

Getting it Right for Victims and Witnesses

Consultation response

April 2012



About Galop

Galop makes life safe, fair and just for LGBT people in London. We work with LGBT people who have been the victim of hate crime, domestic abuse and sexual abuse. We provide third party reporting facilities, initial advice, and ongoing support and advocacy to up to 500 people a year. We use our expertise to help make the criminal justice system fairer and more effective for our clients, including working in London with the MPS and CPS to let them know about issues that arise for our clients. More information is available at www.galop.org.uk.

Overview

Galop welcomes the consultation, and strongly agrees with Ministry of Justice's aims to improve services for victims and reform the system for criminal injuries payments.

We agree that the approach to funding victim support services has in the past been piecemeal and lacking strategy, and as a result best value has been gained from the investment that the government has made. We support a more strategic approach to this funding.

We support, within certain parameters, a more outcomes based approach to victim support services.

We also agree that the system for dealing with criminal injuries compensation payments is in urgent need of reform. In our experience the current system is lacking in transparency for victims, is bureaucratic and incredibly slow. These

However, although we agree with the principles outlined in this consultation document, as with all such broad stroke approaches, difficulties can come in the interpretation and application of the policy, especially for more specialist issues that may have particular needs. We do have some concerns relating to this, which we lay out in the following sections.

Prioritisation for support

We welcome the recognition that the impact of crime on these who are persistently targeted (such as victims of hate-related neighbourhood harassment) can be particularly devastating, and therefore should be prioritised.

We are concerned that the consultation is unclear about whether all victims of hate crime will be prioritised for support in this way. Many victims of hate crime may not experience serious crime as defined in the consultation, but may still be the victim of a one-off attack from a stranger. Galop's experience is that being specifically targeted because of your sexual orientation, gender identity (or some other essential part of who you are such as your race or

disability) can have a more damaging effect on victims and be harder to recover from. This has been recognised already by the Ministry of Justice, which states in its recently published report ‘Challenge it, Report it, Stop it: The Government’s Plan to Tackle Hate Crime’ (March 2012) that:

“There is clear evidence, to show, that being targeted because of who you are has a greater impact on your wellbeing than being the victim of a ‘non targeted’ crime”
(s. 1.11)

Given this greater impact on victims, victims of all types of hate crime, whether or not the attack involves serious violence, or was persistent, should be prioritised for support from victim support services.

Galop urges the MoJ to specifically recognise victims of hate crime in the definition of priorities, in order to ensure that these victims can access the services that they urgently need.

Commissioning and local decision making

Galop is concerned about some of the proposals relating to local commissioning of services. We deal with crime issues that have a significantly damaging impact on our clients, and where a specialist victim support service is needed to support victims – homophobic and transphobic hate crime, and domestic and sexual abuse experienced by LGBT people. Because of the relatively low number of victims in proportion to the overall number of victims of crime, we are concerned that these issues may not be prioritised by locally based politicians, or by local communities who may be more focused on other issues. This issue may be compounded by the fact that the smaller the area that the service covers, the less cost effective it becomes to provide these much needed services to this client group.

Galop is also concerned that the prime contractor approach proposed in the consultation may be ineffective and more expensive than other options. It may also mean that those with specialist needs, such as the clients that Galop works with, are unable to get the right support. By adding a ‘middle man’ organisation, there will be administration expenses which mean that the total amount available to victims’ services is necessarily reduced. Large providers are less likely to have an understanding the different needs of groups, and generic services are often inaccessible or inappropriate for our clients.

Galop agrees that funding for victims’ services has in the past been piecemeal and that this has led to organisations’ lack of ability to plan or invest in services, which will necessarily affect the quality of services delivered. We are concerned however that the Ministry of Justice will need an active plan to ensure that smaller organisations providing specialist services are still able to access funding to meet the needs of their clients. A one size fits all approach will not work. Galop believes that for some specialist services there may need to be national commissioning of local or regional services, to ensure that specialist issues such as hate crime or LGBT domestic and sexual abuse receive funding.

The Victims’ Code and complaints

Galop agrees that there is a need for a clearer Victims’ Code which makes the criminal justice system more accountable to victims. We strongly support the Government’s decision to opt into the EU directive on this issue.

Many of our clients experience frustration when trying to make a complaint regarding the criminal justice system. Victims of crime often do not distinguish between different arms of the state which deliver criminal justice services. In London, when something goes wrong for a victim, it may have been caused by any one, or a combination of the Met Police, City of London Police, British Transport Police, the Crown Prosecution Service, the Witness Care Service, or the Court Service. From a victim perspective, it can be impossible to disentangle where a problem was caused of which organisation is responsible. This can make complaining distressing and inefficient, and can also lead to victims feeling that there is a degree of 'buck passing' between organisations.

