

## VICTIMS OF CRIME AND THE INSOLVENCY SERVICE

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### 1. Introduction

- 1.1. The [Code of Practice for Victims of Crime](#) (the Code) was first introduced in April 2006 and sets out a minimum standard of service which victims of crime can expect from the criminal justice system.
- 1.2. The [European Union Directive](#) establishing minimum standards on the rights, support and protection of the victims of crime was adopted in 2012 and EU Member States were required to fully transpose the Directive.
- 1.3. The Code has undergone several revisions since its introduction, and the most recent version came into force on 16 November 2015. This transposed

the EU Victims' Directive, and required a number of named investigative and prosecuting bodies beyond police forces and the Crown Prosecution Service to provide the relevant services to victims. The Criminal Enforcement branch at the Insolvency Service is one of those named bodies (it having been in the Department for Business, Innovation and Skills in November 2015). This is in respect of both its investigative and prosecuting functions.

## **2. What duties does the Code impose?**

- 2.1. The Code imposes a number of duties, for example to provide information to victims in writing. Some of the duties imposed by the Code do not in practice arise in our cases, such as the return of property or duties with regard to victims who are children.
- 2.2. Breach of the Code can be pursued by the victim to the Parliamentary Ombudsman. This could result in the Insolvency Service paying compensation, and censure would of course cause reputational damage.
- 2.3. The key duties imposed by the Code are discussed in more detail below, but briefly they include the following:
  - Information and Support
  - Individual Assessment
  - Interviews
  - Right to receive information
  - Right to Review
  - Complaints

## **3. Who is a victim?**

- 3.1. A victim is defined by both the EU Victims' Directive and the Code as

*'a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence.'*

- 3.2. Ministerial guidance was issued in October 2015 which confirmed that it was important that the Department protects the interests of all business wherever possible and so the Insolvency Service has therefore widened the definition of 'victim' to include businesses of all sizes and legal structure. This means that limited companies and limited liability partnerships are therefore capable of being a victim.
- 3.3. Sole traders are considered to be natural persons, and consequently would have been included within the scope of 'victim' in any event.
- 3.4. We will also include parents or guardians where the main victim is a child or youth under 18.
- 3.5. A victim for the purposes of this Scheme is a natural person or business who:
  - 3.5.1. has made an allegation to the Insolvency Service that they have suffered harm (including physical, mental, or emotional harm or economic loss) which was directly caused by a criminal offence;
  - 3.5.2. has had such an allegation made on their behalf, including by other agencies such as Companies House or the Employment Agency Standards Inspectorate; or
  - 3.5.3. is contacted by the Insolvency Service as a victim in the course of its criminal investigation.
- 3.6. It follows that we will need to have been in possession of sufficient information or evidence to identify that a particular victim has suffered a harm directly caused by the relevant criminal offence.
- 3.7. The Insolvency Service will not automatically regard all customers of a business whose activities are central to an allegation of relevant criminality, to be victims of that criminality.
- 3.8. Careful consideration must be given to whether a victim has suffered harm, in particular, economic loss, which was **directly caused** by a criminal offence in

each case. By way of example, where an individual would be likely to receive compensation following the conviction of a defendant, they are likely to be directly affected by the offending and will fall within the scope of the scheme.

