

Justice Committee

Oral evidence: [Pre-legislative scrutiny of the draft Victims Bill, HC 304](#)

Tuesday 14 June 2022

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Members present: Robert Neill (Chair); Rob Butler; Angela Crawley; Maria Eagle; Paul Maynard; Dr Kieran Mullan; Karl Turner; Matt Vickers.

Women and Equalities Committee member present: Caroline Nokes (Chair).

Questions 1 - 75

Witnesses

[I](#): Dame Vera Baird QC, Victims' Commissioner; Nicole Jacobs, Domestic Abuse Commissioner; Dame Rachel de Souza, Children's Commissioner; and Claire Waxman, Victims' Commissioner for London.

Examination of witnesses

Witnesses: Dame Vera Baird, Nicole Jacobs, Dame Rachel de Souza and Claire Waxman.

Chair: Good afternoon and welcome to this session of the Justice Committee. It is the first session of our pre-legislative scrutiny of the draft Victims Bill. I am very grateful to the four commissioners for coming to give evidence to us. I will ask them to introduce themselves shortly.

First, Members have to declare their interests, which everybody has probably heard many times before. I am a non-practising barrister.

Rob Butler: Prior to my election, I was a magistrate, a member of the Sentencing Council and a non-executive director of HMPPS.

Maria Eagle: I am a non-practising solicitor, Chair.

Karl Turner: I am a non-practising barrister.

Q1 **Chair:** I hope that we will be joined at some point by Caroline Nokes, who is the Chair of the Women and Equalities Committee. She is going to guest with us under the provisions permitted by the Standing Orders. I do not think that she has any interests to declare in this regard, anyway.

Can I ask the commissioners to introduce themselves, for the record?

Claire Waxman: I am Claire Waxman. I am the independent Victims' Commissioner for London.

Dame Vera Baird: I am Vera Baird, and I am the Victims' Commissioner for England and Wales.

Nicole Jacobs: I am Nicole Jacobs, and I am the Domestic Abuse Commissioner for England and Wales.

Dame Rachel de Souza: I am Rachel de Souza, Children's Commissioner for England.

Q2 **Chair:** Thank you all very much. Perhaps we can start by taking a step back to some of the purposes behind the draft Bill. One of the things that struck us, and I am sure that all of you have commented on it in the past, is the fact that many victims give up on the criminal justice system and do not go down that route for a number of reasons. It has also been suggested that, frequently, those who do not do that are some of the ones who are most at risk, perhaps, of being victimised further.

I am interested as to whether or not you think that the draft Bill goes far enough to deal with those people who do not go through the justice system, even though it is available, but for a number of reasons they do not feel that it accesses them or works for them. What are your thoughts on that? Who wants to start—any volunteers to kick off?

Claire Waxman: It is really important that victims can access good-quality support services and that they are able to find them; that is part



HOUSE OF COMMONS

of the issue. I know that we are going to be talking about the duty to collaborate on the services, but it is really important that all victims are able to access the right type of service, and advocacy as well, because that advocacy role can really help a victim and encourage them to build trust and confidence to come forward and report to the police. Without that advocacy role, unfortunately, many just do not feel able to—especially those from ethnic minorities and different backgrounds, or those with disabilities, or where there may be language barriers. That role of the advocate and finding that support service from the outset is absolutely vital.

Q3 **Chair:** Thanks. Are there any additions to that—any other points?

Dame Rachel de Souza: I will just say briefly that we need to listen to children's voices and look at children's experience in this context; it is quite different. One of the reasons I wanted to be here today is to make sure that the Bill does represent children, because supporting children who have been victims is quite different.

Q4 **Chair:** Okay. Vera, any observations?

Dame Vera Baird: To add to what Claire said, with which I completely agree, the criminal justice system does not currently take very good care of victims. Everyone wants them to be in the centre of the criminal justice system, but they are not. I had hoped that the victims code, which more or less gets right what victims want, might have been beefed up better or presented as a draft so that we could comment on that as we comment on the Bill; and that there might have been some enforcement mechanism to make sure it happened or a complaints mechanism to empower a victim to get their rights. That is all missing, and I do not think that it will go far enough unless things are put in of that nature.

Q5 **Chair:** That is helpful. Nicole?

Nicole Jacobs: I echo some of the concerns. There is a lot of good in this Bill, without any doubt, but it does not go far enough in terms of the understanding of what victim care and services should be in place, as others have said. Also, as for the structure in and around the criminal justice system, it almost goes straight to the victims code, which is fantastic, but what about investing in the structures that really solve problems day to day before you have to invoke a breach of, say, the victims code?

As we go through the clauses, I think there are lots of areas where we can see real scope for improvement. It is a nice foundation, but we need to see better provision throughout most of the clauses of the Bill.

Q6 **Chair:** Clause 1, of course, includes the definition of victim. What is your view about that? Does the definition of victim in clause 1 cover all the necessary groups of people? Is there anything missing?

Claire Waxman: There is quite a lot missing from that definition. It is different from the definition in the current victims code, which is really



HOUSE OF COMMONS

concerning. There are also some concerning exclusions throughout the Bill for certain victims, and we are not clear which types of victims are excluded. It is absolutely crucial that we get this definition right from the start; otherwise we will see wider ramifications across the criminal justice system.

I do not know if the Committee is aware, but I have been lobbying for a very long time for this Bill, and the Bill was always to be for all victims of crime. It was absolutely imperative that all victims received legally enforceable rights to justice and support. So the limitations of this Bill really concern us—I think I can speak on behalf of us all.

First, the definition at the moment is lacking psychological harm as well as emotional harm, which is really key, but the main exclusions are around relatives—bereaved family members, who are currently in the victims code. Those families or relatives are not covered under the Bill's definition, and that is really quite confusing and counterintuitive, because clause 2 of the Bill provides that a victims code must have functions relating to victims.

Although the current code does include bereaved families in its definition, this omission in law concerns me because it opens up the potential for future codes omitting bereaved families. The UN, the Council of Europe and the EU victim definition all include bereaved families—surviving families—so this Bill's definition absolutely needs to include them. It is really important to include them in legislation, because we see a host of entitlements for them under the current victims code. They are entitled to a family liaison officer and to meet with the CPS at various stages. They have a right to make a victim personal statement and to access the victim contact scheme, which is particularly important for Parole Board hearings. That is quite a large omission.

We also want to look at relatives of incapacitated victims, because we need to ensure that someone is there on their behalf accessing their entitlements. So we really believe that they should be strengthened.

I also want to talk about families who are bereaved by murder abroad. While that does not impact many, it still impacts enough UK residents, and they are subjected to unimaginable trauma. They have had a family member murdered abroad; they then have to try to work out the justice system over there, and they lack any support here. It is really important that they get referral into the national Homicide Service and also the Foreign Office, which provides them with consular support. We need to see them within the code so that they are providing a minimum level of support as well, around translation and interpreters, et cetera. Otherwise, these families are really left on their own, battling with so little support. I think we all feel the same about that. I do not know if anyone wants to add anything.

Q7 Chair: There is a lot of nodding. Is there anything else to add to that, or has that covered it?



HOUSE OF COMMONS

Dame Vera Baird: I will just add two more points, if I may. First, it is a bad idea that the definition, which is based on somebody suffering from criminal conduct, is then narrowed down by saying what constitutes an offence. That is going to cause all kinds of possible exclusions. If somebody is saying, "All right, I did bash Vera's head in, but it was self-defence," am I in or am I not, if I am that victim, before an offence is found?

The other big miss, in my view, is antisocial behaviour victims, once their suffering reaches the community trigger level—so, not everyone, but when it is persistent and repeated. They must be in there; the suffering is immense. If a delivery from Amazon is stolen from my front step, that is theft and I will be entitled to all my victims code rights, but it is not going to fundamentally undermine me. If I am visited day and night, day and night by antisocial behaviour around my estate, then it is, and yet I am outside that criterion.

There is another thing that I would have liked to see, slightly referring back to what I said about the failure to do anything to put victims at the centre. There is a definition in legislation in Victoria, Australia, which says that all victims are to be seen as inherent participants in the criminal process. That is a simple recognition that, although, obviously, the adversarial system is where the focus of criminal justice agencies is, and frankly they do not tend to think that victim care is for them, it is imperative that we do not treat as an afterthought the fact that somebody who has already been neglected enough by us to be a victim, not protected, is then stuck with that status and with the process, whether they want to be or not, and that that is likely to have more impact on them than almost anyone else in the case. You come out of the adversarial system, and obviously do not leave it behind, but think of it more broadly.

