

Justice Committee

Oral evidence: Work of the Victims' Commissioner, HC 305

Tuesday 28 April 2020

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Members present: Sir Robert Neill (Chair); Rob Butler; James Daly; Maria Eagle; John Howell; Kenny MacAskill; Dr Kieran Mullan; Ms Marie Rimmer; Andy Slaughter.

In the absence of Sir Robert Neill, Maria Eagle was called to the Chair.

Questions 1-55

Witnesses

I: Dame Vera Baird DBE QC, Victims' Commissioner for England and Wales; and Russell A'Court, Chief Executive of the Office of the Victims' Commissioner for England and Wales.



Examination of witnesses

Witnesses: Dame Vera Baird and Russell A'Court.

[This evidence was taken by video conference]

Chair: I welcome you all to this meeting of the Justice Select Committee. It will be immediately apparent to you that I am not Sir Bob Neill. Sir Bob will be joining us in due course; he is currently speaking, or expecting to speak, in the Chamber.

I would like to begin with us going through our declarations of interest before I welcome our witnesses today: Dame Vera Baird, who is the Victims' Commissioner, and Russell A'Court, who is the Chief Executive of the Office of the Victims' Commissioner.

I am a non-practising solicitor.

Rob Butler: I am a former non-executive director of HMPPS and was the magistrate member of the Sentencing Council until my election in December.

John Howell: I am an associate of the Chartered Institute of Arbitrators.

Ms Marie Rimmer: I do not have any interests.

Q1 **Chair:** I welcome Dame Vera Baird and Russell A'Court. It is very good to see you both. I know that we have been trying to get this meeting in for some time.

Dame Vera, why did you want to be the Victims' Commissioner? You have now been doing it since last June. What have been your priorities and conclusions in your first nine months in post?

Dame Vera Baird: I became very interested in the role of victims when I was a police and crime commissioner in Northumbria, which I was from 2012 until I took up this post. As you know, Ms Eagle, the delivery of victim services was devolved to police and crime commissioners in about 2015. Some took it up quicker than others. That, I think, focused police and crime commissioners, who were not really elected for that purpose; I recall the then Prime Minister talking about former military people perhaps being suitable. It turned our attention a lot to the rights and interests of victims. We all started to realise that they were not necessarily as well protected, looked after or supported as we had thought.

My priorities, or what I have seen over the last few months that has moved me forward, are that there is an imperative need for really good-quality, tailored victim services. Whether somebody reports a crime or does not, they need to be made available. They are delivered now by my colleague police and crime commissioners, who by and large have a structure of a hub with specialist services around it commissioned by the PCC.



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A very large number of victims do not need a lot of help to get over what has happened to them, but some most certainly do. Having early intervention and well-tailored support services will help them cope and recover. There must not be a postcode lottery because the provision is tailored to local needs. That delivery mechanism, and realising how important it was, brought me to understand that it needs to be done consistently, so I thought it would be good if I moved to a national level in this field.

There is not just a moral point about helping victims to cope and recover. People react to victimisation somewhere on a continuum between a little bit shaken and traumatised for life, as NHS England made very clear in their sexual assault and abuse strategy. If there is not early good-quality intervention, there is likely to be a worsening of the condition and more costs. People who are not recovering from crime will not have the support for the criminal justice system that they should have, because they will not feel that they have been helped out of something nasty done to them by society. That is where I started to get involved with victims.

The criminal justice system, with which I am well familiar having been a defence barrister for 20-odd years, is adversarial, and that is fine. I want to set out my stall quite clearly to say that I am 100% in favour of defendants' rights as they are now, and nothing that I do for victims is ever going to get close to affecting those. If it ever does, I will stop, because I have put a red circle around it, and I will think more. There is 100 miles that we can go to give victims better treatment in the criminal justice system than they currently get without coming anywhere near affecting defence rights.

I am keen that we should do that. Because it is nobody's role in the adversarial system, it is a tag-on to the police or an add-on to the CPS. The judge of course will take care, and people are nice, but systemically there is nobody whose responsibility it is to ensure that victims and witnesses get all the entitlements they should have. Many are very simple, like good-quality information and communication. We have had a victims code since 2006, but we know from day-to-day practice that it is not implemented. Truly, I do not think anybody disputes that. There is no compliance mechanism. There is no evaluation of it, so there is no weight put on victims' rights.

What I would like as a framework is to say that part of my role will be to try to put weight on victims' rights so that they get them, quite separately from protecting defendants and making sure they get a fair trial. It is not great that victims come in and go out as a sort of fodder in the system. That is a very unkind word, but they do not have the entitlements that the code gives them. Better compliance with that seems to be very important, but, because nobody in the criminal justice system has an obligation to look at it, the rights do not develop. No one is focusing on them, so they do not get better. I see that as my job.



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Of course, around all of that, which I say on behalf of all victims, there is a very real and large number of vulnerable victims of crime. They are victims of rape, sexual assault and exploitation, domestic abuse, trafficking and so on. They have special needs above the ordinary ones to which I have alluded, which are not particularly well delivered. We are very concerned about special measures and whether the criminal justice system is not in danger of re-traumatising vulnerable victims.

Indeed, the foreword to the victims strategy, signed both by the last Secretary of State for Justice before the current one and by the last Prime Minister prior to the current one, acknowledged that the criminal justice system was capable of re-traumatising vulnerable victims. Obviously, I put a premium on their interests. What I have seen in the last few months is that there have been a lot of reports done by the office that I now occupy, and there are a lot of agendas that drive to assist particular kinds of victims to get their rights, such as victims of mentally disordered offenders, but, because there is not a criminal, they do not get dealt with as if they are victims of crime entirely.

The victim personal statement is a difficulty. There is a question of whether there should be independent victim advocates in certain cases in court. We did a report about antisocial behaviour that has made very little progress since it was published. We have concerns about the Criminal Injuries Compensation Authority. Our most recent report was about children and the impact on them of domestic violence. Clearly, I want to try to drive forward the recommendations that were in those.

I only have three years for sure, so I have probably set out a fair old agenda for myself, based on my pretty scant experience over the last nine months.

Q2 Chair: Thank you. That was a pretty comprehensive answer and a very extensive set of priorities. You have clearly set out that it is desirable for national standards to be achieved in this area for whatever kind of victim. You have highlighted some areas where there are victims who perhaps are not at the top of the list when we think about those who are victims of crime.

Given that we have 43 separate police forces and 40 different police and crime commissioners who set the victims strategy in their own area, how achievable is the set of national standards that you think is desirable? Do you have a view about that?

Dame Vera Baird: Yes, I do. There is no discrepancy between the wish for a local approach to the delivery of victim services, tailored to what PCCs can see is needed, in consultation with the police about what are endemic offences, and some national standards. Standards is quite a hard word, but it is about making sure that, because I live on one side of the road and you live on the other, it does not mean that I get better treatment than you if I am a victim of robbery.



PCCs are quite amenable to that. When I was a police and crime commissioner I was the victims portfolio lead for the association. That was the most heavily subscribed portfolio, where we would regularly get 17 or 18 PCC offices coming, all of whom wanted to do their best and all of whom exchanged good practice with one another.

Quite a lot of PCCs get Victim Support to do their delivery of services, so there is a pretty good likelihood that there is a consistent standard. The ones who were not Victim Support all came together and set up a system for themselves to ensure good practice and learn from each other. That is pretty impressive and it is a good foundation on which we can go forward. Of course, I still have pretty good relationships with my former colleagues.

Q3 Chair: What progress do you feel you have made in the last nine months in pressing for national standards among the other people who will have to agree for them to come about?

Dame Vera Baird: I have set out my stall to do it with my colleague police and crime commissioners. Until we all stopped travelling, I was conducting a series of visits to talk to the deliverers of those services and anticipate any objections there would be to trying to get a national standard. Pretty well everybody is accepting of the notion that there should not be a clash between, say, Avon and Somerset and Dorset. As far as laying a foundation of good will for the project is concerned, I have probably achieved a little bit.

Q4 John Howell: It is nice to see you again, Dame Vera. I want to ask you about the effect Covid is having on victims' experience of the criminal justice system.

Dame Vera Baird: I felt that it was up to me to try to find that out. Every Monday at 11 o'clock I have a phone call with a representative sample of the victim services' deliverers commissioned by PCCs. There are about seven or eight, and they are all obliged, and have all agreed, to ring someone else. The South Wales one rings the rest of the Welsh; Northumbria rings Durham and Cleveland; and West Yorkshire rings someone. We get a smaller conversation with a lot of information.

One thing, of course, is that crime has gone down, so the victims hubs have been able to transform themselves into home working without a great deal of difficulty. That is really cheerful, so they are still working as well as they can. Although there is nothing data driven about this—it is about what people are telling me is happening—there are some real features emerging.

