



MINISTRY OF  
**JUSTICE**  
*Tabū o te Ture*

## Developing New Zealand's Victims Code: What could the Code look like?

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## FOREWORD

The purpose of this paper is to engage individuals and organisations in thinking about the development of a New Zealand Victims Code (the Code). It is not a consultation document, but a paper designed to inform discussions on the form that the Code could take.

**Key question:** How could the Code be best structured and presented so that it becomes an effective tool for informing victims about rights and services available, and improving the delivery of services to victims?

## 1. BACKGROUND

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The 2010 Enhancing Victims' Rights Review was part of the Government's work programme designed to improve victims' experiences following an offence. On 7 March 2011, Cabinet approved a package of reforms that will enhance victims' rights and role in the criminal justice system and ensure that government agencies are more responsive and accountable to victims.

The Victims of Crime Reform Bill, which will amend the Victims' Rights Act 2002 (the Act) and related legislation, was introduced on 16 August 2011. The Bill will make a number of amendments that expand victims' rights and require new processes to be established by agencies. The Bill will also require the Ministry of Justice to prepare a Code as soon as practicable after the Bill is in force. In the Bill, "code" refers to 'the code for victims'.

Cabinet has directed the Ministry of Justice to develop a draft Code by June 2012. The Cabinet paper suggests that the Code will:

- outline victims' rights;
- list the full range of services available to victims from government agencies and some non government agencies;
- state service standards; and
- state clear complaints processes for each government agency.

The Code itself will not confer any rights, but may be used to assist resolving a complaint from a victim.

Along with the Ministry of Justice, the following agencies have been directed to contribute to development of the Code: New Zealand Police, Department of Corrections, Department of Labour, Ministry of Social Development (Child, Youth and Family), Ministry of Health and Crown Law. Accident Compensation Corporation has chosen to contribute.

The Ministry of Justice is also engaging with a range of people and organisations on the development of the Code. This includes discussions with victims, frontline service providers, iwi and community leaders, the judiciary and non government organisations.

## 2. WHO DOES THE CODE COVER?

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The Victims' Rights Act 2002 (the Act) defines a victim as any person against whom an offence is committed or alleged to have been committed by another person. The definition of a victim includes parents of child victims (aged 0-17 years) and close family and whānau members of a person who has died or been made incapable, unless that parent, guardian or close family member is charged with the commission of the offence.

The Code will reflect the definition of a victim in the Act and therefore could include principles relating to the treatment of victims generally, the rights of victims who have reported an offence and come into contact with specific agencies, and the rights of victims of serious offences.

## 3. WHAT WILL A VICTIMS CODE ACHIEVE?

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The Enhancing Victims Rights' Review (2010) noted that victims find the criminal justice process confusing, particularly due to the number of agencies involved and experience difficulties in getting information on services available to them. These difficulties can erode victims' confidence in the criminal justice system.

The Code could be a tool to achieve a greater level of co-operation between victims and agencies to the ultimate end of improving service delivery. It is intended that a Victims' Code will:

- increase victims' confidence in, and participation in, the criminal justice system; and
- give people who experience an offence a greater ability to source the advice and support they need following an offence against them; and
- provide a platform for agencies to work in partnership to achieve best outcomes for victims.

## 4. HOW WILL GOVERNMENT AGENCIES BE ACCOUNTABLE UNDER THE CODE?

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Government agencies will be accountable for delivering on their duties and obligations through their complaints processes. Information on each agency's complaints process will be included in the Code. If victims are dissatisfied with the response received from a government agency they can refer their complaint for investigation by an independent authority, such as the Office for the Ombudsmen, the Office for the Privacy Commissioner or the Independent Police Conduct Authority.

The Victims of Crime Reform Bill, if enacted in its current form, will require certain agencies to include in their annual report to Parliament:

- a summary of the services provided by that agency to victims (as defined in the Victims' Rights Act); and
- statistical information on the number and type of complaints, and how these complaints were resolved.

These agencies are the Ministry of Justice, New Zealand Police, Department of Corrections, Crown Law, Department of Labour, and Ministry of Social Development.

## 5. STOCKTAKE OF GOVERNMENT SERVICES

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To support future planning, government agencies contributing to the Code collated information on victims' rights and the government services provided to victims at a point in time (June-Sept 2011). This stocktake, called Government services for victims: Working paper (Ministry of Justice, 2011), contains the following information:

- legislation relating to victims' rights and treatment;
- the services provided to victims and their family and whānau by certain government agencies<sup>1</sup>; and
- the complaints processes available to victims for each government agency.

It is important to note that the information is indicative of the services available and is not necessarily a comprehensive list of all the services offered by the agencies represented to victims.