This case is largely about this victim and what they have suffered, and designating them some word like "participant" that puts them in the middle would bring a welcome appreciation by the criminal justice agencies that they have an obligation to make sure that victims are looked after. It is very clear that the CPS has told its own inspectors that it does not think that victim care is for them. There is some data to suggest that a minority of the police have a similar view. It is great if people get help from victim support and so on, but they will regress if they then go into the criminal justice system and are not treated with regard by those agencies. So, something in the definition of victim that tries to bring them to the centre of the case is very important and is a sad lack.

Dame Rachel de Souza: To come in on the point about children, it is critically important that we recognise that the needs of children as victims are different from adults. Their voices must be represented in the Bill, and the definition is particularly critical.

I will give you a quote from a girl speaking to me. She said, "I was sexually assaulted when I was 14, and now suffer PTSD with regular



HOUSE OF COMMONS

panic attacks and feelings of depression. I have tried to take my own life twice, and when I rang my counsellor, I got told to take deep breaths and have a bath. I feel let down by the system that is meant to be there to help me.”

In the Bill, the way children are referred to is inconsistent throughout. According to clause 1, we need to include witnesses as well as people who are directly subject to criminal harm—that would align with the Domestic Abuse Act—and recognise that children are victims of domestic abuse when they witness abuse.

Clause 9 references “victims of domestic abuse and their children”, disregarding the fact that children are direct victims of this abuse.

Clause 10 defines a victim as “a primary victim of domestic abuse”.

I am also concerned that children are mentioned only twice in the Bill. Both times they are mentioned as “victims of domestic abuse and their children”. I worry that this will result in many children accessing only adult-facing services, which are not appropriate for their needs; I hope that we will pick that up later. Children can be victims in their own right and not only as a result of witnessing domestic abuse.

I want to get the definitions right in this Bill, but also imbue it with children’s voices so that we really understand what children as victims are.

Chair: I am going to bring in Caroline. Welcome, Caroline, as Chair of the Women and Equalities Committee.

Q8 Caroline Nokes: Thank you, Chair. Apologies for being a few minutes late. I am going to ask my first question to Rachel, please. You focused very much on children as victims and as witnesses to abuse, among other things. I want to delve down into whether you think there has been enough recognition of the intersectionality issues when it comes to children, perhaps particularly female children or girls from black, Asian, and minority ethnic communities, or is that very much glossed over in this, and there has not been significant recognition of those issues?

Dame Rachel de Souza: There has not been significant recognition of children, full stop. My answer to you would be yes, and the way that we can deal with this is by seriously taking account of children’s voices. My office collects them in many ways and can share them with the Committee so that we can think through and ensure that those things are captured throughout the Bill. I was recently talking to Sammy Woodhouse, who was talking about her experience and her child’s experience, and the recognition of CSE victims in here as well, which plays to your point as well.

Q9 Caroline Nokes: Thank you. Claire, do you have any further comment on the intersectionality issues from a London perspective?

Claire Waxman: It is really important. One of the critical issues that we see is around migrant victims in particular. As many of you will know, we



HOUSE OF COMMONS

have been lobbying for a number of years for a firewall to ensure a safe and secure reporting mechanism for migrant victims. I have a lot of migrant victims in London. I hear too many cases where they have tried to report to the police and, unfortunately, because they were not given any sort of interpreter or they had a lack of translation or support at the start, the police immediately questioned the victims about their immigration status. That was prioritised, shared with immigration enforcement, and the person was dealt with as an offender as opposed to a victim of domestic abuse and serious violence, which was not dealt with at all. That puts the whole public at risk, so it is absolutely critical that this Bill, as I said at the start, should be for all victims of crime, regardless of immigration status or background. It has to work for everybody, otherwise we are failing.

Caroline Nokes: Thank you.

Chair: Thank you. Karl Turner?

Q10 **Karl Turner:** Thank you, Sir Bob. I was struck by the omission of specifying secondary victims. I was genuinely surprised that it was not even mentioned. Would you comment on that? It has been touched on briefly, but, for me, a child in a family situation who witnesses domestic abuse, for example, is very much a victim of that abuse, but they are not mentioned specifically. Should they be?

Dame Vera Baird: Yes, I am sure they should. It does talk about victims being people who have witnessed, but that is a fairly indirect way of addressing it.

Chair: I see it more specifically.

Dame Vera Baird: Yes.

Karl Turner: Thank you.

Chair: We now move on to clauses 2 to 4. Maria?

Q11 **Maria Eagle:** Perhaps Vera might like to come to this first, but I wonder whether you agree with the approach that the Government have adopted in the draft Bill of putting overarching principles of the code into primary legislation, and then putting the details of the code as is at the time as we go forward into regulations once the Bill is in force. I find it quite difficult to understand the concept of an overarching principle as a statutory right. I am trying to get my head round it, and there must be a reason for it, but is it an approach that you think is correct?

Dame Vera Baird: I wonder if it is going to make any difference, quite honestly. There has been a duty on the Secretary of State to produce a victims code since 2004; there has been one since 2006; they have been systematically disregarded right the way through. I cannot imagine it will make a difference putting in quite broadly categorised principles, such as somebody has to have the opportunity to make their views felt—where, when, in what connection, and so on.



HOUSE OF COMMONS

I have no doubt at all that we are all going to be very critical, of course, because we all want more, but I am very pleased indeed that this Bill is here, and I am extremely pleased that the Government have had the wisdom of making it a draft Bill so that all this scrutiny can go forward and we can really have a good look at all of those things.

But I agree with you; I cannot think that it is going to make any difference, as you cannot really interpret these overarching rights in any meaningful way. We have not seen the code. The code is not written now as rights anyway. It is written as a kind of “nice-to-have if the agencies can manage it.” I am to be consulted by the CPS if they want to do an out-of-court disposal, but if they cannot do it they will tell me why not. I am supposed to have a separate entrance so that I do not bump into the person who may have knocked my child over in their car, but if that cannot be managed, staff will do their best. My only right seems to be to be told why I cannot have my rights, in the terminology of the code. So I do not think that these overarching principles are going to add anything.

Q12 Maria Eagle: That is my fear, I must say. Again, we can all see the point of a Victims Bill, but in the context of it being a good thing generally, it is only really good if it actually dispenses some rights to people that can be enforceable, is it not? That is my concern, looking at the draft as it currently is. I am seeing some nods. Is that basically the concern that you have about it—or perhaps others?

Claire Waxman: My concern is exactly the same as what Vera has outlined, but it is also this: what is the mechanism to ensure that victims get these rights? They should have the opportunity to make their views heard, and they should be able to challenge decisions. We have that currently under the code, and it does not work very effectively for a lot of victims because we lack the mechanism to ensure that they can actually access it.

Again, I go back to the points about advocates. I believe that every victim should be able to access some kind of advocate, perhaps through a victim care hub model, which is something that I have been talking about for a number of years. When a victim comes in, they are not going to know what their rights are, but you will ensure that they get their rights, and they would be able to challenge and to do reviews because you would help them through that process and make them aware of it. Without somebody there, I am not quite sure how this gets delivered, because we have it under the current code and it does not work.

Q13 Maria Eagle: That is a concern. Notwithstanding the concerns about whether putting overarching principles into legislation is the right—or an effective—approach, are the actual principles that are being put in the right ones? There seems to be some concern that they are a bit wishy-washy. What should they be, if not the ones in the draft Bill?

Dame Vera Baird: Some of them are the right ones, but there is a complete absence of any obligation to deliver information about the progress on an individual’s case, and that is where it really falls down



HOUSE OF COMMONS

now. Our latest review of the victims bit of the ONS annual survey shows that 70% of victims who go into the criminal justice have never heard of the code or of their rights when they come out at the other end. The real worry and problem is that they are not kept up to date at all about what is happening in their case. That is utterly missing from this list.

I do not want to take us off the topic, but I would like to make a quick reference to the real risk that is coming from the British Bill of Rights. It appears at the moment as though it is going to erode the obligation on the state to protect people against breaches of their human rights, which was, to put it in a nutshell, exactly how the two victims of Worboys, the taxi rapist, were able to bring an action to demonstrate that the Metropolitan Police had not protected their right to be safeguarded from inhuman and degrading treatment because they had not investigated this rape systematically well. All the things that we are saying about the deficiencies in the rights that are going to be put here are also going to be made much worse if that Bill goes through—taking away the only real right against the police that the victims cohort has. I would like to see the opposite—that is some reference to the need to protect victims' human rights put into this Bill.