I can talk about domestic and sexual abuse in a minute, but there are other things. In the last few weeks, there has been quite a big uptake in help for dealing with antisocial behaviour. The police have started to separate Covid-related stuff, which you would expect to see. If I am complaining that my neighbour is not socially distancing, that would be



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categorised as antisocial behaviour, but they have started to separate that off. If I can put it this way, it looks as if people are getting more frustrated and slightly angrier at things like noise nuisance. That perhaps is not a surprise, given what is going on, but there is a big spike in calls about antisocial behaviour.

There is also an increase in fraud, in particular Covid-related fraud such as selling masks or special testing gear and that kind of thing. That is a real problem and can prey particularly on older and more vulnerable people. There is some suggestion of abuse by older children on parents. This is a newer kind of domestic abuse, which is probably suggestive of kids wanting to go out and not being allowed to. We are talking teenagers, I think. That is a worry. There is a sense in which there is a spike likely to emerge of that kind of domestic abuse complaining, which is just coming through.

There are issues about child contact that play a little bit into domestic abuse. You can imagine that if there is an agreement about child contact, or worse an order, there are inevitably tensions about that: "Shall I send the child or shall I not? Am I allowed to go out and take him? What if he is not socially distancing? What if she is not socially distancing?" There seem to be a lot of tensions around that finding their way to victim services, which they cannot really do loads about.

Victim services are getting a lot of welfare-related calls about not having enough food, not being on universal credit and not having enough money because people have lost their job. It is as if people are having resort to a friendly face that they have spoken to before when they were victims of crime. They are asking for stuff that victim services cannot answer. CAB has been excellent. I have been negotiating an arrangement where we can signpost people to the Citizens Advice helpline or to the local bureau.

I do not know how much you want to go into domestic violence. You know very well, I am sure, that calls to the helplines have rocketed. Complaints to the police have not gone up commensurately, but complaints to victim services clearly have. There are real worries about access to help if you are locked down, with the perpetrator in the next room.

Q5 John Howell: Jury trials have been postponed, and we are seeing a big backlog building up in the family courts, and indeed in other sorts of civil proceedings. What impact is that having on witnesses, and victims in particular, for trials that are going to come up at some point in the future?

Dame Vera Baird: As you said, there was already a massive backlog, particularly in the Crown court, and it is just going to get longer and longer. There has been a struggle for extra sitting days. It is right that the Courts Service is trying to get it all back up again, but it is not an easy task.



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What we have seen so far is a lot of problems with people not knowing until the very last minute whether their case is going on or not. They are probably getting quite keyed up and ready to go, and then getting a phone call. One journalist I know was due to go to court and did not get any notice that she was not going, but read in the list herself that her case was not there. She could do that, but there are lots of people in that position. Some people are worrying: "Can I really go to court? Is it lawful for me to go out of my house to do that? I thought it was just for exercise or to get a prescription." "If I can go, can my mum come with me, which I really want? I do not think they can." "What will it be like at court? Am I going to come across people who might infect me?"

There are adjournments to dates that people think are not realistic. It is the opposite of expecting to go and at the last minute being told that you do not need to go. Some people are having their case adjourned for two weeks when nobody realistically believed that it was likely to go on then.

There is a whole lot of confusion and chaos. The difficulty of course is that we suspect victims and witnesses will not stick at it. They will not support it if it does not sort itself out fairly soon. That is bad for victims and bad for the system.

Q6 Rob Butler: Dame Vera, I would like to move on to the early release scheme for prisoners. You will be aware of the theory that up to 4,000 prisoners nearing the end of their sentence could potentially be released early. Obviously, at this stage it is a very small number in comparison.

As a Committee we often get lobbied by the likes of the Howard League and the Prison Reform Trust to release more and more. What feedback are you getting from victims as to what they think of that as a concept?

Dame Vera Baird: Victims are all as different as you and me, but the notion that you need to protect people from a hotbed of Covid infection for a dangerous disease is not a foreign one to most victims. The important thing is to ensure that the interests of victims are fully taken into account in the decision-making process about who comes out.

The cohort I think you are talking about, Mr Butler, was supposed to be about 4,000. I think you are probably alluding to the fact that this morning it was reported that 33 people had been released in total, so it has not got far. What happened was that the Minister, Mr Chalk, telephoned me, and obviously a lot of other people, and said that this scheme was coming on and asked for input about it. We then took it up with the probation service, who frankly were really good.

The people who were going to be released were only 63 days maximum from the end of their sentence. There were no violence or child concerns. It was not sexual abuse. They were going to be screened for domestic abuse, as they might be coming home to a person locked down. They were going to be screened again for that by local police, who have



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intelligence. I was able to talk to a police force I know well and find out what that process amounted to.

There was a helpline set up by the probation service so that victims of those criminals could get through. Nobody could guarantee that a perpetrator of domestic abuse, for instance, or somebody who was frightening to somebody else, was not going to be let out, but it seemed to me that the probation service had done everything that it was realistically possible to do to try to satisfy victims that they were safe.

We had one suggestion that a perpetrator of domestic abuse had been sent home, but that turned out to be quite wrong. I have had no feedback so far. It was an excellent job, rightly done. You want people who are not harmful out of danger.

Q7 **Rob Butler:** Presumably, it would follow from that that if, as some have called for, the proposals were widened beyond the 4,000—people have floated the number 15,000—you would have concerns about the type of offender that could therefore be released. As a magistrate, I have sentenced people to custody, and it is not a decision you ever dream of taking lightly.

Dame Vera Baird: Absolutely right. What I understand may be on the cards is for some older, long-term prisoners to be considered. I am sure they are not yet approved for release, but I believe that is the next cohort to be considered, or another one. That might well raise issues, because the likelihood is that they are going to be elderly sex offenders. The impact on the families they have affected, particularly if they were going home to the area where they had been arrested, which seems to be where they would be likely to go, would raise very considerable concerns. What would be infinitely preferable, of course, would be if there were the capacity for those people to be socially distanced in prison and kept safe.

Q8 **Rob Butler:** When prisoners are released early on temporary licence, are victims adequately informed and made aware of that, when they want to be?

Dame Vera Baird: I am not sure about always. There is a level, of course. Were you not on the Sentencing Council? I think you know a fair amount about this territory yourself, which is very good.

When people are on the victim contact scheme they will be notified. They will be notified indeed of a good deal more. We are trying to make that a better scheme so that people who are registered for it get a meaningful piece of correspondence year by year to understand the trajectory and, hopefully, do not see the person as the person he was at the start but understand where he has been now that he is coming out.

It is about better communication and good information, understanding that people are inevitably going to come out of most sentences at some time. That kind of correspondence has got much better, but there will be



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a lot of lower level people who are released whose victims are not told because they are not in that category of victim. Hopefully, the people who are being released are not the worrying people.

Chair: We will go to Mr MacAskill, who may like to begin by giving any declaration of interest he may have to the Committee before he asks his questions.

Q9 **Kenny MacAskill:** I am a former solicitor, but have not practised for over 20 years. I have been the Justice Secretary of Scotland, but other than that I have nothing to declare.

Dame Vera, you have already touched on this in the previous answers, but we are doing an inquiry into older prisoners, and I wondered if there was anything from the victims' perspective about compassionate release on the normal criteria, which are obviously different, a lot more selective and in vastly different circumstances from those we are facing with coronavirus. Do you have any comments on general compassionate release for older prisoners?

Dame Vera Baird: No, I do not feel that I have any general comments on it. My experience, limited though it is of this role, is that victims are very variable in how they regard their adversity, particularly as they get older. I would not have a voice that I could reliably say represented victims' interests there.

Clearly, it is a hard thing to confront the fact that somebody who may have done something extremely serious to you is coming out because they are not well or are a damaged person, when you feel that actually you have been damaged by them and you have not necessarily had, certainly not from them, the compassion they are getting. That is something that people have to confront and react to as individuals.

Q10 **Kenny MacAskill:** There has been a push from many bodies for a strategy for dealing with older prisoners. Do you think there should be victims' input? Is there anything you might welcome contributing to?

Dame Vera Baird: I imagine that is basically about how best to give them the welfare care that they need while they continue their sentence. We would not necessarily expect victims to have input into that. It must be very difficult for the Prison Service, as there are people on long sentences who were convicted long after they committed their offences and are now in significant old age. One imagines that many prisons are quite like care homes now. Clearly, there is a need for a special role for an institution that can take appropriate care.

Q11 **Chair:** Dame Vera, you made reference a little earlier to the reports of increased domestic violence during the lockdown, which are quite worrying. There are reports of an increasing incidence of people calling helplines, up by 25%. Looking at websites is up by 150% in a short space of time. Have you had any reports on how the impact of the lockdown is affecting rates of domestic violence beyond those that we have seen



reported more generally? Do you have an insight into that?