The working paper is available electronically on the Victims Information website ([www.victiminfo.govt.nz](http://www.victiminfo.govt.nz)) until the Victims of Crime Reform Bill is passed and comes into force (approximately the latter part of 2012). Following this, the paper will be removed as the information will be out-of-date.

## 6. SUCCESS CRITERIA FOR THE CODE

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The Ministry of Justice has identified the following key success criteria for a Code. A Victims Code needs to:

*Provide accurate and up-to-date information:* Quality information needs to be available for victims and agencies on their rights, the services available to victims and how they can access those services, and the standards of those services. The Code must be easily updated to reflect any changes in service delivery.

*Be easy to understand:* The information in the Code must be transparent for all audiences. In particular, for victims, the impact of a negative experience can make it hard to take in new information. Decisions on the form and content of the Code need to consider the situation of people who will access the Code, as well as the diverse ways that people learn and take in information.

*Be easy to access:* Information provided through the Code should be accessible whenever people need and want it. This includes ensuring that information is available in languages other than English and alternative formats.

*Be inclusive of diversity:* The content and form of the Code should support service delivery to be inclusive of diverse needs and diverse responses. People who are a victim of an offence are a diverse group and the impact of an offence on an individual, family and whānau depends on a range of factors. The Code should support services to consider the needs of Māori, and other New Zealand cultures, hard to reach communities and those experiencing a range of offences, from property offences through to interpersonal offences such as family violence and sexual violence. The Code needs to also acknowledge a child's right to protection and treatment that takes into account a child's individual needs.

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<sup>1</sup> Ministry of Justice, New Zealand Police, Department of Corrections, Department of Labour, Ministry of Social Development (including Child, Youth and Family), Ministry of Health, Crown Law and Accident Compensation Corporation.

*Be a tool for improving service delivery and outcomes for victims:* The Code should be a readily available tool to assist both victims and agencies in achieving the best outcome for each victim of an offence.

## 7. TYPES OF CODES, GUIDELINES AND STANDARDS

There are different types of codes, guidelines and standards that are available in New Zealand and used internationally (examples of the different types of Codes that exist are featured in Appendix 1). Codes aim to give effect to legislation and regulations. While Diagram 1 below suggests that each type is unique, in reality there can be a great deal of overlap across codes, guidelines and standards.

Diagram 1: Different types of codes



## 8. ISSUES TO CONSIDER

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For the New Zealand Victims Code to be an effective tool for providing information to victims and improving service delivery to victims, the Code needs to reach two main audiences:

- victims, to better inform them about their rights and services; and
- service providers across a range of government and non-government agencies, so they are clear about their obligations and responsibilities.

There are a number of issues to consider when thinking about the type and structure of Code that could be developed:

1. Victims require different levels of information at different times. Some victims will want simple information on what happens next while others will want to know about all of the rights and services available to them.
2. Victims also have responsibilities that help agencies to provide services more effectively. For example, victims are responsible for ensuring that their address is up-to-date on the Victim Notification System.
3. The criminal justice system is made up of the activities of a number of government agencies. To make the system work, these agencies must work together and co-ordinate their activities:
  - There are ‘front-room’ activities that victims need to know which agency is responsible for delivering. For example, victims and all service providers need to know that the Police Prosecutor or the Crown Prosecutor (in respect of victims of serious offences) is responsible for the preparation of a Victim Impact Statement.
  - There are ‘back-room’ functions that one agency must do to ensure that another agency can provide an effective service to victims that happen behind the scenes. For example, if the Police do not pass on the CSV1 Form to the Court Victim Advisors, then Court Victim Advisors will not be able to contact the victim to offer their services when the case comes to court.
4. The Victims of Crime Reform Bill states that the purpose of the Code is to make available to victims information consistent with legislation about the duties and services provided to victims by both government agencies *and* other organisations.

Victims may receive support from a number of non government service providers, such as Victim Support, Women’s Refuges and rape crisis services, and from independent practitioners, such as counsellors and doctors. Services are often configured differently in different areas and can be subject to change. If a Code is to include information on the services of non government agencies, one important question to consider is how this information could be kept up-to-date and relevant for each community.

## 9. OPTIONS FOR THE VICTIMS CODE AND SUPPORTING DOCUMENTS

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### *What could the Code look like and what supporting documents are needed?*

It may be difficult for one document to effectively communicate all of the information needed to victims and service providers. It may be better to think of the Victims Code as one key document, backed by other supporting documents that communicate to different audiences. This section proposes three options for structuring the Victims Code and considers what supporting documents might be needed for each option.