Q14 Maria Eagle: Do the measures in the Bill allow for sufficient consultation on drafting and amending the code?

Dame Vera Baird: They have missed all four of us out.

Chair: Fair enough.

Q15 Maria Eagle: Okay. I think I know the answer to this, but what recourse do victims have if agencies fail to deliver the entitlements that they have under the code, and will that be different if this Bill is an Act? Will it make any difference at the sharp end to the enforcing of rights under the code?

Claire Waxman: We cannot see much difference at the moment, other than that they are going to remove the MP filter, which is helpful. At the moment, if there is a breach of the code, a victim has to complain first to the agency, and then they have to take it to an MP, who will then take it up to the ombudsman. It is a very convoluted, difficult complaints process. So it removes the MP filter. Currently the Bill has no real teeth, which was the issue with the code, so, again, it is just a sort of complaints process.

None of us wants to see people making complaints and then waiting years for that complaint to be resolved. Many victims actually come to my office. Although we do not have the resources for it, we pick up the cases, and we troubleshoot and get the cases back on track. That is really what I would like to see: some sort of mechanism put into legislation to ensure that victims' cases are picked up, so that we can keep them engaged in the justice process and keep justice moving, but then escalate the issues around that so that there is some learning and improvement made on the back of it.



HOUSE OF COMMONS

Nicole Jacobs: I agree with everything that has been said. One of the things that is missing is the principle of what we can do so that you would not necessarily have to use the victims code to complain. What should we expect of our criminal justice partners and services working together so that there is a structure in and around witnesses and victims that would allow for that? We could add a lot of ambition into the Bill about expecting that and seeing those structures in place—for example, specialist courts. We have done them over the years, and we know that there is a lot that would really make a difference day to day to problem-solving quickly before you would ever have to use a victims code. That would be quite appropriate in a Victims Bill.

The other thing that concerns me, in terms of the principles, is what we said earlier about the definition and the services. What will be defined as services that are provided goes back to who is defined as a victim. To underscore some of Rachel's points, we have just been finishing some mapping nationally in England and Wales—I hope that you have been given a document from my office—and a huge finding is that almost all victims of domestic abuse who had children wanted services for their children. About 29% of people said that they were able to secure that. So we have a long way to go in terms of addressing services for a whole range of intersectional issues in relation to victims and children.

Q16 **Chair:** That is the National Mapping of Domestic Abuse Services document.

Nicole Jacobs: It is great to see it.

Chair: We have it here. Okay, Kieran?

Q17 **Dr Mullan:** I would like to pick up a little bit on the discussion about the idea that a broader right is not effective. If you look at, say, disability rights, where people are asked to make a reasonable adjustment, that could be seen as very vague and non-specific, but it is utilised all the time by individuals to secure their rights and get change in behaviour, both in reaction to and in anticipation of people who might take action. Could we not expect a similar response in this regard? We quite commonly put in place broad ideas and then allow the courts and agencies to further define what that means exactly.

Nicole Jacobs: I understand what you mean; I agree with it. But on the victims code, I worked in frontline services for domestic abuse for years and years. I cannot recall a single time when I invoked the victims code in order to get what I needed or to advocate for a victim of domestic abuse, because there would have been the operational partnerships and working relationships that I would try. If I felt that something was chronically not happening, it never would have occurred to me to invoke the victims code because I would not have thought that there were any teeth to it. What is the recourse? That is some of what we are echoing again. When we see chronic problems, it is not that no one is listening—people want to do a good job—and there is an awful lot of problem solving that happens, but with such chronic failures we need to see something that has more accountability, more teeth.



HOUSE OF COMMONS

Q18 Dr Mullan: You are right to say that there are no teeth, but if it comes on to the statute, in theory you could judicially review a body that was not treating you correctly, and then it would be for a judge to say whether they fulfilled reasonable efforts to let someone have their views heard, for example. Is that not the key change here? That is a major change that you are putting in a statute. You are giving people a chance to take it to court. We know that agencies will anticipate that and behave differently, and guidance will come out to help people understand what it would look like to be reasonable in delivering that.

Nicole Jacobs: It would help, but, on a day-to-day basis with victims, it is a very long game, is it not, to try to achieve the change in that way, whereas, if the effect and the repercussions were more immediate, it would really make a difference to a range of individual victims?

Q19 Dr Mullan: You are kind of asking for statute to go into minute detail as to what exactly it would look like to allow a victim to be heard. Is it appropriate for statute to go into that level of detail?

Nicole Jacobs: No, but I think it is appropriate for there to be more clarity on the repercussions of not following the code for individuals. We say "criminal justice system" as though it functions beautifully as one system, but there are a lot of individual agencies, and some of the complaints are with them solely, and some of the complaints rightfully are when they are not working together and where victims are falling through the cracks chronically, over and over. We will come to advocates and services a bit later, but I wholly expect that they will address and help with so much of that, and services themselves will do their part. But in my view, as it stands, there should be something more proactive and accountable than what is currently in the draft. Others may have something specific.

Claire Waxman: Some of these issues may well be picked up in the revision of the code, but we have not seen it, so it is hard to second-guess. The points that Nicole has made are absolutely right. It needs a bit more teeth; there is that lack of enforceability. But you are right—it may create the culture shift that we need to put victims more front and centre. Under the current code, rights do not have to be delivered and nothing happens. Under PACE, the Police and Criminal Evidence Act, it is really taken much more seriously. It is also a code, and there is not much more in sanctions, because they know that if they do not adhere to it all a case could collapse. You sort of want the same response to the victims code because, without it, it does collapse as well. A victim will withdraw from the criminal justice system if they do not get their rights under the code and the right support. That is what we need to be pushing towards.

Chair: We have until 4 o'clock, roughly. We are going to have a vote at about 4 or maybe sooner.

Q20 Dr Mullan: You remarked on the Bill of Rights. What specifically is it about the proposed changes in the Bill of Rights that you think will limit people's ability to say they have been subjected to inhumane or degrading treatment?



HOUSE OF COMMONS

Dame Vera Baird: In the consultation there was a proposal at least to weaken, for a raft of reasons, the state's obligation. There are two obligations on the state: do not break my human rights and protect me against other people who will. The way that victims have been able to enforce police investigations and so on has been by using the second one. The classic example is Worboys. The police have an obligation. Sir Bob knows about Osman statements as well, where there is a threat to life. In this case, rape is inhuman and degrading treatment and the police have an obligation to protect me against that happening. They are required to fulfil that duty and they did not. That was found to be the case.

Compare and contrast—you won't remember—the last victim of the Ripper, a young woman called Jacqueline Hill. Her mother sued the police on the same basis, that for a decade this man had run riot killing and injuring women and if only they had done their duty her daughter might not have been the last victim. There was the establishment of what I think is called the Jacqueline Hill indemnity, which is that you cannot sue the police. They have a duty to the state, but not to you individually, so the sea change is in having the human right which is currently proposed—for reasons. I am not saying it is nothing to do with trying to stop that, but for different reasons they are proposing to erode it. It is a great worry.

Q21 **Chair:** This is collateral damage.

Dame Vera Baird: Yes.

Q22 **Karl Turner:** The Government plan to increase victim participation in Parole Board hearings, which I think we all welcome, but do their current proposals go far enough?

Dame Vera Baird: I agree that it should be available to the victim to attend if they want to, but they need to be fully informed of what it will be like. Of course, they attend the trial and hear the defence, but the focus in the Parole Board is totally on the defendant. The real worry is that people may be walking into a revictimisation experience by hearing everything, as it were, from one side when they are not expecting it to be so.

I think it is a good right. There will be an immense burden on victim liaison officers and the probation service who support victims after sentence and on the whole victim contact scheme, and there will be a need to re-engage people with victim services so that they understand what they are facing from the probation service and are supported by victim services through the risk of revictimisation. Given that this Bill is, on the face of it, cost-neutral at the moment, that does not seem a practical proposition. I would not want it to go ahead without those protections being fully in place.

Q23 **Karl Turner:** Effectively, there is a resource issue.



