

# PROCEDURE – Victim Right to Review (VRR)

**Number: B 2502**

**Date Published: 29 March 2019**

Version 3 – March 2019

## 1.0 Summary of Changes

This procedure has been updated as follows:

- Minor grammatical changes throughout;
- Within section 2.1 the word “Standard” replaced with “Home Office Counting Rules (HOCR)”.

## 2.0 What this Procedure is about

This procedure sets out the process for the Victim Right to Review (VRR) scheme which gives victims a right to ask for a review of a police decision not to prosecute a suspect.

It is linked to the Code of Practice for Victims of Crime (Victims Code) and National Guidance and should be read and understood by all members of staff who have contact with victims.

### 2.1 Qualifying Cases

The Police Scheme VRR will only apply to National Crime Recording Home Office Counting Rules (HOCR) (NCRS) offences:

- Outcome 10 - Formal Action against the offender is not in the public interest (police decision);
- Outcome 15 - Evidential Difficulties - named suspect identified - crime confirmed and victim supports police action but evidential difficulties prevent further action.

It applies to cases in which a suspect has been identified and interviewed under caution, either following an arrest or by voluntary arrangement. An ‘interview’ in this context relates to situations where a suspect has an allegation put to them in some detail, as opposed to limited questioning that might take place in the immediate aftermath of an incident, for instance during a stop and search.

The right of a victim to request a review arises where the police:

- Make a decision not to bring proceedings in cases where the police have authority to charge; or
- Make a decision that the case does not meet the Threshold Test for referral to the CPS for a charging decision.

### 2.2 Non-Qualifying Cases

The following cases **DO NOT** fall within the scope of police VRR:

- Cases where no suspect has been identified and interviewed, for instance investigations that are filed ‘at source’;

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- Cases where charges are brought in respect of some (but not all) allegations made or against some (but not all) possible suspects;
- Cases where a charge is brought that relates to the matter complained about by the victim but the offence charged differs from the crime that was recorded; for instance the suspect is charged with common assault but an offence of actual bodily harm has been recorded;
- Cases which are concluded by way of out of court disposal; and
- Cases where the victim retracts their complaint or refuses to co-operate with the investigation and a decision is therefore taken not to charge/not to refer the case to the CPS for a charging decision;
- The scheme specifically relates to decisions not to prosecute and does not cover crime recording decisions or decisions not to continue with enquiries.

***Compliance with this procedure and any governing policy is mandatory.***

## **3.0 Detail the Procedure**

Victims should be informed of their eligibility to exercise the Right to Review at the point that an officer fulfils their Victims' Code obligation to inform the victim of the final outcome of an investigation where that decision is not to proceed.

Victims should be directed to the Essex Police Website > Advice > Victim Right To Review. There they will find further information on the scheme and a form which will ask for their name, date of birth, email address, contact number and reference number. A printable version of the information can also be found here for you to print out for the victim if they do not have access to a computer.

In the event that the victim does not have access to the internet then they can exercise their right by writing to:

Quality of Service Team,  
Essex Police HQ,  
PO Box No.2,  
Springfield,  
Chelmsford,  
Essex CM2 6DA.

The victim will need to simply state that they would like to exercise their right to review including the same details as above - name, date of birth, email address, contact number and reference number – see the process flow chart.

It is important that suspects are given clear information if they are informed of a decision to take no further action against them, making them aware that proceedings may still be initiated in light of fresh evidence or a review of the decision. This is vital to prevent abuse of process arguments precluding the instigation of proceedings following a review.

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## 3.1 Who is Eligible to Apply

Any victim in a qualifying case where a decision is made not to prosecute is entitled to seek a review of that decision.

A victim is defined as per The Code of Practice for Victims of Crime 2015 (Victims' Code):

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

This includes:

- Close relatives of a person whose death was directly caused by criminal conduct;
- Parents or guardians where the main victim is a child or youth under 18;
- Police officers who are victims of crime;
- Family spokespersons of victims with a disability or who are so badly injured that they cannot communicate; and
- Businesses, providing they give a named point of contact.

All victims should be notified of their right to ask for a review at the point they are informed of the decision not to prosecute.

Reviews will not ordinarily be conducted until the conclusion of the investigation. This is to cater for situations where no further action is taken against one or more suspects but the case remains open and actively investigated. This further investigation may result in another suspect(s) being prosecuted and thereby put the case outside the scope of qualifying cases.

Consideration may need to be given to securing material that the victim indicates will form the basis of a future request for a review, where appropriate; particularly if, like CCTV footage, it is liable to being lost or destroyed.

The Victims' Code identifies three categories of victim who are entitled to receive an enhanced service: vulnerable or intimidated victims, victims of the most serious crime and victims who are persistently targeted.

If a victim is entitled to an enhanced service then appropriate guidance should be given to enable them to make an informed decision regarding their right to ask for a review. This might involve ensuring that relevant victim support agencies are engaged in helping the victim with their decision regarding VRR.

The decision of a victim to exercise the Right to Review is not considered as a complaint against the police.

Further detailed guidance is available on the Essex Police intranet Criminal Justice Victims and Witnesses page.

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## 4.0 Equality Impact Assessment

This procedure has been assessed with regard to an Equality Impact Assessment. As a result of this assessment it has been graded as having a low potential impact as the proposals in this procedure would have no potential or actual differential impact on grounds age, sex, disability, race, religion or belief, marriage and civil partnership, sexual orientation, gender reassignment and pregnancy and maternity.

## 5.0 Risk Assessment

The Police Victim Right to Review is a national scheme. Monitoring is in place to track volumes in order to assess whether:

- The volumes of applications are high and that has a significant impact upon workload for DCIs and designated reviewing officer;
- The rate of applications is too low and therefore, the indication is that officers are failing to inform victims of the existence of their right to review a decision. This failure may lead to increased complaints against officers as a result of the failure to notify;
- The reviews identify a consistent level of inappropriate decision making and therefore risks that criteria for decision making at a wider level is not being appropriately applied.

## 6.0 Consultation

The following have been consulted during the formulation of this document:

- Unison
- Federation
- Equality and Diversity Co-ordinator
- Health & Safety
- Strategic Change Team
- PSD Superintendent
- Policy/Risk
- Superintendents Association
- DCIs
- Head of Customer Services
- Quality of Services Manager

## 7.0 Monitoring and Review

The Victims Code Performance report includes statistical monitoring of the VRR process which shared with the Force Victims Focus and Public Confidence Board to support service improvement.

This procedure will be reviewed every 3 years by, or on behalf of, the Head of Public Engagement and Customer Services to ensure it remains accurate and fit for purpose.

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## 8.0 Governing Force policy. Related Force policies or related procedures

- B 2500 Policy – Victims and Witnesses – *pending at present*

### 8.1 Data Security

Essex Police have measures in place to protect the security of your data in accordance with our Information Management Policy – W 1000 Policy – Information Management.

### 8.2 Retention & Disposal of Records

Essex Police will hold data in accordance with our Records Review, Retention & Disposal Policy – W 1012 Procedure/SOP - Records Review, Retention and Disposal

We will only hold data for as long as necessary for the purposes for which we collected. Victims/public should be reminded that Essex Police take the protection of personal data seriously as described in the privacy notice <https://www.essex.police.uk/hyg/fpnessex/privacy-notice/>.

## 9.0 Other source documents, e.g. legislation, Authorised Professional Practice (APP), Force forms, partnership agreements (if applicable)

- Police Victim Right to Review Process on a Page
- Police Victim Right to Review Scheme – National Guidance
- Process Flow Chart