



House of Commons
Justice Committee

Pre-legislative scrutiny of the draft Victims Bill

Second Report of Session 2022–23

*Report, together with formal minutes relating
to the report*

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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Summary

On 25 May 2022, the Government published a draft Victims Bill. The Government's intention through the Bill is to improve end-to-end support for victims of crime, amplify victims' voices in the criminal justice process, and to strengthen the transparency and accountability of criminal justice agencies' delivery of rights set out in the Victims' Code.

The Government has committed to enshrining the rights of victims in law. We find that the draft Bill does not appear to do any more to achieve this than is already provided for in existing legislation. The draft Bill includes overarching principles that are weaker than those consulted on and which, as currently drafted, will do little to improve agencies' compliance with the Victims' Code. The Government has said that the key entitlements of the Victims' Code will be set out in regulations. Those regulations have not been shared with us, we are therefore unable to form a view on their utility.

The draft Bill retains the onus on the victim to claim rights they are often unaware of, rather than requiring the relevant agencies to deliver them. As set out, this approach falls short of what is required. The Bill should be strengthened to require agencies to comply with their obligations under the Code. We welcome the measures in the draft Bill to increase the transparency of agencies' support for victims but the draft Bill needs to do more to increase the oversight and enforcement of that compliance. We find that this can be achieved in part by strengthening the role of the Victims' Commissioner and formalising relationships between the PCCs, the Commissioner and the Inspectorates to allow for the escalation of concerns identified at a local level to national bodies.

We welcome the measures in the Bill to increase awareness of ISVAs and IDVAs and those that require commissioning bodies to work collaboratively and to have greater regard to the needs of their communities. We note the funding provided by the Government under the Victims Funding Strategy but a recurring theme in our inquiry was that victim support services and advocates already face unmanageable referral levels and caseloads. Without further funding in place, we caution that the Bill risks raising victims' awareness of their rights only to leave them unable to access them due to the relevant services already working at full capacity.

1 Introduction

1. In the 2021 Queen’s Speech the Government committed to bringing forward a Victims Bill to put into law the Code of Practice for Victims of Crime (hereafter referred to as the Victims’ Code), improve victims’ experience of the criminal justice system and set expectations for the standard and availability of victim support for victims of domestic abuse and sexual violence.¹ From 9 December 2021 to 3 February 2022, the Government consulted on how to improve victims’ experiences of the justice system.² The consultation considered a range of measures to support victims.

2. On 25 May 2022, the Government published a draft Victims Bill and its response to the consultation and asked our Committee to undertake pre-legislative scrutiny of the draft Bill.³ Our inquiry focused on the legislative changes that are proposed through the draft Bill and measures published alongside the Bill that the Government has proposed introducing into the Code.

3. The Government sets out the Bill’s intent as follows:

[T]o improve the end-to-end support for victims of crime so that they get the support needed to cope and recover from the impact of crime and feel able to engage and remain engaged in the criminal justice system. Together the measures will amplify victims’ voices in the criminal justice process, strengthen transparency and accountability of criminal justice agencies and improve support for victims.⁴

The Bill has 13 main clauses. The Government states that the Victims Bill will facilitate a more consolidated framework to better support victims through the following legislative measures:

- placing the overarching principles of the Victims’ Code in primary legislation;
- enhancing local oversight of delivery of the Victims’ Code through better data collection and an enhanced role for Police and Crime Commissioners (PCCs);
- introducing a duty on PCCs, local authorities and Integrated Care Boards to collaborate locally, to facilitate more holistic and better coordinated victim support services;
- placing Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs) on a statutory footing by requiring persons who work with victims of criminal conduct, or any aspect of the criminal justice system, to have regard to guidance about how to work with them;
- updating the role of the Victims’ Commissioner, including a requirement for departments and agencies with a responsibility to meet the requirements under the Victims’ Code to respond to relevant annual report recommendations;

1 HM Government, [Queen’s Speech 2021](#)

2 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims’ experiences of the justice system](#), December 2021

3 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims’ experiences of the justice system: Consultation outcome](#), 25 May 2022; Ministry of Justice, [Draft Victims Bill](#), CP 687, May 2022

4 Ministry of Justice, Draft Victims Bill, [Explanatory Notes](#), May 2022

- bolstering national oversight through a requirement for regular joint thematic inspections on victims' experiences; and
- removing the need for a victim of crime to raise a complaint via their MP before it can be escalated to the PHSO.⁵

In addition to the provisions in the draft Bill, the Government also announced plans to make changes to the Victims' Code by:

- including information about Community Impact Statements in the Victims' Code to promote their use in appropriate cases and amplify the voices of communities impacted by crime;
- working with the judiciary to introduce a Victims' Code entitlement for Victim Personal Statements in the Mental Health Tribunal where the release of offenders is being considered, so that victims are able to explain the impact of the crime on them;
- reviewing the information in the Code about the Victims' Right to Review schemes; and
- introducing a duty in the Victims' Code requiring the Crown Prosecution Service (CPS) to meet victims in certain cases before a hearing takes place, where the victim is willing to do so.⁶

4. The Government also reiterated a previous announcement to reflect in the Code a victim's right to attend a parole hearing in full, should they wish to and, subject to the circumstances of the case and agreement of the Parole Board, a provision to allow victims to ask questions within submissions to the Parole Board. The Board would be required to take account of these submissions when reaching their decision. The Government has said that it will publish a draft of the revised Code and draft regulations setting out the key entitlements of the Code during the passage of the Bill.

5. The Committee welcomes the opportunity to scrutinise the draft Victims Bill and supports the Government's ambition to improve victims' awareness of their rights under the Victims' Code. The Code is an important aspect of the Bill. It is disappointing that neither the draft of the proposed new Code nor the draft regulations setting out the key entitlements of that Code have been published alongside the draft Bill. This has limited our ability to scrutinise the Government's proposals to support victims.

6. In this report we take a clause by clause approach to assessing the merits of the draft Bill and related proposals. We are grateful to all those who provided oral and written evidence to our inquiry and who participated in our private round-table meeting.

5 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), 25 May 2022

6 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

2 Clause 1, defining victims of crime

7. Clause 1 creates a definition of a ‘victim’ for the purposes of the Bill and the Victims’ Code. The current legislative framework underpinning the Victims’ Code is Chapter 1 of Part 3 of the Domestic Violence, Crime and Victims Act 2004 (DVCVA).⁷ That Act defines a victim for the purposes of the Code as a ‘victim of criminal conduct’ without further elaboration. The Code adds further detail, stating that for its purposes the definition of a ‘victim’ is:

- a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- a close relative—or a nominated family spokesperson—of a person whose death was directly caused by a criminal offence.

8. The Victims Bill repeals that section of the DVCVA and introduces a more complex definition, amalgamating elements of the original section and elements of the current Code. Witnesses to a crime are brought within the statutory definition while bereaved relatives—who are included in the current definition in the Code—are left out. The definition requires that a victim for the purposes of the Code must have suffered harm including physical, mental or emotional harm, or economic loss as a direct result of being subjected to or witnessing criminal conduct which constitutes an offence.

9. In determining whether a person is a victim for the purposes of the Bill, the Bill also replicates the existing provision in the DVCVA that it is immaterial that no person has been charged with or convicted of an offence in respect of the conduct—this aims to ensure the provision of services under the Code to victims at all stages of the criminal justice process, and to victims of offences in respect of which no criminal proceedings are eventually brought or where criminal proceedings result in a not-guilty verdict.⁸

10. In relation to the inclusion of witnesses in the definition of victim, no reference is made to the impact, if any, that the crime has had upon the witness. Some witnesses are certainly traumatised by the nature of the crimes they have been exposed to—incidents of violence are an obvious example—and there is logic in treating them as victims. Others may be unaffected. Further refinement is required, otherwise such a wide definition of witness may actually make the application of Code rights more difficult in practice. The Government also needs to set out what effect the inclusion of witnesses will have on the application of rights under the Code in general.

Relatives of a person whose death was the direct result of a criminal offence

11. Witnesses to our inquiry suggested that the definition should include other people affected by crime.⁹ The Hundred Families charity drew attention to the role of relatives of victims, stating that the proposed definition failed to recognise the families of murder victims sufficiently clearly. The definition in the Victims’ Code recognises this group

7 [Domestic Violence, Crime and Victims Act 2004](#)

8 Ministry of Justice, Draft Victims Bill, [Explanatory Notes](#), May 2022

9 See for example [Q126](#) [Victim Support]; [Q128](#) [Dr Siddiqui] and [Q171](#) [Baljit Ubhey]

as do the definitions used by the United Nations, Council of Europe, and the European Parliament, which all include immediate family members or dependants in their definitions of a victim.¹⁰ Claire Waxman OBE, Victims' Commissioner for London, told us:

It is really important to include them in legislation, because we see a host of entitlements for them under the current Victims' Code. They are entitled to a family liaison officer and to meet with the CPS at various stages. They have a right to make a Victim Personal Statement and to access the victim contact scheme, which is particularly important for Parole Board hearings. That is quite a large omission.¹¹

Baljit Ubhey, Director of Strategy and Policy, CPS, explained that the CPS has an enhanced service and a specific policy to deal with families of bereaved victims, 'So we think that is an important omission at the moment.'¹²

12. We note that clause 2(4) replicates the DVCVA in setting out that 'the Code may include provision requiring or permitting the services which are to be provided to a victim to be provided to one or more others (a) instead of the victim (for example where the victim has died) or (b) as well as the victim.' However, this provision gives the Secretary of State discretion over which groups of people are included and, because such groups are not defined as victims in clause 1, the overarching principles of the Code do not automatically apply to them.

13. As currently drafted, a victim of small-scale fraud is considered a victim of crime for the purposes of the Bill but a parent whose child has been murdered is not. This cannot be right. We recommend that the definition of victim in clause 1 of the Bill be expanded to include a close relative of a person whose death was directly caused by a criminal offence. As set out in the current Code, such a definition should refer to the spouse, the partner, the relatives in direct line, the siblings and the dependants of the victim and that other family members, including guardians and carers, may be considered close relatives at the discretion of the service provider.

Secondary victims of crime

14. Contributors to our inquiry recommended that the definition should recognise children born of rape as secondary victims of crime and for people in this group to be given rights under the Victims' Code.¹³ The Centre for Women's Justice argued:

affording 'rape-conceived' persons this status in the Victims Bill would help counter the dearth of recognition and support currently available for children (and adults) who are born as a result of rape, for whom such a discovery can be profoundly traumatic.¹⁴

15. The existing Code makes no reference to rights for secondary victims of crime, specifically rape-conceived persons. Clause 2(4) sets out that the Code may make provision for those not defined as 'victims' in clause 1. This provides scope to extend

10 Hundred Families charity ([VIC0005](#))

11 [Q6](#) [Claire Waxman OBE]

12 [Q171](#) [Baljit Ubhey]

13 Victims' Commissioner for London ([VIC0053](#)); Centre for Women's Justice ([VIC0030](#))

14 Centre for Women's Justice ([VIC0030](#))

Code entitlements to children born of rape but as drafted lacks the necessary assurances that this will happen and, being unsighted on any draft of an updated Code, we cannot be reassured that provisions in the Code will be extended to that group. We recommend that both the Bill and an updated Code make specific reference to the inclusion of rights under the Code for children born of rape.

Victims of anti-social behaviour

16. During our inquiry we also heard representations on the profound and devastating impact that non-criminal anti-social behaviour can have on people. Alex Mayes, Victim Support, told us:

victims whom we have worked with face distress, trauma, have to move home, have to move jobs. We think it is right that victims of serious antisocial behaviour get some merit and consideration within the Bill.¹⁵

Currently, those people are not recognised as victims of crime under the Victims' Code. This means that they have no statutory right to access victim support services and we heard that support from PCCs is inconsistent.¹⁶ Dame Vera Baird KC, the national Victims' Commissioner, told us that victims of non-criminal anti-social behaviour should have rights under the Bill once the Community Trigger, as defined in section 104 of the Anti-Social Behaviour Act 2014, is reached.¹⁷

17. We recommend that victims of non-criminal anti-social behaviour who meet the threshold for a 'Community Trigger' should be recognised as victims for the purposes of the Bill and be entitled to rights under the revised Victims' Code. We think this is in line with the Government's aim of achieving a culture change in the attitude towards victims among criminal justice agencies and recognises that anti-social behaviour can have as much of an impact on those affected by it as criminal conduct.

