

RESTRICTED - POLICY

FULL REGULATORY IMPACT ASSESSMENT

**PROPOSALS TO PROVIDE A WIDER RANGE OF SUPPORT TO VICTIMS OF CRIME
ARISING FROM THE CONSULTATION PAPER
'COMPENSATION & SUPPORT FOR VICTIMS OF CRIME'
IN THE DOMESTIC VIOLENCE, CRIME AND VICTIMS BILL**

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ISSUE

1. This Government is committed to meeting the needs of victims of crime, and narrowing the justice gap. The measures outline in this paper will contribute to realising the objectives of the National Strategy, 'A New Deal for Victims and Witnesses,' published in August 2003, and in helping to improve public confidence in the Criminal Justice System.

POLICY OBJECTIVES

2. The objectives of these proposals is to contribute to a more effective package of support for victims of crime, and making offenders pay more towards repairing the damage they have caused by:
 - establishing a new Victims' Fund to provide support and a range of additional services for priority groups of victims of crime, in line with the objectives of the Government's National Strategy.
 - giving the Criminal Injuries Compensation Authority (or its designated agent) a right to pursue offenders for the cost of awards to their victims.
 - encouraging courts to make the widest possible use of compensation orders.
3. This Regulatory Impact Assessment (RIA) issued with the consultation paper 'Compensation & Support for Victims of Crime' considered the options for achieving these objectives. Following the consultation exercise, the Government's proposed course of action was set out in the Summary of Responses (available on the Home Office website at homeoffice.gov.uk), and below.
4. This paper revises and updates the partial RIA published with the consultation paper, but is limited in detail to the measures to be taken forward by the Government that require legislation.

BACKGROUND

5. We issued the consultation paper 'Compensation & Support for Victims of Crime' on 12 January 2004. The deadline for responses was 31 March 2004, and the Home Secretary announced his proposed course of action during the Second Reading of the Domestic Violence, Crime and Victims Bill on 14 June 2004. The Summary of Responses was published on the Home Office website on 23 June 2004.

PROPOSED COURSE OF ACTION

6. **a) establishment of a Victims' Fund for England and Wales**
The Home Secretary has decided to take forward the idea of setting up a wider Victims' Fund in England and Wales, that would fund a range of services to support victims of crime and prevent repeat victimisation. The priorities for funding are set out in the National Strategy for Victims and Witnesses, published in July 2003. The fund would be financed through a surcharge outlined below.
7. **b) a surcharge on criminal convictions and fixed penalty notices in England and Wales, excluding civil offences**
In light of responses to the consultation paper, the Government has decided to go ahead with the proposal to impose a surcharge on criminal convictions, and on fixed penalty notices for acts of disorder, and for serious and endorsable speeding offences.

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c) a right for the Criminal Injuries Compensation Authority to recover money from offenders

8. The Government will also take forward the proposal to give CICA the right to pursue offenders for the money it has paid out in compensation to their victims

d) Compensation for injuries suffered in the course of duty, railway suicides, and 'exceptional risk'

9. Following the consultation exercise, the Government has decided not to take forward the proposals to transfer responsibility to employers for compensating workers injured in the course of duty, make alternative arrangements for compensating railway workers who witness, or deal with the aftermath, of suicides on the tracks; or transfer responsibility for compensating accidental injuries incurred whilst taking 'exceptional risk in the 'course of duty'.

e) Compensation orders

10. The Government is committed to ensuring that courts make the widest possible use of compensation orders where appropriate to do so. Subject to the outcome of current schemes piloting the new enforcement powers in the Courts Act 2003, we will extend those powers to compensation orders, through secondary legislation, where that order is not made in conjunction with a fine. We shall also consider what further steps can be taken administratively to improve the use and enforcement of compensation orders.

f) Contribution towards industry from victims

11. The Government welcomes the support and assistance that industry provides in helping to tackle crime and to assist victims of crime. We believe that there is more that industry could do to support work to reduce crime and support victims, and would welcome further collaboration in the areas suggested in the consultation exercise, and beyond. We hope to achieve this through partnership working rather than enacted through legislation.

RISK ASSESSMENT – BENEFITS OF PROPOSED COURSE OF ACTION

a) Victims' Fund

12. The establishment of such a fund would provide substantial benefits in respect of the Implementation of the priorities set out in the National Strategy for Victims and Witnesses, and should increase confidence in the criminal justice system. By establishing the Fund specifically, we are demonstrating a commitment to ensure that funds flow towards priority victims' services which should make a significant contribution to addressing the social costs of crime, and result in more effective victim support.
13. The amount of money that would flow into the Victims' Fund is linked with proposals for the Victims' surcharge.

We consulted on the following levels of surcharge in the consultation paper.

