

## **The Children's Society's response to improving the Code of Practice for Victims of Crime consultation May 2013**

### **About The Children's Society**

The Children's Society supports nearly 48,000 children and young people every year through our specialist services and children's centres. We believe in achieving a better childhood for every child but have a particular focus on children who have nowhere else to turn, such as children living in poverty, young carers, young refugees, children at risk on the streets, disabled children and children in trouble with the law. We seek to give a voice to children and young people and influence policy and practice so they have a better chance in life.

### **Introduction**

We welcome this consultation on how to improve the Victims' Code. Our response is based on our direct experience of working with young offenders and victims through restorative justice projects, victims of CSE and trafficking and other vulnerable young people who are often victims of crime such as separated migrant children.

We attended the Ministry of Justice's roundtable on the under 18s section of the Code so have fed in many of our comments through this event, but below are our comments in writing.

We strongly welcome the separate section of the Code for under 18s and the inclusion of restorative justice for over 18s but believe that the young person's section needs some additional work to make it more accessible for child and young people and greater recognition of particularly vulnerable groups of young people.

### **Summary of recommendations:**

Recommendation 1: The government should provide training on RJ methods for all those involved in the criminal justice system to increase awareness of its value and benefits and to encourage development of local provision of RJ.

Recommendation 2: The Code should recognise the particular vulnerabilities of some groups of children such as victims of child sexual exploitation, children in care, children who run away from home or care, disabled children or children with learning difficulties, children involved in the youth justice system, unaccompanied asylum seeking children and victims of child trafficking and recommend that they get particular support as victims.

Recommendation 3: The Code should define or outline what it means by a 'victim'.

Recommendation 4: This section should acknowledge that some victims may not see themselves as victims, for example victims of CSE and child trafficking.

Recommendation 5: This Code should clarify the roles of adults who will support young victims at different stages of the criminal justice process and how this should be communicated to young victims.

Recommendation 6: This section should contain links to relevant guidance around supporting and safeguarding children as vulnerable victims.

Recommendation 7: This section should be re-written with the involvement of young people who can ensure that it is written in simpler, more accessible and young person friendly language.

Recommendation 8: This section should include bullet points, colourful text, large headings, case studies and examples or stories.

Recommendation 9: An accompanying leaflet or card containing summary information should be produced.

Recommendation 10: This section should be re-produced in different formats such as online, audio, videos and social media.

### **Q1. Do you think that the approach taken to restructure the Code is the right one?**

We support the approach taken to restructure the Code to ensure that it is victim-focussed and not process-orientated. We also support the development of a more flexible service which responds to the particular needs of all victims of crime and helps them understand their entitlements. We agree that the new Code should focus on the journey of the victim and the support they need to navigate a complex and confusing criminal justice system. This is particularly the case for child victims of crime. Our comments about the suitability of the Code for children are contained in the specific questions on these – Questions 17 - 19.

### **Q2. Do you think that the categories of persons entitled to receive enhanced services under the Code are appropriate?**

We agree with the categories of persons entitled to receive enhanced services under the code (victims of the most serious crime, persistently targeted victims and vulnerable or intimidated victims). We particularly welcome the change to increase the age from 17 to 18 for those automatically considered vulnerable to retain the link with the statutory underpinning for vulnerable or intimidated victims in relation to special measures for giving evidence at court. Enhanced entitlements and special consideration in court is particularly important for victims of child sexual exploitation (CSE) or trafficking. We know from our years of practice in this area that these victims need intensive support before, during and after the court process. They will experience particularly high levels of trauma and anxiety due to the manipulation they have suffered as part of the long grooming process.

We also welcome the statement in paragraph 26 that where the age of a victim is uncertain and there are reasons to believe that the person is under 18 years of age, service providers should presume that person to be under 18 and entitled to receive the enhanced entitlements for victims under 18. We know from our direct work with separated migrant children, including those who are victims of violence, abuse and exploitation, that they may not always have documentation to prove their age.

Children, who may appear to be older, need to be given the benefit of the doubt with respect to their age and treated as children – the age they say they are - rather than adults and afforded the relevant protections as all other children. Professionals must bear in mind that it is difficult to make judgements on a person's age based on their appearance and treating a child as an adult has significant implications for the child's safety. If there are serious reasons to doubt a young person's age, a lawful age assessment should be conducted.

