers, solicitors and Magistrates to be trained in domestic violence and abuse would prove to be highly beneficial for them to fully understand what is being described in a VPS. This could have significant impact on the outcomes of processes, especially at trial and during Parole hearings.

Mentally Disordered Offenders

10 Which agency is best placed to support victims of unrestricted patients?

question 10:

BSWA recommends that specialist and established support organisations should support victims of unrestricted patients. Specialist organisations are nuanced in understanding and supporting victims on their experiences, and are best placed in providing these victims with their options and advocating for them.

BSWA is able to support all women with varied experiences of domestic violence and abuse due to over 40 years of established experience. Specialist and established organisations are trained regularly and (usually) follow and set best practice, since they are immersed in the field they work in. BSWA is also a by and for organisation, women supporting all women, thus this pertains to another level of understanding and support provided. Specialist services are able to provide support to victims, which go amiss from generic service providers, due to the wealth of knowledge and experience on the issue which is accumulated and makes up the values, quality standards and services provided.

3. Support

11 Do you agree that the right to access practical and emotional support for victims should be made clearer in the revised Code for those victims':

Please give reasons for your response.:

11.a) BSWA agrees that the right to access practical and emotional support for victims should be made clearer in the revised Code for those who do not report incidents to the police. BSWA is unsure of how the criminal justice system agencies would reach these victims in a safe way, unless the communication materials are produced in conjunction with established and specialist organisations. Many specialist organisations support victims who do not report to the police, thus, working with them also makes spreading this message easier and safer.

The practical and emotional support that is referred to should be provided by specialist and established organisations to victims. Thus, promoting these services should be done in collaboration. The new Code should make this clear to victim's and a list of local specialist support organisations should be easily accessible and signposted. It could for example link to the local PCC's Victims information webpage.

11.b) BSWA agrees that the right to access practical and emotional support for victims should be made clearer in the revised Code for those who choose to withdraw after reporting an incident to the police. Women who are still in a cycle of abuse with a perpetrator often withdraw because of the use of coercive control

or fear inducing manipulation or threats. Thus, ensuring that victims are aware that support is still available to them regardless of their decisions relating to the criminal justice system is really important in making sure they are not isolated and ignored.

As in the answer given to question 11(a), the practical and emotional support that is referred to should be provided by specialist and established organisations to victims. Thus, promoting these services should be done in collaboration. The new Code should make this clear to victim's and a list of local specialist support organisations should be easily accessible and signposted.

11.c) BSWA agrees that the right to access practical and emotional support for victims should be made clearer in the revised Code for those at the end of their case. Trauma from abuse can carry on through the courts, police, family and friends and even from the perpetrator. The impact of post-separation abuse can be identified in the report Finding the Cost of Freedom (Liz Kelly, 2014). Women are often still dealing with the immediate aftermath of being affected by domestic violence and abuse if they have managed to escape the abuser. Therefore, support at the end of a case is paramount to ensuring victims needs, safety and ongoing health and wellbeing is supported.

As given in the answer to question 11(a) and (b), the practical and emotional support that is referred to should be provided by specialist and established organisations to victims. Thus, promoting these services should be done in collaboration. The new Code should make this clear to victim's and a list of local specialist support organisations should be easily accessible and signposted.

4. Specialist Support

12 Do you agree with the proposed changes to eligibility categories for access to specialist support?

Please give reasons for your response.:

BSWA agrees with the proposed changes to eligibility categories for access to specialist support. BSWA welcomes that victims not deemed to be within the three categories of victims with specific entitlements are being recognised as potentially needing additional support in place. BSWA believes that 'scales' for 'victimhood' should not exist and believes that this is the beginning of breaking down the barriers of differential treatment based on severity of crime experienced. Offering more than one point at which needs assessments should take place is important in mapping the victims journey and needs. However, BSWA agrees that it is highly concerning that victims are being asked to complete needs assessments at several points of the criminal justice process. This means victims repeating information about their experiences and about the impact of the crime which can have the effect of retraumatising, in turn resulting in not having their needs considered. The number of needs assessments should be cut down by the system, instead introducing the sharing of this information between agencies. Nonetheless, victims should still be conferred with in regards to any changes in their circumstances in order to ensure that needs assessments are up to date. BSWA believes that although not all victims may be suitable for referral to specialist organisations, all victims should be signposted to a list of specialist organisations in the area and given the option. Those who do not deem it safe to contact these organisations will use their own discretion, or receive help from the specialist organisation on their safety risk. This is especially important given that people with generic understanding of the impact of crimes do not understand and are not trained to identify the nuanced elements of the crime and its impact.