Sentence type / FPN	Penalty imposed	Proposed surcharge
FPN - including PNDs	Up to £80	£5-10
FPN - including PNDs	£81 - £200	£10
Fine	Up to £1,000	£15
Fine	£1,000 +	£30
Community penalty	All community penalties	£30
Custodial sentence	Suspended sentence	£30
Custodial sentence	Unsuspending sentence	£30

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14. Based on the levels set out above with 100 per cent enforcement, the gross amount of revenue generated per annum could be up to £32.2m. The final amount raised is still subject to consideration, as we are restricting the surcharge to serious and persistent motoring offenders and may be further modified in light of the review of penalty points.
15. With these levels and an enforcement rate of 80 per cent across all surcharges, the total gross revenue generated per annum would be £25.8m.
16. More precise details of how the Victims' Fund will be used will be developed as the measures set out in this RIA begin to take effect and a more informed view can be taken of the precise amount of funding that will become available following the necessary enabling legislation and establishment of the subsequent administrative procedures and protocols.
b) A surcharge on criminal convictions and fixed penalty notices in England and Wales, excluding civil offences
17. Channelling the revenue generated by the surcharge directly into a Victims' Fund will send a clear and positive message that the needs of victims are being addressed within the criminal justice system. The Victims' Fund also has a strong reparative element and offenders would be encouraged to think more seriously about the impact of their actions on their victim and on society, rather than on the cost to them of paying a fine or Fixed Penalty Notice.
18. The addition of the surcharge would be made explicit when the FPN is issued or the sentence passed. Surcharges added to fines and FPNs would be collected and enforced by the Courts, in line with other financial penalties subject to measures enacted in the Courts Act 2003. The revenues generated would be channelled into the proposed Victims' Fund, which would be used to provide a range of services to victims.
c) A right for the Criminal Injuries Compensation Authority to recover money from offenders
19. Under this proposal, if a victim receives compensation from the state, then the state assumes from the victim the right to pursue the offender for the compensation it has paid. The state (or its designated agent) is usually better placed than most victims to pursue an action for recovery of damages from an offender and, if the state has used taxpayers' money to pay compensation to the victim, then it makes sense for the state to have the right to go after the offender if, at any time in the future, there seems to be a realistic chance of making some net recovery of the compensation it has paid out on the taxpayers' behalf.
20. This right will be limited to cases where it is cost effective to pursue offenders, and is therefore likely to be used in limited number of cases, given that, depending upon their means, many offenders are already subject to compensation orders which are deducted from CICA awards. However, in cases where offenders come into the means to pay back the costs of awards, it is in the public interest to pursue them, and this right is likely to increase public confidence in the Criminal Justice System, without impinging upon the position of victims which will be safe-guarded.
d) Compensation orders
21. Encouraging courts to make the widest possible use of compensation orders by the

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measures listed above will increase public confidence in the Criminal Justice System. Most members of the public would like to see offenders paying all that they can to repair, at least, some of the damage they have caused. This natural desire for justice, must, however, be tempered by the means of offenders to pay, and the necessity of resettling offenders, where it is appropriate to do so, back into the community.

e) Contribution towards industry from victims

22. There would be no change to the current position through legislation, but encouraging industry to contribute more towards the work of victims groups, would benefit victims of crime, and allow industry to demonstrate its commitment to vulnerable members of society.

RISK ASSESSMENT - COSTS OF PROPOSED COURSE OF ACTION

a) Victims' Fund

23. The costs associated with the collection of funds flowing into the Victims' Fund are set out under other relevant proposals, below. The fund itself would be managed internally by the Home Office, within existing resources.

b) A surcharge on criminal convictions and fixed penalty notices in England and Wales, excluding civil offences

24. The principal cost is that of collection and enforcement.
25. The legislation will mean that the surcharge is treated as if it were a fine. Since the surcharge will be treated like a fine, amendments enacted in the Courts Act 2003 will also apply, concerning:
- wider use of Attachments of Earnings and Deductions from Benefits within the fines collection scheme;
 - a new offence penalising those who fail to provide means information and / or the financial details necessary to allow an attachment order to be made;
 - fines officers appointed in every area to manage the collection of outstanding fines on behalf of the court.
26. We anticipate that there would be very limited impact on payment rates for fixed penalty notices.
- FPNs for motoring offences do not appear to be 'cost-sensitive' – at least at the rates of increase under consideration here. There has been a steady increase in payment rates of FPNs for *all* (endorsable and non-endorsable) motoring offences from 70% in 1992 to 82% in 2002. There was an increase in the penalty amount from £40 to £60 in 2000. Of FPNs for endorsable road traffic offences, 2002 figures show that 99% are paid in the suspended enforcement period without further enforcement.
 - Any reduction which does occur in the number of people who pay within the suspended enforcement period will result in an increase in the number of automatic Fine Registration Certificates, which means the amount becomes enforceable by the court.
 - Levying a surcharge on motoring FPNs may also result in an increase in people who request a court hearing rather than accepting their FPN. However, there is no evidence that this will happen.
 - Penalty Notices for Disorder (PNDs) appear to be more sensitive – and over the duration of the pilot scheme, the rate of enforcement was 51%, and efforts are

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- being made to increase this when the scheme is extended.
- The proposed surcharge for these is £5, which is considered low enough not to impact on enforcement rates.