HOUSE OF COMMONS

Dame Vera Baird: I think so. These are people whose adversary may have committed whatever they did 10 years before the time we get to parole. Those people are probably no longer supported and are then coming afresh to the whole thing that made a big impact on their life a decade earlier. You can see the risk and the need for support.

Nicole Jacobs: I want to underscore for domestic abuse the nature of the victim and the perpetrator in these cases, and the fact that many times families will know each other. I think it would be obvious to us all that the complexity of that requires some resource to be able to facilitate it well and look at it within a family, where there could be a lot of complex, differing views. It is the kind of thing that you cannot just introduce without a good bit of support for the victim and the whole of their family.

Q24 **Karl Turner:** The Government plan to introduce a duty in the victims code in certain cases, which seems a bit concerning, for the CPS to meet victims. Is that something you support? I am concerned about "in certain cases" because I do not know what cases the Government are thinking of. It strikes me that probably it leaves too much room for victims to be missed out. Am I on the right track?

Dame Vera Baird: Yes. We do not know what it means as such and that is a shame. I think it is extremely well intentioned. What they are looking for is that, if it is only the police who talk and tend to be the go-betweens, sometimes there are legal arguments like, "I'm consulting you on why we should take a lesser plea to section 20 instead of section 18," or something like that, "and hearing your views about it." That cannot be done very well by the police; it needs the lawyers themselves. I feel that it is a very good move, but it needs clarity, as you rightly say.

Q25 **Karl Turner:** It struck me that there was potential for letting victims down again because of over-promising and terribly under-delivering in making that promise in the first place. Is that something that would worry you?

Dame Vera Baird: I hope that the hearts and minds of the CPS would be very much in this. I do not know about that. Of course, there is a scheme that already requires them to speak to victims at court. A fairly recent report suggests they do not do that at present. There would need to be a radical commitment to it, but it could only be good for a victim to know a little bit about the person who is, as they would put it, on their side, I suppose, but is there to explain the complexities of the criminal justice system a bit. I think it is an admirable intention.

Nicole Jacobs: I think that as other aspects of the Bill are implemented, as we will talk about, in terms of advocacy and the structures in and around multi-agency partnerships, you can see that this would not be nearly as onerous for the CPS; I have seen it in action myself. If you imagine an advocate who is properly trained to help support the victim, the victim will have a much better gauge of what that interaction is all about, will feel well informed going into it and will appreciate—I have



HOUSE OF COMMONS

seen this myself—the fact that they have been able to meet the prosecutor and understand a bit of what is happening on the day. As Vera said, there is a great CPS document from 2018 which shows in outline how important it is. With a few caveats about wanting to make sure this system is working well, I do not think it is an onerous thing to ask and it is hugely beneficial to the victim at court.

- Q26 **Karl Turner:** It's a terribly long time ago that I was practising in the criminal courts. Back in those days, 12 or more years ago, sometimes it was chaotic on the concourse of a Crown court. If you had a prosecuting brief you would have good intentions to see the victim, if, frankly, you could find the victim. If the Government are serious about addressing this issue—clearly, it is an issue, which I suspect has got worse in recent years—they need to put money into it. Am I on the right track?

Dame Vera Baird: The CPS has made an estimate of how much it would cost. It seems to me quite high, but none the less there will be a cost. They will not put a new burden on an agency and not resource it, so I think you are right.

- Q27 **Karl Turner:** Are there any other areas where there should be an obligation for victims to be better informed that is not already provided? Is there anything specific you can think of where there should be an absolute statutory obligation for victims to be taken to one side and better informed?

Claire Waxman: There was a recent report from the Information Commissioner's Office on the request for rape victims' data. That is where we would like to see much more legal representation for the victim, to explain that process to them, because while the ICO report published an opinion on how the police and CPS should be requesting this data, with new forms and giving advice, we need someone to work on behalf of victims to make sure that is actually happening, to clarify that process. For a rape victim to come in and be asked for their mobile phone, medical records, social services records and counselling records is an overwhelming process. We need somebody to support and explain that process to them, and to ensure that the police and CPS are not overstepping and are keeping to the guidance, as they should.

- Q28 **Karl Turner:** When I speak to constituents who have been victims of serious sexual offences, very often they open up with, "My barrister said." Of course, it is not their barrister; it is the Crown's barrister prosecuting on behalf of the Crown. There should perhaps be better emphasis on the victim having some proper legal representative, perhaps not at the trial itself but throughout the process. Is that something you would support?

Claire Waxman: To go back to Vera's earlier point, which she has made a lot, victims feel like bystanders; they are not part of the process. Sorry, I don't want to talk over you, Vera.

It goes back to the main point that victims feel that the defendant has a defence team and is updated and has all the information, but the victim



HOUSE OF COMMONS

will be left in the dark more often than not. They will not be able to get hold of their police officer; they will not have any direct contact with the CPS. I have some victims going into court who do not understand anything about the process; they do not even know what will happen in the courtroom, yet the crime has happened to them; it has impacted them and their life directly.

Q29 Paul Maynard: We have already heard about the Parole Board. The Government are also proposing to introduce victim personal statements in mental health tribunals. What are the positives and negatives that you see of that?

Dame Vera Baird: We have argued that this should happen. The positives are the benefits that undoubtedly come from a victim personal statement that we are fairly familiar with in the Parole Board in the Crown Court, and the opportunity to describe how you have been impacted. It is part of what Claire has just alluded to, bringing the victim right into the middle of it and letting them tell the powers that be what it has been like for them. That is no less a momentum from victims of mentally disordered offenders who tend—this is a generalisation—not to be treated quite so strongly as victims of criminals because there is not a criminal, if you think about it. The person will be sent to a mental hospital, restricted or whatever it is. I think they need the same right.

As to how the mental health tribunal sees it, to be fair the MOJ has already tried to bring this in. It is good that it will go into this Bill. I think the mental health tribunal is worried, as I understand it, about allowing material that is irrelevant to their decision, which is basically whether the person is a risk to the public and whether or not they should release the restrictions on the person, which they would say are technical medical decisions, and the victim personal statement has nothing to contribute.

It is exactly the same as the Parole Board because by then the person has served all of their sentence for punishment and rehabilitation and the only question is the risk to the public, and the victim personal statement is not likely to be relevant to that. I think the Parole Board thinks you need legislation to cover it, so that they do not appear to be taking irrelevant material into their decision making. The Parole Board has managed to accommodate that and make very clear that, although they are glad to hear it and it has been impactful, it is not part of their decision. I think that needs real clarification. I think that the judges in the tribunal think there needs to be legislation. The MOJ did not think there needed to be, and there is no promise of legislation in the Bill for it.

Q30 Paul Maynard: As you point out, the tribunal is different from both the court and the Parole Board. I gather that publicly you have argued that the rights of victims to information and to be heard should override patient confidentiality—

Dame Vera Baird: I have never argued that.

Q31 Paul Maynard: You say, “Victims’ families must be provided with appropriate information to help them cope and recover. Without any such



HOUSE OF COMMONS

context and understanding, their recovery will be far harder.” How does that reconcile itself with patient confidentiality?

Dame Vera Baird: It is not about the mental health tribunal.

Q32 **Chair:** It goes more broadly, does it not?

Dame Vera Baird: Yes. It is about the fact that, if there is a guilty plea in the Crown court, you do not necessarily get to know what is wrong with the person, or on what basis they have pleaded guilty, because you do not get any sense of what the experts on both sides, the psychiatrists, are saying. Therefore, you go away completely unsure whether your child was killed because the person had some disease that drove it, or whether it was deliberately directed at him. It is that level of a need to understand what drove the behaviour that I was talking about. It is nothing to do with the mental health tribunal.

Q33 **Paul Maynard:** I am grateful for the clarity. The full quote, if I read it out, would perhaps provide slightly more clarity. I have now listened carefully to what you have had to say.

The Bill has quite a broad definition of “victim”. It includes victims where the perpetrator is eventually found not guilty. You have argued here today that you would like to see those definitions broadened yet further. You mentioned the victims of antisocial behaviour where the community trigger has been reached. Of course, it does not necessarily mean that a criminal offence has been committed. I know from my own casework that many cases of antisocial behaviour interlink with mental health.

Do you, therefore, think it is appropriate that the same rights that you wish to allocate to victims in the courts and the Parole Board should apply to a much more sensitive and nuanced situation of a mental health tribunal where someone will be subject to a community treatment order that is not necessarily consequential to any criminal act that they may or may not have committed? Are we trying to apply a cut and paste here that misses many of the nuances of mental health treatment?