Migrant victims

18. A recurring theme in the evidence we received focused on the reluctance of victims with insecure immigration status to report a crime or seek support for fear of statutory agencies sharing their data with Immigration Enforcement. This is despite people in this category being among the most at risk of being a victim of crime. The organisation Imkaan has reported that more than 90% of abused women with insecure immigration status had their abusers use the threat of their removal from the UK to dissuade them from reporting their abuse.¹⁸

19. The sharing by the police of victims' and witnesses' data with the Home Office has been the subject of a Super-complaint by Liberty and Southall Black Sisters. On 17 December 2020, HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), the College of Policing (CoP) and the Independent Office for Police Conduct (IOPC) responded to that complaint. They called for an overhaul of the laws and policies

15 [Q126](#) [Alex Mayes]

16 Victim Support ([VIC0026](#))

17 Victims' Commissioner for England and Wales, [Response to 'Delivering justice for victims: A consultation on improving victims' experiences of the Criminal Justice System'](#), February 2022

18 Thiara, Ravi K. and Sumanta Roy (2012), 'Vital Statistics 2: Key findings report on Black, Minority Ethnic and Refugee Women's and Children's experiences of gender-based violence.' London: Imkaan

on police data-sharing with the Home Office, recommending an immediate end to data-sharing and a review of the law and policy in this area with the aim of ‘establishing safe reporting pathways, informed by the realities of victims’ experiences, that reflect existing laws on everyone’s right to data protection.’¹⁹ The Home Office committed to a review but did not introduce the requested firewall.

20. In December 2021, the Home Office published the outcome of its review into the legal framework on data-sharing. The Department proposes to introduce an Immigration Enforcement Migrant Victims Protocol, which aims to assure migrant victims who report a crime that they will have relief from immigration enforcement action while criminal proceedings are underway. Stakeholders giving evidence to our inquiry argued that the proposal does not go far enough and instead called for a complete firewall. Suzanne Jacob OBE, Chief Executive of SafeLives, told us:

[I]t is very clear why migrant victims of crime are in a particularly vulnerable position. They are subject to coercion and threats by their abuser, if it is a domestic abuse case, their trafficker or other people. So, by definition, they are highly vulnerable; yet as a system we are trying to exempt them even from the baseline measures of protection.²⁰

The then Minister for Justice and Tackling Illegal Migration explained that the Government did not ‘want to create an adverse situation where people claim to be victims of a particular issue in order to try to work their way around appropriate immigration enforcement.’²¹

21. Many victims of crime do not pursue a criminal justice response, particularly those most at risk of being victims. We generally welcome the draft Bill’s open definition of victim, subject to our comments in paragraph 10, but it needs to go further. All those who have suffered harm must be able, and have the confidence, to contact services such as the police, and to access their rights as victims. The lack of a firewall between the police and Immigration Enforcement denies safety to victims and witnesses and may allow perpetrators to commit further offences.

22. We call for an immediate end to the sharing of victims’ and witnesses’ data between the police and the Home Office for immigration enforcement purposes and the introduction of a complete firewall for those groups. We recommend that the draft Bill includes a provision stating that victims’ and witnesses’ data cannot be shared by the police with Immigration Enforcement and that entitlements in the Code will not be restricted on the basis of immigration status.

19 [College of Policing, HMICFRS, IOPC, Safe to share? Report on Liberty and Southall Black Sisters’ super-complaint on policing and immigration status: A joint investigation by Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services and the Independent Office for Police Conduct](#), 17 December 2020

20 [Q132](#) [Suzanne Jacob OBE]

21 [Q277](#) [the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP]

3 Clauses 2 to 4, the Code of Practice for Victims of Crime

23. Clauses 2 to 4 provide for the Secretary of State to issue a code of practice on the standards of services that must be provided to victims of crime (Victims' Code) and set out the procedure for issuing that Code. The Victims' Code already exists, having been required by the Domestic Violence, Crime and Victims Act 2004.²² It was first introduced in 2006 and was revised in 2013, 2015 and most recently April 2021, when the Government merged the large number of existing entitlements into 12 overarching rights to reduce the Code's complexity. The Code sets out the minimum levels of service that victims can and should expect from criminal justice agencies such as the police, Crown Prosecution Service (CPS), His Majesty's Courts and Tribunals Services (HMCTS) and His Majesty's Prison and Probation Service (HMPPS).

Principles and procedure

24. The Government has taken the approach of setting out 'four key overarching principles' of the Code in primary legislation through the draft Bill and stated that it would, 'set out the 12 overarching entitlements from the Code in Regulations.'²³ It has argued that this approach will 'send a clear signal to all listed agencies that they must comply with delivering the Code and to all victims so they understand what they should receive,' and that placing the details of the entitlements in regulations will allow the Government to more easily amend the Code in the future should it need to, for example in response to new types of criminality.²⁴ The Victims' Commissioner commented in her 2021–22 Annual Report:

[t]he new Victims' Law must make it clear that we can no longer tolerate a position where the vast majority of victims do not get their full and rightful entitlements and are left without the help they need to cope and recover. These entitlements must be enshrined in legislation, with victims accorded rights that are backed up by law.²⁵

25. Aside from the definition of victim, discussed in the previous chapter, and the addition of the four overarching principles, the provisions in the draft Victims Bill relating to the Code are very similar to those set out in the Domestic Violence, Crime and Victims Act 2004. Like the DVCVA, the draft Bill states that the Code will be laid before Parliament and brought into 'operation on such a day as the Secretary of State appoints by regulations.' This will be done using the negative procedure.²⁶

26. On announcing the draft Victims Bill the then Secretary of State said, 'We will enshrine the Victims' Code in law to send a clear signal about what victims can and should

22 [Domestic Violence, Crime and Victims Act 2004](#)

23 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

24 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022; [Q269](#) [the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP]

25 Victims' Commissioner for England and Wales, [Annual Report 2021–22](#), June 2022

26 Ministry of Justice, [Draft Victims Bill](#), CP 687, May 2022

reasonably expect from the criminal justice system.²⁷ In terms of legal effect the draft Bill does no more to enshrine the Code in law than is already provided for by the DVCVA. The Bill does not require the 12 entitlements of the Code to be set out in regulations as committed to by the then Secretary of State. Following his oral evidence, the then Minister for Justice and Tackling Illegal Migration wrote to us clarifying that the Government's intention is to set out the key entitlements of the Code in regulations under the provision in clause 2(2)(b)—it remains the case, however, that the Bill places no obligation on the Secretary of State to do so.²⁸

27. The Government has pledged to publish a draft of the regulations and a revised draft of the Code during the passage of the Bill and to consult on the draft of the Code once the Victims Bill is in force.²⁹ This means that the Government will be asking Parliament to pass the Victims Bill before having sight of the outcome of any consultation on the revised Code, and it is currently not clear at what point during the passage of the Bill the Government plans to publish either the draft of the Code or the draft regulations. The then Minister for Justice and Tackling Illegal Migration set out the parliamentary process for the regulations as follows:

The negative procedure will provide an appropriate level of scrutiny because the regulations cannot amend or depart from the key principles which will be set out in primary legislation. [...] we are content that the regulations and the changes to the Code will receive sufficient scrutiny publicly, in your Committee and by our colleagues in Parliament, and that the negative procedure is appropriate.³⁰

The Children's Society told us:

We are concerned that the specific rights of victims are not enshrined in the law but instead will be included in the statutory guidance. If that is the case, we believe that the draft statutory guidance should be made available for scrutiny at the same time as the Bill being introduced to Parliament.³¹

28. As drafted, the Victims Bill does not appear to enshrine the Victims Code in law any more than is already provided for. The four overarching principles in the draft Bill are so broad and permissive that it is not clear that they serve any significant legal purpose. The current Code appears to comply with these principles, and it is hard to envisage any future Code not complying with them as a matter of course.

29. The Government should publish its proposed draft of an updated Victims' Code and the draft regulations setting out the key entitlements of the Code at the same time as the Victims Bill is presented to Parliament to provide clarity for Members of both Houses as to what the Bill seeks to do. The regulations setting out victims' key entitlements under the Code should be subject to the affirmative resolution procedure to allow parliamentary scrutiny of its provisions.

27 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

28 Letter from the then Minister of State for Crime and Policing to the Chair of the Committee, 14 July 2022

29 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

30 Letter from the then Minister of State for Crime and Policing to the Chair of the Committee, 14 July 2022

31 Children's Society ([VIC0031](#))

Overarching principles

30. Clause 2(2) sets out that:

The Code must make provision for services which reflect the principles that victims—

- i) should be provided with information to help them understand the criminal justice process;
- ii) should be able to access services which support them (including, where appropriate, specialist services);
- iii) should have the opportunity to make their views heard in the criminal justice process;
- iv) should be able to challenge decisions which have a direct impact on them.

Stakeholders contributing to our inquiry provided mixed views on the Government’s legislative approach but there was broad consensus that the principles are too weak as drafted.³² The Victims’ Commissioner told us:

I cannot think that it is going to make any difference, as you cannot really interpret these overarching rights in any meaningful way. We have not seen the Code. The Code is not written now as rights anyway. It is written as a kind of “nice-to-have if the agencies can manage it.” [As a victim] I am to be consulted by the CPS if they want to do an out-of-court disposal, but if they cannot do it they will tell me why not. I am supposed to have a separate entrance so that I do not bump into the person who may have knocked my child over in their car, but if that cannot be managed, staff will do their best. My only right seems to be to be told why I cannot have my rights, in the terminology of the Code. So I do not think that these overarching principles are going to add anything.³³

31. The NSPCC and the organisation, Articulate Arguments, drew attention to the tone of the Bill with the latter noting:

the language and the tenor of the Bill is in the subjunctive, e.g., these principles “should be” provided (see clause 2(2)). This sense of caution permeates throughout the Bill, the intention of which appears to protect and exempt the CJS agencies rather than confirm the positive rights of victims.³⁴

The Criminal Justice Alliance highlighted that key entitlements that are included in the full Code—such as a victims’ right to be informed about compensation, access to a complaints process, the right to have their case progressed without unjustified delay and

32 See for example written evidence submitted by NSPCC, Barnardo’s, Action for Children, The Children’s Society, National Children’s Bureau, Just for Kids Law and the Children’s Commissioner for Wales ([VIC0019](#)); Criminal Justice Alliance ([VIC0033](#)); Rights of Women ([VIC0018](#)); Suzy Lamplugh Trust ([VIC0037](#))

33 [Q11](#) [Dame Vera Baird KC]

34 Articulate Arguments ([VIC0010](#))

to have their property returned—are not reflected in the four principles.³⁵ There is also an absence of any obligation on agencies to deliver information about the progress on an individual’s case—something that is routinely identified as a key concern to victims.³⁶

32. We note that the consultation document phrased the principles in terms of what victims ‘must’ rather than ‘should’ have. The Government also noted during its engagement events that victims ‘specifically emphasised that the onus to ensure delivery of the Code’s entitlements should not be placed on victims who may not feel confident in challenging their treatment. Instead, the Code should place clearer requirements on listed agencies to ensure that victims are aware of and understand their entitlements.’³⁷

33. We are not convinced that the overarching principles, as drafted, are strong enough to drive the necessary cultural change in the treatment of victims in the criminal justice system. The approach taken retains the onus on the victim to claim rights they are often unaware of rather than requiring the relevant agencies to deliver them. As set out, this approach falls short of what is required.

34. We recommend that clause 2 includes an additional subsection following subsection 1 which places an obligation on the relevant statutory services, including but not limited to the police, to make victims aware of the Victims’ Code. We further recommend that the principles currently set out in subsection 2 should be rephrased to set out what victims must have rather than should have—as provided for in the original consultation document. We suggest the following:

- i) criminal justice agencies must provide victims with the information they need throughout the entirety of their case, from reporting through to post-conviction in a language or format that they can understand; this should include information on restorative justice where appropriate;**
- ii) victims must be able to access services which support them (including, where appropriate, specialist services);**
- iii) victims must have the opportunity to have their voices heard in the criminal justice process;**
- iv) victims must be able to challenge decisions that directly impact them.**

Restrictions and extensions of scope

35. Clause 2, subsection 3 of the Bill sets out that the Code may restrict the application of its provisions to ‘(a) specified descriptions of victims and (b) victims of specified offences or descriptions of conduct,’ mirroring the provisions originally set out in the DVCVA. Concern was raised with us on the potential use by the Government of this provision.³⁸ The then Minister for Justice and Tackling Illegal Migration explained to us that the provision is required because the Code does not apply in the same way to different cohorts:

35 Criminal Justice Alliance ([VIC0033](#))

36 [Q13](#) [Dame Vera Baird KC]

37 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims’ experiences of the justice system: Consultation outcome](#), 25 May 2022

38 See written evidence submitted by Articulate Arguments [[VIC0010](#)]; Taskforce on Victims of Trafficking in Immigration Detention [[VIC0025](#)]; End Violence Against Women coalition [[VIC0038](#)]; Prison Reform Trust [[VIC0023](#)]

For example, certain victims have enhanced entitlements (such as being contacted sooner after key decisions and having access to special measures to help to relieve some of the stress associated with giving evidence), if they are considered vulnerable or intimidated, are a victim of the most serious crime or have been persistently targeted. In other cases, some entitlements would not be relevant.