Dame Vera Baird: The position is quite patchy. In the calls that I have on Monday mornings, I talk to the general hubs, not the specialists. At the same time as I have my call to the general victims hub, my colleague the domestic abuse commissioner telephones the helplines and some other service deliverers and we swap information.

No one doubts that domestic abuse has increased exponentially. It is very much harder to escape when you are compelled to be in lockdown with your perpetrator. What is in urgent need of rectification is the fact that the Government did not see this coming. In every other kind of crisis, there has been a similar development.

The French brought in powerful protections for domestic abuse victims at the end of March, whereas ours were basically announced on Easter Saturday by the Home Secretary. I have to say that she did a fine job in upping awareness of it, but it was obvious that there was going to be this epidemic within the pandemic. Every other country that has had Covid has had it; for instance, China had a doubling of domestic abuse during that time, so in my view it should have been flagged a lot earlier.

There should have been a good input of cash to support the services that are struggling with the increased demand, especially the helplines. There are people who are domestic abuse victims who need specialist help beyond just the domestic abuse—LGBT people, people from BAME communities and men—all of whom have special needs. They are usually looked after by relatively small charities. The costs of going to home working there have not been funded. Some have struggled for the want of laptops and phones, and that needs to be put right. The whole domestic abuse support system functions now on home working.

There are real issues about refuges being full. In my calls, the domestic abuse ones say that all refuges are now full. There is very little pass-on accommodation. There is no other accommodation, although universities and hotels have been offering help. There is home working with a lot of people who are trying to hold on to their family and may themselves be ill or isolating, and they are coping with a bigger demand. There is a perfect storm around services, and they need an urgent input of funding. Although there was an announcement of £2 million for the helplines on Easter Saturday, when I was speaking to them yesterday it had not been delivered.

The quantity of funding to charities allocated by the Chancellor some weeks ago has not come through to any of the domestic abuse charities yet. We have no idea what the red circling of funding for those charities will be. I think there was a proposal from the shadow Home Secretary today that it should be £75 million. I know that the Home Secretary herself has put in a sizeable bid for funding, but where is it? It has not yet emerged.



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That is a bit of a leftover from not having seen the position right at the start. Meanwhile, it is extremely difficult for people to get out. We have been arguing for some, hopefully, helpful systems, first, to shift helplines to live chat, which needs a bit of resourcing. Live chat has gone up and online contact has gone up. Also, we are keen to try to find some system of rescue at the only places that victims of domestic abuse can leave the house to go to, which are supermarkets and pharmacies. We have been looking to sculpt a system there that we want the Government to take on with the British Retail Consortium. We want to sculpt it so that it fits the sector. We really want that to go on, as the worry is that abuse is going up and many people cannot get out. It will get worse and worse. Domestic violence tends to escalate when it is not stopped. I find that position extremely worrying.

Sexual violence is also extremely worrying. As you will be well aware, something like two thirds of sexual abuse is in the home. Online sexual abuse is done from home. When people are not at work, they are able to do it, and youngsters are not going to school, so they are not part of the excellent Operation Encompass. They cannot get any help from there. There have been stories from victim services about social services not being able to gain admission to the homes of vulnerable children they are worried about because they do not have PPE. Very understandably, though very inappropriately, parents have said, "No, you are not coming in." There is a big worry about non-current sexual violence victims. They are cooped up feeling that their free will is being eroded in exactly the way that the abuse did it. Rape Crisis is also very worried.

There has to be attention now, but we think there is likely to be a tsunami of complaints, pleas for help and police reports as soon as lockdown is over. I hope that, even if they did not plan fantastically well for the epidemic now, there will be Government planning for the recovery, which will inevitably produce that tsunami.

Q12 **Chair:** How do you think that risks to children as victims or potential victims have changed during the pandemic, if at all?

At this point, I welcome Sir Bob back to his place in the Chair and hand over the session to him.

Sir Bob Neill took the Chair.

Chair: Thank you very much. It is very good to see you, Dame Vera.

Dame Vera Baird: It is nice to see you as well, sir. I was just being asked whether the risks to children have changed. I have probably set out the main ways in which I think that they have. Children cannot get out and they have no one to talk to whom they trust. It is difficult for social services and children's workers to get into the home to talk to them. Much great work has been done by the likes of ChildLine and the NSPCC to encourage parents to keep children safe online and to encourage children to get in touch, in the best way they can while locked down, with services that will help them.



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I probably have not yet said this loud enough, or at all. It is very important that everybody who is a victim of crime understands that the services to help them are still there, still functioning and will come if help is called for. Of course, the police are there too. They have now, with a reduction in crime, better capacity to respond speedily.

Chair: My apologies for not having been at the beginning of the meeting. I was speaking on the Second Reading of the Domestic Abuse Bill.

Dame Vera Baird: I thought that must be where you were.

Chair: Some of the evidence you have just given us in your previous comments was referred to in the course of those proceedings, so that is timely. I am grateful to Maria Eagle for having taken the Chair in my absence.

Q13 **Kenny MacAskill:** Are the family courts managing to keep children safe, in your opinion, Dame Vera?

Dame Vera Baird: The information I get is that family law helplines are not getting an immense amount of take-up, so there is a lot of worry about a lack of access to any authority at all for children who are in the home. There are issues, as I have said already, about contact and how it should function that are not easily dealt with without going back to court.

The magistrates courts, which would be the place of first resort for most family cases, is trying to prioritise but is not functioning very fully at present. They are concentrating on overnight remands of criminal people. The answer is that I do not know how well those courts are dealing with it. I do know, to give them all credit, that HMCTS is working phenomenally hard against terrific odds to try to get it all back up and working again.

Chair: Before we move on to the next line of questioning from Mr MacAskill, was there a point on family courts that you wanted to come in on Mr Butler?

Q14 **Rob Butler:** No, I was going to follow on from the previous line of questioning, on domestic violence. Dame Vera, given what you said about the problems there, do you have any particular concerns about what might happen later in the courts? Domestic abuse cases are notoriously difficult to prove. Quite often the victims change their minds, for perfectly understandable reasons. With the increased delays that we are inevitably going to see, I wonder whether you have some concerns about perpetrators ultimately being brought to justice.

Dame Vera Baird: Yes, of course; it is a serious issue. I know that the police are trying to use domestic violence protection orders. You know about them, but, to explain for others, they can give a perpetrator a notice telling him to leave for a period of time, but within 48 hours they have to go to court to get it confirmed and the time of it fixed.



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The police, seeing that the criminal justice system is not going to function very quickly or very well, have tried to take those civil protection orders. I understand that has been working quite satisfactorily, but in a number of places there have been examples of magistrates, albeit finding that the complainant is at risk of domestic abuse, which is the key test, declining orders because they did not want to make the perpetrator homeless.

I understand that in a way but, if you are going to say to the Courts Service "Prioritise these orders" to get swift help to people, it is not helpful. There is a need for some pretty good communications. The MOJ intends to put out guidance to say that some of the money that has gone to local authorities recently can be spent on accommodation not just for victims of domestic abuse but for perpetrators, although not in the same building but elsewhere, so that they can be accommodated. That seems to be very important. It is a real worry; you are quite right.

There is some light at the end of the tunnel. Delay will inevitably have an impact because perpetrators are able to persuade victims to stay away from court. Also it becomes yesterday's news to a person who was either tolerating it or has moved away, whether they get a criminal outcome or not.

One thing that might be good is a move to remote working. For instance, there are now quite a lot of remote evidence centres and they are very underused, particularly in the magistrates courts. It is not entirely clear why. It was certainly the case in Northumbria, where we had four. I know it is the case in Avon and Somerset because I talk to the PCC there quite a lot. Others say the same. They have not been taken on, but they are likely to be taken on now. There is a fallout of domestic abuse complainants, without Covid, because they do not want to come to court and confront their perpetrator. It has always seemed to me that remote evidence centres were a good answer to that. Somehow that answer has never been there, but now it might, so that could be a bright point.

Q15 Chair: The Lord Chancellor told us in the debate that he is proposing to bring forward the recommendations of the specialist panel around family courts fairly soon. We know from our backgrounds that special measures lagged behind in the family and civil jurisdiction compared with crime. I imagine that is something you want to see sooner rather than later.

Dame Vera Baird: Absolutely. In fact, although it may be an unrealistic request, the domestic abuse commissioner and I have asked for the Bill to be delayed long enough for the family panel to catch up with it. That may not be impossible, depending on how long it takes to go through Committee stage and the Lords. I think they will put forward some quite radical proposals.

Although it is good that no one will be able to cross-examine their victim in the family court, it is just one small bit. There is a good deal of further need for change. Thank you; that is really interesting.