Dame Vera Baird: Is there another way of giving the victim, or relative of the deceased victim, an opportunity to tell someone in authority how it has been for them? A victim personal statement seems to fit that bill. That is the model we have had for a couple of decades now across all of the courts. All the other courts deal with it, even though it is not central to their decision making in any way whatsoever. Therefore, you have episode one, and episode two is looking at how you evaluate the decision you must make about the defendant, or mentally disordered offender, or about sentence. That is its purpose.

Q34 **Paul Maynard:** You advocate for victim personal statements partly because they empower the victim and make sure that they feel they are part of the process, but also surely because that voice then needs to be heard by those making decisions. If it is the latter, surely that has an impact on the decisions that are made. You cannot argue that the victim is heard and they should also be discounted when the decision is made in that mental health tribunal. I am finding it hard to reconcile your point



HOUSE OF COMMONS

about mental health tribunals being no different from any other part of the justice system.

Dame Vera Baird: I am sorry that I am not explaining myself very clearly.

Q35 **Paul Maynard:** It is probably me being stupid, and not for the first time.

Dame Vera Baird: Not at all. It is really a matter of nuance. I am the Victims' Commissioner. My interest is in giving the victim an opportunity to be heard and to get satisfaction from that in a setting where they are confident that relevant, authoritative people are hearing what they say. That in itself is a great benefit.

Paul Maynard: In the interests of time we will have to leave it there.

Claire Waxman: If I might add to that point quickly, in everything we talk about we always want to have that right, and whether they take it up is victim-led and victim-informed. There will be some families who want to understand and some who may not.

Chair: Some will not want to do it; understood.

Q36 **Rob Butler:** You have talked a little bit about the CPS already. I wonder whether you have specific views—Dame Vera, from some of the things you have said you may well do so—about whether the Government should strengthen the victims' right to review schemes.

Dame Vera Baird: I do. I believe that about a year and a half ago the High Court made a decision in which it said that, although it is not a right, victims may make representations if they want to. I do not think that is fully represented in the way the victims' right to review is currently on the CPS website or known about. It needs to be made clear that people can do that.

My other argument is that there should be independent legal advice for people to take forward a victims' right to review, because they have to contend sometimes with an evidential legal reasoning and they need their own representation to be able to do that effectively in some cases if, as Claire has just said, they want to.

Q37 **Rob Butler:** Is there anything anyone else on the panel wants to say specifically about the victims' right to review? If not, are there any other additional rights that you think more broadly should be included in an enhanced victims code?

Claire Waxman: I talked a little earlier about rights to privacy. That comes up quite a lot not just for rape victims around their personal material but around the victim personal statement. Many victims are not aware that when they do a victim personal statement it will be disclosed to the defendant, the media, et cetera. Sometimes there are some safeguarding issues around what they have included, again picking that up, and that happens in the Parole Board as well. In the victim personal statements at the Parole Board, some victims or families do not want particular information to be disclosed. We need to think about their rights



HOUSE OF COMMONS

to privacy throughout the whole process. That is one that I would absolutely like to see in the Bill.

Q38 **Rob Butler:** Nicole?

Nicole Jacobs: No.

Q39 **Rob Butler:** Rachel, specifically on children, I imagine.

Dame Rachel de Souza: I think the Bill should make explicit reference to the rights of children who have been exploited criminally or sexually and appear as both victims and defendants. The Bill should ensure that these children are treated as victims first and foremost and are not criminalised for offences that are clearly linked to exploitation. My reference is to the Sammy Woodhouse case. I have been having conversations with her and supporting her work in that area.

Q40 **Rob Butler:** Do you think that should be on the face of the Bill and in the text of the legislation rather than in the victims code?

Dame Rachel de Souza: I thought you asked about the code.

Q41 **Rob Butler:** The code, yes, I am asking about the code. You are talking about the code, because I thought you were talking more about the legislation.

Dame Rachel de Souza: We have the principles and the code. Obviously, my answer to you there was in reference to the code.

Q42 **Rob Butler:** Okay, the code. Dame Vera?

Dame Vera Baird: Everybody has probably covered the other things that should be in there. One thing that I am worried about is something that may be in there but is not necessarily strong enough. After someone has been sentenced, a lot of victims do not understand what the sentence is at all. Although they get some explanation, they do not get very much. Sometimes they are shocked to meet the person quite shortly at large in Tesco when they thought the individual had received a much longer sentence. There are all kinds of nuances that make it difficult. You will know, because you were on the Sentencing Council, that somebody who has been on a tag will get a half-day off for every day they have been sentenced to prison because they have had that restriction on their liberty. A lot of that is not really explained. I would like that to be stronger.

Q43 **Rob Butler:** You will be pleased to hear that very shortly this Committee will conduct an inquiry into understanding sentencing.

Dame Vera Baird: I leave it with you.

Q44 **Paul Maynard:** Dame Vera, you talked in your evidence about the statutory duty on victims' organisations to make victims aware of their rights under the code. Is a statutory duty the only way to allow victims to know their rights under the code? Is there no intermediate step that you might take before resorting to legislation as the only tool that can drive



HOUSE OF COMMONS

this?

Dame Vera Baird: It is because of the history of disregard as I have regarded it. For instance, many victim support-type agencies do not know that there is a code which they should be arguing the rights for, because it would not have any play with the agencies with which they would be negotiating due to this history. A statutory duty is probably a good thing, but I am very sure that there ought to be a method of getting intervention to try to ensure that people do get their rights and that a complaints system is not really what we need. I do not want to bump into the person who has done a hit-and-run impact on my child at court. I want a right to a separate entrance in a separate waiting room. I do not want that to go wrong and I want to have some mechanism for complaining.

I am very much in favour of a lot of people like Claire, although they would be in a minor key, being in every police and crime commissioner area who would be some sort of victims' champion and would take an interest in how victims' rights were being delivered to individual people. They would have great local authority, as PCCs do locally, and would have lots of very good contacts. One would hope that Victim Support, ISVA or whoever who found that a person who was a victim was not getting their rights would try to get them themselves. We hope that this will up the profile of the code, but in default they would have someone to go to who could use those mechanisms to try to put the matter right in the case and not only in a complaint after.

Q45 **Paul Maynard:** We will be coming on to all that, I am sure you will be pleased to hear. It is very charitable of me to offer you an open goal. The Government have stated their view that none of the measures in this Bill will add to the public purse or will cost anything. Is that your opinion?

Dame Vera Baird: I think we are all shaking our heads in unison.

Q46 **Chair:** There is a lot of shaking of heads. You think that it will. Is there any qualification?

Claire Waxman: If you want to listen to victims' views and make sure they feel heard and help them through the criminal justice system, we have to acknowledge the state of our criminal justice system, how under-resourced and underfunded it is, and the court backlogs and the impact that has on their lives and their trauma. I have, sadly, rape victims waiting five years from reporting to getting into court right now. Many will want to withdraw; many cannot cope. Would a Victims Bill make any difference to that? Unfortunately, no.

Chair: You are saying there is a resource issue.

Paul Maynard: I could come back, but in the interests of time I will not.

Q47 **Rob Butler:** You have just touched on PCCs and the suggestion of victims' champions. I wonder whether more broadly you feel that the Bill gives PCCs the powers they will need to monitor local bodies' compliance with the victims code effectively.



HOUSE OF COMMONS

Claire Waxman: The PCCs need to have more powers. We need to look at data—it is about getting data from the police, but it goes much wider than that—to ensure that there is sharing of data with PCCs but also what powers the PCCs will then have to hold those agencies to account if they do not deliver those rights under the code and they are not complying. That will need to be resourced. I know that, for London, what they need in order to do this job effectively is estimated to be much higher. I know that you have the police and crime commissioners for London coming before you next week, so they will go into more detail.

Q48 **Rob Butler:** What rights do you think the PCCs should have? What do you think they should be able to do, and what steps do you think they should be able to take if they are not satisfied with the information they receive?

Claire Waxman: First, there is a data issue, so it is about data sharing. For example, at the moment the CPS does not share data with the PCCs. It is quite difficult to get hold of it. They get the Met data, but it is about making sure they have all the data they need.

Q49 **Rob Butler:** Can you explain a little bit what sort of data you feel they should have?