[...] Or a victim who has suffered harm as a direct result of witnessing a crime [...] would be able to access services that support victims, but may not be entitled to receive information about attending court if they are not required to attend court as a witness.³⁹

Preparing and revising the Code

36. Clause 3 provides that the date the Code will be brought into force will be set out by regulations. It also sets out that the Secretary of State must consult the Attorney General on preparing a draft of the Code and when considering representations upon it. The same process applies to any major revision to the Code. The current provisions in the DVCVA also include the Home Secretary as a consultee—it is not clear why the duty to also consult the Home Secretary has been removed, not least given the duties the Code places on the police. We asked the Commissioners whether the measures in the Bill allow for sufficient consultation on drafting and amending the code. The Victims' Commissioner told us 'They have missed all four of us out.'⁴⁰

37. Subsections 10 to 12 of clause 3 provide for the Secretary of State to make minor amendments to the Code in consultation with the Attorney General without considering representations. The draft Bill states that revisions are minor if—

- (a) they make corrections or clarifications, or
- (b) they are consequential on changes to the law, practice or procedure relating to any aspect of the criminal justice system.

Victim Support cautioned:

sometimes changes that can be seen to be very minor could have a big impact [...] If you look at the right to be referred to victims services, [...] the tiniest of changes done with the best of intentions can have a big impact on those services. I would suggest that there is always consultation when these changes are made.⁴¹

38. Clause 3 obliges the Secretary of State to consult the Attorney General on preparing a draft of the Code and on any amendment to it. That obligation should be extended to include the Home Secretary, Victims' Commissioner, Domestic Abuse Commissioner and Children's Commissioner for all amendments.

39 Letter from the then Minister of State for Crime and Policing to the Chair of the Committee, 14 July 2022

40 [Q14](#) [Dame Vera Baird KC]

41 [Q159](#) [Alex Mayes]

Non-compliance

39. Clause 4 sets out that if a person fails to perform a duty imposed on that person by the Victims' Code, the failure does not of itself make that person liable to criminal or civil proceedings although it may be admissible as evidence in proceedings where there is already a cause of action. This clause replicates section 34 of the DVCVA and does nothing further to advance victims' rights. The charity, Rights of Women, contend that:

[clause 4] absolves those responsible for the implementation of the Code from any liability for a breach of the Code or non-compliance with the Victims Bill. This weakens implementation, resourcing and accountability. Consequences for significant failures should have the effect of challenging and changing the problematic behaviour or actions at its root and preventing their recurrence. This can only be achieved if there is liability for non-compliance.⁴²

40. A number of witnesses to our inquiry agreed that a principal problem with the Code as it currently stands is not the substance of its provisions, but its 'lack of teeth', which has allowed its provisions to be ignored.⁴³ This concern does not appear to have been addressed by the draft Bill, as Sophie Linden, joint lead for victims for the Association of Police and Crime Commissioners, explained:

there is a lack of clarity in the Bill regarding the recourse victims will have when agencies fail to deliver their entitlements. Aside from removing the MP filter from the complaints process, it is not apparent how the Code has been made more enforceable. Additionally the Bill lacks detail on sanctions agencies may face for consistent compliance failures.⁴⁴

Some stakeholders have suggested the solution to tackling the issue of non-compliance is to place the entirety of the Code in primary legislation.⁴⁵ Others, such as Tyrone Steele, JUSTICE, have suggested that more should be done to raise awareness of the Code and change the culture within the different organisations rather than seeking legal remedy. He told us, 'If we are getting to the point where we want to judicially review, I do not think that is a very good outcome for anybody.'⁴⁶ The approach taken by the Government in the draft Bill is to try and drive improvements through increased oversight and transparency. The then Minister for Justice and Tackling Illegal Migration told us that in the event that an inspectorate found an agency to be systemically non-compliant then an action plan would be drawn up to address those issues.⁴⁷

41. As drafted, the Bill fails to adequately address the issue of agencies' non-compliance with the Code—we are concerned by this given that it is one of the principal reasons for the Bill. We have already recommended strengthening the principles in clause 2; that recommendation, combined with an increase to the powers of the Victims' Commissioner, which we discuss elsewhere in this Report, may go some

42 Rights of Women ([VIC0018](#)); Sarah Champion MP ([VIC0051](#))

43 [Q17](#) [Nicole Jacobs]; [Q19](#) [Claire Waxman OBE]

44 Sophie Linden, Deputy Mayor for Policing And Crime, Mayor's Office for Policing and Crime ([VIC0052](#))

45 Centre for Women's Justice ([VIC0030](#))

46 [Q91](#) [Tyrone Steele]

47 [Q267](#) [the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP]

way to improving levels of compliance with the Code. However, we recommend that the Government gives further consideration to this crucial aspect of the Bill before presenting it to Parliament.

Proposed changes to the Code

42. In the response to its consultation the Government proposed a number of changes to the Victims' Code. We consider the Government's proposals below.

Community impact statements

43. There is provision in Criminal Practice Directions for Community Impact Statements, which can allow the community to explain to the court and the offender how a crime has affected them. This might involve offences such as attacks on public places, hate crimes or anti-social behaviour. These statements have been used in the context of protests, such as Extinction Rebellion in London, where Community Impact Statements demonstrated the financial impact on those missing work and the disruption for those who had hospital appointments nearby which they were unable to reach.⁴⁸

44. The CPS can make use of the statements to inform charging decisions and the court can make use of them to inform sentencing decisions.⁴⁹ The Metropolitan Police report that an increased use of such statements around knife crime has resulted in an increase in positive outcomes for charges made for knife crime offences.⁵⁰ The Government proposes to include information on Community Impact Statements in the Victims' Code, 'to further promote their use in appropriate cases and amplify the voices of communities impacted by crime.'⁵¹

45. Risks relating to such statements cited in responses to the consultation include a risk of misrepresenting the crime and of retraumatising victims. Tyrone Steele, JUSTICE, pointed out that, 'the Government in the consultation say ... [these statements]... are rarely used, but they do not explain or seem to have done any research as to why they are rarely used. That would have been helpful.'⁵² He gave the example of a scenario in which offenders committing the same crime might receive a different sentence depending on the resources of the community affected.⁵³ Transform Justice told us that they were, 'wary about including Community Impact Statements in the Victims' Code until more is known about their impact.'⁵⁴ The CPS suggests that further guidance would be helpful to provide clarity regarding the role and purpose of Community Impact Statements.⁵⁵

46. Community Impact Statements are not new and the Government itself acknowledges that little is known about their use. We recommend that the Government undertakes further research on how Community Impact Statements have been used and provides guidance to support any further promotion of their use.

48 Claire Waxman OBE, [Victims' Bill consultation response](#), 3 February 2022

49 JUSTICE, [Delivering justice for victims: response to the Government consultation on the Victims Bill](#), February 2022

50 College of Policing, [Going equipped](#), Issue 3, Autumn/Winter 2021

51 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

52 [Q204](#) [Tyrone Steele]

53 [Q204](#) [Tyrone Steele]

54 Transform Justice ([VIC0004](#))

55 CPS, [Response to Victims Bill consultation](#), February 2022

Victim Personal Statements and Mental Health Tribunals

47. Under the Code, victims have a right to make a Victim Personal Statement. This allows them to explain how the crime has affected them and is different from a witness statement. It is considered by the judge or magistrate when determining what sentence the offender should receive, and can help service providers consider the right support needed. It can help victims to have a voice in the system in that it means that people making decisions about offenders take account of their views.⁵⁶

48. The Parole Board may consider a Victim Personal Statement as part of the parole review process. However, victims of mentally disordered offenders are not able to submit a Victim Personal Statement as part of the Mental Health Tribunal process, nor can they attend the tribunal hearing to read the statement. The Government argues that this means that these victims are not on an equal footing with other victims. It proposes to introduce a Victims' Code entitlement for Victim Personal Statements in the Mental Health Tribunal, where the release of offenders is being considered, so that victims are able to explain the impact of the crime on them on a similar basis to what happens in parole hearings.

49. The Government reports that allowing Victim Personal Statements at Mental Health Tribunals could be 'cathartic and empowering for victims, and allow them to explain to the tribunal the impact of the patient's offending on them.'⁵⁷ It could also assist the tribunal in understanding the context of the offence and why victims have requested certain conditions be attached to the patient's discharge. This view is supported by the Hundred Families charity who explained to us:

[w]e know, for instance, of cases where convicted mentally ill offenders have made threats, inappropriate comments, or revealed extremely graphic information about the index offence to family members, in phone calls or in letters from hospital, which were completely unknown to the treating team. It was only when the families reached out to them with this critical risk information, that the clinicians became aware.⁵⁸

50. The Victims' Commissioner welcomed the Government's proposal in her response to the consultation.⁵⁹ She additionally recommended that:

the criminal justice agencies involved in such a case should be required to request of the psychiatrists to draw up an agreed statement to define the nature of the offender's illness and how it impacted upon the motives for the killing. Victims' families must be provided with appropriate information to help them cope and recover.⁶⁰

51. JUSTICE point out that, whilst not referred to as a Victim Personal Statement, The Mental Health Tribunal's 2011 Practice Guidance already requires panel members to take account of victims' representations concerning conditions of discharge, and to

56 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

57 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022

58 Hundred families charity [VIC0005]

59 Claire Waxman OBE, [Victims' Bill consultation response](#), 3 February 2022

60 Victims' Commissioner for England and Wales, [Response to 'Delivering justice for victims: A consultation on improving victims' experiences of the Criminal Justice System'](#), February 2022

notify them of the outcome of the hearing.⁶¹ They also caution against direct comparison between the parole process and that of a Mental Health Tribunal, with one concerning the release process for an individual after they have been convicted of a crime and the other concerning an individual who has been detained for a number of reasons relating to their mental health and capacity pursuant to the Mental Health Act 1983.⁶² Transform Justice echoed this view in their evidence to us, adding their concern that the policy suggestion was based on too small a sample size on which to base conclusions.⁶³

52. We support the Government’s proposal to give a victim of a mentally disordered offender the right to submit a Victim Personal Statement to a Mental Health Tribunal. We recognise that there are particular sensitivities in the Mental Health Tribunal which differ from those in the prison and parole system, not least that a person who has been sectioned is deemed to lack capacity for their actions. In introducing this entitlement the Government must be mindful of the potential for retraumatisation, and the creation of unrealistic expectations if victims believe that their views might influence the tribunal’s decision. The Government should ensure that adequate counselling support is in place before rolling out this measure.

53. To aid close relatives of victims of mentally disordered offenders to cope and recover from their trauma, the Government should consider whether further information could be provided on the nature of the offender’s illness and how it impacted upon the motives for their actions. Without any such context and understanding, the recovery of the victim or their close relative is far harder.

Victims’ Right to Review schemes

54. The Code sets out the right for victims to ask for a review of a police or CPS decision not to prosecute, or to stop a case, under the National Police Chiefs’ Council or CPS Victims’ Right to Review (VRR) Schemes. During our inquiry we heard from stakeholders that few victims currently exercise their Right to Review and that the schemes can be complicated to navigate.⁶⁴ Survivors UK told us that VRR should seek the empowerment of the victim but that their clients found reaching the CPS ‘felt isolating enough without an advocate or support through their decision process, but the VRR made this worse.’⁶⁵ Jan Lamping, Chief Crown Prosecutor for Yorkshire and Humberside, explained that the CPS were proud of their VRR scheme, that it was a robust system and that a 2020 inspection found that 72% of victims had been made aware of the system and that work was ongoing to improve that figure.⁶⁶

55. The VRR schemes allow the victim to make representations as part of the review process, which will be considered if submitted within the relevant timescales, but there is no duty on either the CPS or police to invite the victim to make such representations. The

61 JUSTICE, [Delivering justice for victims: response to the Government consultation on the Victims Bill](#), February 2022

62 JUSTICE, [Delivering justice for victims: response to the Government consultation on the Victims Bill](#), February 2022

63 Transform Justice (VIC0004)

64 Survivors UK (VIC0022); Women’s Aid (VIC0027); End Violence Against Women coalition (VIC0038); the Government consultation on the Victims Bill states that in 2019–20, the CPS made 91,912 decisions that could have been subject to review; they received 1,996 requests for reviews and overturned 288 decisions—this means that decisions were overturned in 14% of requests, and in 0.25% of overall decisions.