- 3.9. With regard to liquidation and bankruptcy offences, careful consideration will need to be given to whether, in the instant case, a person has suffered economic loss **directly caused** by a criminal offence. That creditors are affected by liquidation and bankruptcy is unfortunately an inevitable consequence of those procedures, but it is likely that the majority of creditors will, for the purposes of the Insolvency Service scheme, be indirectly affected by liquidation and bankruptcy offences. Some creditors, however, will be directly affected, for example, because they were personally defrauded by a bankrupt.
- 3.10. As a starting point, it is anticipated that books and records offences and offences contrary to the Company Directors Disqualification Act 1986 will not usually have victims who are directly affected by the offending. On the other hand, the majority of victims of offending contrary to, for example, section 360 of the Insolvency Act 1986 or offences under the Fraud Act 2006 are expected to fall within the scope of the definition of 'victim'.
- 3.11. Victims of bankruptcy offences under the Insolvency Act 1986 (i.e. those contained at Chapter VI of the Act, save for section 360 as set out above) are likely to be excluded from the definition because the harm will ordinarily have been caused by the bankruptcy rather than the offending.
- 3.12. This guidance cannot provide a prescriptive answer for every future scenario, and it is vital therefore that each case is considered on its own facts and its own merits. Line management advice be sought if there is uncertainty as to whether any individuals or businesses in a case should be categorised as victims of crime and offered the services set out in the Victims' Code.
- 3.13. The IO should ensure that they keep a clear record of the reasons why a particular individual was, or was not, identified as a victim.

- 3.14. The importance of these duties cannot be understated. These are key duties and need to be treated as such. All members of the Criminal Enforcement Team should be aware that there are consequences for incorrectly defining victims (in terms of the impact on our resources), or incorrectly not defining victims (as set out in paragraph 2.2 above). But just to emphasise, we are here to help each other with these assessments, and management guidance is available.

#### **4. When does the Code apply?**

- 4.1. There may be cases where a substantial number of creditors have suffered harm directly caused by the criminal offending.
- 4.2. It is irrelevant whether an individual is approached to be a witness in an investigation, or whether they refuse to co-operate with the Insolvency Service. If they fall within the definition of a victim as set out at section 3 above then the Code will apply.
- 4.3. Although victims in cases accepted for investigation prior to November 2015 are not strictly eligible for the services under the Victims Code, it may nevertheless be appropriate to offer the services in some such cases.
- 4.4. The Code only applies to the Insolvency Service if it has formally accepted responsibility for conducting a criminal investigation into the crime, or it has formally accepted responsibility for making a decision to prosecute that crime. In practice, this will mean that the Code will apply only to cases accepted at CAG.
- 4.5. When a case is accepted for investigation, the Victims' Code will apply. This means that DCIOs will need to send an acknowledgement letter to each victim who has been identified during the CAG.

- 4.6. Where cases are accepted at CAG but subsequently rejected before they are allocated for investigation, the DCIO will need to write to the identified victims to confirm that the matter has not been investigated.

## **5. The duties in detail**

- 5.1. As noted above, the Code imposes a number of different duties which are set out below

- Information and Support
  - communications should be in simple and accessible language
  - with appropriate measures to help the victim to understand to be understood, for example, translation services
  - information should be provided on what to expect from the criminal justice system.
- Individual Assessment
  - identify specific protection needs or special measures required when giving evidence.
- Interviews
  - conducted without unnecessary delay following contact
  - kept to a minimum and conducted appropriately to the victim's needs.
- Right to receive information
  - about decisions taken on the case, for example, not to proceed further with an investigation
  - about a decision not to proceed to prosecution
  - about the date and time of any trial
  - the final outcome of any trial.
- Right to Review
  - a victim must be offered the right to review a decision not to prosecute a suspect, to offer no evidence or to withdraw proceedings, and we have provided further guidance on this below.
- Complaints

- There should be a clear complaints process and victims must be treated in a respectful, sensitive and professional manner without discrimination of any kind.

### **Information and Support**

- 5.2. Any communications with a victim should be in simple and accessible language, and appropriate measures should be taken to help the victim to understand and be understood.
- 5.3. A victim is entitled to receive written information on what to expect from the criminal justice system or the details of a website which contains that information.
- 5.4. This means that the following information must be offered to a victim from their first point of contact with the Criminal Enforcement Team in the Insolvency Service (in practice, this contact is likely to be with the IO):
- where and how to get advice or support, including access to medical support, any specialist support and alternative accommodation;
  - what the victim needs to do to report a criminal offence, and who they should contact if they have any questions about the case;
  - any measures available for the victim's protection, if required;
  - how to seek compensation;
  - the arrangements available if the victim is not located in England or Wales;
  - the availability of interpretation and translation services;
  - how to make a complaint about the Insolvency Service;
  - the availability of restorative justice processes;
  - how to recoup expenses incurred as a witness in a criminal trial.