Claire Waxman: Looking at their rights and duties under the code, how are they complying with it? Are they collecting the data? I know that the issue we have had with the Met and, I am sure, other police forces is that it has been quite difficult for them to collate some of that data. We are now seeing some of it. We have developed a brilliant dashboard so that we can monitor some of that, but we need to see how the CPS and other statutory partners also monitor that and how that will be shared with the PCCs.

Dame Vera Baird: I agree with Claire, who is probably in the best position to understand it well. There have been difficulties in collecting the data, apart from any resistance there may be. Certainly, when I was a PCC in 2019 the MOJ wanted data to be collected, but everyone was keeping it in completely different ways. It was also a new burden. There will certainly be a need for at least an extra analyst at every PCC's office, if not more, to be able to do this in an effective way. I think there is a long way to go before it really gets off the ground. The PCC will then have to have some mechanism for calling people to account, but I am guessing that is properly for the local criminal justice board rather than a sort of power.

Q50 **Rob Butler:** In a way, this is the ideal question for you because, as you say, you have been a PCC and you now sit as Victims' Commissioner. How do you think that should take place?

Dame Vera Baird: This is part of the long game, as somebody has already said. The way that we might ultimately ensure that victims are shifted into the middle of the criminal justice system is if the culture coming from local leadership is that it should be done and the data is to be collected—and we are all to say what we have done and what we have



HOUSE OF COMMONS

not. There absolutely has to be victim input into that, which at the moment is not that clear. That is imperative. I may self-police myself and find I am doing very well, but my victims may not agree.

That is a good system in the longer term if it becomes the collective culture. The criminal justice system obviously has the problem that there are a lot of players—the police, the CPS, the Probation Service, the Court Service—but they all come together in the criminal justice boards locally and that seems to be a way of trying to shift the culture on a local basis. I still feel very confident that we need the mechanism that Claire, I and the others agree with. It is to get it right and deliver for me, Mrs Smith, in this case. That overall data collection is not going to help me in my case. For my one case, if I am ever in the criminal justice system, it needs to be got right for me through some intervention.

- Q51 **Rob Butler:** Does anybody have a view, and to a degree you may well do, whether there is any risk in giving this role to PCCs, who, after all, are not independent and objective officials but are elected? Do any of you think there is any risk in that one way or another?

Dame Vera Baird: They are elected but they have an executive role.

- Q52 **Rob Butler:** Indeed. There is not a panoply of noise coming towards me when I ask that question, so it does not sound as though it is something that has been an active concern on anybody's part at this stage.

Claire Waxman: Picking up on the point that Vera made, it is really important that you have whatever you call it—victims' champion, or whatever—that sort of role within the PCCs. As Vera has rightly pointed out, you can look at the data, but you also need to understand what is happening on the ground and listen to the lived experience of victims, and bring that back to the PCCs and work with them on this. You do need to have victims' champions or some representative.

- Q53 **Rob Butler:** Nicole, is there anything you want to say about PCCs?

Nicole Jacobs: I agree with that. It is not necessarily a concern about the PCCs; it is just about what it takes to understand adherence to the code. You have such huge attrition rates.

As a short example for domestic abuse, something might be codified in data as an outcome that indicates the victim withdrew, but you do not really understand what practice might have led to that happening. Is that a legitimate outcome? To get to that, you have to have the expertise to have connection with victims who have not been proceeding through the criminal justice system. How do we do that? We are coming into clauses about services.

Chair: We are keen to move on to this.

Nicole Jacobs: The challenge, partly, for the PCC is to be able to connect in quite a large area to police forces and victims services, which is a big ask for them.



Q54 **Rob Butler:** Very briefly, Dame Rachel.

Dame Rachel de Souza: I would like to see consistent and rigorous PCC monitoring, and collecting data particularly on children's experience of Victim Support services. I think we should have an expectation.

Chair: We need to get through a couple more topics before we get to a vote. We want to touch on commissioning. Angela, over to commissioning of services.

Q55 **Angela Crawley:** Thank you, Chair. Specifically on the commissioning, clause 68, I believe, places a duty on the specified authorities collaborating with each other in commissioning services. Will that deliver a more effective service for the victims of domestic abuse, sexual offences and serious violence?

Nicole Jacobs: By far and away this is the part of the Bill that excites me. Those clauses are the ones that excite me the most. As it stands right now, there are real obstacles to seeing the advantage that this could bring. Part of the reason why the role of the Domestic Abuse Commissioner was ever created was Government's own recognition of the postcode lottery for services. That stems from services having been built over the last 50 years never sitting in core budgets, really varying from place to place. I hope that the mapping document I have given you all will show some of that in a little bit more detail.

The reason why this excites me is that you have had such variability at the local level at which commissioners are involved. A lot of the time it is community safety partnerships but without involvement from, say, health or others. There needs to be a bringing together in that duty to collaborate. That is a huge step forward, with a few caveats.

I have been having roundtables over the last few weeks in different areas of the country with commissioners who fit this profile, asking them specifically about this. They have been quite welcoming of it, saying that this would have really helped them or would help them to be able to bring together a patchwork of services or a provision of services that would include children and other services where there is such variability now.

However, there are a few improvements that need to be made. Education is not mentioned in this duty to collaborate. It plays a huge role, and certainly for children, so it should be included.

The resourcing alone is effectively put forward as if it is cost-neutral with just a few hundred thousand pounds for the whole of the country. Really and truly that is not realistic if you are talking about bringing commissioners together. The mapping and needs assessment, the timescales and the ability to do that sounds quite easy in some ways, but, effectively, it is much more complex.

There are commissioning cycles, thinking about who may take responsibility for the first time ever, potentially, and finding that in their



HOUSE OF COMMONS

budgets. There is a level of complexity about this duty to collaborate that has to be realistic in the costing of it, in the way that it is set out, thinking of equality duties and the whole range of intersectional issues that come up.

I wanted to make sure I said that. It could be a huge stride forward, but it has to be set out in a way that will really work for commissioners, and will be meaningful for them and equip them to bring more resource into the system.

Having said all that, one of the things you will see in the mapping is that we are vastly under-resourced in services. I am talking about domestic abuse and sexual violence, but this could apply elsewhere. Certainly in these services, you can see in the mapping that it is very, very thin on the ground. In terms of the comparison between what victims have said—we did a national survey in England and Wales, and you have some of that information—they said they want mental health services or therapeutic support services for their children. When we have asked survivors themselves, “Did you get that?”, there is a huge disparity between wanting it and getting it.

What I am trying to get across, and I will not get into all the percentages because you will have all that in front of you, is that a duty to collaborate will only take us so far and it will not truly address the existing gaps of resource in the system that we can see.

I would go beyond that for “by and for” services. What I mean by that would be services for disabled survivors, LGBTQ+ survivors, male survivors. There is a whole range of “by and for” services for black and minoritised victims, where you want to see those services commissioned in the patchwork of provision. That is harder to do at the local level, which is why you see such disparities. The vast majority of “by and for” services sit in London and the south-east; there are very small percentages anywhere else. That will continue in a duty to collaborate, I am afraid, and we have to set aside some resource for a national funding part for those “by and for” services, if we will ever see them, and we know they are needed.

There is a big gap in the realism about the resourcing in this Bill. I do not have every solution into how that is achieved. It is a huge caution to say that in a victims code we would say, “Services will be available to you,” when we know that, even with a duty to collaborate, we will not get to the “by and for” services or the services that victims have told us they want.

Q56 Angela Crawley: Thank you. You have answered a number of my other questions around whether there should be community-based services and whether we should ensure that “by and for” services are part of that commissioning; so, thank you.

My final question is: should police and crime commissioners be required to incorporate effective promotion of the victims code into the



HOUSE OF COMMONS

commissioning of services, specifically in their training, induction and practice, and how would that be delivered in practice?

Nicole Jacobs: It could be delivered quite easily in practice. Services are asked to do many things specifically and they would be highly motivated if they understood how this fits with their advocacy. To state the obvious, sometimes people think, "Oh, a victims service—what do we mean by that?" I know in the next clause we will talk about advocacy, but it is about standing alongside someone, making sure systems are working for them, getting what they need. That is not just in the criminal justice system; that is in housing and in all sorts of other ways.

The commissioner of services and the advocacy services themselves would embrace the victims code especially if they understood what the repercussions were of not following it. To require a knowledge of the code and conveying what the code is all about would be quite easy.