65 Survivors UK (VIC0022)

66 [Q211](#) [Jan Lamping]

Government notes that there should be improvements in how victims are made aware of the VRR schemes to improve access them. It proposes to review the information in the Code about the schemes and to work with police forces and the CPS to share good practice in communicating with victims.⁶⁷

56. Contributors to our inquiry recommended a number of improvements that should be made to the Right to Review schemes. The Suzy Lamplugh Trust suggested that the Government place a statutory duty on the CPS and police to invite the victim to make representations within the Right to Review process.⁶⁸ The End Violence Against Women coalition recommended that the police and CPS should be required to publish regular data updates on the VRR schemes including on the number of requests made and the number of decisions overturned to track progress on access to the schemes.⁶⁹

57. The Victims' Commissioner recommended that the schemes should be changed to apply to all charging and related decisions, including where a case is dropped after charge, a different charge from the one discussed with the victim is substituted, where there is a plea bargain, where charges are dropped against one defendant but continued against another, and in any other similar circumstance.⁷⁰ The Commissioner further recommended an 'urgent fix' to a gap in the VRR system involving cases in which the police seek early legal advice from the CPS and receive an indication that the case will not/is unlikely to be charged. The Commissioner notes that in these cases 'the police have little choice but to take no further action. Neither the NPCC nor the CPS Right to Review has any effect.'⁷¹

58. There is room for improvement to the Right to Review schemes and the communication of them to victims. The details of the schemes in the Code need to be clearer and the CPS and police need to improve their performance in informing victims of the schemes' existence and how they operate, including a victim's right to make representations under those schemes. Witnesses to our inquiry made a number of recommendations on how the Right to Review schemes could be improved. We have set these out in this Report and recommend the Government give each of them due consideration.

Parole

59. Victims have the right to submit a Victim Personal Statement and to read out their statement in person at a parole hearing if they wish. The Government's consultation document sets out that this statement provides victims with the opportunity to directly tell the Parole Board about the impact the offence had on them and their families, the impact it continues to have and to express their concerns about the risk the offender may present if the Board were to direct release. The statement also helps to inform the need for any licence conditions which may be placed on the offender if they are released.⁷²

67 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022

68 Suzy Lamplugh Trust ([VIC0037](#))

69 End Violence Against Women coalition ([VIC0038](#))

70 Victims' Commissioner for England and Wales, [Response to 'Delivering justice for victims: A consultation on improving victims' experiences of the Criminal Justice System'](#), February 2022

71 Victims' Commissioner for England and Wales, [Response to 'Delivering justice for victims: A consultation on improving victims' experiences of the Criminal Justice System'](#), February 2022

72 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system](#), December 2021

60. The Government has announced its intention to introduce public parole hearings in some cases, allow victims to attend hearings in full for the first time at the Parole Board's discretion and allow victims to ask questions within submissions to the Parole Board, and require that the Board take account of these when reaching its decision. This new approach was introduced on 21 July 2022 and will be piloted in the first instance—the first such hearing is planned for October. The Government has stated that the victims' right to attend a parole hearing in full, should they wish to do so, will be reflected in the Code.⁷³

61. JUSTICE cautioned that 'open hearings would risk forcing unnecessary, and potentially counterproductive, proximity between victims and their assailant.'⁷⁴ The Victims' Commissioner echoed those concerns:

We advocate for open justice and greater victim engagement but we have reservations about the Government's current proposals to open parole hearings to the public. [...]

Hearings will also involve information relating to the victim and the offence which may cause them distress if heard in public. Most offenders attend multiple parole hearings before being released, which can cause distress to happen time and again, risking any form of closure. Whilst the decision whether to attend the hearing must rest with the victim, there would almost certainly be a need for them to have professional support at any such hearing as well as support to cope and recover in the run up to and after the hearing.⁷⁵

62. The Victims' Commissioner explained that while she supported the right for victims to attend parole hearings should they wish to do so:

[t]here will be an immense burden on victim liaison officers and the probation service who support victims after sentence and on the whole victim contact scheme, and there will be a need to re-engage people with victim services so that they understand what they are facing from the probation service and are supported by victim services through the risk of revictimisation. Given that this Bill is, on the face of it, cost-neutral at the moment, that does not seem a practical proposition. I would not want it to go ahead without those protections being fully in place.⁷⁶

63. The Government's Root and Branch Review of the Parole System merits more consideration than we have had opportunity to give to it during our scrutiny of the draft Victims Bill. It is a policy area we are likely to return to in the future. In the meantime, we wish to highlight the concerns raised in this inquiry regarding the potential for victim participation in the parole process to lead to retraumatisation of the victim without effective support from trained counsellors. Such support needs to be in place before the policy is rolled out and will require additional funding from the Government.

73 The [Root and Branch Review of the Parole System](#), published in March 2022 sets out in more detail the Government's proposals for making the process more transparent and accessible for victims

74 JUSTICE, [Delivering justice for victims: response to the Government consultation on the Victims Bill](#), February 2022

75 Victims' Commissioner for England and Wales, [Response to 'Delivering justice for victims: A consultation on improving victims' experiences of the Criminal Justice System'](#), February 2022

76 [Q22](#) [Dame Vera Baird KC]

Right to meet a prosecutor

64. The Government has proposed introducing a duty in the Code for the CPS to meet with victims in certain cases before a hearing takes place, where the victim is willing to do so. The then Minister for Justice and Tackling Illegal Migration confirmed in evidence to us that the duty would apply to cases involving rape or serious violence.⁷⁷

65. Victims currently have the right in specified cases—such as child abuse, sexual offences and offences aggravated by hostility based on protected characteristics—to be offered a meeting with the CPS following a decision not to charge, unless the CPS decide it would not be appropriate to do so. Bereaved close relatives in other cases—such as murder and manslaughter—also have the right to be offered a meeting with the CPS before or after a decision about whether to charge a suspect.

66. In its response to the consultation the Government stated:

We recognise that victims do not currently feel that they are engaged with regularly and sensitively by criminal justice agencies or that their voices are heard throughout the process. We also understand that it can be a daunting process and we want victims to be kept informed about what is happening and what to expect.⁷⁸

67. Witnesses to our inquiry agreed with the Government's ambition.⁷⁹ Victim Support explained that many victims express frustration about a 'lack of communication with prosecutors. No contact can heighten victims' feelings of marginalisation within the criminal justice process. Victims also often misunderstand the role of the prosecution. This proposed change to the Victims' Code is a step in the right direction.'⁸⁰ Claire Waxman OBE told us:

I have some victims going into court who do not understand anything about the process; they do not even know what will happen in the courtroom, yet the crime has happened to them; it has impacted them and their life directly.⁸¹

68. The HMCPSI has repeatedly raised concerns regarding the quality of CPS communications with victims. In 2020 it conducted an inspection to follow up on recommendations it made in 2018. The HMCPSI found:

although it is clear the CPS has done much since 2018 to try to improve the quality of letters sent to victims, this inspection shows that it has resulted in little improvement. There is no point in my repeating the still valid recommendations made in the 2018 report. Rather, I call upon the CPS to review whether the arrangements it has in place are the right ones to deliver on its commitments to victims.⁸²

77 [Q287](#) [the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP]

78 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022;

79 [Q25](#) [Dame Vera Baird KC, Nicole Jacobs]

80 Victim Support ([VIC0026](#))

81 [Q28](#) [Claire Waxman OBE]

82 HM Crown Prosecution Service Inspectorate, [Victim Communication and Liaison scheme: letters to victims: A follow up inspection](#), October 2020

We note that CPS has accepted that its approach to victim communication is not meeting the needs of victims and is taking steps to improve its engagement with victims.⁸³

69. The CPS has given a cautious welcome to the Government’s proposals. Baljit Ubhey told us that the CPS is keen to engage more with victims but that it needs to be done ‘thoughtfully.’ She added ‘it is not just about the type of cases, it is the stage of the case and who meets.’⁸⁴ In its response to the Government’s consultation, the CPS set out its concerns that:

if this principle were enshrined in legislation, it would need to be clear that there are limitations as to when a victim’s voice or view can be considered so as not inadvertently to affect fair and efficient justice or the legal process.⁸⁵

The CPS told us that any duty in addition to what is already required of their prosecutors would incur a cost that would have to be funded. The then Minister for Justice and Tackling Illegal Migration gave us assurances that:

[the duty] will be properly resourced, but I cannot speculate here today about the precise nature of that figure. [...] I am very clear on this. If we are going to do this, it has to be done properly. This is so crucial for victims of those high-harm, high-volume cases that to not do it properly would be doing those individuals a disservice, and I personally could not live with that.⁸⁶

Not everyone who contributed to our inquiry supported the Government’s proposed obligation on the CPS. Mark Fenhalls KC, Chair of the Bar Council, told us:

I would be very reluctant, as a member of the public, to see CPS lawyers required to do this. There is not enough time and energy in the day for them to make the charging decisions they need to make. All the procedural things that can be done could be done by properly trained police officers, properly trained civilians, IDVAs or ISVAs, or non-lawyers, with a view to communicating, getting it right and giving the level of public satisfaction that we all want to see.⁸⁷

The Rt Hon. Lord Woolf, set out his view to us:

if this were to happen it could prolong the time in which the focus on the consequences of crimes on victims unnecessarily takes place. The delays in the justice system at the present time are unacceptable already and changes which prolong the time would not be beneficial to the justice system.⁸⁸

70. In their submissions to the Government’s consultation, the Victims’ Commissioner for London and the national Victims’ Commissioner also highlight the merits of greater interaction between decision-makers and victims in latter parts of the justice system process, such as in arranging bail conditions following a charge—where a victim’s voice

83 [CPS, *Delivering justice for victims: A consultation on improving victims’ experiences of the justice system – CPS response*, February 2022](#)

84 [Q196](#) [Baljit Ubhey]

85 [CPS, *Response to Victims Bill consultation*](#), February 2022

86 [Qq288–9](#) [the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP]

87 [Q183](#) [Mark Fenhalls KC]

88 [The Rt Hon. Lord Woolf \(VIC0049\)](#)

could be heard in order to ensure their welfare and safety, where a decision is to be made about dropping or discontinuing a case after it has been charged, and/or if the CPS or police are considering accepting a plea of guilty to a charge which is different from the one on which the victim has been consulted. The Victims' Commissioner notes that 'currently there is no victim's voice in either of those decisions though they can have the same or a stronger impact on a victim.'⁸⁹

71. Attending court can be a daunting experience for a victim, with potential to be confusing and retraumatising. We agree in principle with the Government's ambition for the CPS in high harm cases to support victims through that process and to keep them informed. However, any further demands on the CPS should be matched with the additional resources required. The best way to support victims is to have an efficient and effective criminal justice system. Any steps to divert already constrained CPS resources from their core prosecutorial task may have an adverse effect on the timely delivery of justice and, ultimately, provide a worse experience for victims.

Other Code measures

72. In addition to the amendments to the Code proposed by the Government, groups representing victims have called for additional rights to be included in the revised Code. We discuss some of these below.

Restorative justice

73. Restorative justice can help victims to recover and perpetrators to understand the impact of their crimes, helping to reduce the risk of reoffending. It empowers people affected by crime to communicate with the person responsible in a facilitated setting. The merits of restorative justice were set out in our predecessor Committee's 2016 Report which recommended that entitlements to restorative justice should be strengthened.⁹⁰ Since that Report was published the Crime Survey for England and Wales Victimization Data has shown that the proportion of victims who were offered restorative justice decreased from 7.5% in 2017–18 to 5.5% in 2019–20.

74. Restorative justice services have high levels of satisfaction from victims but many victims have no recollection of an offer being made and data shows that demand is not being met. For example, in 2019–20 the proportion of incidents in which victims would have accepted the offer to meet the offender was 26.1%. Remedi Restorative Justice Services told us that restorative justice was too often seen as an 'optional extra' within wider victim support services.⁹¹ In its response to the consultation the Government acknowledged provision on restorative justice was inconsistent and set out a commitment to conduct a pilot to understand where there are gaps in provision.