Q16 **Kenny MacAskill:** In practice, how do you think the current interim arrangements are working out with regard to the victims' perspective in terms of the charging protocol and the CPS case review guidance?

Dame Vera Baird: Do you mean the ones that have been worked up during Covid?

Kenny MacAskill: Yes.

Dame Vera Baird: The guidance for charging looks as if it has prioritised victims. Obviously there have to be overnight remands and so on, but the charging guidance put domestic abuse and sexual abuse as a premium. That was right, and I think victims will be satisfied that that is the kind of case that should be a priority.

The guidance that followed, although understandable, I think presents difficulties. It was guidance about the need to take into account the situation in the criminal justice system when considering whether to charge and how to try to dispose of cases. That is to take on board, of course, that the criminal justice system is not functioning at present: no jury trials are running; the magistrates courts are limping back into action; there were enormous backlogs and there will be even further backlogs. Applying that guidance is inevitably going to lead to more diversion, more cautioning and more "No further action".

We have to be very careful on behalf of victims that, when diversion occurs, their interests are taken into account. I see a good deal of that coming along, and I see a need to ensure that it is done. At the moment, in the re-emergence of the courts there is no victims' representative on the group supervising it, and there should be, so that those points can be made. I would have concerns.

Q17 **Kenny MacAskill:** What joint working are you looking for between the Ministry of Justice and other Departments, particularly the Home Office, in supporting victims of domestic violence? In addition, what do you see as the advantages and disadvantages that have come from the multi-Department operation that is taking place?

Dame Vera Baird: I am not sure that I have 100 advantages to list. I feel that the lack of appreciation that increasing domestic violence was an inevitable consequence of this was poor leadership. I am afraid that it is not getting better, as far as one can see. Ministers and officials are all working extremely hard, and I have no criticism, but they are all working in their own silo.

Let me give you a key example. It is imperative that there be more accommodation for domestic abuse victims. As I say, refuges are full. Some of them are full because there is no pass-on accommodation. Others are full and locked down because of Covid, or they are not full, but still locked down because somebody with Covid is in there, or someone is isolating.



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There is an imperative need for the kinds of offers that hotel chains, Swansea University and other universities have offered with student accommodation. That will be MHCLG, but of course you cannot just put somebody who immediately before that was in a refuge or has literally just left home into that kind of accommodation without any support at all. They need good victim services and the support that they would get in a refuge. You know the kinds of things that are set up in refuges to support people. The victims directorate is in the Ministry of Justice, probably with some input from the Home Office.

The domestic abuse commissioner and I have been arguing for quite a while now for that accommodation. As I understand it, the fact that there is no inter-ministerial group set up to deal with this inevitable epidemic of domestic violence means it is dropping through the silo. It is definitely urgent to have one of those, and to have, if I may say so, the domestic abuse commissioner, me and the Children's Commissioner on it, so that we can make sure that those victims are well represented. I find that very worrying. Making progress is terribly slow.

Chair: Mr A'Court, if at any time you want to come in to add anything, please signify. We are not ignoring you.

Russell A'Court: Okay.

Chair: Thank you. Over to Andy Slaughter.

Andy Slaughter: At the beginning, I should have declared my interest as a non-practising barrister.

Chair: I should have declared mine as well; you have reminded me.

Q18 **Andy Slaughter:** Dame Vera, I want to ask a couple of questions about the wider picture of your experience of the court system. The figure you gave last year was that 46%, almost half of witnesses, would not give evidence again. I do not know whether that was because the experience itself was necessarily traumatic or because it was unnecessarily difficult.

Perhaps the more telling figures we have been given are that 36% of victims are dissatisfied with the way they thought their matter was handled, and 26% of cases failed to secure a conviction owing to a victim or witness stopping engagement. It is a very broad question, but is that a feature we can do something about? Is it to do with changes to the system or the people who are operating it, or is some of it just a necessary consequence of the fact that it is an extremely difficult and traumatic process?

Dame Vera Baird: If it were the latter, there would be no particular reason why the number of people who are prepared to give evidence was going down. It has always had its problems, but it is going down.

If you look at it the other way round, 55% of victims or witnesses would give evidence again. The figure in 2009 was that 67% would. At that time, only 33% of people who had experienced giving evidence said they



would not do it again, but now it is 46%. That is within a short period of time, so I cannot see any justification because, if anything, the courts have got a little bit better towards victims through all the mechanisms that various Governments have implemented. I do not think it is just the experience; I think it is their treatment.

I think you are quoting my figures from the study we just did of the CSEW. That shows a trajectory that I am really familiar with from being a PCC; 72% of people say they are satisfied with how the police came out and dealt with them in the first place, but it then drops right down to much smaller figures—a minority—who say they are satisfied with what follows next. People tell me daily that they are not kept up to date. They are not told, "Look, we are never going to catch this person; that is really the end of it," or, "We have caught him; he is in custody 300 miles away or on bail next door." They are not told if anyone is charged. They are not told that there is a court date coming, or any of it. The figures in the CSEW study we did show the broader picture, which is that people are losing satisfaction with the criminal justice system.

For the standard victim, if I can use that phrase—I am not talking about victims who need special measures, which is another category where there is a lot of withdrawal—small things would make a massive difference. I said right at the start that nothing about getting victims better rights is about damaging defendants' rights. Giving victims information does not do the defendant any harm at all, but because there is no obligation on any of the agencies to put victims first, understandably because of the adversarial system, we need a way of making sure they get their rights.

It is my very clear view that because they are not given that kind of support, and not given procedural justice or referred to the victims code at all—80% of people who have been witnesses do not know there is a victims code—they just drop out; they are not getting any interest in any regard.

Q19 **Andy Slaughter:** Yet we put a lot of effort into that now. If you went back 20 or 30 years, you would not have the same attitude to customer care. Your own position is an illustration of that. Twenty or 30 years ago there was not really an attempt to treat victims in the way we do now. It would have been considered their civic duty. Why are things getting worse? Is it perhaps to do with delay and matters not coming to trial quickly enough, or is there a change in public attitude? Do you see it being done better with some offences than with others, or in some parts of the country rather than others?

Dame Vera Baird: You are absolutely right. When I was a young barrister, they would list the case without any regard to the victim at all and then say, if the victim complained about having come once and had it adjourned, "Well, you will have to come or the judge will issue a warrant for your arrest." That was about the level of victim care when I was quite a young person. That has fundamentally changed.



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The advent of my current job was under the Domestic Violence, Crime and Victims Act 2004. The first victims code saying what entitlements there should be was very carefully considered, simply to make life acceptable to victims and witnesses and to ensure they got all they needed. That victims code is not implemented, and nobody in the police or the CPS argues that it is. Consequently, we have been neglecting victims.

We may be in a more sensitive environment than we were in those days—I do not know—but people expect fair and decent treatment. They feel that, if they have suffered from a crime, they are a party to the case and not just somebody who has to be brought to court. Many people still feel that it is absolutely their civic duty to come, but they get less and less enthusiastic if they are not given support. Delay is a very big point. There is a lack of judicial sitting hours and so on. Those have been very big points.

When you get to the more vulnerable complainants, the difficulties are compounded. If there is no obligation on any of the agencies, as their first duty, to take care of that person, the refinements necessary will not be there. I get real concern from some judiciary about the special measures provisions that give automatic special measures. Obviously, you know, but not everybody does; they are about how to help people give their best evidence by letting them do it from behind a screen or through a remote evidence centre.

Where they are automatically available in sex offences, the notion is that people do not then look at tailoring them to the individual. They just tick a box, "Standard special measures", and people find themselves giving evidence from a television link. When they go for their court familiarisation, they say, "What's that big television in the middle of the court?" The court-based witness service says, "Oh, that's where your face will be when you are giving evidence." They say, "Oh, I don't want that." If it is non-recent abuse, they do not want the person they say did it to know what they look like now. They certainly do not want the idea that they are giving sensitive evidence with the public watching them.

Of course, you can screen the screens but I do not think that kind of refinement takes place individually at all. The CPS has very few special measures meetings now, as it readily agrees. There is a lack of care and then it gets compounded when people are more vulnerable. That is the answer. It is telling that the last Secretary of State for Justice said in the introduction to the victims strategy that the criminal justice system is capable of re-traumatising, and we need to turn it away from that.

Q20 **Andy Slaughter:** We can all share the concerns about appearing on big screens at the moment; that is true. If there were just two or three things that you would most like to see implemented now to improve the victim experience, what would they be?



Dame Vera Baird: It would be a way of weighting their entitlements. The victims code now is long and bulky. There are 189 entitlements, written for graduates and as long as “War and Peace”. It is not a useful document. The Government are revising it, but no matter how neatly you set out the rights, what happens to compliance? There needs to be a way of making sure that those who have a duty to deliver those entitlements do it.