In some more rare cases a young person may have documentation which says they are over 18 in order to avoid detection by agencies e.g. in some trafficking cases – but they are in fact a child. In such cases authorities need to be vigilant and make sure that children get the relevant protections child victims should get.

**Q4a). Do you think that the Police and Crime Commissioners should be include in the revised Code. Please give reasons.**

Yes, we think PCCs should be included in the revised Code. They should ensure that local services are commissioned for child victims and that they monitor and oversee the Code's duties that should be carried out by the local police force in relation to children and young people.

**Q11. Do you agree that RJ should be included in the Victims' Code where the offender is over 18 years of age?**

We support the inclusion of RJ in the Victim's Code where the offender is over 18 years of age. Our years of practice in providing restorative justice services for victims and young offenders have proven to be successful and demonstrated positive outcomes of these methods for both victims and offenders. Our Tees Valley Restorative Justice project has found that in 2011-2012 80% of victims, who took part in this restorative justice project, were less fearful of crime and 31% were able to move on a lot from the effects of the offence and 31% quite a lot. In addition 73% had a high level of confidence in the criminal justice system after taking part in RJ compared to 16% before the intervention.

We have also found RJ to be extremely effective in reducing re-offending and helping both the offender and the victim. RJ helps offenders understand the impact their behaviour has had and address the causes behind it. In 2011-2012 71% of young people who had been through our RJ programme in Tees Valley had a better understanding of how the victim felt after the RJ process.

RJ also prevents cycles of re-offending and reduces the financial and human cost of children ending up in the criminal justice system. 80% of young people who have been through our RJ process in Tees Valley have not entered the criminal justice system. These quotes from the service illustrate the positive effects of RJ for both victims and offenders:

"I received a new phone and a genuine apology from the young person and I am very happy. I feel we both can put this behind us and move on" (victim of an offence)

"I know how they feel; it was wrong and they will have been upset" (young person who had committed anti-social behaviour)

**Q12. Do you think that the section on RJ in the revised Code will help to support wider work to improve victim awareness of RJ?**

The section on RJ will help support wider work to improve victims' awareness of RJ, but, as the code states, this is dependent on the provision of RJ in local areas. Given the substantial cuts to local authority budgets and in particular youth services there is likely to be a postcode lottery for access to these services. The police and other services should also promote RJ wherever possible. Our RJ projects who train Youth Offending Team (YOT) staff and the police find that these professionals often have low levels of awareness of RJ provision, methods and its effectiveness. They find many YOT staff do not understand or believe in the effectiveness of RJ approaches. However, they have found that having RJ

champions at a senior management level can increase up-take of RJ and buy-in across teams.

**Recommendation1: The government should provide training on RJ methods for all those involved in the criminal justice system to increase awareness of its value and benefits and to encourage development of local provision of RJ.**

**Q13a). How much do you think RJ uptake will increase as a result of the reforms to the Code?**

As mentioned in our answer to Q.12, take-up of RJ will depend greatly on provision in local areas and greater promotion and awareness of RJ among staff working within and around the criminal justice system. In 2011/2012, 80% of victims contacted through our Tees Valley project agreed to participate in an RJ process. Skilled and qualified RJ professionals who can work with victims over a period of time to help them understand the benefit of the process are key to increasing uptake of RJ, which should always be voluntary and victim-led.

**Q.17 Do you agree that there should be a dedicated section for children and young people in the Code?**

We have already contributed our views on this question through a roundtable at the Ministry of Justice on the under 18s section of the Code but below are our points in writing. We strongly agree that there should be a dedicated section in the Code for children and young people. As mentioned in Question 2, we particularly welcome that the age has been raised from 17 to 18 and that where there is uncertainty about their age, they should still receive the enhanced entitlements.

However, similarly to the adult section of the code which acknowledges three groups of vulnerable victims, children and young people are not a homogeneous group. There are some groups of children and young people who are more vulnerable and more likely to be victims of crime and who will need more support. We work with many vulnerable groups of children who are victims of crime or at particular risk of becoming victims of crime, such as victims of child sexual exploitation, children in care, children who run away from home or care, disabled children or children with learning difficulties, children involved in the youth justice system, unaccompanied asylum seeking children and victims of child trafficking.