	Rights based Code	Practice-based Code	A combination of a rights-based and practice-based Code
Description:	A code that outlines the rights of victims and the duties of providers to meet these rights (at a high level)	A code of practice for victims of crime that governs the services provided by the government agencies listed, which have responsibilities under specific Acts, and includes service standards where available.	A comprehensive plain language document that details: <ul style="list-style-type: none"> <li>• how victims' rights will be implemented by government agencies and what victims can expect at each stage of the criminal justice system and beyond - police investigations, court proceedings and if the accused is found guilty, through corrections and the Parole Board.</li> <li>• service standards where available;</li> <li>• information on what assistance is available to victims from both government and non government services.</li> </ul>
Audience	Victims and service providers	Service providers (and an easy read summary guide for victims)	Victims
Versions:	A short 1-2 page version and longer version	A long version for service providers and an easy read summary guide for victims.	One large and comprehensive document for victims
Approach:	Modelled on the Code of Health and Disability Services Consumer' Rights and built on the MOJ Victims Charter	Modelled on the Code of Practice for Victims of Crime (UK)	Modelled on the Alberta Victims Protocol
Accountable agencies	The Victims Code would only apply to specified government agencies. Non government agencies could voluntarily adhere to the Code.	Specified government agencies.	Specified government agencies. Could include non government agencies that choose to be involved.
Potential supporting documents	<ul style="list-style-type: none"> <li>• Victims Information pamphlets that provide detail on key stages of the criminal justice system and their responsibilities at each stage, e.g. Investigation, Trial, Parole, Victims Notification System, Victims Impact Statements.</li> <li>• Inter-agency protocols or guidelines for service providers that clarify how agencies will work together e.g. how a victim's contact and personal details will be passed between agencies</li> <li>• Service standards that must be met in critical areas, e.g the timeframe within which victims must be notified following a release on bail conditions.</li> <li>• Up-to-date regional information on government and non government service provided by through current service information helplines and online service directories.</li> </ul>	<ul style="list-style-type: none"> <li>• Victims Information pamphlets that provide greater detail on key stages of the criminal justice system and their responsibilities at each stage, e.g. Investigation, Trial, Parole, Victim Notification System, Victim Impact Statements.</li> <li>• Inter-agency protocols or guidelines for service providers that clarify how agencies will work together e.g. how victim's contact and personal details will be passed between agencies.</li> <li>• Up-to-date regional information on government and non government service provided by through current service information helplines and online service directories.</li> </ul>	<ul style="list-style-type: none"> <li>• Victims Information pamphlets that provide an overview of what is in the Code and specific pamphlets summarising what occurs at each stage e.g. Investigation, Trial, Parole, Victim Notification System, Victim Impact Statements.</li> <li>• Inter-agency protocols or guidelines for service providers that clarify how agencies will work together to implement the Code.</li> </ul>

## QUESTIONS TO CONSIDER

*We are interested in your responses to the following questions:*

- What do you see as the opportunities and challenges that the development of a Victims Code provides?
- What do you think the public should expect from providers delivering services to victims of an offence?
- What do you see as the advantages and disadvantages for each option for the Code presented in this paper?
- Which option do you prefer and why?
- Can you think of other options for organising the Code that are not mentioned?
- How could services provided by non government agencies be best presented in a Code?

If people and organisations wish to respond to the questions in this paper in writing, please email your feedback to: [victimscentre@justice.govt.nz](mailto:victimscentre@justice.govt.nz).

## APPENDIX: Examples of different types of codes (New Zealand and International)

### Codes of Rights

**Code of Health and Disability Services Consumer' Rights (Ministry of Health)** establishes the rights of consumers, and the obligations and duties of providers to comply with this Code that are enshrined in legislation. There is an independent Commissioner responsible for reviewing any breaches of this Code. The Code is available as a summary and in different languages.

<http://www.hdc.org.nz/the-act--code/the-code-of-rights>

**Code of Claimants' Rights (ACC):** The purpose of this Code is to meet the reasonable expectations of claimants (including the highest practicable standard of service and fairness) about how ACC should deal with them. <http://www.acc.co.nz/making-a-claim/what-if-i-have-problems-with-a-claim/ECI0046>

### Codes of Practice

**Code of Funding Practice (Ministry of Social Development):** This Code of funding practice aims to assist government and non-profit organisations when entering into government funding arrangements. The Code also aims to encourage greater collaboration between the parties using public funds to benefit communities. The Code of funding practice is a voluntary Code.

<http://www.msd.govt.nz/what-we-can-do/community/good-practice-funding/index.html>

**The Code of Practice for the Pastoral Care of International Students (Ministry of Education)** provides a framework for education providers to ensure a high standard of care and wellbeing is maintained for international students while they live and study in New Zealand.

<http://www.minedu.govt.nz/NZEducation/EducationPolicies/InternationalEducation/ForProvidersOInternationalEducation/CodeofPracticeforInternationalStudents/CodeOfPractice.aspx>

### Codes of Ethics/Codes of Conduct

**Police Code of Conduct (New Zealand Police):** The purpose of this Code is to establish the standards of behaviour expected of all New Zealand Police employees.