Q57 **Chair:** What about the commissioning for children?

Dame Rachel de Souza: This is absolutely critical and I was really pleased to see these clauses here. The system has to work for children. We know children victims are different; they are likely to have long-term effects of their experiences. To quote from a 13-year-old girl recently, "When we open up about sexual assault and harassment, we are not taken care of; instead, we are made to feel like we're the problem."

Services must coalesce around the child. That is how children can recover from this, where they do not see services as separate. We are dealing with this issue right across the public sector. I have just been involved in a care review, the SEND Review. In every bit of the public sector, we are all saying the same thing. Services need commissioning; agencies need to work together; they need to support around the child. A lot of that is not necessarily about new funding; it is about doing things differently and reforming. That is what I would like to see.

The second point I would make is around data. We need far better data to be able to do that work about children's experiences. A piece of work I am doing at the moment relating to your question on the intersectionality with girls is around sexual abuse referral clinics, where we are gathering the data on sexual harassment and victims. We will be able to bring that to the table. We need to be working together far better for victims in coalescing services around the child, collecting great data and doing things differently.

Chair: That is very helpful. Caroline, do you want to come in, because I am interested in definitions of ISVAs and IDVAs?

Q58 **Caroline Nokes:** ISVAs and IDVAs: Nicole, you have just given us a really compelling argument about specialist services. Vera, in her response, called for standardisation and for there to be qualities and guidance around that. No one would argue with that. Does that throw up a danger for specialist services, perhaps for black women, for LGBT people, domestic violence services for men and, of course, for children?



HOUSE OF COMMONS

What is the challenge around that? I do not know whether Vera or Nicole want to answer that first.

Nicole Jacobs: I have worked as an IDVA. I have managed IDVA teams. This has been a lot of my day-to-day work for years and years. Please do not misinterpret what I say as that I do not believe in what IDVAs do. IDVAs are proven to help people navigate, engage and feel heard. They are essentially one of the key ingredients to deliver a victims code, for example, without any doubt.

That being said, IDVA teams cannot exist on their own. This Bill slightly reads as if that is all you need. The trouble with that, as we have just heard, is that we need a lot of services in and around those kinds of roles, and for children but more community-based. Some 70% of victims of domestic abuse utilise community-based services. Sometimes we think that means IDVA services. That is one type of role. There are outreach workers; there is therapeutic support; there are all sorts of roles that you will see victims have said they want.

We have to understand that we are struggling, and an IDVA team will struggle if they are not sitting around a properly-resourced, community-based service.

Chair: Shall we just pause there for a second because there is a Division? I have to suspend the meeting. Are Members able to return in sufficient numbers to make a quorum or not? Yes, I think I have enough to continue with the quorum. I will suspend the meeting and then we will come back. We will finish by 4.30 pm. If you are okay with that, we will try to do it that way. We will shoot back and resume as soon as we are able to get through the Division lobby.

The Committee suspended for a Division in the House.

On resuming—

Q59 **Chair:** Nicole, you were talking about where we are with ISVAs and IDVAs.

Nicole Jacobs: Yes. The role that ISVAs and IDVAs play is critical. I want to get across a few key points that impact these clauses. In terms of clarification, as I was saying before the break, they really only work well if they sit in and around broader services. No. 1, that is what survivors of domestic abuse will tell you they want, and presumably other victims would say the same. In other words, if you are an IDVA and you have 40 cases of people you are supporting, and you have a much greater volume of victims in the area, there have to be other services that will help support them or you will not be able to do your role and you will not be able to fulfil what we would expect here in the victims code. They are dependent on the services around them and we know that is very important.

The second point is that when I was working as an IDVA years ago—this was in the early 2000s and training IDVAs—a lot of the commissioning of IDVAs was coming out of community safety partnerships, again variable.



HOUSE OF COMMONS

We are quite oriented to the criminal justice response, so it was getting referrals directly from the police, helping people negotiate through that contact with the police all the way through the court system, if it ever got that far.

That was 10 years ago, and much more emphasis on those roles is now oriented in the community. There are multi-agency risk assessment conferences, which may or may not be criminal justice-oriented.

What I would love for us all to understand in how we define these roles is that they have to be broad. The definition has to be broad to some degree to allow for the reality of what these roles do. However, for the role they play for the victim in the criminal justice system, we have to understand that we need more workforce development back towards court, to the criminal justice system. That is not to say that all IDVA roles would do that, but some should, and I would include the family court as well. It has to be recognised in some way in this Bill in terms of costs as well. I wanted to make sure that we got that across.

There are challenges and I guess it reinforces the need to have this definition. Last year, I commissioned an organisation called Safelives, which you will hear from in the next few weeks, to do a report about which IDVA services are specifically commissioned for going to court, essentially—the criminal court or family court. They found how few were. They estimated that 71% of victims were navigating those systems without any support at all, meaning IDVA support. So we think they are there and we think they are well-funded, but they are not. Also, we found that one in five IDVAs who were commissioned were telling us that they were not allowed in the court.

Having the definition and giving this footing to these roles is very important. I found this immediately as commissioner. We often talk about the criminal justice response thinking of the statutory response. Victims will tell you that their most frequent contact and their best contact that makes them feel confident and safer is through IDVAs, who are helping them with all sorts of other issues, if they have them; making sure they can help them get hold of the police; making sure they can help understand who the CPS is and what their roles are. So there is a lot to address in the challenge of this.

The clauses themselves, without recognition of the broader services, would not work, essentially, just giving them more definition. We talked about the duty to collaborate. It simply is just not enough. I hope I have said that in a way that makes sense.

Q60 Chair: I get that. I want to ask one other point before we move on, Nicole. What about the definition itself? What about the text of the definition? Is it broad enough or is it potentially restrictive in some respects? A concern has been suggested, "What about the roles provided by 'by and for' specialist services?", as they are sometimes referred to. Are you satisfied that they would be covered within the definition, or might it inadvertently exclude them?



HOUSE OF COMMONS

Nicole Jacobs: I would like to see it fairly broad. That is not to say that those roles should be characterised as doing everything for everybody, but “broad” in the sense of being able to reflect the reality of how services from area to area can be commissioned slightly differently for that advocacy role. With “by and for” services, like black and minoritised services, one of the striking things from the mapping document that you will see is that they are far less likely to be commissioned for that IDVA service. What we need to see again, in bringing this all together in terms of ambition, is recognising those under-resourced areas and making sure that we have some additional funding in the system to address those things.

Q61 **Chair:** Thank you. Claire, do you want to add anything to that?

Claire Waxman: The Bill obviously looks at IDVAs and ISVAs, but we have other independent advisers, IVAs; we have stalking advocates who do a similar role to ISVAs and IDVAs. As it is a Victims Bill, we would need to look at all of those and, yes, formalising it, because, on the point that Nicole made, we do often see ISVAs and IDVAs who do not know much about the code. Some victims do not get the right support through the criminal justice system. There are some who are very good at knowing the code and taking them through the criminal justice journey; there are others who are better with housing and family court or other aspects. We do need to formalise that as well.

I have a concern. When we are formalising, we do need to look again at data sharing. If we have IDVAs and ISVAs, one of the biggest issues that comes up for all these advocates is that they cannot access the data. If they are there to provide support to victims and give those updates, they struggle with doing that if they are not accessing the data or being able to access that data.

Q62 **Chair:** Thank you. Rachel?

Dame Rachel de Souza: Just briefly, you know I am going to want CHIDVAs and CHISVAs for obvious reasons, with specialist training in children’s rights and trauma.

Q63 **Chair:** That is the same point you made. We have talked about the duty. Should there be a statutory duty to provide on all these agencies? I get the sense that that is what you are saying. You want the statutory duty. You are happy with that. The definition at the moment for the duty to collaborate is “to collaborate when commissioning support services to victims of domestic abuse, sexual offence and serious violence.” Should that be changed at all? Are you satisfied that it should be defined in that way, or should there be a broader definition?

Claire Waxman: When we talk about serious violence, we need to clarify who we are capturing under that. It is a Victims Bill, so it concerns me when defining victim support services that we are limiting it only to that.

Q64 **Chair:** Vera, do you have any thoughts on that?



HOUSE OF COMMONS

Dame Vera Baird: It probably needs reconciling with the obligation of the police and crime commissioner to commission victim services on a broader basis for victims of burglary and so on. At the moment, it seems like a very good foundation to build on, and it recognises the most serious end of crime.