We would therefore support a clearer more accessible complaints pathway for complaints, with accountability to report back on outcomes. It would be helpful to have one place to make complaints, with the complaint being routed to the right organisation. This should not slow down the response however.

It is also important to note that most problems that our clients experience relating to being kept informed, related to the progress of the investigation – during which many victims feel peripheral and out of touch with what is happening in their own lives.

Our clients' experiences of attending and giving evidence in court can be extremely distressing – often re-victimising them. Clients note the disparity between the fair way in which perpetrators are treated, compare to the way in which they experience the system. Whilst we do not suggest that the system should be made less fair for perpetrators, we do argue for a levelling up of rights.

As part of this levelling up, we support the proposals regarding defence statements. Where our clients have faced personal and offensive cross examination, questioning their character, it would help for them to have some warning of this approach in order to be emotionally prepared and supported.

We would also argue that paranoia concerning witnesses rehearsing statements has led to an unfair disparity in which victims do not meet with their barrister more than a few minutes before a trial, they don't have an idea of the defences case, and they can't get appropriate support because witness services cannot discuss their case with them.

The ability to make a Victims Personal Statement can be an important factor in helping a victim to move forward and express how the crime has impacted on them. This can play a role in the healing process. Some of our clients have experienced frustration when their statement is not presented to the court. We would support a clearer system and clear accountability regarding responsibility for this issue.

Outcomes based commissioning

Galop supports the Government's desire for a more consistent and effective outcomes base approach to commissioning victims' support services.

We suggest that the outcomes based framework should include the criminal justice system itself – including the chance to make a third party report, practical support and advocacy in navigating the system, and emotional support regarding the impact the system has on victims.

We also suggest that for this system to work, there needs to be a genuine acceptance of the difficulties that there can be in measuring outcomes in these cases. There also needs to be a recognition that monitoring of this type is administration heavy and to be achievable for small organisation, finances need to be provided for the IT and personnel resources needed.

Restorative justice

Galop is very much in favour of better use being made of restorative justice, and we would encourage further research and pilots to discover how this might be relevant in cases of hate crime, domestic and sexual abuse

Criminal Injuries Compensation Scheme

In our experience the current CICA scheme is bureaucratic, slow and inflexible. This can cause additional distress and practical problems for victims,. We would support an overhaul of the scheme.

Letter which are sent to clients under this scheme fail to treat them sensitively as victims of crime. This is especially the case when a claim is turned down. A scheme which is tightly drawn (as is currently the case, and more so if the Government's proposals are acted upon) will often turn down claimants for a range of reasons which will not mean that the crime did not happen and the victim was not affected. It may include a delay in reporting, a delay in claiming, lack of cooperation with the police, or lack of evidence of the crime. In all of these cases there may be good reasons why the victim behaved in this way, even if the case officer has rightly judged that there is no eligibility in the scheme. Despite this, the form letters sent can often suggest that the victim is not believed or is in some way responsible for the crime. This can be extremely damaging. It is perfectly possible to communicate with the victim CICA's sympathy for their experience, and sensitively explain that the claim has not been upheld. Galop strongly suggests the system is overhauled in this way.

The consultation clearly accepts in earlier sections the corrosive effect that lower level persistent crime can have on a victim. However these victims will not be able to access compensation. Galop strongly disagrees with the proposal to limit compensation payments to crimes of serious violence. There may be many victims of hate crime which are less violent, but can (as is accepted in cases of sexual abuse) have a serious and lasting negative impact on the victim.

Galop also disagrees strongly with the proposal to limit loss of earnings payments to those who permanently cannot work. Many of our clients experience long periods out of work which have a significant financial impact that cannot be dealt with by a benefit claim. This proposal is unfair.

Some of our clients do not immediately report their experiences to the police because they are afraid of a negative homophobic or transphobic response. This has been recognised in countless research reports. This may also be the case for people who have been stopped and searched unfairly by the police. For these clients, they may need the support of an organisation such as Galop to discuss their fears and get support before deciding whether they will report the crime. These clients should not be penalised by an inflexible system which further punished them by not accepting their claim for compensation. Galop strongly disagrees with the proposal to tighten up the eligibility criteria relating the immediate report.

Galop strongly supports the proposal to change the way in which drugs and alcohol are viewed in connection to a claim. Many of our clients are the victims of an assault where they have been drugged, or where they may have taken drugs. This does not in any way minimise the impact on them, and this proposal is therefore welcome.

Galop strongly believes that victims of crime should not be blamed in some way for their experiences where they have an unrelated previous minor criminal conviction. Where a person's previous conduct is unrelated, then they remain a blameless victim and should be treated as such.

Galop also strongly disagrees with the proposal to cut the lower levels of compensation. As previously discussed, manatee victims of hate crime experience 'less serious' injuries however the impact on them can be extremely serious. This should be recognised within the compensation scheme.

Contact details

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