



CPS consultation on the interim guidelines on prosecuting social media cases

A response by Victim Support

May 2016

Victim Support (VS) is the leading independent charity for victims in England and Wales for people who have been affected by crime and traumatic incidents. Our specialist teams provide free, confidential and personalised support to help victims recover from the physical and psychological effects of crime and trauma. Last year we offered help to 1 million people, including just over 91,000 suffering from domestic violence and 16,000 from hate crime. VS also runs the national Homicide Service and last year supported 1,452 people bereaved by 440 murders or manslaughters. The charity has just over 1,000 staff and 3,000 volunteers.

Victim Support welcomes the opportunity to respond to the CPS consultation on the guidelines for prosecuting social media cases. As the points we wish to make are not covered under questions 1-4 we have answered only question 5 (further comments). We would be happy to provide further information on the below points if required.

Question 5: Do you have any further comments on the revised Guidelines on prosecuting cases involving social media?

In respect of Category 4 offences, Victim Support remains concerned with public interest factor 'b'. We believe that taking swift and effective action to remove the communication in question may, in some circumstances, be an attempt by the suspect to cover their traces, rather than lessen the harm caused to the victim. Where this is the case, it would not be appropriate for a prosecution to be less likely as a result.

While we recognise that the wording of this factor was amended following concerns raised by respondents to the 2013 consultation, we do not think this has gone far enough to address the issue. Factor 'b' was divided so as to require the expression of genuine remorse by the suspect as a separate element. However, it is not clear from the guidelines whether this is intended as a prerequisite to taking into consideration swift and effective action by the suspect to remove the communication in question. This link between the factors was suggested in the CPS's response to the 2013 consultation and we believe that the guidelines should be clarified in respect of this point. Victim Support's recommendation is that factor 'b' is only considered as a public interest factor where 'a' is also evident.

Further, we think that the scenarios mentioned in relation to category 4 offences, involving the targeting of a particular victim and clear evidence of an intention to cause distress or anxiety, should be named more explicitly as factors making a prosecution more likely. We would propose a similar format to that used for the factors which indicate a prosecution is unlikely to be both necessary and proportionate. We also suggest that these factors are divided and as such taken into consideration by prosecutors separately.

Overall, we believe the guidelines on prosecuting cases involving communications sent via social media could better reflect the responsibilities of prosecutors towards victims and witnesses. We would suggest that the guidelines, for example, highlight the role of the CPS in providing information on prosecution decisions to the police, its responsibility to inform the victim of any decision not to prosecute and provide information on the offer of a meeting with the CPS (in certain cases). We believe there would be great value for victims in reiterating this information, which is already available and contained in the CPS Legal Guidance and the Victims' Code of Practice.