### **Individual Assessment**

- 5.5. The needs of the victim should be considered as an individual and any specific needs addressed. There are enhanced requirements for vulnerable Victims which are set out at the end of this guidance

## **Interviews - IOs**

5.6. When interviewing a victim, the IO must ensure that:

- the interview is conducted without unjustified delay after the making of a complaint that an offence has been committed. This will need to be taken into consideration when dealing with those cases which were accepted at CAG but remained unallocated for investigation for some time;
- the number of interviews is kept to a minimum;
- the victim is allowed to be accompanied by a person of the victim's choice, unless a reasoned decision has been made to the contrary; and
- a medical examination of the victim is sought only where strictly necessary.

5.7. Steps must also be taken, where necessary, to ensure that the victim (and their family) does not have unnecessary contact with the suspect.

## **Right to receive information**

5.8. The Code sets out a number of topics where the victim is entitled to receive information, although many of these entitlements are only engaged if the victim actually requests that information. In other words, it is not necessary to provide all of this information routinely although the Insolvency Service must alert victims to their right to ask for it and respond if they do ask.

5.9. Where there are high numbers of victims, or where otherwise appropriate in exceptional cases, the Insolvency Service is permitted to provide information via its website. In such event, the approval of a Deputy Director should be sought.

5.10. The Insolvency Service is not required to disclose any information if disclosure:

- could result in harm to any person;



- could affect the proper handling of a criminal investigation or prosecution, or could otherwise prejudice any civil or criminal case;
- would, in the Insolvency Service's view, be contrary to the interest of national security.

5.11. The victim must be notified, without unnecessary delay, of their right to a receive

- a decision not to proceed with, or to end, the investigation into the allegations;
- a decision not to prosecute a suspect;
- where a trial is listed, information about the time and place of the trial and the nature of the charges against the defendant;
- where the victim is also a witness,
  - information about the state of the criminal proceedings, unless the case lawyer considers that the proper handling of the case may be adversely affected by the notification of such information; and
  - the final outcome in any trial.

5.12. Where a victim requests information about why a particular decision was reached, at least a brief summary of those reasons must be provided.

5.13. IOs already provide much of this information when they first approach victims/witnesses during the course of an investigation. The Code, however, states that the information must be provided in writing. Where the first contact between a victim and an IO is face to face or over the telephone, this **must** be followed up with a letter to the victim.

5.14. IOs should include the following paragraph at the end of their first letter to victims:

The Insolvency Service takes its duties towards victims and witnesses seriously and is committed to the Code of Practice for Victims of Crime

issued in October 2015 by the Ministry of Justice. This Code of Practice:

- sets out essential matters for us to consider when dealing with victims of crime
- covers the provision of information during the investigative and prosecution process
- outlines the right to review certain decisions made in certain circumstances

For further information, please visit

<https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>.

5.15. Lawyers and Law Clerks will need to liaise to ensure that victims are kept informed of their rights and that any information provided is promptly supplied.

## **6. Right to Review**

6.1. Where a decision in respect of all of the charges against all of the defendants is made not to prosecute, to offer no evidence or to withdraw the charges, the victim must be offered the right to review that decision.

6.2. Although it is the lawyer who will make the decision not to prosecute, to offer no evidence or to withdraw the charges, the IO is likely to have established a relationship with the victim during the course of the investigation.

6.3. When a decision is made not to prosecute, i.e. the matter is turned down post-investigation, the IO should notify the victim(s) of the decision. This is not restrictive, and there may be occasions when it is considered more appropriate for the lawyer to notify the victim(s).

6.4. Where a DTP has been made, the lawyer must notify the victim(s) of the decision.

- 6.5. Written notification **must** be sent to the victim(s). Where an IO provides this notification other than in writing, a clear record should be kept and the oral notification must be followed up in writing. The written notification of the decision must include an explanation that the victim can exercise their Right to Review if they so wish, as well as details of how to do so.
- 6.6. In the event that the victim is unhappy about the decision, the matter should be passed to the reviewing lawyer to provide additional information to explain the decision and to inform the victim of their right to review if applicable.

