

Julie Elliott MP & Stewart Hosie MP
Chairs of the Victims and Prisoners Bill Committee

House of Commons
London
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Sent via: hooki@parliament.uk

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Dear Julie and Stewart,

Thank you for the recent opportunity to give evidence on the Victims and Prisoners Bill. I am writing as I wanted to further add to my verbal evidence, to expand on points I raised in the session and to submit further thoughts for your consideration.

Inclusion of All Victims

I have previously welcomed Government's adoption of the Justice Committee's recommendation to expand the definition of victims. As touched on in my evidence however, I believe the current provisions available for family members bereaved by homicide abroad are entirely insufficient, largely because they are not recognised within the Victims Code or within this Bill. This Bill provides an opportunity to ensure that all victims and family members, regardless of their justice journey, are kept informed, supported, and are entitled to access compensation.

Secondly, I must raise that as long as victims with insecure immigration status are not protected within this legislation, the Bill leaves many victims at risk. I hear repeatedly of perpetrators exploiting victims' insecure immigration status to further their control and abuse. Victims' inability to report due to a fear of arrest, deportation, or losing access to children leaves perpetrators free to abuse others and puts the public at risk. The principle of equal access to justice, support, and protection is crucial. To guarantee this, the Bill must include the right to safe and secure reporting and ensure that a victim is entitled to their rights under the Code regardless of their immigration status. If the Government is serious about a commitment to supporting and protecting all victims of crime, they should accept calls to establish a firewall between policing and immigration enforcement for victims and witnesses of crime, along with a non-discrimination clause to prevent these victims from being treated as suspects.

Overarching Principles

As reflected in my verbal evidence, I believe the overarching principles are too broad to be enforceable, especially given the watering down of language. Whilst I of course agree with the four overarching principles, as currently drafted these won't drive the cultural change that we so desperately need.

In the current Bill they are described as principles that justice agencies 'should' comply with, rather than 'must' comply with. The Justice Committee were clear in their recommendation that the wording of this Bill be changed. The wording keeps the onus on the victim as being responsible for claiming their rights, which should not be the case.

The principles should also be extended to ensure agencies deliver rights in a way which is accessible to that victim, so that victims with disabilities, those who are neurodivergent or those for whom English is not a first language can access their rights. It should also include a principle that victims must not be discriminated against and that they must have their privacy rights considered.

Accountability and Enforcement

The lack of enforcement set out in the Bill must be addressed. The 2015 Conservative Manifesto made a commitment to protect victims and vulnerable people through a Bill that would enshrine key rights for victims. Seven years later in 2022, when the Government launched its consultation on the draft Bill, it claimed that the Bill would see *"greater accountability placed on agencies for the services provided to them. Victims will also be given clearer routes of redress if they do not receive the support they are entitled"*. I do not recognise this as the Bill laid before us.

The Bill wants agencies to make victims aware of their rights but does not mandate that professionals who have responsibility for delivering those rights should have training. In London, significant resource has been put into raising awareness of the Code through the creation of a Victim Information Leaflet for victims. Unfortunately, the distribution of this leaflet and delivery of rights by officers has been severely curtailed by a lack of awareness and training within the police force. Training of individuals responsible for victim care is crucial in ensuring victims receive their rights. Accountability and monitoring is also complex, and it will take years to put a framework into operation and to obtain consistent data collection across agencies.

When it comes to redress for victims, they will still have to rely on the usual complaints processes, which we know do not work for victims and do not lead to systemic change. Baroness Casey's report into the Metropolitan Police found that 90% of public complaints received resulted in no further action, and that only in 1% resulted in action taken against an officer. The Parliamentary Ombudsman have had the MP filter removed but no new money allocated to increase their resources.

Given that breaches of the Victims Code are so widespread and routine – with only 25% of victims being made aware of the code, 50% offered a support referral, and only 12% informed about compensation – I anticipate that the joint inspections set out in this Bill will only be called for in response to high-profile cases or extreme failings, when so much damage has already been done. What victims need is regular in-depth inspections on their rights that consistently drives improved standards. For HMICFRS this could be a dedicated rolling inspection, or at the very least incorporated into existing PEEL inspections.

However, even with an improved inspection regime focused on victims, the inspectorates need greater powers to compel agencies to change. The HMICFRS State of Policing report published this month stated *"We don't have the power to enforce the recommendations we make... There are only so many times we can say the same thing in different words"*. To make this legislation meaningful, Government must consider a new approach to accountability and reasonable sanctions must be found. They must look at other regimes of enforcing standards and find something workable that will prevent the current routine re-victimisation of victims in our justice system. That is what they've promised with this Bill and failed to deliver.

Victims Champions

Dame Vera and I raised the concept of ‘Victims Champions’ during our verbal evidence, and I would like to reiterate the benefit this would provide. The success of my role in London has shown the impact Victims Champions could have nationally, including providing local scrutiny of PCCs and criminal justice agencies, being a point of contact when victims are dissatisfied with local services, encouraging collaboration across local agencies and action when compliance is poor, and acting as the victims’ voice on the Local Criminal Justice Board.

Although not currently within our strict remit, my office has had a significant impact on victims’ cases. Through our team asking simple questions of justice agencies and prompting them to deliver victims’ rights, we have seen cases get back on track and achieve positive justice outcomes. While I understand that London is unique in its scale and challenges, I truly believe that all PCCs would benefit from this role, and that the benefits would also be felt at a national level through the Victims’ Commissioner. Resources are limited and vary across PCCs, but a small investment in the role can yield significant benefits for victims and for the delivery of justice.