A young people-led research project conducted through our New Londoners project<sup>1</sup> in the London Boroughs of Newham, Croydon and Hillingdon this year explored the reasons why young migrants may get involved in street crime. Most of the young people interviewed through this report were either victims of street crime or had friends who had been victims. Some of these were children who were alone in the UK and separated from their families or carers and were therefore at high risk of being victims of crime.

The research found there were a number of reasons why young migrants were more likely to be victims of crime. These included isolation due to being new to the country, and the language barrier, as well as having no family, support networks or friends and being the victim of bullying. Young migrants involved in the immigration system often find themselves living on the streets, destitute and homeless, which can make them more likely to be

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<sup>1</sup> Young people from New Londoners (2013) 'Beyond the streets - Young Migrants' Solutions to Street Crime': <http://www.childrensociety.org.uk/what-we-do/helping-children/young-refugees/new-londoners/beyond-streets>

victims of crime. An addition, the young people we have worked with have experienced racial violence while homeless.<sup>2</sup>

Children who run away are also more likely to be victims of crime. Our Still Running 3 report found that one in nine children said that they had been hurt or harmed while away from home. One in six children said that they had slept rough, or stayed with someone they just met for at least some of the time they were away. This can also leave them vulnerable to crime, sexual or other types of exploitation.<sup>3</sup>

Some groups of children are also more likely to be at risk of sexual exploitation such as children in care, children involved in gangs and street crime. The Joint All Party Parliamentary Group Inquiry into children who go missing from care and the Interim report by the Office of the Children's Commissioner into CSE in gangs and groups in 2012 found that children in care and in particular those living in care homes were particularly vulnerable to sexual exploitation.<sup>45</sup> The report also found that large proportions of young people involved in gangs were at high risk of sexual exploitation which was often linked with street crime and drugs.

**Recommendation 2: The Code should recognise the particular vulnerabilities of some groups of children such as victims of child sexual exploitation, children in care, children who run away from home or care, disabled children or children with learning difficulties, children involved in the youth justice system, unaccompanied asylum seeking children and victims of child trafficking and recommend that they get particular support as victims.**

**Q18. Do you agree that the duties on the criminal justice agencies with regards to children and young people are correct? Please give reasons.**

We strongly welcome that the Code states that the child's best interests must be a primary consideration for service providers at all times. This section should also state that certain vulnerable groups need particular support as set out in our answer to Q.17. The Code also needs to define or outline what it means by a victim. This section should also acknowledge that some victims, for example victims of CSE or trafficking may not see themselves as victims due to the manipulation they have suffered as part of the grooming and exploitation process.

We welcome that the wording in the Code is straight forward and clear but some of the duties around who should support young people are not very clear. In particular, there should be greater clarity about who should accompany and support a young victim at different stages of the criminal justice process. Young victims that our projects have supported through the criminal justice system tell us that they want one consistent adult to support them before, during and after the court process. This person should be independent from the police and CPS process so they are not tainted with any negativity that the young person may have towards the process.

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<sup>2</sup> The Children's Society (2012) 'I don't feel human: experiences of destitution among young refugees and migrants': [http://www.childrenssociety.org.uk/sites/default/files/tcs/research\\_docs/thechildrenssociety\\_idontfeelhuman\\_final.pdf](http://www.childrenssociety.org.uk/sites/default/files/tcs/research_docs/thechildrenssociety_idontfeelhuman_final.pdf)

<sup>3</sup> Rees, G (2011) *Still Running 3: Early findings from our third national survey of young runaways*, London: The Children's Society

<sup>4</sup> The APPG for Runaway and Missing Children and Adults and the APPG for Looked After Children and Care Leavers (2012) *Report from the Joint Inquiry into Children who go Missing from Care* London: The Children's Society

<sup>5</sup> Office of the Children's Commissioner (2012) *I thought I was the only one in the world, The Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation In Gangs and Groups Interim Report* London: Office of the Children's Commissioner

Our projects find that young people are not given adequate support when they report allegations of child sexual exploitation or serious sexual violence and when they go through the court proceedings. The mechanisms of grooming for child sexual exploitation such as alcohol and drugs and emotional and physical manipulation can mean that children are perceived as unreliable witnesses who may have changed their story. Only through the support of an adult that they trust can the young person start to come to terms with what has happened and tell their story in a way that will produce the evidence needed for a successful prosecution. In addition victims of CSE often find themselves having to repeat their personal and traumatic story to numerous strangers and agencies or professionals. Having one consistent adult to talk to throughout the process would also address this situation.