75. A right to information about restorative justice and how to access local restorative justice services is already an entitlement in the Code but it is clear that it is not being delivered consistently. Our predecessor Committee's 2016 report on restorative justice

89 Victims' Commissioner for England and Wales, [Response to 'Delivering justice for victims: A consultation on improving victims' experiences of the Criminal Justice System'](#), February 2022

90 Justice Committee, [Restorative Justice](#), Fourth Report of Session 2016–17, HC164

91 Remedi Restorative Justice Services ([VIC0001](#))

recommended that the Victims' Law should include a provision for victims to have a legislative right to access restorative justice services. That is also our view and we recommend that that right be included in the Bill as we have set out in paragraph 34.

Legal representation and right to privacy

76. During our inquiry we heard calls for victims to be provided with free legal advice from a qualified lawyer, particularly in relation to understanding requests for information disclosure.⁹² Since launching our inquiry the Information Commissioner's Office has called for an end to 'the excessive collection of personal information from victims of rape and serious sexual assault.' The Information Commissioner said:

Our investigation reveals an upsetting picture of how victims of rape and serious sexual assault feel treated. Victims are being treated as suspects, and people feel revictimised by a system they expect to support them. [...] Change is required to rebuild trust that will enable more victims to seek the justice to which they're entitled.⁹³

77. The Government considered the matter of the provision of legal advice, particularly around issues of disclosure, in its consultation response. The Government stated, 'we want these requests to be right first time for victims. We have a broad package of work to ensure disclosure requests are proportionate to help achieve that aim, including updates by the AGO and CPS on disclosure guidance, including digital material.'⁹⁴ The then Minister of State, Victoria Atkins, told us that, 'at the moment, there is also an ongoing consultation specifically on third-party material because we know for victims it can be such a blow to them to have social services or medical records collated and then disclosed.'⁹⁵

78. The Criminal Procedure and Investigations Act 1996 (CPIA) provides that,

[t]he prosecutor must—disclose to the accused any prosecution material which has not previously been disclosed to the accused and which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused.⁹⁶

Previous case law has made it clear that requests to inspect digital material must have reasonable grounds to believe it is relevant and that fanciful or speculative requests fail that test.⁹⁷ The importance of a material justification for an invasion of the victim's privacy is reflected in the 2013 Judicial Protocol on the Disclosure of Unused Material in Criminal Cases at paragraph 47:

[...] Victims do not waive ... their right to privacy under article 8 of the ECHR, by making a complaint against the accused. The court, as a public

92 [Q27](#) [Claire Waxman OBE]; End Violence Against Women coalition ([VIC0038](#)); Centre for Women's Justice ([VIC0030](#)); Rights of Women ([VIC0018](#))

93 Information Commissioner's Office, [Information Commissioner calls for an end to the excessive collection of personal information from victims of rape and serious sexual assault](#), 31 May 2022

94 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022

95 [Q231](#) [The then Minister of State, Victoria Atkins MP]

96 Part 3 of the Criminal Procedure and Investigations Act 1996

97 *Bater-James and Another* [2020] EWCA Crim 790

authority, must ensure that any interference with the right to privacy under article 8 is in accordance with the law, and is necessary in pursuit of a legitimate public interest [...]⁹⁸

79. The concerns set out by the Information Commissioner suggest that in some cases investigators are going beyond what the rules on disclosure permit. The End Violence Against Women coalition has called for protection akin to legal privilege to be afforded to counselling notes, meaning they will be confidential and only disclosable to the criminal justice system in very specific circumstances and for legal constraints to be placed on the indiscriminate use of third-party materials in rape investigations such as victims' medical notes, school reports and therapy notes.⁹⁹

80. Narrowing the test for investigators as to whether obtaining the material is a 'reasonable line of inquiry', or further protecting the confidentiality of medical notes would require changes to existing criminal procedure laws, such as section 23 of the CPIA and potentially other legislative changes as well as to established practice in conducting investigations and prosecutions of any relevant offences. Those changes would need to respect the accused's right to a fair trial, including their rights under Article 6 of the ECHR. If investigators are prevented from pursuing some 'reasonable lines of inquiry'—which would be the inevitable result of narrowing the test—there is the potential for exculpatory evidence to be missed, or at least, arguments to be made that might have happened in any case that proceeded to trial. That would go significantly beyond the current scope of the draft Victims Bill which doesn't make any changes to criminal procedural law.

81. The decision whether to accede to a disclosure request of counselling notes and third-party material should not rest solely on the shoulders of victims, many of whom are vulnerable and traumatised. There is a case for providing independent legal advice for vulnerable victims facing disclosure requests and the Government should consider this further alongside its consultation on third party material. We welcome the work the Government is doing to ensure that disclosure requests are proportionate.

82. The primary purpose of counselling is therapeutic not investigative. The law should still allow for disclosure of those notes where their probative value merits it; but the reasonable grounds test must be respected and enforced effectively if victim confidence in the criminal justice system is to be sustained.

Right to understand outcomes

83. Transcripts of sentencing decisions can help a victim to understand the reasoning behind a sentencing decision and can help provide them with closure, yet sentencing remarks are currently only published for cases considered to be in the public interest.¹⁰⁰ We note that in his 2017 Government-commissioned review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, David Lammy MP recommended that all sentencing remarks in the Crown Court should be published in audio and/or written form, which would 'build trust by making justice

98 Judicial Protocol on the Disclosure of Unused Material in Criminal Cases 2013

99 End Violence Against Women coalition ([VIC0038](#))

100 Victims' Commissioner for London ([VIC0053](#)); Law Gazette, [Give victims sentencing transcript, Baird tells HMCTS chief](#), 3 September 2019

more transparent and comprehensible'.¹⁰¹ **We recommend that the Code includes a right for victims whose cases are heard in the Crown Court to be offered a free transcript of the judge's sentencing remarks, in a format that they can access, and that bereaved families should be offered a free transcript of the Coroner's findings after an inquest.**

101 [The Lammy Review An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, September 2017](#)

4 Clause 5, review of compliance with the Victims' Code

84. Clause 5 contains measures designed to enhance scrutiny of the service victims receive. In particular, it places a duty on specified criminal justice bodies within a police area (police, CPS, courts, prisons, probation and Youth Offending Teams) to keep under review their own compliance with the Code, and to share data with the local PCC to allow that body to review those levels of compliance. The provisions provide no mechanism by which compliance can be enforced.

85. The move to introduce local monitoring of compliance with the Code by the PCCs is supported in principle by the Victims' Commissioner and by the Association of Police and Crime Commissioners. However, the provision in clause 11 to remove the statutory duty for the Victims' Commissioner to review the operation of the Code has not been widely welcomed—we consider those arguments in chapter 7.

86. The Government has stated that the provision in clause 5 of the Bill will be underpinned by regulations setting out what data should be collected and shared. We received a number of suggestions on that data. A key concern was that the data should be available in a standardised form that can be disaggregated by crime type, age, gender, ethnicity, and other protected characteristics to allow effective assessment of the delivery of the Code to different demographics.¹⁰² Organisations we spoke to stressed their concerns regarding the differential outcomes in the criminal justice system for people with protected characteristics.¹⁰³ Mencap, for example, explained that,

we are aware that people with a learning disability who are victims of crime are routinely dismissed as lacking capacity to give a police interview, and their cases are far too often made the subject of a 'No Further Action' decision as a result.¹⁰⁴

87. We also received representations on the merits of improved information on the take-up and outcomes of Right to Review schemes and access to restorative justice, children's experience as victims of abuse, the commissioning of services for victims and rates of victimisation among the offender population where there is evidence of a high level of victimisation. Sophie Linden suggested that PCCs should also have 'the power to ask for data to do with outcomes, victim services and victims' experience across the piece.'¹⁰⁵

88. The Explanatory Notes to the draft Bill state that the nature and extent of the consultation required on the data to be collected will be left to the discretion of the Secretary of State, but that 'it is intended that the criminal justice bodies and PCCs will be consulted'.¹⁰⁶ The Bill therefore does not require consultation with victims organisations on what data would be useful to collect in order to assess victims' experiences of the criminal justice system.¹⁰⁷

102 End Violence Against Women coalition ([VIC0038](#)); Criminal Justice Alliance ([VIC0033](#)); Women's Aid ([VIC0027](#))

103 SignHealth; Latin American Women's Rights Service; Hourglass; IMKAAN; Survivors Manchester; Stay Safe East; GALOP

104 Royal Mencap Society, and Challenging Behaviour Foundation ([VIC0056](#))

105 [Q80](#) [Sophie Linden]

106 Ministry of Justice, Draft Victims Bill, [Explanatory Notes](#), May 2022

107 Centre for Public Data ([VIC0014](#))

89. The Government states that it plans to publish the data collected through local and national scorecards, but the Bill itself does not contain any requirement for the collected data to be published.¹⁰⁸ The Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly told us that ‘clause 5 should explicitly provide for the publication of data on compliance—the details of which could be within the underlying regulations—given how important transparency will be to securing confidence in the system.’¹⁰⁹ The APCC suggested that ‘PCCs could publish their locally collected data on their websites as part of their duty to collect and review the data.’¹¹⁰

90. A lack of data has been a key barrier to the effective monitoring of the implementation of the Code, particularly with respect to minority groups. Meaningful data collected and published regularly can help amplify victims voices and hold underperforming agencies to account. We welcome the duty the Bill places on the criminal justice bodies to collect data on their compliance with the Code at a local level and to share that data with their PCC. We have set out some suggestions on what data should be collected.

91. We recommend that clause 5 includes a duty for the Victims’ Commissioner and local victims’ groups to be consulted on the data required to hold agencies to account on their performance in delivering the Code. That data should be standardised to allow comparison across police areas. The duty should also require the PCCs to publish that data, in a form that can be disaggregated by crime type and protected characteristic, and to share that data with the Victims’ Commissioner and, where necessary, the inspectorates. There will need to be safeguards within any data collection agreements to ensure that the duty does not compromise victims and survivors’ confidentiality or jeopardise their ability to consent to access services and support.

Compliance

92. The draft Bill sets out that the PCCs will have a monitoring function. It provides no additional powers to PCCs should agencies refuse to provide the data requested or if the data shows evidence of an agency’s non-compliance with the Code. With the exception of the police, PCCs do not have oversight of the bodies listed under clause 5 and the Government confirmed to us that it is not proposing to give PCCs powers to require bodies independent of them to make changes.

93. Instead, it is envisaged that Local Criminal Justice Boards (LCJBs)—which bring together criminal justice bodies at police force area level—will be used as a mechanism to scrutinise the data on compliance. The Government told us that the LCJBs, chaired by PCCs, will provide a platform for discussions on performance, to help identify cross-system issues and drive improvements, but without encroaching upon the operational independence of the bodies. The APCC told us that the lack of enforcement powers represented a challenge.¹¹¹ Sophie Linden, APCC Joint Lead for Victims and Deputy Mayor for Policing and Crime in London, explained:

108 There is a duty for PCCs to publish information necessary for the public to assess their performance, and powers for the Secretary of State to require specified information, under s.11 of the Police Reform and Social Responsibility Act 2011.

109 Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly ([VIC0036](#))

110 Association of Police and Crime Commissioners ([VIC0045](#))

111 Association of Police and Crime Commissioners ([VIC0045](#))

there are no clear steps as to what happens when that compliance or data collection is not sufficient, or how that feeds into any ratings in terms of victims services and victim satisfaction.¹¹²

94. Sophie Linden suggested that PCCs should have the power to request the relevant inspectorate to inspect an agency if they are not satisfied on victims services, data compliance and compliance with the code—they already have this power with respect to HMICFRS.¹¹³ The APCC suggested that the PCCs should have the ability to ask for improvement plans which could be shared with the LCJB, with progress reporting made at regular intervals. The APCC also called on the Government to clarify in the guidance ‘the escalation routes where PCCs have identified failure to comply with the Code in order to ensure that there is a clear understanding of who is responsible for holding organisations to account for failures.’¹¹⁴

95. We support the Government’s ambition to improve transparency in the delivery of the Code. However, transparency and roundtable discussions will only go so far in improving performance without any enforcement mechanism. The Government should set out in the guidance provided for in clause 5(6) the escalation routes available to PCCs where there are concerns about an agency’s compliance with the Code and the quality of outcomes for victims. We do not believe that PCCs should be able to direct the work of agencies independent of them, but they should be able to raise concerns with bodies that do have this power. We therefore recommend that the guidance includes the right for PCCs to make representations to and share data with the inspectorates and the Victims’ Commissioner.

