



Cabinet Domestic Policy Committee

DOM Min (11) 18/1

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Minute of Decision

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Progress Report on the Development of a Victims Code

Portfolio: Justice

On 5 October 2011, the Cabinet Domestic Policy Committee (DOM):

- 1 **noted** that the Victims of Crime Reform Bill (the Bill), introduced on 16 August 2011, will make a number of amendments that will expand victims' rights and will require new processes to be established by agencies, including developing a Victims Code as soon as practicable after the Bill is in force;
- 2 **noted** that in February 2011, the Cabinet Business Committee directed the Ministry of Justice to report to DOM in October 2011 with a draft Victims Code for consideration [CBC Min (11) 4/1];
- 3 **agreed** to defer Cabinet's approval of a draft Victims Code until June 2012, as the Code:
 - 3.1 is not required by legislation until three months after the Bill has been enacted;
 - 3.2 needs to include new rights and provisions included in the Bill;
 - 3.3 could be strengthened by engaging with victims and non government agencies during its development;
- 4 **directed** the Ministry of Health to contribute to the development of the Victims Code.

Committee Secretary

Reference: DOM (11) 83

Distribution: (see over)

Progress report on the development of a Victims Code

PURPOSE

1. This paper seeks Cabinet's agreement to align the timing of Cabinet's approval of a draft Victims Code (the Code) with the Victims of Crime Reform Bill (the Bill), so that expanded victims' rights and new processes can be included in the Code and an engagement plan for developing the Code can be implemented.

BACKGROUND

2. Over the past 3 years, the Government has advanced a number of successful initiatives that have improved services for victims. These achievements include establishing an offender levy, which has collected \$3.7 million from convicted offenders in its first year (2010/11) and has contributed to the funding of 13 new entitlements and services for victims of serious crime.
3. The 2010 *Enhancing Victims' Rights Review* was a further stage of a work programme designed to improve the status of victims. 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 [CBC (11) 4/1 refers].
4. The 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 require the Ministry of Justice to prepare a Code as soon as practicable after the Bill is in force.

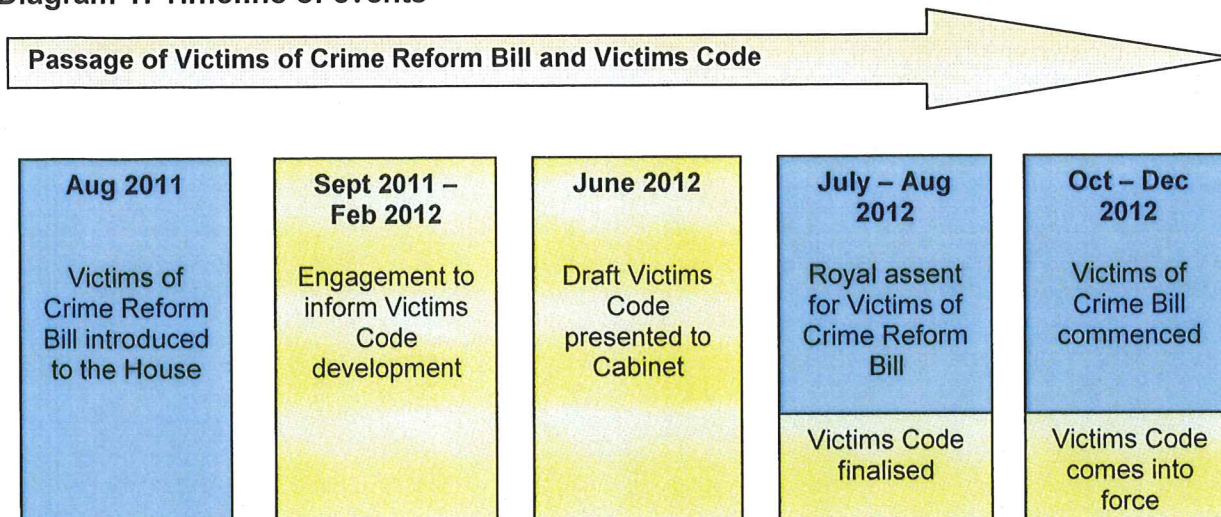
THE VICTIMS CODE

5. Cabinet directed the Ministry of Justice, supported by an inter-agency working group, to develop the Code by October 2011 [CBC (11) 4/1 refers]. The Code will reflect the definition of a victim in the Act and will outline victims' rights, list the services provided to victims of crime by certain government agencies¹ and some non government agencies, and outline agencies' complaints processes and feedback mechanisms. The Code itself will not confer any rights, but may be used to assist resolving a complaint from a victim.
6. I seek approval of DOM to defer the presentation of a draft Code to Cabinet until June 2012.

¹ Ministry of Justice, Department of Corrections, New Zealand Police, Department of Labour, Ministry of Social Development (including Child, Youth and Family), and Crown Law.

