



Title	Increase and extension of the Victim Surcharge
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This circular is for:	Lord Chief Justice, Deputy Chief Justice, Senior Presiding Judge for England and Wales, Chief Officers of Police in England and Wales, Director of Public Prosecutions, Chief Crown Prosecutor, Court Managers Crown Courts, HMCS Area Directors, Clerks to the Justices, Legal Services Commission, Attorney Generals Office Department of Health, Directors of Social Services, Police Forces in England and Wales, Lords Justices of Appeal, Lords of Appeal in Ordinary, Queen's Bench Division, Crown Court Judges, Circuit Judges, Administrators and Group Judges, District Judges (Magistrates' Courts), Chairmen of the Justices, Council of Circuit Judges, Local Government Association, Magistrates' Association, Judicial Studies Board, Bar Council, Criminal Bar Association, Law Society, Victim Support

Purpose of this Circular

The purpose of this circular is to communicate changes to the Victim Surcharge which come into effect for offences committed on or after 1 October 2012. The changes come into effect through The Criminal Justice Act 2003 (Surcharge) Order 2012 ("the 2012 Order").

Background

The Victim Surcharge was first implemented in April 2007 through the Criminal Justice Act 2003 (Surcharge No. 2) Order 2007 ("the 2007 Order"). The Surcharge was payable at a flat rate of £15 by any offender ordered to pay a fine. It was always the intention that the Surcharge would be payable by a wider range of offenders. On 2 July 2012 the Government published its response to the consultation 'Getting it right for victims and witnesses' and laid before Parliament secondary legislation to increase the value of the Surcharge ordered with fines and to extend it to a wider range of in court disposals. Revenue raised through the Surcharge is used to fund emotional and practical support services for victims of crime.

Summary of changes

A court must order the Victim Surcharge when it deals with an offender in respect of an offence committed on or after 1 October 2012 as set out in the following tables.

Offenders under 18 years at the time the offence was committed	Victim Surcharge
A conditional discharge	£10
A fine	£15
Youth Rehabilitation Order	£15
Referral Order	£15
Adult Community Order	£15
A suspended sentence of imprisonment	£20
A custodial sentence (all lengths)*	£20

Offenders 18 years or over at the time the offence was committed	Victim Surcharge
A conditional discharge	£15
A fine	10% of the fine value with a £20 minimum and a £120 maximum (<i>Surcharge should be rounded up or down to the nearest pound</i>)
A community sentence	£60
An immediate custodial sentence*	6 months and below – £80 Over 6 months and up to and including 2 years – £100 Over 2 years – £120 (Only in Crown Court)
A suspended sentence of imprisonment	6 months and below – £80 Over 6 months and up to and including 1 year – £100

* The Surcharge will initially only be payable by an offender subject to an immediate custodial sentence when imposed by the Crown Court. The Surcharge will not be payable on immediate custodial sentences ordered in the magistrates' court until legislation is passed to prevent the Surcharge from being discharged as additional days in custody. Currently magistrates' courts, but not the Crown Court, have this power. Primary legislation is required to make this change and we are exploring legislative vehicles that will allow us to do this at the very earliest opportunity.

Person who is not an individual (for example a legal person)	Victim Surcharge
A conditional discharge	£15
A fine	At 10% of the fine value with a £20 minimum and a £120 maximum (<i>Surcharge should be rounded up or down to the nearest pound</i>)

Points to note

- The 2012 Order provides (see for example article 4(2)(b)) that where a court imposes more than one disposal for one or more offences, the Surcharge should be ordered against the individual disposal attracting the highest Surcharge amount. This principle applies whether the types of disposal ordered are the same (e.g. multiple fines) or different (e.g. a fine and a community sentence). So, for example, if, in relation to two offences, a person is fined £200 and £300, the Surcharge would be 10% of the higher amount (i.e. £30).

- The Justices' Clerks' Society had previously issued advice to its members which conflicted with this construction of the 2012 Order. However, it is now recommending in cases involving multiple fines that its members advise a Surcharge of 10% of the higher or highest fine.

Transitional and other provisions:

- Where an offender is sentenced for a single offence committed before 1 October 2012, the 2007 Order continues to apply.
- Where an offender is sentenced for more than one offence, at least one of which was committed before 1 October 2012, the 2007 Order continues to apply. In such cases, therefore, the court should only order a Surcharge of £15 where a person is sentenced to a fine.
- Where a court deals with an adult offender for more than one offence, all of which were committed after 1 October 2012, but where at least one of those offences was committed when under 18, the Surcharge should be ordered at the rate for under 18s.

Useful Links

The Criminal Justice Act 2003 (Surcharge) Order 2012 - www.legislation.gov.uk/ukxi/2012/1696/contents/made

Criminal Justice Act 2003 - www.legislation.gov.uk/ukpga/2003/44