There is a preliminary attempt to get PCCs to check up on five victims’ entitlements that are certain to survive the transition from the old code to the new one. VPS is one of them. Up-to-date information is one of them. They have tried to start collecting data. There is a way to go about that, and it was actually a new burden that the Government should have funded. I think they now accept that.

On top of that, there needs to be some way of national compliance. I would say, from the office of the Victims’ Commissioner, that we need the obligation to look every year at how the entitlements are being delivered, who is complying and who is not, and how we can make improvements. I am hopeful that something of that kind will come into the victims law, which was a manifesto commitment that the Government tell me they still intend to deliver. Compliance is the key to all of this.

Q21 **Chair:** Fair enough. You have always said that a right without a means of enforcement of the right is not much of a right.

Dame Vera Baird: Yes. One of my statutory obligations is to consider the implementation of the victims code and make recommendations about it. Since I have no power to require information to be delivered to me, and no means of enforcing it, it is pretty well an obligation on me without a right, and without any means of doing it.

Q22 **Ms Marie Rimmer:** Given the complex nature of the UK’s justice system and the fact that most people do not have any interaction with it until they are in the system itself, what—*[Inaudible]*

Dame Vera Baird: I am afraid I cannot hear.

Q23 **Ms Marie Rimmer:** Given the complex nature of the UK’s justice system and the fact that most people do not have any interaction with it until they are in the system itself, what steps do you think the UK Government and others should take to inform the public and victims about the justice system to make their experience better? *[Inaudible]*

Dame Vera Baird: Again, it was really difficult to hear. Were you asking how can we involve the public more in the improvement to the criminal justice system for victims and themselves?

Q24 **Ms Marie Rimmer:** What I am saying is that there is a lack of knowledge of the justice system. Most people only gain any knowledge once they are in the system. There is a lack of understanding. What do you think could or should be done to improve victims’ experience?



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Dame Vera Baird: I completely agree with you. I could put it pretty straightforwardly like this. Nobody reads the victims code, because they do not expect that they are going to be a victim. It is only when the thing comes upon you that you realise you are in a completely foreign land and you do not know what your rights are. As I say, 80% of people have never heard of the victims code, even though they have been a victim or a witness.

At that point, you are completely in the hands of others. It seems critical to me that there needs to be an obligation on the criminal justice agencies to make sure you know what your entitlements are from square one right through to the end. It is very important that the victims code, when it is changed, looks okay. It has 12 key provisions. There is a lot more to be said, but it is good to list them like that in a straightforward fashion. There is a big job to do to make sure that it is communicated to everybody in languages, in British Sign Language and 10 kinds of dialect, as well as in easy-read, simple, straightforward language. Civil servants and lawyers all write in foreign exclusive code. All of that is important, but the basic obligation has to be on the criminal justice agencies to make sure that people know their rights. That is what I mean about compliance.

We have had a code since 2004 but we still have not found a way of making people do it. People want to do it. The police would say that they are very keen to do it, but they get other things to do, because we are in a system that focuses on the defendant.

Q25 **Ms Marie Rimmer:** Do you believe there is currently enough support for victims inside courtrooms? Are victims being provided with enough information even to understand the procedures of the courtroom?

Dame Vera Baird: No, I do not think so. The court familiarisation visit was a good thing. The citizens advice bureaux who run the witness service take people round if they want to see it and say, "This is where the judge sits," and so on. There is a lot of other stuff you can do.

When I was a PCC, we put a film on the criminal justice system website. It was a bit like what you see on the wall in a hospital; there is often a diagram saying, "The lady in green is a staff nurse, the lady in blue is a this and the man in khaki is that." The simpler the explanation you can give, the better. It is about access. It is highly unlikely that people will read those things out of interest. It is only when they are likely to be involved with a court. Again, it is about having it drawn to their attention and being really simple stuff that lay people can understand.

I am a big supporter of my predecessor's report that there should be independent victim advisers. They are people attached to victims from start to finish, who do not play a legal role but explain to them, support them, tell them what is going on and interpret. They can approach the police, the CPS and the Court Service to say, "Just a minute, you haven't told her about this," or, "You are having an adjournment, but will you



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consider that she is going on holiday next week?" I am a big supporter of that.

Q26 **Ms Marie Rimmer:** It is good to hear you say that, Dame Vera. Victims of crime and members of the family of a deceased victim of crime do not understand that jurors can leave. [*Inaudible*] They see their case slipping away. They do not understand. Is it right that jurors have left, and jurors were coming back asking for advice because they did not know what they were doing?

Chair: I think we are going to have to move on a bit from the jurors and back to the victims, but I take your point.

Q27 **Ms Marie Rimmer:** Do they understand the role of barristers—that they are there from the CPS and are not their barrister? Do you think they understand that?

Dame Vera Baird: No. Very often people talk about their barrister, as if that was their person. They are disappointed with his performance because his actions are not theirs, of course, and he is doing a totally different job.

Q28 **John Howell:** Dame Vera, let me take you back for a moment to court hearings. Do you think there is sufficient separation between the victims and the defendants during court hearings?

Dame Vera Baird: No. In places, good care is taken of victims and they do not come across the defendant, but there needs to be a premium on giving courts the facilities to do that. You need completely separate entrances and waiting rooms. You must avoid any mixing at all between the defendant and the complainant, otherwise it will be very off-putting.

Again, I think remote evidence centres are quite an important part of how that can be achieved. You will be well aware of special measures, Mr Howell, of the kind I was talking about with Mr Slaughter. It is great if you can give your evidence from behind a screen, so that you do not have, as it were, the defendant eyeballing you while you are giving your evidence, but, if his brother has done that on the footpath on the way into court, it is far too late. There needs to be somebody who has responsibility for safely getting particularly vulnerable complainants to court so that they can give their evidence freely.

Q29 **John Howell:** Do you think there are any advantages we can get from digital hearings, for example, or is it all disadvantage?

Dame Vera Baird: No; there is a good deal we can do about that. A lot of evidence could be given remotely, and for vulnerable victims in particular that is potentially a very good thing.

Make no mistake, some people, vulnerable as they may be, want their day in court and they want to feel that they are there. They want to say in public what has happened to them and to state their case, so I am not generalising; but many people are intimidated by the mere possibility of



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some guy with a wig asking them questions and then another guy with a wig telling them they are getting the rules wrong, when actually they do not know the rules in the first place. They would be much better off giving evidence from a remote evidence centre. You can sit in a sort of sitting-room—a bit like you and I are sitting in our own now. You would need an usher there to make it a court, but all sorts of things can happen then.

The first case, or at least the first they told me about, after we had a remote evidence centre in Newcastle, was a young girl who said that a relative had sexually abused her. Her family had completely disowned her because they did not accept it. She was very isolated and she would not go to court. She was persuaded that she could go to the remote evidence centre, but then she was not going to do it at all. The police took her dog to the remote evidence centre with her. She sat in a sitting-room chair with the dog beside her and gave her evidence. I could not have got the dog into Newcastle Crown court. That ability to meet a person's needs is much more readily available away from the environs of the court, so I am a big believer in digital evidence.

Q30 John Howell: My last question in this session is about the court and tribunal reforms that the MOJ are putting through. Do they bring any improvements?

Dame Vera Baird: I have to say that I cannot see a great deal of improvement now. There is a headlong clash because the court closures programme has not brought improvements; it has brought remoter access for defendants and victims alike, and for members of the public. That has been very adverse to improving the court system. I am sure that the common platform, when it finally works, will make things slicker, but I do not know that it is going to improve things for victims in particular.

Q31 Dr Kieran Mullan: I want to ask about something we touched on a little bit in terms of the victim personal statement. You mentioned that it is a key thing that you expect to be highlighted as one of the top areas for the victims code. Some of the research we have seen has suggested that as little as 14% of victims recall being told about the opportunity to make a statement by the police. What do you think we can do to improve how people are told about it and get those rates up?

Dame Vera Baird: Thank you very much for the question. It was our report last August that had that figure. The real point to make is that it is the fifth report done by my office. The previous four were done by my predecessor and produced an identical outcome. Fourteen per cent is as high as it has ever been. The police would say, "No, no, we do far more than that," but however it is being suggested by the police, and I do not doubt their word, it is not being heard by the victim. That is a real problem.



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I do not see the point of me producing a report every year saying it is only 14% and the police saying that it is much more than that. What I have tried to do is engage with the National Police Chiefs Council criminal justice lead, Nick Ephgrave, and with the victims lead, Emma Barnett. I said to them, "Can we look at this? People who have a victim personal statement say that it is a real benefit and it helps them. When does that benefit come in?"