112 [Q86](#) [Sophie Linden]

113 [Q86](#) [Sophie Linden]

114 Association of Police and Crime Commissioners ([VIC0045](#))

5 Clauses 6 to 8, collaboration in the provision of support services

Definitions

96. Clauses 6 to 8 contain measures to improve the commissioning and provision of victim support services. In particular, they place a duty on specified authorities—local authorities, Police and Crime Commissioners and Integrated Care Boards—to collaborate with each other when commissioning victim support services to facilitate more holistic and better coordinated services; and to publish a strategy setting out how they will meet that responsibility. The then Minister for Justice and Tackling Illegal Migration told us that the duty was necessarily restricted to the three specified authorities as they were commissioners of services.¹¹⁵ Other contributors to our inquiry, including the Children’s Commissioner, Domestic Abuse Commissioner and Sophie Linden, suggested that the duty should be extended to include children’s services providers to ensure the needs of child victims are met.¹¹⁶ Sophie Linden explained that for PCCs, to have the duty to collaborate could open doors to some organisations where there have been difficulties in the past, ‘it makes a difference to the prioritisation setting within an organisation if that duty is there.’¹¹⁷

97. Both the APCC and the LGA told us they were supportive of the duty to collaborate, pointing out that in many cases it is formalising processes that already exist locally.¹¹⁸ SafeLives highlighted the potentially positive step of formally involving health services in the duty:

We know that 4 in 5 survivors do not call the police, so the involvement and investment of the public sector beyond criminal justice bodies is vital. Victims of domestic abuse access GPs, mental health services, community pharmacies and hospitals every day, and health services are currently missing vital opportunities to identify and support victims before serious harm occurs; as such, we welcome the explicit recognition that health agencies need to be engaged in local commissioning of domestic abuse specialist services.¹¹⁹

98. For the purposes of the Bill ‘victim support services’ means services, other than accommodation-based support—which is covered by a separate legislative framework in Part 4 of the Domestic Abuse Act 2020—provided to support persons who are victims of domestic abuse, a sexual offence, or serious violence. The Victims’ Commissioner said the three offences covered by the duty are ‘a very good foundation to build on’, which recognise the most serious end of crime.¹²⁰ For others, singling out those three offences risked other

115 [Q294](#) [the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP]

116 [Q55](#) [Nicole Jacobs]; [Q57](#) [Dame Rachel de Souza]; [Q93](#) [Sophie Linden]

117 [Q94](#) [Sophie Linden]

118 Association of Police and Crime Commissioners ([VIC0045](#)); Local Government Association ([VIC0034](#))

119 SafeLives ([VIC0054](#))

120 [Q64](#) [Dame Vera Baird KC]

vulnerable victims being marginalised by those commissioning victim support services.¹²¹ A common theme was the need for support to be available to victims who are not engaged in the criminal justice system.¹²²

99. We welcome the duty to collaborate. This duty, however, should also include providers of children’s services to ensure the needs of child victims are met and to help facilitate the flow of necessary information between agencies. It is unclear whether the duty to collaborate is intended to support the provision of victim support services to those who do not make contact with or have withdrawn from the criminal justice system. We call on the Government to ensure that those people are included.

Child victims

100. Child victims of abuse can find it challenging to access support.¹²³ The NSPCC et al told us that the current commissioning system ‘is not child-centred, and does not achieve the best results, either for children or the criminal justice system.’¹²⁴ The Domestic Abuse Commissioner reports that inadequate resources has meant that ‘just 29% of survivors who wanted support for their children were able to access it.’¹²⁵ A number of contributors to our inquiry drew attention to the challenges that children have in accessing pre-trial therapeutic support.¹²⁶ SafeLives told us that, ‘children and young people are wrongly being advised that they should not access therapy until the criminal justice process has ended. This advice often comes from the police, and prioritises the needs of the criminal justice system above the needs of the child or young person.’¹²⁷

101. The NSPCC called for a requirement for those commissioning victim support services to consult those representing child victims to ensure their specific needs are considered. There was broad support among witnesses for this proposal.¹²⁸ We note that clause 8(3) provides that domestic abuse for the purposes of the Bill has the meaning given by section 1 of the Domestic Abuse Act 2021. This section refers to abuse involving those aged over 16. Section 3 of the Domestic Abuse Act 2021 sets out that children can also be victims of domestic abuse. The then Minister of State for Justice, Victoria Atkins, assured us that child victims of domestic abuse are included within the Bill, however clause 8(3) does not include the full definition.¹²⁹ The Children’s Commissioner set out her concerns that the omission, ‘will result in many children accessing only adult-facing services, which are not appropriate for their needs.’¹³⁰

102. We recommend that clause 8(3) also includes reference to section 3 of the Domestic Abuse Act 2021, namely that children can be victims of domestic abuse in their own right. Doing so will provide assurance that commissioners of support services must also consider the specific needs of child victims of domestic abuse and the adequacy

121 Suzy Lamplugh Trust ([VIC0037](#)); [Q63](#) [Claire Waxman OBE]

122 See for example NSPCC, Barnardo’s, Action for Children, The Children’s Society, National Children’s Bureau, Just for Kids Law and the Children’s Commissioner for Wales ([VIC0019](#)); Local Government Association ([VIC0034](#))

123 NSPCC et al ([VIC0019](#))

124 NSPCC et al ([VIC0019](#))

125 Domestic Abuse Commissioner, Early findings from the Domestic Abuse Commissioner’s Mapping of Domestic Abuse Services across England and Wales, June 2022

126 Barnado’s ([VIC0044](#)); Victims’ Commissioner for London ([VIC0053](#)); SafeLives ([VIC0054](#)); NSPCC et al ([VIC0019](#))

127 SafeLives ([VIC0054](#))

128 NSPCC et al ([VIC0019](#))

129 [Q240](#) [Victoria Atkins]

130 [Q7](#) [Dame Rachel de Souza]

of the provision of referral pathways. We further recommend that the statutory guidance advises the authorities to undertake a needs assessment for child victims in their community and addresses the difficulties child victims of abuse experience in accessing pre-trial therapeutic support.

The Commissioning landscape

103. The APCC and LGA both drew attention to what they described as the myriad of other collaboration duties and multiple funding streams that already exist. The LGA told us, ‘it is crucial that the Government ensures its various recent and forthcoming strategies, guidance, and legislation in this space work cohesively with the draft Victims Bill.’¹³¹ They note, for example, that ‘further clarity is required to understand how the Government’s Victims Funding Strategy is expected to align with the new statutory duty to collaborate.’¹³² We note that the duty to collaborate exists in the Children’s Act 2004 but the 2022 Care Review found that the system of early support was ‘fragmented and complicated’ and that funding had significantly reduced.¹³³ The NSPCC advised that the Government should learn lessons from that example—that ‘substantive legal duties and sustained investment from central Government can be required beyond procedural rules,’ a sentiment echoed by most of the contributors to our inquiry.¹³⁴

104. The duties on bodies responsible for commissioning victim support services are complex and they are supported by multiple funding streams. The Government should use the Victims Bill and the guidance provided under the duty to collaborate to draw these different duties and funding models together, to ensure that they work cohesively on the ground. If this legislation simply adds new duties to an already crowded landscape, then it will be incredibly challenging for the relevant agencies to deliver on all pieces of legislation effectively.

105. PCC, local authority and health board areas are rarely coterminous. This will necessarily add complexity to collaboration and the development of a single strategy for the delivery of victim support services for each police area. In setting guidance to the relevant authorities on their duty to collaborate, the Government must include clear guidance around governance and accountability.

Funding

106. The Impact Assessment accompanying the draft Bill notes as a key risk that,

Raising the profile and visibility of the Victims’ Code may lead to increased demand for associated services. There is a risk this cannot be delivered with the current resource, despite this being a current requirement. If additional resource was required, then there would be costs associated with this option.¹³⁵

Both the LGA and APCC identify with the risk expressed by the Government. Councillor Caliskan explained:

131 Local Government Association ([VIC0034](#))

132 Local Government Association ([VIC0034](#))

133 NSPCC et al ([VIC0019](#))

134 NSPCC et al ([VIC0019](#))

135 Draft Victims Bill, [Impact Assessment](#), May 2022

collaboration is more possible if you have consistency and a sustainable commissioning model for those frontline services. Those small organisations and the statutory agencies are more likely to come together if they are not under pressure and being pulled apart by the day-to-day demands related to funding.¹³⁶

107. Seventy per cent of victims of domestic abuse access support through community-based services. The Domestic Abuse Commissioner’s recent mapping exercise notes that:

Services in England and Wales are unable to meet demand. Fewer than half of survivors were able to access the community-based support that they wanted, and there were particular gaps in type of provision, access to specialist support, and across different regions.¹³⁷

She told us, ‘there is a big gap in the realism about the resourcing in this Bill.’¹³⁸

108. Witnesses drew attention to Part 4 of the Domestic Abuse Act 2021 which places a statutory duty on local authorities to provide accommodation-based support and called for a similarly robust duty to ensure an adequacy of community-based services.¹³⁹ SafeLives pointed to indications that the lack of legal parity between community and accommodation-based services was creating the unintended consequence of a two-tier system of support.¹⁴⁰ Refuge suggested that the Part 4 duty has reduced community-based service commissioning in some areas as commissioners dealt with a funding shortfall between the £125 million allocated by the Government for the Part 4 duty and the estimated £181 million required to meet the need for accommodation-based services.¹⁴¹

109. There was consensus among those who contributed to our inquiry that there should be a funded statutory duty in the Victims Bill for the provision of community-based victim support services along similar lines to that set out in the Domestic Abuse Act 2021 for accommodation-based support. The NSPCC explained: ‘the Government resisted inclusion of such a duty in the Domestic Abuse Act but gave a commitment to consult on it in the Victims Bill, consultation which was not followed through.’¹⁴²

110. We are concerned that the duty to collaborate does not go far enough to ensure that vital, community-based support services are available to victims of domestic and sexual abuse. The duty must be strengthened to require the agencies described to collaborate and commission community-based services. That duty should be accompanied by an appropriate, multi-year funding package. Without the necessary funding in place the Bill risks raising victims’ awareness of their rights only to leave them unable to access them due to the relevant services already working at full capacity.

136 [Q91](#) [Councillor Caliskan]

137 Domestic Abuse Commissioner, Early findings from the Domestic Abuse Commissioner’s Mapping of Domestic Abuse Services across England and Wales, June 2022

138 [Q55](#) [Nicola Adams]

139 See for example End Violence Against Women coalition ([VIC0038](#)); Barnado’s ([VIC0044](#)); SafeLives ([VIC0054](#)); Hourglass ([VIC0058](#))

140 SafeLives ([VIC0054](#))

141 Refuge ([VIC0020](#))

142 NSPCC et al ([VIC0019](#))

The ‘by and for’ sector

111. ‘By and for’ services are designed and led by people that share the same protected characteristic(s) as the victims they aim to support and can be instrumental in supporting certain victims. Stakeholders responding to our inquiry raised concern about the level of support available to the ‘by and for’ sector, particularly with regard to the commissioning of services. We heard that ‘by and for’ providers struggled particularly with short-term funding arrangements and routinely find it difficult to access the commissioning process due to limited resources. As a result those organisations are less likely to receive funding than larger, generic providers—we were told that an absence of adequate funding to support the duty to collaborate could further tempt commissioners to commission large contracts that are inaccessible to many small specialist services.¹⁴³ Refuge recommended that the duty to collaborate on commissioning services includes reference to ‘by and for’ providers to ensure that they are not excluded from local commissioning processes.

