



Shakespeare Business Centre
245a Coldharbour Lane
London SW9 8RR

info@roadpeace.org
www.roadpeace.org
Tel: 020 7733 1603

MOJ Victims' Code consultation

RoadPeace response

Key points

- RoadPeace welcomes the government's proposed definition of victim of crime which recognises victims of summary motoring offences. This has been a longstanding call by RoadPeace and represents a major step in ending the discrimination against road crash victims, but the Victims' Code should
 - clarify that road crash victims will be treated as victims of crime, until the contrary is proven, as is the case with other victims of crime. It should not require a criminal charge to be laid.
 - be extended to victims of crime committed overseas.
- RoadPeace supports the extension of the Code to other organisations, but
 - Coroners need to be added with consideration given to Traffic Commissioners and DVLA.
- RoadPeace calls for the government to extend the victims' right to review police charging decisions, but this should apply to
 - victims of all offences, or at least, those injured by criminal offences, and
 - acquittals.
- RoadPeace urges the government to continue to end the discrimination against road crash victims; including ensuring they are
 - Counted as it should be possible to know how many people were killed and injured by law breaking drivers and how many were pedestrians, cyclists, children, motorcyclists, etc.
 - Included in crime statistics and strategies, victim surveys and community consultations.
 - Treated with sensitivity and consistency.
 - The police and CPS discourage the use of accident in relation to crashes. All government departments should adopt this policy with the DfT amending the road traffic legislation to refer to crashes or collisions, rather than accident.
 - The CPS treat those bereaved by law breaking drivers as bereaved by homicide. The MOJ and Home Office should include culpable road deaths in their definition of homicide.

Introduction

The national charity for road crash victims, RoadPeace was established in 1992, out of outrage at the lack of support, information and rights for road crash victims. RoadPeace has long campaigned for an end to the discrimination against road crash victims.

In 2013, the MOJ consulted on revising the Victims' Code. At a meeting with the Justice Minister at the end of 2012 with British Cycling, CTC and Will, RoadPeace was told that the new Code would end the discrimination against road crash victims. But the draft Code offered no such change, and RoadPeace

launched a “Correct the Code” campaign that summer. Our response to the 2013 consultation was supported by British Cycling, CTC and London Cycling Campaign.

Our 2015 parliamentary manifesto focused solely on the aim of *Ending the Discrimination against road crash victims*. Revising the definition of victim of crime was our key call. Hence this consultation and its proposals are most welcome.

RoadPeace response to consultation questions

Q1. Do you agree with our proposal to amend the definition of a victim entitled to services under the Code so that victims of any criminal offence become eligible rather than victims of crimes notifiable under the National Crime Recording Standards (NCRS)?

We welcome this amendment and celebrate it. The change should come in as soon as possible. But we need the Code to clarify that crash victims are treated as victims of crime, until the contrary is proven. They should not have to wait for a charge to be laid. As seen in the experiences of our members, including that of the Thompson family (<http://www.bbc.co.uk/news/uk-england-bristol-26354163>) and Fiona McKenzie (http://www.herefordtimes.com/news/13219003.Fatal_crash_trial_is_postponed_until_next_year/), it can take over a year before a charge is laid.

But we also ask that the Victims’ Code be extended to include victims of crime committed overseas.

Failure to make these changes would mean the government was in breach of EU Victims’ Directive.

Q2. Please give your reasons to your response in Q.1

Because victims of summary motoring offences are

- victims of crime and deserve to be treated as such.
- can be left with life changing injuries and their compensation will depend on a thorough investigation which should now be more likely.

And because there is extensive overlap between the charging standards of careless and dangerous driving which results in undercharging.

See the case of Miriam Parker for an example of the devastation that can be caused by what was only prosecuted as careless driving (<http://www.croydonadvertiser.co.uk/Teenager-hit-car-speaks-torture-dangerous-driver/story-26105808-detail/story.html>).

And lastly, because it is outrageous that victims of pickpocketing currently have more rights than those left disabled by drink drivers.

Q3. Should any more organisations be added to paragraph 8 of the Introduction to the Code because they are competent authorities for the purposes of the Directive?

Yes.

Q4. If yes, what organisations should be added?

Coroners should be added. Their role is almost exclusively that of investigation. Inquests are opened into all road deaths and coroner offices have contact with all families bereaved by road crashes. It is coroners who decide how long a driver can have to organize a second post mortem and thus it is coroners who decide how long a bereaved family has to wait for the body of their loved one to be released.