Looked at from the opposite end of the spectrum, if I had my bike stolen, I would not really expect to do a victim personal statement. If I were a different person, like a young dad who had done overtime to get a bike for his lad for Christmas, I would want a victim personal statement, but a lot of people will not for relatively small things. What is the 100% that we need to have for the 14% not to be so apparently condemning? Should we, instead of asking police to take a VPS right at the start, when they take a witness statement, wait until charge? Some people have to dig deep to talk about what has happened to them in order to give a VPS. If there is not going to be a charge, perhaps it is not good. Possibly victim services might be better at taking victim personal statements than the police.

We discussed holding a series of little pilots in different places so that we are not in a polarised position but are truly trying to get down to the point: "Don't give police the task of victim personal statements when there is never going to be a charge; don't make people dig deep when that is not going to happen; ensure everybody who wants one gets one at the right time; and do it well so they can say what they want." I hope that will produce something within the next year, but we are only talking about it yet.

Q32 Dr Kieran Mullan: When we have similar issues in the NHS, we know that people recall an offer, and, yes, there will be a gap between people who were offered something and do not remember it. In the NHS, they have looked at comparing people, because to some extent the recall loss would be consistent. If your force has a lot less than everybody else, you cannot put that down to recall; it is probably because you are not telling people.

Dame Vera Baird: Yes. It almost certainly varies force to force, but the general outcry is, "No, no, we tell a lot of people about it." I think the right way to do it is to say, "What is the point of it? Let's look for that point and try to build on that point."

Q33 Dr Kieran Mullan: Would you see police and crime commissioners as having a role in holding providers to account on that?

Dame Vera Baird: Yes. Police and crime commissioners have to be part of the compliance system for the victims code, and the VPS is an entitlement under the victims code. They need to bring in a dataset that counts how many people have been asked, at what time and by whom,



whether they have done it, what they say about the outcome and whether it has helped them or not. Yes, I think so.

- Q34 **Dr Kieran Mullan:** One of the cases we have been made aware of is somebody who had made a victim personal statement and then the defendant's legal team successfully persuaded the judge to remove parts of it because they felt that they would be particularly upsetting to the defendant in that case. I personally do not see why anyone's victim personal statement should ever be altered, outside the realms of reasonable language, and so on. What would your views be on victim personal statements being edited by the judge or the legal system in some way?

Dame Vera Baird: The case in question was brought to me by Ms Rimmer, who has just been talking to me. I have to say that the statute that sets me up stops me taking on individual cases, but of course it is an important principle. We discussed it with the Lord Chief Justice and he has noted what it was said happened there.

The judge has discretionary power to ask for editing, but it is usually things like length or, as you say, intemperate language or the "I want him locked up" kind of stuff that are edited away. That kind of editing was completely unknown to me and came completely out of the blue. All I can say is that we have taken it right back to where it should have gone, and it has been noted.

- Q35 **Ms Marie Rimmer:** Should courts continue to have discretion over whether victim personal statements are read out in open court, when the victims want the statement read? The court has the power not to allow them. Should they retain that power, in your opinion?

Dame Vera Baird: It is a difficult point. What I am looking for is why it is there. You would think there must be some good reason for it being there. VPSs go through a process before they appear in court anyway. They are sent in and HMCTS approves them in a vague sense, although it is the judge's role, so what they are like when they get there is not a surprise to people. If they are going to be edited because they are too long or there is an expression of view about sentence, that can be done. At that stage, it is not clear to me why there is any reason why the judge should say, "No, you are not reading it; let somebody else read it."

I am not saying remotely that this is a justification, but there is a sense that the courts are very forensic and very cold. This is bound to be emotional, so it tends to be resisted, but there is not an obvious reason to me. I am sure somebody will correct me if there is an obvious reason. It is the victim's voice and it is their only chance. For instance, for the parents of a child who has been run down by a dangerous driver it is the only chance they get of feeling they have done everything they could for their lost child by saying how it has affected them, telling the court about it and having that publicly acknowledged. It is all that they can do, and I think they should be allowed to do it.



Q36 Dr Kieran Mullan: I want to ask about sentencing in the general sense. We have talked a lot today about the importance of process, experience and those kinds of things for victims, and that is absolutely right.

I am very conscious that there is an awful lot of activity, lobbying and support for people to reduce sentencing, to lower sentencing and to get rid of short sentences. I noted your careful and considered words earlier about compassionate release and how you felt that victims have a mixture of voices so it is not for you to advocate. We know that a majority of the public feel that sentencing is lenient. The Government are conducting a review of sentencing. Do you feel that you have a role in advocating longer sentencing, if it can be evidenced that that is what victims want? If you do not, do you think that someone else should have that voice in the system?

Dame Vera Baird: I have not thought of there being a role for me in that process. What I would see as a role for me in that process is trying to ensure that in every kind of sentencing exercise the impact of the crime on the victim is properly taken into account.

Ms Rimmer's and your question about the victim personal statement is one way in which that can be done, but there is also the Sentencing Council that your colleague Mr Butler has been on. Victims' interests are represented there, in the sense that the current chief executive of Victim Support is on the Sentencing Council to try to do that. I see that as a legitimate role.

I do not think judges should be told where to pitch sentences. They get guidelines from the Sentencing Council that leave them with an area within which they can judge the individual case, to try to do it consistently. A good few years ago sentencing used to be very judge-personality dependent, as the Chair might agree: "Somebody in my court always gets this for that offence," and somebody in the next court would give half that sentence. The Sentencing Council has brought very welcome consistency to that.

The area of play for the individual judge is not large, but what is important is the unduly lenient sentence scheme. You will be aware of that. Anybody who thinks a sentence is unduly lenient, not just lenient but wrongly so, can write to the Attorney General and ask him to send it to the Court of Appeal to have it reviewed. The decision is made by the Attorney, and he does take some. He—now she—succeeds in a large number of the ones that are taken, but not that many people know that that is there.

That looks to me like a really good outlet for people who are worried about a sentence. It may be a type of sentence: "It is too low for rape" or, "It is too low for domestic violence," or, "It is too low for violence against young men." That looks like a very good mechanism, but it is not a good mechanism if no one knows about it. I would call for a good promotional campaign about that.



Q37 Dr Kieran Mullan: In your experience, does Victims UK actively push for longer sentencing—tougher sentencing is probably the phrase people are more familiar with—in the Sentencing Council process?

Dame Vera Baird: It is not Victims UK; it is Victim Support. I am afraid I do not. I have never had that conversation with the chief executive there, but I know she attends regularly and is very punctilious about victims' rights.

Q38 Maria Eagle: The issue of the victim personal statement is tremendously important for the reason that you gave, Dame Vera, which is to enable victims to feel that their concerns are at the centre of the entire criminal justice process. There are many examples where that does not end up happening, so having the chance to put a victim personal statement, either to read it out or to have it read out, is an important part of making victims feel that their experience is taken into account and that they can have an appropriate impact on the outcome of whatever the proceeding is.

As you said yourself, remote access to some of these proceedings is a good way of making sure that there is broader access; it is more sensible and useful for the person who is the victim and might not be able to get to court or might not want or feel able to be in court. Things are obviously locked down, but before Covid began, do you feel that victims were being adequately supported to give their victim personal statement digitally, or is there more to do in that respect?

Dame Vera Baird: There will be much more to do in that way. What is very important, though, is that it is one thing to give somebody a right to have a VPS but it is another thing to encourage them to put their best foot forward and say everything they want in it. There is probably an argument, although it is an obligation on the police so they would have to pay, for Victim Support services helping people to do their VPS. Police are great at writing statements. They do not say, "I was proceeding down in a northerly direction" now, but they are great at getting the facts down. It is not really their role to encourage people to express their feelings. The court system is a pretty forensic process, as we both know. Encouragement to be able to fully express your views is probably the key factor that makes a victim personal statement good.

Q39 Maria Eagle: Have you noticed any kind of impact thus far, arising out of the Covid-19 measures that have been taken, on the involvement of victim personal statements being read both at court and at the parole stage? It is important at the parole stage as well.

Dame Vera Baird: Yes, I am concerned that that is bound to be happening. The courts have stopped having trials. The assumption at large will be, "Well then, there are no victims to worry about." Of course, the priority for the Crown court in particular is likely guilty pleas. They will be taking likely guilty pleas, to get them disposed of, at all levels of crime, including ones when an individual will definitely want to use their victim personal statement. I do not think there has been the import from



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the independent victims' sector to make sure that is always the case. That is a real worry.

