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Guideline Number 12¹
Victims of Crime
Issued: 15 September 2023

Generally

All members of staff in the ODPP shall treat all victims of crime with courtesy, respect and empathy, and with due regard to any particular need that arises, including because of a victim's age, sex, race or ethnicity, cultural or linguistic background, or physical or intellectual ability.

In addition, all members of staff shall, in dealing with victims, be mindful of the harm, loss or injury that a victim has, or may have, suffered, and that their family and friends may be living with. Staff must, as far as possible, conduct themselves and the relevant proceeding in a manner that does not compound the harm, loss or injury that a victim has suffered or that may result in revictimization. Consistent with this, all members of staff should ensure that:

- a) there is no unnecessary intrusion on a victim's privacy;
- b) a victim's residential address and contact details, including on social media, are not disclosed unless it is material to the prosecution or defence;
- c) all victims are protected as far as practicable from unnecessary contact with the alleged offender and defence witnesses; and
- d) that a victim is only asked to attend proceedings related to the offence if the victim's attendance is genuinely necessary.

Further, unless doing so would jeopardise the investigation or prosecution of an offence, victims of crime, and, where appropriate, their families and friends, can expect:

- a) for the purposes of bail proceedings, to be consulted about their perceived need for protection from the alleged offender and for that need to be brought to the attention of the bail authority;
- b) to be notified of the outcome of bail proceedings and any bail condition that is imposed to protect the victim from the alleged offender;
- c) in relation to any indictable offence that resulted in the death of, or physical harm to, a victim, or a sexual offence within the meaning of the *Evidence Act 1929*, including aiding, abetting, counselling or procuring the commission of such offence, attempting or conspiring to commit such offence, or being an accessory after the fact to such offence, to be consulted before any decision is made:
 - i. to charge the alleged offender with a particular offence, or
 - ii. to amend a charge, or

¹ This Guideline replaces any and all previous versions of Guideline No. 12 – Victims of Crime.

OFFICIAL

- iii. not to proceed with a charge, or
 - iv. to apply under Part 8A of the *Criminal Law Consolidation Act 1935* for an investigation into the alleged offender's mental competence to commit an offence or mental fitness to stand trial.
- d) to be informed on request about:
- i. the charge(s) laid and the details of the place and date of any and all proceedings on the charge(s);
 - ii. the name of the alleged offender;
 - iii. the reasons why a decision was made not to proceed with a charge, to amend a charge, to accept a plea to a lesser charge, or to support a defendant in seeking leniency from a court;
 - iv. the outcome of any proceedings based on the charge(s), including any appeal and any order made consequent upon an offender being declared liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935*;
 - v. the details of any sentence imposed on the offender for the offence(s) charged;
 - vi. the details of any order made by a court on declaring the offender to be liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935*.
 - vii. if the offender is subject to a supervision order under Part 8A of the *Criminal Law Consolidation Act 1935* and the offender, or any other person, later makes an application for the variation or revocation of the order or an application for review of the supervision order is made - the outcome of the proceedings and, in particular, if the offender is released on licence, any conditions imposed on the licence.

Once the ODPP assumes the conduct of any matter, if reliance is placed on the investigating officer to discharge any of the above responsibilities, that fact should be expressly agreed with the investigating officer and the ODPP must ensure that the investigating officer has all the information they require to discharge such responsibilities.

Communication of the information detailed above, where undertaken by the ODPP, should take place, as far as is reasonably possible, in the manner chosen by the victim and at the time or times of the victim's choosing.

If the victim indicates a desire not to be provided with the information in accordance with the above obligations, or only to be provided with certain information, the victim's wishes must be respected.

The assistance of a Witness Assistance Officer

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Consideration must be given to the involvement of a Witness Assistance Officer in any prosecution in the early stages of contact with a victim and their family. In all appropriate cases the victim should be referred to the ODPP Witness Assistance Team. The Witness Assistance Team has finite resources. Accordingly, witness assistance services will be provided according to need, and, where possible, in conjunction with external service providers.

Victims may expect that, amongst other things, a Witness Assistance Officer will be in a position to inform them about support services available in the community.

Cultural sensitivities

Resources permitting, the ODPP will do all it reasonably can to accommodate any cultural considerations or concerns that a victim or witness may have relating to their giving evidence and any support required.

Victims who are children

The way in which the ODPP will deal with children who are victims, their parents and families, is the subject of Guideline No 14.

The victim as a witness

If a victim is to be called to give evidence at trial, or is a witness in any related or ancillary proceeding, the victim should be informed about the process and the victim's rights and responsibilities as a witness for the prosecution.

Where the victim is a child or a vulnerable witness and they are required to give evidence in a trial or any related or ancillary proceeding, or if they will suffer from embarrassment or distress in giving evidence in a trial or any related or ancillary proceeding, they shall be advised that an application for the making of special arrangements for the taking of their evidence may be made if they so desire, where special arrangements may consist of:

- giving evidence from a location outside the court which is transmitted to the court by means of closed circuit television or audio-visual link;
- giving evidence at a location outside the court that is audio and visually recorded for the purpose of subsequently being played to the court;
- a screen, partition or one-way glass being placed to obscure the victim's view of the defendant;

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- the exclusion of the defendant from the courtroom during the victim's evidence, or, by some other means, preventing the defendant from directly seeing and hearing the victim give evidence;
- the victim being accompanied by a relative, friend, volunteer or accredited animal for the purpose of providing emotional support; and
- if the victim has a physical disability or a cognitive impairment, special arrangements may be made to facilitate the taking of evidence from the witness or minimise the witness' embarrassment or distress.

Where a victim needs the assistance of an interpreter, including a professional proficient in sign language, the court shall be appraised so that the necessary arrangements can be made.

Sentencing, restitution and compensation

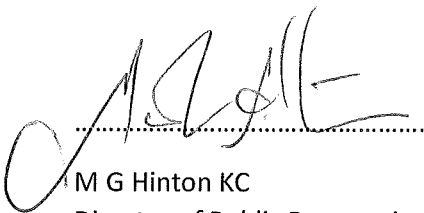
Where it is reasonably possible that an offender can make restitution or can compensate a victim for any loss caused by the offending, the prosecutor must bring this fact to the attention of the victim, and, if asked by the victim, must apply for a restitution or compensation order as part of the sentencing process, in the course of which they shall bring to the attention of the court any relevant information provided by the victim in connection with the application.

Prosecutors should ensure that the opportunity to prepare a victim impact statement is afforded to every victim. Prosecutors should also ensure that victims are aware of their right to present the statement orally if they wish, of possible alternatives, and of the related procedure.

The prosecutor's duty to inform a sentencing court about the impact of any injury, loss or damage sustained as a result of an offence, and the victim's right to inform a sentencing court about the impact of any injury, loss or damage sustained as a result of an offence, are the subject of Guideline No 13.

Appeal and review of decisions

In relation to the offending of which they are the victim, a victim may request that the prosecution consider appealing a judicial determination and may request the review of an internal ODPP decision.



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M G Hinton KC
Director of Public Prosecutions

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