### **Background**

- 6.7. On 29 June 2011, the Court of Appeal gave a decision in *R v Christopher Killick* [2011] EWCA Crim 1608.
- 6.8. In the course of the judgment the court considered the right of a victim of crime to seek a review of a decision not to prosecute and concluded that:
- a victim has a right to seek a review in such circumstances;
  - a victim should not have to seek recourse to judicial review; and
  - the right to a review should be made the subject of a clearer procedure (distinct from a departmental complaints policy) with time limits.
- 6.9. VRR arises from the finality of the decision not to prosecute and is co-extensive with the right of a victim to seek judicial review of such a decision. Indeed, as stated by the Court of Appeal in *Killick*:
- ‘... it has for some time been established that there is a right by an interested person to seek judicial review of the decision not to prosecute... it would therefore be disproportionate for a public authority not to have a system of review without recourse to court proceedings... As a decision not to prosecute is in reality a final decision for the victim there must be a right to seek a review of such a decision.’*
- 6.10. Article 11 of the EU Victims’ Directive provides that a victim has a right to seek a review of a decision not to prosecute, to withdraw charges or discontinue

proceedings, albeit that the procedural rules for such a review shall be determined by national law.

6.11. Article 11 also provides that:

*‘Member states shall ensure that victims are notified without unnecessary delay of their right to review, and that they receive sufficient information to decide whether to request a review of any decision not to prosecute upon request.’*

### **Which decisions are subject to the scheme?**

6.12. In Insolvency Service cases, the right to request a review arises where the Insolvency Service’s prosecuting lawyers:

- i. make a decision not to prosecute after a case has been accepted for investigation; or
- ii. decide to discontinue (or withdraw in the magistrates’ court) all charges involving the victim, thereby entirely ending **all** proceedings relating to them; or
- iii. offer no evidence in all proceedings relating to the victim; or
- iv. decide to leave all charges in the proceedings to “lie on file marked not to be proceeded with without the leave of the Court of Appeal”.

6.13. These are known as ‘**qualifying decisions**’.

6.14. Qualifying decisions will only arise in cases involving **at least one** serious offence. For the purposes of this policy, a serious offence is one which triable either way, which means that it is triable in either the magistrates’ court or the Crown Court.

6.15. The following cases do not fall within the scope of the Insolvency Service VRR Scheme:

- i. cases in which the offences are limited solely to summary only offences, i.e. offences which are triable in the magistrates’ court only;
- ii. cases where a decision has been made not to accept a matter for investigation;

- iii. cases where charges are brought in respect of some (but not all) allegations or against some (but not all) possible suspects;
- iv. cases where a single charge or charges are terminated but another charge or charges which reflect the overall criminality of the suspect continue;
- v. cases where proceedings against one (or more) defendants are terminated but proceedings (relating to that victim) against other defendants continue;
- vi. cases where a single charge or charges are substantially altered but proceedings involving that victim continue;
- vii. cases where some (but not all) charges are left to lie on file;
- viii. cases which are concluded by an out of court disposal, for example, a formal warning letter sent to a suspect following a lawyer's decision post investigation that the evidential test for a prosecution is met but the public interest does not require a prosecution; and
- ix. cases where the victim requests that proceedings be stopped or withdraws support for the prosecution and a decision is therefore taken not to charge/to terminate proceedings.

### **How can victims exercise the right under the scheme?**

- 6.16. Victims will be notified of their right to receive information about a decision not to bring proceedings/bring proceedings to an end. Where they exercise that right, the information they receive will need to include:
- i. details about the nature of the decision – i.e. not to charge or to discontinue proceedings;
  - ii. whether the decision was made on evidential or public interest grounds;
  - iii. whether the decision is a 'qualifying decision' and, if so, confirmation that the victim is eligible to seek a review under the scheme;
  - iv. sufficient information to enable the victim to decide whether or not they wish a review to take place; and
  - v. what steps they need to take if they do wish to review the decision.