The other cases that were getting priority are when somebody has been on remand so long that they are in danger of exceeding the sentence they are likely to get. They too will be brought back. They are less likely to be very serious, but the delays in court mean that it could be one year or two years. Again, if people are pleading guilty and victims are not being required to attend, and due process is not being gone through, there is no way of making sure that the victim's personal statement is known about. If somebody indicates a guilty plea at the pre-trial preparatory hearing, the question of a victim's personal statement needs to be raised so that the victim has time before the final sentencing hearing to be ready to do it and to have it in apple-pie order. I am sure that is not happening. There are real risks that the victims, who are never at the centre of this, just drift away.

Q40 **Maria Eagle:** That is an important point, because if they drift away any further, you might get the impacts you were talking about earlier, with witnesses not continuing through the process and not feeling at all satisfied by the entire proceedings.

Dame Vera Baird: Exactly. If the police want their help again, would they bother to report a crime? Would they help the police? Would they report something? We are asked, if we see something that we do not think is right, to report it. If people have had a bad experience, they are much less likely to do that, apart from the personal damage it does if the state appears to be treating with disregard people who have already suffered from a criminal.

Q41 **Maria Eagle:** At the other end of the sentencing process, looking at the Parole Board, victim personal statements are tremendously important, partly because of the length of time. There is more of a view from the victim about what the overall impact of the crime has been, and their statement may well be very different at the end from what it would have been at the beginning.

What progress do you think is being made in enabling victims to make statements for parole hearings and having them read out at that stage? It is something that is often overlooked.

Dame Vera Baird: It appears to be getting better. There are better communications between the Parole Board and victims. The whole thing got a terrific shake-up due to Warboys. Obviously, the test at parole is a risk assessment, so the victim personal statement is not going to be determinative, but it can talk about the real impact of the crime after people have lived with it for an amount of time, as you said. It can be quite telling for the consideration of risk and to put the right terms on anybody's licence so that people feel protected by it.

I am grateful to Mr A'Court for this. He used to work in the probation sector at a senior level and tells me that it is the case that there is much



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more victim engagement. More and more people are registering for the victim contact scheme than were before. He would prompt me to say that only about 25% of people who go to parole boards get parole. People probably over-worry about it, but the sense is that the probation service is getting better and better at dealing with victims. Whether it influences the Parole Board or not, you would have to ask the Parole Board.

Q42 Dr Kieran Mullan: Specifically on the ability of victims to feed back into the restriction zone place, there has been some discussion of restricting the parolee's right to know what restriction someone has requested. I can imagine it would give the victim the freedom to put forward suggestions without fear that the parolee would resent that and feel negatively about it. Would you agree that it is a sensible thing to let victims put forward parole suggestions without fear that the defendant will find out about them and maybe take unkindly to that?

Dame Vera Baird: Yes, it sounds a very sensible idea, for the very reasons you have said.

Q43 Dr Kieran Mullan: I want to pick up on something you mentioned at the start of these questions. Is there a risk that to some extent people who attend parole hearings and give an impact statement have their hopes raised? As you say, it is about risk. I worry that people will go and give a heartfelt statement about the impact the crime has had on them, but then find that the decision does not go their way because it does not have an impact on risk. Are we happy that victims who go through that process understand that and do not run the risk of being disappointed?

Dame Vera Baird: No, I do not know for sure that they do. What I would say about that is that, if they are in the victim contact scheme, they will have an allocated probation professional who, these days, is geared to the role of being a victim contact person, so ought to be making clear what the rules are. That cannot take away the emotion of course, but a good deal will depend on the attitude of the members of the Parole Board. If they are receptive to the person reading the statement, if they are pleasant with them and appear to understand and to take it seriously, there will be some satisfaction from having been able to put their point of view to the people who matter, even if the outcome is not what they wished for.

This is a bit of an example of procedural justice, which is a big feature of what does not go right in the pre-trial process too; people are not treated with a great deal of regard and are not given information. If they are given all the entitlements in the victims code, that becomes as important to them as the outcome of the trial. They need to be told that they have suffered, that the state understands that and will do its best. It is a restorative process. It is the same at the Parole Board. It is very important.

Chair: That is very helpful. We talked a bit earlier about the victims code and the areas where you think it is deficient and you hope there will be



changes, Dame Vera. One area where you have said you want to see a change is for it to move from guidance to a statutory footing and move towards a victims law. The Government have said that they want to do that too. I wondered if you could help us around that. Rob Butler will ask some questions about that.

Q44 Rob Butler: Picking up on what the Chair said, Dame Vera, what would you hope to see in that law and what do you hope it would achieve in addition to the code? You have talked quite a lot about this already, so what are the headline points that you think could be brought about by a victims law?

Dame Vera Baird: At the moment, my understanding of it is that it is a slim document. At present, I think it consists of three parts. The first is to make statutory the rights of victims so that the code becomes a statutory code. You must get a witness statement taken; you do not put that in the law, but you say it is in the rules and you must do it because it is statutory. That is the first thing.

The second thing, I understand, is to give enhanced powers to the role of the Victims' Commissioner to request information, and how to get it and to get a response to reports, and, possibly—I am hopeful—having a compliance role. We would also like to present our annual report to you on the Justice Committee and not to the Ministry of Justice. We feel that that would elevate the status of the role and elevate the status of victims. If we report to Parliament, they are getting their rights here, and you, as a Committee, could conceivably hold some inquiries. We are very ambitious for that to be part of part 2.

Part 3 at the moment is about how to enforce compliance with the code, which I hope has an overlap with part 2. It depends on how else they are envisaging it. There is a lot more, in my view, to do apart from that. I do not want to be exhaustive, but we have sent a letter to the Secretary of State for Justice setting out quite a number of things that we feel should be considered for the victims law. After all, it would be a once-in-a-generation opportunity to make things better.

At the moment, I cannot take on individual cases for victims. The person who does that is the ombudsman, but you can only go to the ombudsman if you go through a Member of Parliament like yourselves. They had about three criminal justice complaints last year. That is not good enough. Clearly the right route is through the complaints system of the police, or whoever it is, first, but then there needs to be the ombudsman. The law ought to remove the need to go through an MP to get your complaint to an ombudsperson, which again would give a bit more power to the public over the criminal justice system.

Police and crime commissioners have to produce five-year plans for their policing, but they do not have to say anything about victims. We would like them to have to put a section on their victims commitments into their five-year plan.



We have been campaigning for everyone, probably above a particular level of crime, to be entitled to a copy of the judge's sentencing remarks. They are made when a person is not there, or, if they are there, they do not hear. They are not in a frame of mind to take them in and remember them, and sentencing remarks are never seen again unless you choose to pay for a transcript. It is very important for people to see them: "Has what I've said been taken note of? Is this right?" We really want that too. They are talking about videoing judges' sentencing remarks, and that would be good. You could just go on YouTube, I suppose, to see what had been said and play it over again and again. It is a bit of a strange hobby, but if it was your own case you might very well want to do that.

That is important for people's satisfaction. It is also important because somewhere down the line the individual who may have done something awful to you is going to come out, and you need to know where he started. You need to know on what basis, when you thought you heard the word "life", it actually did not mean that at all, and when you thought you heard the words "30 years" they did not mean that at all. I do not think we start from the right place to help people to adjust to the inevitability of release and their ability to influence when he is released. That is a key point that we should put in as well.

There needs to be a duty to respond to the work that we do. I have a list of about 10 other things. Criminal compensation ordered by the courts should be paid by the court, there and then. What happens is that it is ordered, and it is geared to the means of the defendant. I do not know if that is inevitable or not. If the defendant does not pay, it is rarely enforced, and you have added insult to injury by giving a small amount of compensation, because he is a hard-up individual or because he has gone to custody, and then not chasing it. You are left in an unholy relationship with your defendant—getting nothing from him but the knowledge that he has abused you yet again by declining to pay. If compensation is to be ordered by the court, the court should deliver it from the Consolidated Fund and then it is their responsibility to chase him. It does not affect you and you can go away and forget you ever met him, or her, whoever it is. There are four or five other things.

Q45 Dr Kieran Mullan: Indeed. As you say, there are lots and lots of things that could be included, all of which would probably warrant another full hearing. I am very mindful of the time we have left.

I have one final thought. A law and a code are all very good in the sense that they give something a statutory footing, but to be followed through effectively requires an ethos or a culture. What do you think the ethos and culture is of the criminal justice system towards victims, and do you have any cause for optimism there?

Dame Vera Baird: Currently, it is as I tried to describe in the outline of my framework of ambition. It is inevitably an adversarial system. Its focus is on the defendant. A lot of people do their best for victims, but, with the best will in the world, they are a bit of an afterthought because



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the role is quite different. The way to produce a better culture is indeed to give an obligation to fulfil the requirements of the victims code. You can change culture with legislation. They are then seen as part of your duty, so you will get used to doing it. Public servants do what they are asked to do, and they will do it amiably and well when they have to do it.