<http://www.police.govt.nz/about/code-of-conduct.html>

**The Code Of Conduct For Obtaining Information Under Section 11 Social Security Act 1964 (Ministry of Social Development):** The Code governs the way the Ministry can exercise its power under section 11 of the Social Security Act relating to information obtained from the people who are beneficiaries. It specifies that the Privacy Commissioner can deal with complaints about breaches of the Code of Conduct in the same way that she can deal with breaches of the Privacy Act. <http://www.msd.govt.nz/documents/about-msd-and-our-work/about-msd/legislation/code-of-conduct-section-11-ssa.pdf>

**The Code of Ethics for Youth Work in Aotearoa New Zealand (Ara Taiohi, New Zealand's peak youth work body):** provides a universal quality standard for youth work in New Zealand. The introduction of the Code of Ethics defines the core values of youth work practices and sets a

benchmark for the level of professional service that young people can expect from their youth worker. <http://www.myd.govt.nz/documents/about-myd/publications/coe0book.pdf>

### **Guidelines, Recommendations, Protocols, Standards**

**Victims Charter (Ministry of Justice):** This Guide provides information about the Victims Charter, which sets out the standard of service that people affected by crime can expect from government agencies. This Guide also provides information about the help and services that are available through government agencies and in the community.

<http://www.justice.govt.nz/publications/global-publications/v/victims-charter-booklet-a-guide-to-the-victims-charter/for-people-affected-by-crime-a-guide-to-the-victims-charter>

**Family Violence Interagency Response System (New Zealand Police, Child Youth and Family and National Collective of Independent Women's Refuges)** provides guidelines for each of the agencies around the initial response to family violence, post event assessment, risk response planning, co-ordinated cross-sector support for victim empowerment, child safety, and offender management and accountability.

**Intersectoral Strategy for Children and Youth People with High and Complex Needs (Ministries of Health, Social Development, Education and Te Puni Kōkiri)** provides a framework for providing services to these children and young people. It encourages local case collaboration between professionals, and joint service responses across agencies and services. It also provides access to a nationally coordinated exceptions fund. <http://www.hcn.govt.nz/documents/the-hcn-unit/high-and-complex-needs-interagency-strategy.pdf>

**ACC Clinical guidelines (ACC)** help health professionals, funding organisations and patients make informed decisions about health care. Guideline development is a systematic process that involves reviewing evidence, consulting clinical experts and working with multidisciplinary advisory groups. [http://www.acc.co.nz/about-acc/research-sponsorship-and-projects/research-and-development/evidence-based-healthcare-reports/index.htm#Clinical\\_Guidelines](http://www.acc.co.nz/about-acc/research-sponsorship-and-projects/research-and-development/evidence-based-healthcare-reports/index.htm#Clinical_Guidelines)

**Child Witness Guidelines (Ministry of Justice):** Inter-agency guidelines that express the commitment of agencies working with child witnesses to collectively ensure that each child witness, along with their family and whānau, receives the best possible service throughout their involvement in the criminal justice system, and that all possible steps are taken to minimise any negative impact experienced by them. <http://www.justice.govt.nz/publications/global-publications/n/national-guidelines-for-agencies-working-with-child-witnesses/publication/?searchterm=child%20witness%20guidelines>

**Victims of Crime - Guidance for Prosecutors (Crown Law):** The purpose of this protocol is to provide guidance to prosecutors dealing with victims of crime. It is intended for the use of Crown Law and Crown Solicitors. [http://www.crownlaw.govt.nz/uploads/victims\\_of\\_crime.pdf](http://www.crownlaw.govt.nz/uploads/victims_of_crime.pdf)

### **International Victims Codes of Rights and/or Codes of Practice**

**United Kingdom (UK) Code of Practice for Victims of Crime:** For criminal justice bodies, including the Prison Service, the Criminal Injuries Compensation Authority and all police forces in England

and Wales to ensure that victim of crime and their families receive information, protection and support. <http://webarchive.nationalarchives.gov.uk/+/homeoffice.gov.uk/documents/victims-code-of-practice.html>.

A summary guide for victims of the UK Code of Practice is available at:

<http://www.gloucestershire.police.uk/Other/Code%20of%20Practice%20for%20Victims%20of%20Crime/item5824.html>

**Alberta Victims Protocol:** Outlines what victims can expect throughout the criminal justice process, from the time victims report a crime through the police investigation, court proceedings and, if the accused is found guilty, provincial and federal corrections and the National Parole Board.

[https://www.solgps.alberta.ca/programs\\_and\\_services/victim\\_services/help\\_for\\_victims/Publications/Victims%20of%20Crime%20Protocol.pdf](https://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Publications/Victims%20of%20Crime%20Protocol.pdf)





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