- 6.17. The only action a victim need take is to notify the Insolvency Service of their request for a review.
- 6.18. A request for a review should ordinarily be made within 5 working days of receipt of the notification of the decision. A request can, however, be made up to three months after the communication of the decision to the victim. Any delay beyond three months will only be allowed in exceptional circumstances taking into account the facts of the individual case.

**What will the Insolvency Service do with a request for a review?**

- 6.19. Once a victim has notified the Insolvency Service of their request for review, the matter will be allocated by one of the Prosecution Team Deputy Directors (within 5 working days) to another lawyer for consideration. The Complaints Team at the Insolvency Service will be notified by the Deputy Director of the application for review. The review will be carried out by a lawyer who was not involved in the original decision. The decision on whether to reinstitute proceedings as a result of that review will be made at the level of Deputy Director Prosecution Team Leader.
- 6.20. The purpose of the review is to look again at the decision taken and establish whether it was correct, whilst providing additional explanatory information to help victims understand the basis for the decision taken.
- 6.21. The type of review that is appropriate will depend on the circumstances of the instant case. In *L v DPP, Pratt v CPS* [2013] EWHC 1752 (Admin) the court stated:

*'Some cases will call for very detailed review; others can be dealt with in short order. What is important to the future conduct of such cases is to recognise that the CPS now has this procedure in place. It has this consequence. It is highly likely that where a review has taken place, and the review can be seen to be careful and thorough, proceedings for judicial review to challenge the decision will be the more difficult to advance.'*

- 6.22. The VRR provides a victim with a specifically designed process to exercise the right to review. The reviewer must conduct a re-review of the case afresh, and in order to overturn a decision not to prosecute they must be satisfied that:
- i. the earlier decision was wrong in applying the evidential or public interest stages of the Full Code Test (as set out in the [Code for Crown Prosecutors](#)); and
  - ii. for the maintenance of public confidence, the decision must be reversed.
- 6.23. When conducting the VRR the prosecutor will consider not whether the decision to prosecute was *unreasonable*, but whether it was wrong.
- 6.24. When considering what might be regarded as wrong, prosecutors may find it useful to reflect on whether any of the following may be identified:
- i. a significant misinterpretation of the evidence;
  - ii. an incorrect application of the law;
  - iii. a failure to consider, or a decision to not follow, relevant Insolvency Service prosecution policy that cannot be properly justified.
- 6.25. Assessing whether a previous decision was wrong may also involve identifying any flawed reasoning that may have had a significant impact on the decision (either on its own or in combination with other factors). Whilst not exhaustive, this could include considering whether an erroneous decision was taken to disregard compelling evidence; considering whether disproportionate weight has been attributed to factors such as:
- i. victim or witness credibility;
  - ii. potential defences not actually raised by the suspect; and
  - iii. an account given by the accused which the prosecution cannot expressly or completely rebut.
- 6.26. Having identified that the case meets the Full Code Test and that the original decision not to prosecute was wrong, the prosecutor must then consider

whether a prosecution should be brought in order to maintain public confidence.

- 6.27. There are a number of aspects to the concept of public confidence, each of which needs to be weighed. There is, of course, the need to ensure that justice is delivered on individual cases, and that those involved or affected are provided with a sense that the criminal justice system has been used properly to address the offending behaviour involved. There is also the need to preserve the public's understanding that decisions have finality to them, and that it is only in "rare" cases that they will be re-visited.
- 6.28. Furthermore, the confidence of the public, either on an individual or collective basis, is not enhanced when decisions not to prosecute are reversed, but then found to constitute an abuse of process by the courts with the resultant proceedings being stayed.
- 6.29. A careful balance must be struck between providing certainty to the public in our decision-making and not allowing wrong decisions to stand.
- 6.30. The outcomes of the VRR process are:
- i. in cases where, on review, it is considered that a different decision should have been taken and it is possible and appropriate to do so, action will be taken to (re)commence proceedings and the victim will be notified. If it is not possible or appropriate to (re)commence proceedings we will provide an explanation and, where it is right to do so, an apology to the victim.
  - ii. In cases where the original decision is confirmed as correct the victim will be provided with additional information/explanation and advised that, if they remain dissatisfied with the decision, they should contact the relevant Deputy Director Prosecution Team Leader. Contact details will be provided.