Despite the efforts of the Chief Coroner, there remains variation in practice with how bereaved families are treated by coroners. We heard this month from a bereaved mother who asked for the photos from the investigation only to have the coroner tell her “You’re not having those. Coroners have a key role in keeping

families informed and also in returning property of the victim. Both these are rights defined under the Code. We believe that the treatment of the bereaved by coroners would improve and be more consistent if they were brought under the Victims' Code.

RoadPeace would argue that, for victims, it is more important that coroners are added than the Office for Rail and Road or the Competition and Markets Authority, both of which the government proposes to add.

Traffic Commissioners should also be added, in light of the prosecution powers they wield. They can remove an operator's license and thus cause much greater punishment than a court ordered fine.

And in light of the recent fatal lorry crash in Glasgow, the DVLA should have to comply with the Code when it is prosecuting a driver involved in a fatal or serious injury crash. We believe this happens very rarely, but the victim and their family should be kept informed, as with inquiries by Traffic Commissioners.

Q5. Should any of the organisations listed in paragraph 8 of the Introduction to the Code be removed because they are not competent authorities for the purposes of the Directive?

RoadPeace is not qualified to answer this question.

Q6. If yes, what organisations should be removed?

NA.

Q7. To comply with the Directive, have we imposed the right duties on the additional service providers in Chapter 5 of the Code?

As noted above, the additional service providers should include coroners, and consideration be given to Traffic Commissioners and the DVLA.

Q8. If not, what should we add or amend?

Greater transparency is needed. The IPCC should report how many complaints it received and reviewed from road crash victims. This is not done at present. Coroners should also report the number of road death inquests they hold; this will be more than the number of road traffic collision conclusions as this is not being used consistently.

Q9. Do you have any comments on any of the other amendments we propose to make to the Code?

RoadPeace very much welcomes the inclusion of the new victims' right to review to police charging decisions. But this right should be extended to victims of all criminal offences, and not just restricted to those listed under the National Crime Recorded Standards (NCRS). We appreciate that it is possible for police forces to do this but this should be national policy. Victims should be treated consistently and fairly across the country. We also want to see this right be extended to acquittals.

We want to see the police and courts collect data on the numbers of road crime victims, including age, gender and road user mode. It should be possible to compare the level of satisfaction or number of complaints according to the road user mode of the victim as there is widespread concern that the justice system is biased against vulnerable road user (pedestrian, cyclist and motorcyclist) victims.

Q10. Do we need to make any other amendments to the Code to implement the Directive?

Yes

Q11. If yes, what amendments need to be made? Questions on the Equalities Statement

As mentioned above, victims of crime committee overseas should qualify for the Code.

Q12. Do you think we have correctly identified the effects of these proposals on those with protected characteristics under the Equality Act 2010?

RoadPeace is not able to answer this.

Q13. If not, are you aware of any evidence that we have not considered as part of our equality analysis? Please supply the evidence. What is the effect of this evidence on our proposals?

That the Ministry of Justice is unable to report the number of people injured by law breaking drivers is indicative of the lack of priority given to road traffic crime. Road traffic crime victims need to be included in the Crime Survey of England and Wales.

Q14. Do you think we have adequately assessed the impacts of our proposals in the impact assessment?

In 2014, RoadPeace contacted all Police and Crime Commissioners to ask if they were monitoring the number of victims of road traffic crime but the response rate was very poor with many referring us to the Stats 19 data, thus misunderstanding our query. Hence we are not able to provide more data on the number of potential victims that would qualify for the services of the code.

Q15. If not, are you aware of any evidence or sources of information that will help us to understand and assess impacts further? Please supply the evidence. What is the effect of this evidence on our proposals?

If there are any concerns about the financial costs of extending the definition to victims of summary motoring offences, please do not forget the annual contribution of £30 million to victim services that comes from motoring fines. It is not fair that offending drivers pay for support services which are denied their victims.

And it would be possible to raise more income for victim services. Drivers sent on NDORS courses do not have to pay the Victim Surcharge. This applies to drivers involved in crashes involving injuries. Consideration should be given to applying the Victim Surcharge to all NDORS participants, or at least those where they have caused an injury.

Thank you again for a start to the end the discrimination against road crash victims.