I feel that we might be at quite a critical place, getting a good, strong victims code, somebody to implement it properly and bring compliance and a victims law saying, "Look, leave the adversarial system where it is, but here is a whole cohort of people who are not currently getting justice, which you can deliver to them just as well. Do this." That could change the culture. I am an optimist, though.

Q46 **Chair:** That is very helpful. Mr A'Court, is there anything you want to add?

Russell A'Court: No.

Q47 **Chair:** I know you have done some work on that. We have it in our briefing, but probably Dame Vera has covered it.

There are two or three other areas to deal with. There is a lot of talk about the question of the reduction in charge and conviction rates for rape and serious sexual offences, and you have raised it with the previous Attorney General. Obviously, that is a particularly sensitive and important issue for victims, and a high-profile one. Are there steps that you think you would specifically wish to see taken to increase the rate there, without undermining the entitlement of any defendant to a fair trial?

Dame Vera Baird: Yes. At the beginning, before you came back from the Domestic Abuse Bill, I set out my stall to say that there should be a red circle around defendants' rights, and that we can go a very long way to improve the role of victims and improve their treatment without getting anywhere near that red circle. Good-quality information, special measures and all of the things we have discussed are available without doing that.

I was a barrister myself, as you were, Chair, for about 20 years, mostly defending. That is the balance that I want to retain. At the moment, the conviction rate for rape is tiny. The prosecution rate for rape is tiny. There is the end-to-end rape review that the Government have set up, which asks itself four questions. The third is, "Why has the CPS charging rate fallen so dramatically?" The fourth is about outcomes at court and why they are quite poor. At the moment, I do not feel that the review has collected sufficient evidence on questions 3 or 4 to be able to answer those questions properly. There is a series of proposals about what should be done particularly to tackle question 3. Why the CPS are charging 53% fewer rapes than they were two years ago is a very crucial question.

Q48 **Chair:** You would like to see more evidence collected. That is understood.



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One thing that we have had specifically, although it does not purely relate to rape and serious sexual offences but is obviously an area where it is frequently relevant, is the whole question of disclosure and the Attorney General's revision to the guidelines on disclosure. Do you have a view as to the proposed revised guidelines? They are out for consultation at the moment. Do they get the balance better than before, or not?

Dame Vera Baird: I do not think they were going to. There has been a lot of discussion. Indeed, you and I have talked about it in this Committee before, on the impact of the case of Liam Allan, and other cases where there was insufficient disclosure. Disclosure has been a thorny problem. You can go right back to the IRA cases where disclosure was a big problem.

I recognise that it needs to be done properly in every way, but when it comes to sensitive cases like rape and sexual abuse it is important to weigh in article 8 rights and the right to confidentiality, and a not disproportionate and over-intrusive approach to private correspondence, private telephone material and the notes of a complainant's health history, their social services history and their counselling history. That has to be balanced against the undoubted right to a fair trial and all the requirements of the disclosure legislation.

When the draft guidelines came out, there was no reference to article 8 or that balancing exercise of a sufficient nature. We have asked for that to be put in, and we will see what it produces. I was surprised, because it has been a very keen issue. There was an internal look at some cases in the CPS, where they had sent back requests for more disclosure to the police. Their own internal inquiry found that in 40% of those cases the requests were disproportionate and tended to be over-intrusive. It is a very important balancing mechanism, which was not there.

I am very grateful to the Attorney General, who has extended the period of the consultation. I know that the sexual violence sector charities want to put in submissions.

Chair: Thank you. James Daly will deal with the final topic.

Q49 **James Daly:** I should declare my interest as a partner in a firm of solicitors. I had not done that previously.

Dame Vera, I was a criminal defence solicitor for 16 years before coming into Parliament. Throughout the whole period of that time, pre-charge bail was an issue, good and bad. What should the Government do to reform pre-charge bail and release-under-investigation practices?

Dame Vera Baird: Yes, I am sure you have come across that innumerable times in your role. Your accent is really attractive; you obviously come from your constituency. I come from Oldham and you sound like people I grew up with.

James Daly: I think the firm that I worked for instructed you on cases.



Dame Vera Baird: That sounds very sensible to me.

Chair: A good plug.

Dame Vera Baird: My interest as Victims' Commissioner in pre-charge bail is in the ability to put conditions on a defendant at an early stage so that victims can feel protected while the inquiry goes forward. I am afraid that what happened, in my view, was a kind of misunderstanding. I very much understood the complaint that people charged with sex offences, or rather people who were being investigated for sex offences, but had not been charged—that was the problem—felt that they were being kept on bail for years and years, and that scrapping bail of that length and making it much shorter was the answer to stopping the travails of a person in that position.

I do not think that it is any different being under investigation and known to be from being on unconditional bail and under investigation. I think the wrong decision was taken about how to sort that out. The bad impact, apart from my interest in conditions—particularly, as you might think, for domestic abuse people—is that ironically bail and having to come up to the desk sergeant every 28 days, or whatever it was, to say why bail should be continued was a sort of case management tool. Although it did not work in sex cases that were deplorable at all, none the less it meant that somebody had to look at the file again and sort out what they were doing. At some point, their superior would say, "Why is this continually coming back?" It has probably got worse for most people. That case management tool has gone, and it has not got any better for people who are remanded under investigation for a long time on those nasty offences.

Q50 **James Daly:** I agree with that, Dame Vera. Do you have a preferred option among the four that the Government have identified in their consultation on pre-charge bail?

Dame Vera Baird: I am afraid I can't remember what they are.

Q51 **James Daly:** I won't remind you at this stage. The final question is this. As somebody who has been doing this for a long time, I think there is a lot of the system that existed 16 years ago, such as the impact of the police within the review mechanism that you are talking about and coming back every 28 days. Do you feel that the police have been taken out of pre-charge bail too much, to an extent, in the sense of the decision being transferred to the Crown Prosecution Service? Do you think that has had an effect?

Dame Vera Baird: Yes, I am sure it has, but don't you think that in fact it has been a much more wholesale change than that? It did not go, but I think many police thought that pre-charge bail had been scrapped, or effectively scrapped, and they were discouraged from using it. Austerity meant that people were not being arrested to be interviewed but were coming in as voluntary attenders. The whole issue around police engagement with defendants at an early stage in the investigation was of



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a lower calibre, a lower involvement, and that has all played a role in taking the police out of that.

It is pretty unlikely, when somebody has to have a forensic report for their case to be tried fairly, that the police are going to get it back within a very short time so that the requirement to go to court is justified. It just clogs up the courts and it wastes time.

Q52 James Daly: I think we all agree that release under investigation is unsatisfactory for victims of crime, whichever way you look. My colleagues who are still involved in practice tell me that for most basic offences you can be released under investigation for well over 12 to 18 months. What steps do you feel the Government should take in respect of that specific issue?

Dame Vera Baird: There is obviously a need for that not to be the case. The reintroduction of conditions on bail would at least temper long delays. I have enormous fears about the length of time not only that investigations take but that court cases take to get on. That is a great deal of the mischief.

Q53 James Daly: It comes down to this, from both our experience: what more could be done to strengthen bail conditions and enforcement to protect witnesses and victims?

I know from my personal experience in the lower court that the majority of domestic violence cases that I was involved in—I do not have an exact figure—did not proceed to a trial. The victim did not turn up for a full variety of reasons. People were released on bail in domestic violence cases for very good reason, but as they walked out of the court in many of these cases the bail conditions were just ignored and relationships were resumed, and many other things were happening. Is there a way of strengthening bail conditions at all? It is very difficult, but is there a way of protecting the victim?

Dame Vera Baird: I suppose you could make it a criminal offence to break bail in any way. That might speak to people. Where it is a domestic violence case, you could put on an interim domestic violence protection order so that there are two things for him to break if he thinks that he is going to re-engage with her or persuade her not to go, whatever it might be. You could consider mechanisms like that.

James Daly: Thank you very much, Dame Vera.

Q54 Chair: There was talk today about the proposal for joint domestic violence courts dealing with both family and civil jurisdictions. If you went down that route, you could deal with bail and the interim domestic violence order, if you had that sort of set-up.

Dame Vera Baird: I think you can still put an interim order on in the magistrates court.

Q55 Chair: Yes, it could be done anyway. It is doable as it is.



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Dame Vera Baird: It is a really interesting idea. Do you remember, Chair, way back in about 2005, there was a joint family and criminal domestic abuse court in Croydon that did not work? I hope we can learn some lessons from that, because compelling people to go to two different jurisdictions for, essentially, the same problem is not good.

Chair: It is worth revisiting that. I remember that, yes. Unless any of my colleagues have any further questions, Dame Vera, thank you very much for your time and for your evidence. It is good to see you again. It is good to see you, Mr A'Court. Thank you for your attendance. I am very grateful to you both.