13 Are there other types of support or information which would benefit those victims who are offered specialist support?

question 13:

One benefit to victims who are offered specialist support would be for the provision of timely and accurate information from various criminal justice agencies. As explained in answer to question 5, this information is of high importance in keeping women (and their children) safe.

14 What changes should be made to the existing needs assessment process?

question 14:

BSWA use a bespoke version of the CAADAA-DASH assessment used by the criminal justice system in the UK. BSWA's assessment differs in two ways, in that it focuses on assessing risk by using professional judgement and considering the whole family, not only the woman.

BSWA approach the risk assessment by considering risk within the specific context of domestic violence and abuse. Due to over 40 years of experience, BSWA has specialised in adapting and including the wider context of risk posed to women and their family. Risk assessments should be used in the context of a continuum of domestic violence and abuse, which always changes (therefore risk reviews are also important and should be carried out formally every 4-6 weeks, or when there has been a 'significant' change to the situation.) Note that it is not possible to remove risk from situation but our aim is to help reduce it.

BSWA front-line staff make professional judgements which rely largely on specialist established experience, knowledge and understanding of domestic violence and abuse, and form an opinion as to the seriousness of risk. Whilst an actuarial judgement is based on fact, a professional judgment allows for a wider analysis. The two methods complement each other to provide a fuller indication of risk. BSWA therefore does not use a scoring method to measure women's risk, since this would not be indicative or take into consideration the nuances of risk (based on the nature of the crime and individual circumstances). Generic service providers for victims would not be able to carry this out and thus their risk assessments are not as safe or able to detect all risks, since they do not understand the nuances of the crime to be able to identify risk.

Furthermore, BSWA uses the risk assessment questions as a prompt, rather than a checklist of questions and answers to tick off. Front-line staff ask questions based on the assessment which provide an open enough question to answer several of the assessment sections. This is to ensure that women do not feel that they are going through an unsympathetic survey, but that the person they are receiving support from is really listening and shows they understand what they are being told. It instils confidence in women and eliminates the apathy they may feel by being asked the same assessment multiple times. It also often leads to disclosures which would have been missed if the questionnaire assessment was followed in a rigid manner.

BSWA have adopted further questions as part of our assessment than exists on the CAADAA-DASH which consider the risk of the whole family unit, with a specific focus on risk to child/ren. This takes into consideration that most women with child/ren will not only have to plan for themselves but also their child/ren. By including this into our formal assessment, we ensure that all appropriate actions / measures and support is in place for everyone involved. It means women are supported with the big decisions they make and to help them keep their child/ren safe without putting themselves at further risk.

BSWA recommends that the risk assessment the criminal justice system use adopt the extra questions that BSWA have around the family unit with a focus on children. It helps mitigate risk which would not be apparent if not raised and considered. BSWA recommends, with over 40 years of experience in the industry and supporting women, that all those who have contact with victims, or make decisions which would impact victims in the criminal justice system be trained by specialist established organisations on domestic abuse and violence. Without understanding the context of the crime and its impact from a specialist, the system cannot fully appreciate the bearing this crime has on its victims.

5. Accountability

15 Do you agree that PCCs should work with their local criminal justice partners to adapt the victim guidance to explain the local offer for victims?

Please give reasons for your response.:

BSWA agrees that PCC's should work with their local criminal justice partners to adapt the victim guidance to explain the local offer for victims. This should be done in collaboration with specialist established service providers in the local area as they would be able to input knowledge that could easily be missed by large generic services. As explained in answers to questions 11(a), (b) and (c), working with local specialist providers would ensure the safest and most considerate input due to the wealth of knowledge and experience these organisations possess.

BSWA questions how the Office of the PCC and local criminal justice partners will be held accountable to upholding the new Code. Given that the criminal justice system, in particular the police, has overstretched resources, could the new Code put the quality of the work done by these services at further risk? For this new Code to be achievable and sustainable, it must come with additional funding to execute the new and additional practices. Specialist and established service providers in the local area already work closely with victims and are trusted and partly commissioned by the PCC, they could prove to be a strong ally by providing checks and balances to the implementation of the new Code.

ANNEX – What has informed our work

Confidentiality