MECHANISM FOR ENFORCING THE SURCHARGE AND ANY IDENTIFIABLE DOWNSTREAM COSTS

27. **Surcharge on FPNs**

- This would be enforceable in the same way as the penalty amount - collected by courts in the same way.
- Unpaid amounts automatically generate a fine registration certificate at 1.5 times the amount of the original (penalty + surcharge) amount.
- It is proposed to introduce the surcharge on FPNs when the new system for administering them – known as PentIP – is introduced. Home Office officials will work with those developing the PentIP system to maximise efficient administration and enforcement.

Surcharge on unpaid FPNs registered as Fine Registration Certificates (FRCs)

28. This will be enforceable in the same way as Fine Registration Cert (FRC) currently. When FRC is received on to the courts' computer systems it is registered as a fine, which is then enforced as a normal fine imposed by the court.

Surcharge on Fines

29. Enforceable in the same way as fines currently are. For the purposes of the legislation, the surcharge is to be treated as a fine, and again, the powers of the Courts Act 2003 will be applied to improve enforcement levels.

30. DCA do not have information that enables them accurately to estimate the potential impact on fines levels as a result of imposing the surcharge. They have, however, provided figures suggesting that:

- Enforcement costs will be £1.6m, based on a surcharge in the courts of between £15 and £30
- There will be a reduction of 20,600 in number of offenders paying, with the potential to reduce fines income by £2.9m.

31. Enforcement requires various modifications to the LIBRA system as part of its second phase of development, to create a creditor and amend banking details. Costs can only be estimated at policy details become clearer.

Surcharge on Community Penalties

32. Because the surcharge is to be treated as a fine for the purposes of the legislation, it will be enforced in the same way as a fine when it is applied with community penalties and custodial sentences.

33. The Fines Payment Work provisions can be applied for those who have absolutely no means to pay.

34. Compensation is also currently ordered in conjunction with community and custodial penalties, so that there are mechanisms to collect money from those who have not been ordered at present to pay a fine.

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Surcharge on Custodial sentences

35. As outlined above, those serving custodial sentences can be ordered to pay compensation, so the same mechanisms for collection may be used. Courts Act measures will be applied to maximise payment rates.

THE ADMINISTRATIVE ARRANGEMENTS FOR COLLECTING AND ENFORCING THE SURCHARGE

36. **Collection**

- The intention is that the surcharge element will be collected by the magistrates court (in line with existing financial penalties).
- The amount due to the Victims' Fund account would be separated out by creating new creditor accounts within the LIBRA system.

Costs to the individual offender

37. There is of course a cost to the convicted offender, or the individual paying an FPN, with that cost being determined by the sentence imposed. The total amount including the surcharge that the offender is required to pay must, however, take into account their means. The imposition of the victims' surcharge should also encourage offenders to consider the impact of their actions and generate some preventive benefits.

c) A right for the Criminal Injuries Compensation Authority to recover money from offenders

38. This right would be exercised only in cases where an offender had been convicted in the criminal courts of an offence relating to the injury caused, and where the amount likely to be recovered exceeded the costs of recovery. The costs of pursuing debt recovery action through the civil courts are likely to be small, and recovery of such costs will be sought from the offender.

d) Compensation orders

39. There should be no costs over and above those that courts might be expected to bear under current arrangements.

e) Contribution towards industry from victims

40. There would be no compulsory cost.

SECTORS AFFECTED

Business

41. The Government believes business will benefit from these measures. They do not impose any costs on the private sector.

Public Sector

42. Costs to the public sector are principally those of collection and enforcement, and administration of the Victims Fund.

Charities & Voluntary Organisations

42. Charities and voluntary organisations are expected to benefit from these proposals by being able to apply for funding from the Victims' Fund. The parameters of the Fund and guidelines for applications will be developed in due course.

CONSULTATION WITH SMALL BUSINESS: THE SMALL FIRMS' IMPACT TEST

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43. These proposals do not affect small business.

COMPETITION ASSESSMENT

44. The proposed measures do not affect any market or impact on competition.

CONSULTATION

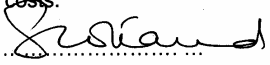
45. The Government's proposed measures outlined above, have been determined following feedback to the consultation paper 'Compensation & Support for Victims of Crime' issued on 12 January 2004. The consultation document and partial regulatory impact assessment was sent to over 150 interested organisations, key stakeholders, and individuals. During the consultation period we also held seminars for voluntary organisations, and met with representatives of the police, retail sector, motorists groups, as well as with members of other government departments. A total of 106 replies were received during the 12 week period of consultation, and 1,781 users opened the consultation paper from the Home Office website during the same period. The Summary of Responses to the consultation paper is available on the Home Office website at <http://www.homeoffice.gov.uk/inside/consults/summaries/index.html>

Monitoring & Evaluation

46. We will monitor in due course.

DECLARATION

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed 

Date 9. vi. 04