112. Concern was raised with us that there is the potential for under-recognition of the need for specialist support services in areas where those services do not currently exist and there is no-one to champion specific groups of victims. For example, Survivors UK drew attention to the difficulty male victims of abuse find in having their voices heard and accessing support, while Women’s Aid and others highlighted the challenges faced by Black and minoritised women.¹⁴⁴ Galop told us:

Outside of the largest cities in the country, the LGBT+ population is a disbursed minority and, as a result, LGBT+ specialist services are not viewed as a priority or financially viable. This would likely continue with the proposed collaborative commissioning outside the areas that include the largest cities in the country.¹⁴⁵

For the reasons set out above, stakeholders stressed that support for the ‘by and for’ sector should primarily be drawn from a national, multi-year ring-fenced fund that could be disbursed at both a local and national level.¹⁴⁶ The Domestic Abuse Commissioner told us:

The vast majority of ‘by and for’ services sit in London and the south-east; there are very small percentages anywhere else. That will continue in a duty to collaborate, I am afraid, and we have to set aside some resource for a national funding pot for those ‘by and for’ services, if we will ever see them, and we know they are needed.¹⁴⁷

Clause 6(4) requires the relevant authorities to have regard to any assessment they may have carried out on the needs of victims in their communities in preparing the local commissioning strategy. Solace Women’s Aid recommended that carrying out a needs assessment should be made a requirement.¹⁴⁸

113. We recognise the challenges for local commissioners in identifying and funding small or highly specialist services, and for those services to access commissioned funding. We recommend that the Government put in place a national multi-year ring-

143 [Q134](#) [Jayne Butler]

144 Women’s Aid ([VIC0027](#)); Survivors UK ([VIC0022](#))

145 Galop ([VIC0035](#))

146 Solace Women’s Aid ([VIC0008](#)); Women’s Aid ([VIC0027](#)); SafeLives ([VIC0054](#))

147 [Q55](#) [Nicole Jacobs]

148 Solace Women’s Aid ([VIC0008](#))

fenced fund to ensure specialist support services are supported and for that funding to be available in the simpler grant form. This fund should complement a responsibility on PCCs, health and local authorities to commission ‘by and for’ services, including through co-commissioning at a regional level where necessary.

114. Commissioning of support services for victims works best when commissioners have an accurate understanding of need. As drafted, the Bill requires the authorities to consider any needs assessment they may have carried out in preparing the strategy. This needs to be strengthened to require the authorities to undertake the needs assessments identified in clause 6(4), and to do so before a strategy is developed. In making those assessments commissioners should be mindful of the potential for under-reporting in areas where there may be a lack of specialist representation, for example with respect to male victims of abuse, or LGBT+ and other victims with protected characteristics who may require support services.

115. The statutory guidance to be provided by the Government should include advice on addressing the potential for under-representation in the needs assessment. It should also include signposting to specialist support for those groups that may be available elsewhere or at a regional or national level.

6 Clauses 9 to 10, IDVAs and ISVAs

116. Clauses 9 and 10 define Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs) for the purposes of the Bill, and create a duty on the Secretary of State to introduce guidance which may set out recommended minimum standards and best practice for ISVAs and IDVAs. We note that the Secretary of State does not need a statutory power to issue such guidance, and that while the requirement for those concerned to ‘have regard’ to it—rather than a duty to comply with any of it—does have some impact it has limited legal effect. The then Minister of State for Justice, Victoria Atkins, explained:

we have quite deliberately restrained ourselves when it comes to how those IDVAs and ISVAs should conduct their business and their duties, and we are confining ourselves to statutory guidance for exactly that point.¹⁴⁹

117. IDVAs, ISVAs and other advocates help victims make informed choices, stay engaged in the criminal justice system, and coordinate between victims and agencies, such as police, housing and health. Research has shown that 93% of rape victims who received support from an ISVA or other support service reported to the police, compared to 54% without that support.¹⁵⁰ Victim satisfaction of these roles is also high, second only to trained counsellors and psychologists. The Government states that it is focusing on ISVAs and IDVAs in the Bill as they are some of the most common and well-known advocate roles, with substantial investment from the Ministry of Justice.

118. The Government suggests that defining ISVAs and IDVAs in statute will support the sector by raising the profile of these roles and demonstrate the value government places on them. It contends that doing so will also ‘ensure greater consistency across the sector, while ensuring innovation and protecting specialisms across these roles.’¹⁵¹ Contributors to our inquiry gave a mixed response to this proposal with broad support caveated by concern about unintended consequences for other valued support roles and requests for adequate funding. We note that guidance already exists on the role of an ISVA. Rape Crisis explained:

The ISVA role is already defined in the Home Office ‘essential elements’ and we do not feel that any further definition or guidance is required. Further definition could negatively impact some ISVA services who provide different advocacy roles in response to the needs within their communities, which may not precisely fit any definition of an ISVA. This is especially true for specialist ‘by and for’ services. This could lead to issues in obtaining funding.¹⁵²

It is unclear how the statutory guidance proposed by the Ministry of Justice will fit with that already published by the Home Office.

119. There was agreement amongst the majority of stakeholders to our inquiry that the acknowledgement of the role of an ISVA and IDVA through a statutory definition and

149 [Q237](#) [The then Minister of State, Victoria Atkins MP]

150 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims’ experiences of the justice system: Consultation outcome](#), 25 May 2022

151 Ministry of Justice, Draft Victims Bill, [Explanatory Notes](#), May 2022

152 Rape Crisis ([VIC0061](#))

guidance could deliver a welcome increase in the recognition and understanding of those roles in multi-agency settings, thereby increasing their ability to support victims. We also heard that a legal definition could help professionalise and standardise support provision.¹⁵³

120. One area where a statutory definition of an ISVA and IDVA and accompanying guidance may be a benefit is in providing support in court. ISVAs and IDVAs are permitted to support complainants in court subject to the formal approval of the judge which should be applied for and granted in advance of the hearing.¹⁵⁴ We were told that in some Crown Courts, ISVAs are not always permitted in the video link room or the courtroom.¹⁵⁵ The Domestic Abuse Commissioner reported that one in five IDVAs who were commissioned told her they had not been allowed in court.¹⁵⁶ The Government reports the figure drops to one in three for ISVAs.¹⁵⁷ Rape Crisis explained that the refusal to grant access can be a result of judges and other court staff being unfamiliar with the ISVA role in some areas of the country.¹⁵⁸ Sophie Linden recommended:

[t]he Bill needs to be very clear about what the statutory role is of the advocate and give them access to the courts. It should not be at the discretion of the judges; these are advocates for victims. It should be consistent delivery and that needs to be consistent across the piece. This Bill should be doing that and putting it very clearly in legislation around that.¹⁵⁹

We note that the Criminal Procedure Rules Committee have approved a Rule Amendment that will acknowledge the courts power to give directions for the participation of witness companions, such as ISVAs, while the witness gives evidence.¹⁶⁰

121. ISVAs and IDVAs have a valuable role in supporting vulnerable victims through the criminal justice process. Defining their role in statute and the amendment to the Criminal Procedure Rules will raise their profile further and should go some way to addressing concerns of inconsistent access to the court room. We recommend that the Government monitors IDVA and ISVA access to the court. The accompanying guidance should set out clearly that those who meet the criteria of being an ISVA or IDVA have a right to support complainants at hearings and that the presumption should be for access to the court to be granted.

Definitions

122. ISVAs are defined in the Bill as a person who provides services to support victims of sexual offences; IDVAs are defined as a person who provides services to support victims of domestic abuse and their children. These roles are only a part of the provision that is required to support victims of these offences, they focus specifically on high risk and acute categories of victims. Many stakeholders cautioned that the Government should

153 SafeLives ([VIC0054](#)); Survivors UK ([VIC0022](#))

154 Home Office, [The role of the Independent Sexual Violence Adviser: Essential elements](#), September 2017

155 Rape Crisis ([VIC0061](#))

156 [Q59](#) [Nicole Jacobs]

157 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

158 Rape Crisis ([VIC0061](#))

159 [Q107](#) [Sophie Linden]

160 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022;

take steps to ensure that wider victims of these crimes, as well as other crime types such as stalking, will also continue to benefit from specialist advocacy services.¹⁶¹ For example, Women’s Aid state that:

any statutory definition of IDVAs must not create a ‘one-size-fits-all approach’, which would neglect the variety of specialist advocacy and wraparound support that specialist services, particularly those provided ‘by and for’ Black and minoritised communities, provide. Defining the role of an IDVA risks failing to recognise these roles, creating additional barriers to Black and minoritised survivors accessing the specialist support they need.¹⁶²

The Children’s Commissioner told us that child advocates, ‘CHISVAs’ and ‘CHIDVAs’, must also be recognised in the Bill.¹⁶³

123. The NSPCC drew attention to the difference in definition of a victim of domestic abuse between that set out in the draft Bill and that set out in the Domestic Abuse Act 2021. Clause 9(2) refers to, ‘victims of domestic abuse and their children’, the NSPCC states that this disregards ‘the fact that children can be victims of domestic abuse too.’ Clause 10 defines a victim of domestic abuse as someone within the meaning of section 1 of the Domestic Abuse Act who ‘is a primary victim of domestic abuse ... by virtue of being subjected to such conduct’. However, the NSPCC notes that this clause ‘expressly excludes child victims of domestic abuse from this definition of victim.’¹⁶⁴ SafeLives suggest that the Bill should refer instead to ‘adult and child victims of domestic abuse.’¹⁶⁵

124. We recommend that the Bill includes the entire definition of a domestic abuse victim as it appears in the Domestic Abuse Act 2021. We further recommend that the Bill also defines Independent Sexual Violence Advisors and Independent Domestic Violence Advisors who support children—so called CHIDVAs and CHISVAs.

Guidance on ISVAs and IDVAs

125. The Bill places a duty on the Secretary of State to publish guidance on ISVAs and IDVAs. The Government states that the purpose of the guidance is to ‘improve clarity on the functions of these roles, how they work with victims with specific needs, and how other individuals and agencies can best work with ISVAs and IDVAs to support victims in a holistic way.’ Witnesses giving evidence to our inquiry raised concern with us over specialist support services being taken in-house by the police and police and crime commissioners.¹⁶⁶ For example, Victim Support cautioned:

Government work in this area must safeguard the independence of ISVAs and IDVAs. Victims and survivors of domestic abuse and sexual violence, as with victims of all crimes, must have access to an advocate who is

161 Suzy Lamplugh Trust ([VIC0037](#)); [Q138](#) [Alex Mayes]

162 Women’s Aid ([VIC0027](#))

163 [Q62](#) [Dame Rachel de Souza]

164 NSPCC et al ([VIC0019](#))

165 SafeLives ([VIC0054](#))

166 [Q138](#) [Alex Mayes]; [Q141](#) [Suzanne Jacob OBE]; [Q143](#) [Dr Hannana Siddiqui]; [Q146](#) [Jayne Butler]

independent of the police, and it must be made clear that the IDVA and ISVA role is independent of statutory services. Greater definition of these roles must not come at the expense of the role's independence.¹⁶⁷

The Government states that the statutory guidance will 'enhance standards and professionalisation across the board.'¹⁶⁸ We found broad support for that ambition but concern that it should not be delivered at the expense of other critically important support. As Solace Women's Aid explained,

In producing the statutory guidance, the Government must consult widely and ensure the range of skills and knowledge of advocates is supported and acknowledged, particularly those working in 'by and for' services and those specialising in particular areas such as multiple disadvantage IDVAs, mental health IDVAs and housing IDVAs, who develop specialist expertise and can advise colleagues while also holding cases themselves.¹⁶⁹

126. Clause 9(3) states that the guidance may include provision on the role, functions and appropriate training and qualifications of an ISVA and IDVA. We find no reason why it should not be required to do so. If a role is to be recognised in statute it is not unreasonable to suggest the criteria defining that role be also set out, not least if people performing that function are to have consequent rights such as being allowed to support complainants in court. The Ministry of Justice will also need to clarify how any guidance produced with respect to ISVAs corresponds to existing guidance published by the Home Office.

127. Guidance on appropriate training and qualifications for the independent advisors must be co-designed with the expert services already in the sector who have established and grown those roles and should be drafted in such a way that does not discredit the specialism of other advocacy models or those specialising in particular areas, where training and provision may differ to reflect the diverse needs of their clients. We further recommend that the guidance stipulates that ISVAs and IDVAs must be independent from the police and that access to their services is not restricted to people engaged in the criminal justice system.

Funding

128. In 2021–22 the Ministry of Justice provided ringfenced funding of £27 million to support 700 ISVA and IDVA roles. The Government announced in the 2021 Autumn Budget that it plans to increase funding for victim support services to £185 million by 2024–25. Part of this additional funding will be allocated to support an additional 300 ISVAs and IDVAs. This increase in funding is welcome but concern was raised during our inquiry that the funding has not and will not keep up with demand. Rape Crisis England & Wales reported that in March 2018 there were 6,355 victim/survivors of sexual violence on waiting lists, that were as long as 14 months. As of April 2021, there were nearly 10,000

167 Victim Support ([VIC0026](#))

168 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#), May 2022

169 Solace Women's Aid ([VIC0008](#))

victim/survivors nationally waiting for a service at an accredited Rape Crisis Centre, with some on waiting lists of up to two years.¹⁷⁰ Suzanne Jacob OBE, Chief Executive of SafeLives, explained that,

the case load for an IDVA should be only a maximum of 30 cases at any one time. Anybody who an IDVA is supporting is by definition at high risk of homicide. These are people who are at risk of very serious harm, yet we know there are many IDVA services all around the country where the caseworkers are trying to hold 100 cases at a time. These are not realistic forms of support. It cannot be meaningful support when we get to that level.¹⁷¹

129. The Victims Bill will likely put additional strain on already stretched services as victims of domestic or sexual abuse become more aware of their rights. Advocacy services already face unmanageable referral levels and caseloads. Additional funding is required to enable services to meet demand and allow the Victims Bill to live up to its ambitions.