Nicole Jacobs: There are other things in and around the serious violence prevention duty. There are other ways and mechanisms. This is not the only way. That is why we are comfortable broadly with that narrowing.

Q65 **Chair:** That is helpful. It is very useful. Can I come back to you, Vera? We are now coming to clause 11, which is the situation as far as amending the role of the Victims' Commissioner is concerned. What is your view on the provisions there in relation to the Victims' Commissioner?

Dame Vera Baird: I have two points to make strongly. The first is quite simple, and I do not think it will cause any difficulty. I have asked for the obligation on criminal justice agencies to have to respond to reports. It has been fixed to the annual report. That is not what I wanted. I do not think it fits the bill.

The annual report includes a summary of the major reports that we have done during the year, and the really important thing is to get a response to the major report. We did one about fraud, one about special measures and one about online safety. It is to the substance of those. If I do one in April 2022 about fraud, to suggest that the response ought to be to the summary of it in my next annual report is not right. That has slightly misfired.

The most important thing that I think should be in this is to retain the duty to keep the code under review at national level, which I currently have. Certainly, I said that the PCC should have it at local level, but there isn't anyone else at national level charged with that task, and it is insufficient just to do it locally.

Q66 **Chair:** Should there be a specific provision to consult the commissioner on those revisions?

Dame Vera Baird: Yes, I think so. I would like to be consulted by the inspectors, for instance. They do, as it happens, but the next tranche of inspectors may not wish to consult a Victims' Commissioner, so I prefer it to be an obligation because victims' voices have to be in wherever we can put them.

Chair: That moves us on to the inspectorate with Maria.

Q67 **Maria Eagle:** Coming on to clause 12 on the inspectorates, there is no inspection activity at the moment that deals specifically with code compliance or looks at the system and how it works from the point of view of victims. So the inspectorates, to the extent that they do that, are not doing it because they have to; they are doing it because they are doing it. Clause 12 gives Ministers the power to direct regular joint



HOUSE OF COMMONS

inspections. Is that something you agree with? Is that the way round it should be, with Ministers having the power to direct? Will the measures that are set out in the Bill deliver improved monitoring of both the improvements and the effectiveness of the code, and of victims' experience of the system as a whole?

Dame Vera Baird: This is part of what one of my colleagues called the longer game, and the inspectorates have an important role to play. I suppose Ministers directing is not an ideal, but there is a power for the Victims' Commissioner to send reports about issues to Ministers, so it is quite possible that the Victims' Commissioner could get the voice of the victim into those powers to direct by that mechanism. The inspectors themselves—no doubt, you will talk to them—are, I think, very willing to do more about victims.

I had a meeting with all four of them together yesterday, and they asked how they could have more impact on the deficiencies that there currently are in victims' treatment, so I have pretty good hopes that they will take this on with relish. I am never quite sure how much the agencies that are being inspected necessarily automatically take on what they have been told to do by the inspectors, but, of course, they can revisit to make their point.

Maria Eagle: We have had that issue as well.

Chair: Yes, we have had that a few times.

Dame Vera Baird: Given that that is the framework at the moment, this can be helpful, but it is a pretty limited framework from that point of view.

Q68 **Maria Eagle:** The impact assessment assumes that there is going to be a joint inspection every three years. I do not know whether that is a policy or whether it is just an assumption for the impact assessment. What would you think of that level of framework?

Dame Vera Baird: I don't think it is very sufficient. As a basic minimum, it might be helpful, but I would not want it to rest there. The inspectors do quite a lot of local inspections too—thematic ones—which they could very well do together. I would also like to see the reintroduction of the inspection of the Courts Service.

Q69 **Maria Eagle:** It is a bit of a gap.

Dame Vera Baird: It is a very big gap. That could make an enormous difference to how victims are treated.

Maria Eagle: Yes, we agree about that.

Chair: Yes, we all agree there.

Q70 **Maria Eagle:** In terms of the rating system, as there is no inspection that looks at this at the moment, do you have any views about how the inspectorates should be doing ratings?



HOUSE OF COMMONS

Dame Vera Baird: It is quite difficult to move the thing. Basically, it is HMIC, isn't it, that gives forces different levels of special measures? Maybe that is not the right one. I do not know how well that reads across, to be honest. I don't think it is the most important issue.

Maria Eagle: Some way will be found.

Dame Vera Baird: It is this view about how much impact the inspectors' reports have that is in question. Does it make it more impactful if you are put into whatever you are called, like special measures, or does it not? Is it perhaps better for the inspectors to revisit after a relatively short period and then report whether it has improved or not? Does that have more impact? There is a bit of a problem, as I see it, but very embryonically, about how much the agencies take notice of what the inspectors say.

Claire Waxman: Is there a role for the parliamentary ombudsman? That is where they look at breaches of the code, but they obviously have to wait for a complaint to come to them. I know the ombudsman would like to be able to go out and look at specific concerns and areas without waiting for complaints to come their way.

Q71 **Maria Eagle:** That is quite a different role from the one they currently have. Does anybody else have anything to add on those points about the inspectorates?

Nicole Jacobs: We are very much in agreement about that and the inspectorate of the court. Going back to one of the first comments I made about the importance of specialist courts and how they are a great way for victims and witnesses to feel the code is working, that is about clustering of cases and agreement with the court. There are so many things that come up in relation to the Courts Service, so I agree with you about that being important.

While I have the floor, I want to reiterate the point that the Victims' Commissioner role and the ability to make recommendations and individual reports would bring the powers in line with my office, which came into effect in November, and how useful it has been to be able to publish reports that are quite individual in nature and that have specific recommendations in them where they have to be responded to within 56 days. It makes a lot of sense.

Maria Eagle: Thank you.

Q72 **Dr Mullan:** On the issue of reports, is how your annual report is defined in legislation perhaps different from how your multiple reports are? Do you think there would be a way for the Government to easily understand? You say "report", and we all might have a common-sense understanding of that. How could they define it in a way that is going to be able to instruct people to respond in an appropriate way?

Dame Vera Baird: When we do our research reports—as they are called—we always send them to the Minister anyway, so there is a fixed



HOUSE OF COMMONS

point at which they become sort of semi-official, and it might be from that that we would ask people to respond. I would expect it to be caveated with a reasonable request for a response from the Victims' Commissioner. Some of our reports do not need a response, in a sense, but where it is needed it needs to be to those reports.

We have driven the case to have the annual report presented to Parliament and not just to the Ministry of Justice, and that has elevated the status of the victim there. We fought that one well. That is going to be in the legislation, and I am pleased they have taken it on.

Q73 Chair: That is very helpful. Thank you very much. Clause 13 relates to the removal of the MP filter. I get the sense that everybody was in favour of that. Nobody really dissents, so I suspect that we can take that quite quickly.

Dame Vera Baird: As for what difference it will make, it will increase the number that get through—

Q74 Maria Eagle: More cases.

Dame Vera Baird: Yes.

Q75 Maria Eagle: At the moment, if there is absolutely no merit to a case that gets brought to me, that is the role you are supposed to play as an MP. I have been known to refuse to pass cases on, but usually it is somebody who has tried everything else and lost cases here, there and everywhere, and they just want it reheard. What will happen is that you will get a certain number of more unmeritorious cases coming at you, but no doubt others that otherwise perhaps would not have gone through that do have merit.

Dame Vera Baird: They are there, and they are resourced and qualified to do the job, and they do not get an opportunity now. They get about half a dozen complaints.

Claire Waxman: Two or three a year, and there are far more breaches of the code than that.

Chair: It's not very much. An increase would not be a bad thing.

Dame Vera Baird: All that we have said about an interventionist victims' champion role is the most important thing about this. I worry about breaches of the victims code. If I made a complaint about not being given a victim personal statement, it would not even access the police complaint system, or the CPS complaint system or the court complaint system, which are all about misconduct or misfeasance or negligence. They are just not going to fit. There really is no complaint system at all, and that is why you need the kind that we have been talking about.

Chair: Okay, that is very helpful. Do my colleagues have any further questions? We have covered a lot of ground. Are there any final observations, or have we dealt with pretty much everything we wanted to deal with? We have been pretty comprehensive, haven't we?



HOUSE OF COMMONS

Thank you all very much for your time and your evidence. Thanks for hanging on while we voted. The session is concluded.