- Following Cabinet's approval of the draft Code in June 2012, the Code will then be updated as the legislation progresses through the House to form a final version. The final Code will be approved by the Minister of Justice and notified in the *Gazette*. Diagram 1 below outlines the timeline of events.

Diagram 1: Timeline of events



Engaging victims and the wider community

- I believe the Code could make a tangible difference in terms of victims' confidence in government services, increasing their willingness to engage with government services and impacting positively on the reporting of crime. Gaining the buy-in of victims and the wider community during the development of the Code is critical for ensuring that victims understand its potential value.
- In the work on the Code to date, it has become apparent that the involvement of victims, non government agencies and the Ministry of Health is critical for the successful development of the Code. I see the deferment of the draft Code as an opportunity to put an engagement plan in place that will result in a Code that places victims' rights and needs at its centre.
- The Ministry of Justice has commenced a targeted engagement process to identify the preferred model for and content of the Code (see Table 1 on page 3).

Table 1: Stakeholder Engagement Plan

Stakeholders	Type of engagement
Victims and representatives	<ul style="list-style-type: none"> meetings with a reference group and interviews with victims.
Iwi and Māori organisations	<ul style="list-style-type: none"> meetings with a reference group and regional hui to discuss how the Victims Code could assist with improving government agencies' responsiveness to Māori.
NGO sector leaders advocating for victims of serious crime	<ul style="list-style-type: none"> workshops to discuss the Code framework and how the work of non government agencies could be represented in the Code.
Frontline staff from government and non government agencies	<ul style="list-style-type: none"> regional workshops that involve cross-sector discussions on how the Code could work in practice.
Independent investigators and statutory bodies	<ul style="list-style-type: none"> workshop on improving complaints and data management processes.
Population agencies/interest groups	<ul style="list-style-type: none"> workshop on reaching Māori, Pacific peoples and hard to reach communities.
Judiciary	<ul style="list-style-type: none"> written consultation at stages of Code development.

11. I anticipate that victims, their representatives and non government agencies will make a valuable contribution to discussions on the form the Code should take and how it can best be implemented.
12. I propose that Cabinet directs the Ministry of Health to contribute to the Code over the coming year. This Ministry of Health is an essential government agency that delivers a range of services to victims, which has not previously been directed by Cabinet to be involved in the development of the Code. The Ministry of Health is happy to participate.

CONSULTATION

13. The following agencies were consulted on this paper: New Zealand Police, Ministry of Social Development (including Child, Youth and Family), Department of Corrections, Crown Law, Department of Labour, Accident Compensation Corporation, Office of the Children's Commissioner, Office of Ethnic Affairs, Families Commission, Ministry of Health, Ministry of Pacific Island Affairs, Te Puni Kōkiri, Parole Board, Office of the Privacy Commissioner, and the Ministry of Women's Affairs. The Department of the Prime Minister and Cabinet and the Treasury were informed.
14. The Ministry of Justice met with the following non government agencies to discuss their involvement in the development of the Code: Victim Support, The National Collective of Independent Women's Refuges, Sensible Sentencing Trust, NGO Alliance, and Te Ohaakii A Hine – National Network Ending Sexual Violence Together.

FINANCIAL AND LEGISLATIVE IMPLICATIONS

15. None for this paper.

HUMAN RIGHTS

16. The Code will be consistent with the *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985) and *The New Zealand Action Plan for Human Rights* (2005).
17. The Code will also be consistent with the *United Nations Convention on the Rights of the Child* (1989) and the *United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime* (2009).

REGULATORY IMPACT ANALYSIS

18. A regulatory impact statement was prepared in accordance with the necessary requirements and was submitted at the time Cabinet approval of the policy for the Code was sought.

PUBLICITY

19. I will issue a press release that outlines the reasons for the deferred Cabinet report-back on the draft Code and explaining the engagement plan. I also plan to make this Cabinet paper available to the public on the Ministry of Justice's website.

RECOMMENDATIONS

20. I recommend that the Committee:
 1. **Note** that the Victims of Crime Reform Bill (the Bill), introduced on 16 August 2011, will make a number of amendments that will expand victims' rights and will require new processes to be established by agencies, including developing a Victims Code as soon as practicable after the Bill is in force;
 2. **Note** that Cabinet directed the Ministry of Justice to report to the Cabinet Domestic Policy Committee in October 2011 with a draft Victims Code for consideration [CBC (11) 4/1 refers];
 3. **Agree** to defer Cabinet's approval of a draft Victims Code (the Code) until June 2012, as the Code:
 - 3.1. is not required by legislation until 3 months after the Bill has been enacted;
 - 3.2. needs to include new rights and provisions included in the Bill; and
 - 3.3. could be strengthened by engaging with victims and non government agencies in its development.
 4. **Direct** the Ministry of Health to contribute to the Victims Code.


Hon Simon Power
Minister of Justice
Date: 23/9/11