Investigations into child sexual exploitation and localised grooming are very complex and it is therefore often very difficult to obtain sufficient evidence to convict the perpetrators. Convictions also remain rare. It takes a long time for young people who have been groomed to trust professionals, because sometimes at first the young people believe in the innocence of the perpetrators (which is part of the grooming process), they are often perceived as 'liars' who have changed their story and therefore cannot be relied upon.

As a result our services report that many victims who report allegations of serious sexual violence find that "No Further Action" (NFA) is taken on their case. A large number of cases are discontinued by the CPS. Practitioners tell us that young people often report feeling 'dropped' once a case is NFA'ed. Initially there is a lot of interest in what happened and they find themselves having to tell their story to many strangers and agencies/professionals they did not even know existed. Once the case is not going forward or it is dropped in Court, most professionals withdraw and young people often feel that they have been left to deal with the consequences of talking (both psychological and physical) on their own. Again one trusted and consistent adult can help young people understand why their case may have been dropped and support them to deal with this.

This section would also benefit from a number of links or signposts, either throughout or at the end of the text to guidance that exists around supporting and safeguarding children as vulnerable victims and witnesses such as the CPS (Crown Prosecution Service) guidance, ACPO (Association of Chief Police Officers) guidance on investigating child abuse and safeguarding children and the Ministry of Justice guidance on Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses.

**Recommendation 3: The Code should define or outline what it means by a 'victim'.**

**Recommendation 4: This section should acknowledge that some victims may not see themselves as victims, for example victims of CSE and child trafficking.**

**Recommendation 5: This Code should clarify the roles of adults who will support young victims at different stages of the criminal justice process and how this should be communicated to young victims.**

**Recommendation 6: This section should contain links to relevant guidance around supporting and safeguarding children as vulnerable victims.**

**Q19. Do you consider that this section is appropriately user-friendly for children and young people?**

We believe this section needs a substantial amount of work to make it appropriately user-friendly for children and young people. As discussed at the roundtable, the section needs

concise introductory paragraphs explaining the purpose of the Code and who can support the young person at each stage of the process. An easy to understand flow chart may also help young people understand where they are in the process.

The language and terminology used are currently not accessible for children and young people and need to be made simpler. For example, the word 'entitlements' may not be understood by young people, a more appropriate word would be 'rights'. The code should make use of bullets points, colourful text, large headings, case studies and examples or stories to bring the information to life for the young person and help them understand the information in an engaging way. As discussed at the roundtable, co-creation should be considered with a group of young people so that the Code can be written in the simplest language possible.

As discussed at the roundtable, the Code as it stands is a large formal looking document which young people are unlikely to read so the production of a leaflet or pocket sized Z card should be considered which summarises the main points and can point them to online content. A pocket sized leaflet will also appeal more to young people and they can carry it in their wallets so they have it on them at all times. Services who work with young people like youth services, schools etc can distribute these so young people are aware of their rights as victims.

We also endorse suggestions at the roundtable to widely publicise and communicate the Code in a variety of formats such as putting it online as this is where most young people will access content, posting video clips for a 'journey' on YouTube, creating an App, and ensuring there are links on key stakeholder websites. The Children's Society would be willing to provide a link on our website.

**Recommendation 7: This section should be re-written with the involvement of young people who can ensure that it is written in simpler, more accessible and young person friendly language.**

**Recommendation 8: This section should include bullets points, colourful text, large headings, case studies and examples or stories.**

**Recommendation 9: An accompanying leaflet or card containing summary information should be produced.**

**Recommendation 10: This section should be re-produced in different formats such as online, audio, videos and social media.**

#### **Q20. How can we ensure that the Code is communicated effectively?**

In terms of communicating the Code to young people, it should be disseminated widely to services that work or come into contact with young people so they can promote the Code such as YOTs, schools, Pupil Referral Units, youth clubs and sports clubs and through forums such as the British Youth Parliament, youth PCCs and other children's and youth charities.

#### **For more information please contact:**

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