



Victims Right to Review Procedure

This document is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Deputy Mayor for Policing as part of the York & North Yorkshire Combined Authority are required to adhere.

Procedure Statement

This procedure provides guidance in respect of the review process that must be followed where a victim of crime wishes to exercise their Right to Review.

The Procedure describes processes which have been designed to ensure that material decisions are taken in accordance with the core principles of The Criminal Procedures and Investigations Act 1996 and the Code for Crown Prosecutors and that such decisions are characterised by conspicuous and demonstrable integrity and objectivity

Other Documents:

CPS - Victims Right to Review Scheme

Note that the CPS VRR scheme is to be used when the CPS have made Pre-charge decision to take No Further Action. The Police VRR scheme is for decisions taken by the Police.

Code of Practice for Victims of Crime in England and Wales (Victims' Code) - GOV.UK

Victims' Right to Review Scheme | North Yorkshire Police

This procedure follows the Victim Right to Review Scheme expectations as displayed via the Single Online Home force website.

Process

Victims' Right to Review relates to a right for a victim to ask for the review of a Police decision not to prosecute a suspect.

This procedure relates to Victims' Right to Review, for any investigation into a criminal matter and the case qualifies for review under the scheme.

In order to qualify for the scheme, the case must be one to which:

- National Crime Recording Standard (NCRS) offences apply
- a suspect has been identified and interviewed under caution, either following an arrest or by voluntary arrangement. An 'interview' in this context is intended to cover 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 pass the evidential stage of the Full Code Test for referral to the CPS for a charging decision.
- Police VRR will only apply to decisions taken made on or after 1st April 2015. The scheme does not apply retrospectively to decisions taken before that date.
- Requests for VRR should be acknowledged within 10 working days.
- Victims should be allowed to request a review within 3 months of being informed of the decision not to prosecute. Requests after this period should be considered and dealt with at the Force's discretion.
- Wherever possible, the review should be completed, and the decision communicated to the victim within 30 working days. Where this is not possible, due to the complexities of the case, the victim must be updated.
- In cases where the offence has become statute barred, an explanation will be offered and where appropriate, an apology to the victim.
- A victim who remains dissatisfied with the outcome of the police review and wishes to pursue the matter further can apply to the High Court for a judicial review.
- Cases where individual performance is an issue should be dealt with in the normal manner.

The following cases do not fall within the scope of Police VRR:

- Cases where no suspect has been identified
- Cases where some charges are brought in relation to some of the allegations
- Cases where a lesser charge than crime recording standard is brought
- Cases dealt with by way of out of court disposal
- Cases where the victim retracts their complaint or refuses to cooperate with the investigation
- The scheme will be available to all qualifying victims from 1st April 2015
- 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
- The reviewing officer should consider the case afresh rather than assessing the validity of the original decision making process
- Cases requiring the authority of CPS must be appropriately referred
- In cases where Police have the authority to charge, that the earlier decision not to prosecute was wrong in applying the evidential or public interest stages of the Full Code Test and in both cases, for the maintenance of public confidence in the criminal justice system, the decision must be reversed.
- Requests should be dealt with in a timely manner
- The scheme will allow a request to review within a 3 month period
- Review decisions should ordinarily be confirmed in writing

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Process to be followed in cases of Victims' Right to Review:

On receipt of a request for Victims' Right to Review where the qualifying criteria apply:

The Code of Practice for Victims of Crime in England and Wales November 2020 defines a victim under this code:

This Code acknowledges that the terms 'complainant' and 'survivor' are often used in the criminal justice system to describe a person who has made a criminal allegation to the police. However, for the purpose of this Code, the definition of a 'victim' is:

- a person who has suffered harm, including physical, mental, or emotional harm or economic loss which was directly caused by a criminal offence;
- a close relative (or a nominated family spokesperson) of a person whose death was directly caused by a criminal offence.
- a parent or guardian of the victim if the victim is under 18 years of age;
- or a nominated family spokesperson if the victim has a mental impairment or has been so badly injured because of a criminal offence that they are unable to communicate or lacks the capacity to do so.

Also included are:

- Police officers who are victims of crime
- Businesses, providing they give a named point of contact

Victims who are:

- Vulnerable or intimidated
- Victims of the most serious crime
- Persistently targeted;

are entitled to an enhanced service including an appropriate level of support to enable them to make an informed decision regarding VRR. Requests from those victims should be expedited.

The Victim Right to Review Officer (VRRO) will:

- Be of higher rank or grade to the officer or staff member making the decision to NFA. The Criminal Justice Case Quality Manager will be the VRR single point of contact for North Yorkshire Police and will ensure the process is applied in accordance with this guidance. They are responsible for identifying a suitable VRRO.
- Not have been involved in the original decision making. The relevant officer should have relevant experience of the offence under review.
- Decisions must have a legal foundation that will withstand challenge. Police will follow the CPS protocol of relying on section 10 of the Code for Crown Court Prosecutors to form that foundation.

They will review the file of evidence and will apply the **Evidential Test** and the **Public Interest Test** during the process of review.

If the Victim Right to Review Officer (VRRO) believes that existing lines of enquiry or additional lines

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of enquiry should be further pursued or that any other additional tasks must be pursued before the investigation can be considered to be complete, then the Right to Review Officer should return the file to the OIC for completion of the additional identified tasks. The OIC will then return the file to the VRRO for further review upon completion of the additional tasks.

If following review of the completed investigation file of evidence and the application of the **Evidential Test** and the **Public Interest Test** the VRRO forms the view that the OIC's recommendation that the allegations should be the subject of NFA, is incorrect, and the offence is one for which the authority of CPS is required to charge, then the VRRO will task the OIC to refer the file of evidence to the CPS for review.

If following review of the completed investigation file of evidence and the application of the **Evidential Test** and the **Public Interest Test** the VRRO forms the view that the OIC recommendation that the allegations should be the subject of NFA, is incorrect, and the offence is one for which Police have authority to charge, then the decision must be reversed.

If, following review of the completed investigation file of evidence and the application of the **Evidential Test** and the **Public Interest Test** the VRRO forms the view that the recommendation that the allegations should be the subject of NFA, is correct, then the file will be appropriately endorsed by the VRRO.

The requirements of this procedure do not affect the application of existing procedures which govern a member of the public's ultimate right to make a complaint against Police at any time.

Responsibilities

All members of NYP who are engaged in the investigation or post investigation consideration of criminal allegations, together with those engaged in the Victim's Right to Review process are required to comply with the terms of this procedure.

Definition of Special Terms

Victim Right to Review Officer (VRRO)