Privacy Rights and Legal Advice

Another area I touched upon was the need to use this legislative vehicle to address an issue that disgraces our justice system and how it treats victims; this is the intrusion into victims' privacy that we see most acutely in cases of rape and sexual assault and abuse.

On a recent trip to Québec to visit their specialist rape courts, I was embarrassed to see the dismay of Québec and French officials when they learnt that police and prosecutors in England and Wales frequently go hunting through third party material, and most concerningly through counselling records, to find inconsistencies and ways to discredit victims based on myths and stereotypes.

This injustice and appalling treatment of victims and survivors – primarily women and girls – must stop. The measures announced in the second reading are insufficient. They are focused on the police, who are not the only agency driving these requests, and provide no additional checks and balances to prevent these phishing expeditions. Judicial oversight is required to address what I see as an urgent equalities issue.

For too long we know that investigations into sexual violence have been victim-focused and placed survivors under undue scrutiny. That is why the Government committed to exploring legal advice and representation for survivors in the 2021 Rape Review and why this has been recommended in the Law Commission Consultation.

The Bill offers the opportunity to deliver this important measure to survivors and build on the work of Operation Soteria. We have had successful pilot projects, so now is the time to deliver this at a national scale and reverse the steep decline in rape prosecutions that we have seen since 2016. Although the Law Commission consultation is ongoing, Government can introduce legislative reforms before the conclusions of a Law Commission consultation where there is a “case for immediate action”. For example, the Government introduced a new offence of threats to share intimate images in the Domestic Abuse Act 2021, whilst the Law Commission was reviewing the law on intimate image abuse.

Transcripts

The Independent Commission into the Experience of Victims and Long-Term Prisoners recommended better communication and information for victims of serious crime, including a written statement of what the sentence means and a clear timeline highlighting key stages of the sentence.

Being able to reflect on and review a sentence and the thinking that has gone into it is critical for victims and bereaved families in their healing process, including for any surviving children who may not be of age when the court case takes place. Transcripts of sentencing hearings are needed, but these are rarely free or timely. I know of a victim of attempted murder who was quoted upwards of £300 to receive a transcript of the sentencing remarks in their case; an amount they simply couldn't afford.

Even for the few who would be entitled to receive a free copy, the application process for court transcripts is unnecessarily complicated and intrusive, not least for those who are grieving or traumatised. Other solutions, such as the video recording of these remarks, could also be considered, as this could avoid the labour and cost involved in transcribing recordings.

Victims understanding the sentencing process is also critical if they want to exercise certain rights, such as the Unduly Lenient Sentence Scheme for certain offences. Currently, victims are given a strict 28-day time limit from the point of sentencing, within which they can make an application under the ULS Scheme. This relies on the victim or family being informed, within good time, about the sentencing, fully understanding it, and being informed about the Scheme, to be able to consider whether an application is required. Offenders can appeal their sentence outside of the 28-day timeframe in exceptional circumstances and have this right explained to them in a post-sentence meeting. Such a right is currently not extended to victims. As such, the Bill is an opportunity to ensure that victims and their families are provided with a prompt, post-sentencing meeting, within which the sentence outcome is properly explained to them, alongside their right to apply to the ULS scheme, and the 28-day time limit for these applications. The right to apply to the ULS scheme after the 28-day deadline in exceptional circumstances should also be extended to victims.

Compensation

I have long argued that the court awarded compensation made available to victims of crime in the Criminal courts is inadequate, and the process of paying this to victims is flawed. For court awarded compensation, victims are locked into a lengthy relationship with their offender preventing them from moving on from the crime, with compensation paid in small amounts over long periods of time, if at all. Other countries, including the Netherlands, take a different approach whereby victims are paid upfront by Government, which is then responsible for recouping this money from the offender.

When it comes to criminal injuries compensation, I have learned a lot from a recent trip to Quebec City in Canada, who have recently transformed their scheme to better meet the needs of victims. Their scheme focuses on victims and their needs, by funding the services they need. After applying for compensation, victims are given access to psychological support in an average of 15 days, to provide immediate support while going through the application process. Victims have three years to apply for compensation – one more than allowed under CICA – and for victims of domestic abuse, sexual violence, and child sexual abuse the time limit is removed entirely. The Review into CICA has been ongoing since 2019, and the reforms needed to this scheme are now severely overdue. This Bill provides an opportunity to create a system which better serves victims.

Parole Reforms

Lastly, as I made clear while giving evidence, the reforms proposed in Part Three of the Bill are not for victims; in fact, I believe they will compound their trauma and suffering. We have heard from legal professionals and those in the Parole Board that any veto made by the Secretary of State to prevent an offender from being released will be appealed. This will create more uncertainty for victims and bereaved families who are already exhausted by the parole board process.

The resources required per annum to deliver these proposed changes will be greater than the entire annual parole board budget. Meanwhile there is no funding allocated to deliver part 1 of the Bill and no additional support for victims in this process which will only extend their suffering and uncertainty. If the Government is including these measures on behalf of victims, they must accompany it with funding for Victim Liaison Officers and support services including therapeutic care.

Thank you again for the opportunity, and if you or other members of the Committee have any further questions please don't hesitate to reach out.

Yours sincerely,



Claire Waxman OBE
Independent Victims' Commissioner for London