### **Communicating the outcome to a victim**



- 6.31. The outcome of the VRR process will be communicated to the victim in every case within 30 working days (i.e. 6 weeks from receipt of the request from the victim).
- 6.32. The method of communication will depend on the circumstances of the victim and the outcome of the review.
- 6.33. Where a victim has given reasons for requesting a review, the issues will be addressed in the decision letter to the victim.
- 6.34. In cases where the qualifying decision was 'not to charge' then it may be possible to bring proceedings if the original decision is found, on review, to be wrong. The same applies in all cases where the qualifying decision was to 'discontinue' all proceedings or to leave all proceedings to 'lie on file'.
- 6.35. There is no such remedy available, however, in cases where the qualifying decision was to 'offer no evidence'. This is because such decisions are final, proceedings cannot be reinstituted and redress in these circumstances is limited to an explanation and apology. It is important to note that, although the case cannot be recommenced, the quality and thoroughness of the review undertaken will be no less than a review undertaken for any other category of case. The important issue being addressed in these cases is whether the original case decision was wrong.
- 6.36. Following the conclusion of the VRR process, there is no scope for any further review by the Insolvency Service and, accordingly, if the victim remains dissatisfied with the decision, and/or wishes to challenge it further, then the victim should apply to the High Court for a judicial review.
- 6.37. There is likely to be an expectation, in any judicial review of a qualifying decision, that the right to review under this scheme will have been exercised before any such proceedings are commenced.
- 6.38. If proceedings are to be (re)commenced following the review, the suspect/defendant will be advised. Suspects/defendants will not be made

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aware of the victim's request for a review during the review process or in cases where the original decision is upheld.

## **Time limits**

- 6.39. A request for review should ordinarily be made within 5 working days of receipt of notification of the decision. A request can, however, be made up to three months of after the communication of the decision to the victim.
- 6.40. An early request from the victim allows for a prompt review and, where appropriate, proceedings to be (re)commenced as quickly as possible. Conversely, a delayed request may increase the likelihood of the Court finding difficulty with any decision to (re)commence proceedings following the review. In some circumstances, it will not be possible to (re)commence proceedings if there is a delayed request for review.
- 6.41. Any delay beyond the three months will only be allowed in exceptional circumstances taking into account the facts of the individual case.
- 6.42. Where an original qualifying decision is confirmed as right and additional explanation of the decision is provided, victims will be asked to contact a Deputy Director Prosecution Team Leader if they remain dissatisfied with the decision within ten working days (contact details for the appropriate person will be provided).
- 6.43. The Insolvency Service will, wherever possible, complete the review and communicate the decision to the victim within an overall timeframe of 30 working days (i.e. 6 weeks from receipt of the request from the victim).
- 6.44. Where the case is particularly complex or sensitive, it may not be possible to provide a review decision within the usual time limits. In such cases, we will notify the victim accordingly. Regular updates will be provided concerning the progress of the review until a final decision is made, although these will not be more frequent than every 20 working days.

## **7. Victim Personal Statements (VPS)**

- 7.1. A VPS is a statement that victims can give if they have been a victim of crime. It is their way of telling the criminal justice system about the crime they

have suffered and the impact it has had, whether physically, emotionally, psychologically, financially or in any other way.

- 7.2. A VPS is important and gives the victim a voice in the criminal justice process by helping others to understand how the crime has affected them. Although the Insolvency Service is not required by the Victims' Code to take a VPS in every case, this is in fact good practice and should be encouraged in all relevant cases.

### **Key principles**

- 7.3. The VPS and any evidence in support should be considered and taken into account by the court, prior to passing sentence.
- 7.4. The VPS must be in proper form, i.e. a witness statement made under section 9 of the Criminal Justice Act 1967 or an expert's report.
- 7.5. The VPS must be served in good time upon the defendant's solicitor or the defendant, if he is not represented.
- 7.6. At the discretion of the court, the VPS may also be read aloud or played in open court, in whole or in part, or it may be summarised.
- 7.7. A VPS that is read aloud or played in open court in whole or in part should be considered as such, and no longer treated as a confidential document.
- 7.8. The maker of a VPS may be cross-examined on its content.
- 7.9. The court must pass what it judges to be the appropriate sentence having regard to the circumstances of the offence and of the offender, taking into account, so far as the court considers it appropriate, the impact on the victim.
- 7.10. Except where inferences can properly be drawn from the nature of or circumstances surrounding the offence, a sentencing court must not make assumptions unsupported by evidence about the effects of an offence on the victim;

- 7.11. The opinions of the victim or the victim's close relatives as to what the sentence should be are not relevant, unlike the consequences of the offence on them, victims should be advised of this fact. If, despite the advice, opinions as to sentence are included in the statement, the court should pay no attention to them.
- 7.12. Although victims are entitled to make a VPS, they do not have to do so. Making a VPS is entirely optional and a victim can make more than one VPS. Where made, most VPS will be in addition to the usual witness statement.

### **The content of a VPS**

- 7.13. A VPS will explain the impact the crime has had on the victim. For example, they may want to mention:
- i. Any physical, financial, emotional or psychological injury they have suffered and/or any treatment they may have received as a result of the crime.
  - ii. If they feel vulnerable or intimidated.
  - iii. If they no longer feel safe.
  - iv. The impact on their family.
  - v. How their quality of life has changed on a day-to-day basis.
  - vi. If they need additional support, for example because they are likely to appear as a witness at the trial.
- 7.14. A VPS is a formal witness statement and the victim will need to sign a declaration confirming that it is true to the best of their knowledge.

### **Making a VPS later on**

- 7.15. If a victim is unsure about making a VPS at the time of making a witness statement, they will be free to make a VPS later, provided that this is before offender is sentenced.

## **8. Complaints**

- 8.1 Concerns about decisions taken by the Insolvency Service which do not relate to qualifying decisions as above and therefore falling outside the scope of the VRR scheme will be dealt with in accordance with the departmental complaints policy.
- 8.2 Under the Insolvency Service's [complaints procedure](#), complaints can be made via the online complaint form or by phone to the Insolvency Service enquiry line on 0300 678 0015. The enquiry line can provide the relevant contact details for written complaints.

## **9 An enhanced service**

- 9.1 The Code sets out enhanced entitlements for victims in certain groups who are more likely to require enhanced support and services throughout the criminal justice process.
- 9.2 Victims who are entitled to an enhanced service will be given increased support throughout the investigation and any subsequent criminal proceedings. This will ensure that the victim fully understands the process and the decisions made and has an opportunity to ask any questions that s/he may have.
- 9.3 Investigators and prosecutors will work together from the outset of case to determine whether a victim meets the criteria for an enhanced service using the guidance set out in the Code. The Code requires an enhanced service be provided to:
- Vulnerable or intimidated victims – those under 18 years of age at the time of the offence, or whose evidence is likely to be affected because they suffer from a mental disorder within the meaning of the Mental Health Act 1983; they otherwise have a significant impairment of intelligence and social functioning; or they have a physical disability or are suffering from a physical disorder. A victim is considered

intimidated if the quality of their evidence will be affected because of fear or distress about testifying in court.

- Victims who are persistently targeted – those who are targeted repeatedly over a period of time.
- Victims of the most serious crimes – the Code defines such victims with reference to particular offence types. These do not include serious fraud type cases, or any other case types the Insolvency Service might investigate or prosecute.

## 10. VRR Process – Flow Chart