170 Rape Crisis ([VIC0061](#))

171 [Q140](#) [Suzanne Jacob OBE]

7 Clause 11, the Victims' Commissioner

Oversight of the Code

130. Clause 11 removes the Victims' Commissioner's current duty to keep the operation of the Victims' Code under review which has instead been delegated to PCCs at a local level. The Government argues that removing the statutory duty from the Victims' Commissioner to monitor the operation of the Code will free up the Commissioner's time and resources.¹⁷² Many stakeholders contributing to our inquiry, including the Victims' Commissioner and the APCC, disagreed with this approach.¹⁷³

131. The Restorative Justice Council drew attention to the fact that four of the key agencies—the CPS, HMCTS, HMPPS and the YJB—are accountable nationally not locally, while the NSPCC explained that transferring the oversight responsibility to PCCs raised further issues:

Not all PCCs are members of their Local Criminal Justice Boards, and those who are do not have a direct mandate over the participating organisations other than the police. Also, there is not strong governance above PCCs, which makes it difficult to escalate issues or concerns to a national level. [...] PCCs are also responsible for commissioning victims' services, meaning they are not external actors in relation to Victims' Code of Practice (VCOP) provision. These factors make PCCs unsuitably placed to carry out VCOP oversight *alone*.¹⁷⁴

The Victims' Commissioner told us, 'the most important thing that I think should be in this is to retain the duty to keep the Code under review at national level, which I currently have. Certainly, I said that the PCC should have it at local level, but there isn't anyone else at a national level charged with that task, and it is insufficient just to do it locally.'¹⁷⁵ The APCC stated that they would be supportive of a formal mechanism by which Code compliance data could be shared with the Victims' Commissioner.¹⁷⁶ The then Minister for Justice and Tackling Illegal Migration told us:

I hugely value the role of the Victims' Commissioner, and I very much see it as a role that I would like to have even greater national prominence than it does now [...] It is important for the Victims' Commissioner to continue to have that very significant national role.¹⁷⁷

132. We support the then Minister's ambition for the role of the Victims' Commissioner to have 'even greater national prominence.' We recommend that the Victims' Commissioner retains a duty to oversee the operation of the Victims' Code at a national level. Clause 11(2)(a) should not be included in the Bill.

172 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022;

173 See for example written evidence submitted by NSPCC et al ([VIC0019](#)); Criminal Justice Alliance ([VIC0033](#)), Victim Support ([VIC0026](#)); Restorative Justice Council ([VIC0007](#)); [Q79](#) [Sophie Linden]; [Q78](#) [Councillor Caliskan]

174 NSPCC et al ([VIC0019](#))

175 [Q65](#) [Dame Vera Baird KC]

176 Association of Police and Crime Commissioners ([VIC0045](#))

177 [Q300](#) [the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP]

Annual Report

133. Clause 11 also requires the Victims' Commissioner to lay her Annual Report before Parliament and requires those subject to recommendations in her Annual Report to respond to them within 56 days. The four inspectorates are brought within the Commissioner's remit for this purpose. In addition to the Annual Report, the Victims' Commissioner also publishes approximately four thematic reports a year that could require a response from criminal justice agencies. The Victims' Commissioner told us that she had asked the Government for the obligation in the draft Bill to apply to all her reports:

The annual report includes a summary of the major reports that we have done during the year, and the really important thing is to get a response to the major report. We did one about fraud, one about special measures and one about online safety. It is to the substance of those. If I do one in April 2022 about fraud, to suggest that the response ought to be to the summary of it in my next annual report is not right. That has slightly misfired.¹⁷⁸

134. We welcome the Government's proposal for those subject to recommendations in the Victims' Commissioner's Annual Report to be required to reply to those recommendations and to do so within 56 days. We recommend that the requirement is extended to include the Victim's Commissioner's thematic reports to help support their recommendations being taken forward. We note that such a requirement already exists with respect to reports produced by the Domestic Abuse Commissioner.

Consultation

135. Throughout our report we have sought to strengthen independent oversight of the Code and the delivery of the rights set out within it. In Chapter 3 we recommended that the Victims' Commissioner be consulted on any changes to the Code proposed by the Government. In Chapter 4 we called for the Victims' Commissioner to be consulted on the data necessary to monitor agencies' compliance with the Code and for that data to be shared with the Commissioner's office for the purposes of national scrutiny. We also suggested that the PCCs should be able to raise any concerns directly with the Victims' Commissioner. The next step in this process is to include the inspectorates. Professor Pamela Cox and Dr Ruth Lamont suggested that the Victims' Commissioner should have the power to make a super-complaint to the inspectorates regarding the treatment of victims as the potential basis for a joint inspection; the End Violence Against Women coalition called for the inspectorates to be required to consult the Victims' Commissioner on their programme of work.¹⁷⁹

136. We recommend that the Victims Bill places a duty on HM Inspectorate of Constabulary and Fire and Rescue Services, HM Inspectorate of Probation, HM Inspectorate of Prisons and HM Crown Prosecution Service Inspectorate to consult the Victims' Commissioner annually on how the victims' experiences should be incorporated into their ongoing programme of inspections.

178 [Q65](#) [Dame Vera Baird KC]

179 Professor Pamela Cox and Dr Ruth Lamont ([VIC0021](#)); End Violence Against Women coalition ([VIC0038](#))

8 Clause 12, joint inspections relating to victims

137. Clause 12 gives specified Ministers—the Secretary of State, the Lord Chancellor and the Attorney General—the power to require a joint inspection programme on the experiences and treatment of victims. Under this power, the Government can specify the key issues that should be considered by the inspectorates whilst carrying out the inspection, as well as when the inspection should be carried out. In the Impact Assessment published alongside the draft Bill, the Government sets out that it assumes that an inspection would be required once every three years.¹⁸⁰ On the number of inspections, the Victims' Commissioner told us:

I don't think it is very sufficient. As a basic minimum, it might be helpful, but I would not want it to rest there. The inspectors do quite a lot of local inspections too—thematic ones—which they could very well do together. I would also like to see the reintroduction of the inspection of the Courts Service.¹⁸¹

138. The Government contends that this power will ensure that the inspectorates have a clearer and sharper focus on delivering an improved experience for victims. It is envisaged that the inspectorates will continue to agree and set out their proposed joint inspection programme in a Joint Business Plan, which typically covers a period of two years.

139. The criminal justice inspectorates already have a statutory requirement to consult the Secretary of State and other specified bodies on their inspection plans; and the Secretary of State already has the power to direct some chief inspectors to report on specific issues related to the agencies they inspect (such as an inspection relating to victims). The change here is to require a joint inspection to take place at specified times. It is a limited extension of existing powers, and such directions would be entirely at the discretion of the Government.

140. Stakeholders submitting evidence to our inquiry welcomed plans for an additional focus on victims. For example, the Prison Reform Trust told us:

We would welcome greater oversight by the HM Inspectorate of Prisons on whether the entitlements under the Victims' Code of people in prison are being met. We are not aware of any systematic efforts by HM Inspectorate of Prisons and Probation to understand:

1. Levels of victimisation among the population in prison and under probation supervision in the community other than through the routine collection of data relating to safety.
2. The access of people in prison and under supervision to victims services and support and the quality of service they receive.¹⁸²

180 Draft Victims Bill, [Impact Assessment](#), May 2022

181 [Q68](#) [Dame Vera Baird KC]

182 Prison Reform Trust ([VIC0023](#))

141. Concern has been raised with us that the powers set out in clause 12 may undermine the inspectorates' independence from Government.¹⁸³ The joint inspectorates made the following two points:

The first is that by allowing the Secretary of State, Lord Chancellor and Attorney General to direct both the timing of an inspection and the matters to be inspected, the clause changes the balance provided by the existing legislative provisions, which require the inspectorates to consult with the Secretary of State and Attorney General before preparing a joint inspection programme.

This existing arrangement has balanced the need for Ministers to provide input with the independent expertise of the inspectorates and also allowed the inspectorates to plan and resource inspection programmes. Second, the current drafting does not recognise the importance of the voice of victims being heard in the development of thematic work which relates to their experiences.¹⁸⁴

142. We have already discussed the role of PCCs in monitoring agencies' compliance with the Code and consequent issues around enforcement. Sophie Linden, APCC Joint Lead for Victims and Deputy Mayor for Policing and Crime in London, told us that police and crime commissioners have the power to request HMICFRS to inspect a force on a particular issue, and that 'they should have that power not just for forces but for those bodies that are part of this Bill, such as the CPS and other bodies.'¹⁸⁵ Other stakeholders drew attention at the lack of a consultative role of the Victims' Commissioner in this clause.¹⁸⁶

143. We agree with the Government's intention to increase the inspectorates' focus on victims. The inspectorates should be required to consult the Victims' Commissioner and consider representations and data from PCCs as part of the development of their work programme.

Ratings

144. A general difficulty faced by inspectorates is the lack of levers available to them to ensure the recommendations from each inspection are implemented. It is not uncommon to find the inspectorates repeating the same findings and recommendations. The different criminal justice inspectorates currently utilise their own separate methodologies for assessing the efficiency and effectiveness of criminal justice agencies.¹⁸⁷ In the consultation response accompanying the draft Bill, the Government states that it will explore how a ratings system might help to improve standardisation and consistency across inspections in the criminal justice sector. The Government sets out that:

detail is still to be developed and it will be important that we work closely with the inspectorates so that we can ensure proposals are workable and

183 Criminal Justice Alliance ([VIC0033](#))

184 Criminal Justice Joint Inspection ([VIC0029](#))

185 [Q86](#) [Sophie Linden]

186 End Violence Against Women coalition ([VIC0038](#)); Professor Pamela Cox and Dr Ruth Lamont ([VIC0021](#))

187 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022

deliverable. This can be agreed outside of legislation (for example via a Memorandum of Understanding), as is for the case for the current use of ratings by HMICFRS and HMI Probation'. [...]

We will therefore work with the inspectorates to ensure processes whereby agencies failing to treat victims as they should are required to develop robust action plans to detail how they will improve. It is our intention that the action plan will be laid before Parliament by the Minister responsible for the agency. Action plans for police forces will be placed in the public domain by the relevant PCC.¹⁸⁸

145. We support the Government's intention to improve monitoring mechanisms of agencies' performance with respect to victims and note the Government's plans to work with the inspectorates to develop a ratings system. A crucial part of this work will be ensuring that there are adequate levers in place to ensure that those agencies that are found to be failing victims take the necessary steps to improve their performance. One of those levers should be reinspection. We look forward to the further development of these proposals.

¹⁸⁸ Ministry of Justice, [Delivering justice for victims: A consultation on improving victims' experiences of the justice system: Consultation outcome](#), 25 May 2022

9 Clause 13, the PHSO

146. The Parliamentary and Health Service Ombudsman (PHSO) is responsible for looking at complaints under the Victims’ Code where they have not been resolved by the organisation(s) complained about. The PHSO can look at a Victims’ Code complaint about any organisation required to uphold the rights under the Code. Clause 13 removes the need for a victim of crime to raise a complaint with an MP before it can be escalated to the PHSO. The Government notes:

Removal of the “MP filter” will be an exception for victims of crime, for whom approaching an MP to share a potentially traumatic experience is more likely to be a barrier to making a complaint. This does not constitute an indication that the Government intends to remove the MP filter more widely. However, we recognise that some complainants will require assistance—and may wish to have the assistance and support of an MP. We will therefore also allow complainants to escalate their complaints to the PHSO via an authorised person (someone they have asked to help them escalate their complaint), which can include an MP.¹⁸⁹

147. The PHSO notes that the proposal to remove the filter has widespread parliamentary and stakeholder support.¹⁹⁰ The PHSO draws attention to current legislation which requires complainants to contact the service in writing and calls on the Government to consider allowing complainants to use alternative means such as phone or video call to make a complaint. The PHSO argues that:

[t]his might be particularly important for victims of crime, who may find it less traumatising to communicate their experiences in other formats. This would increase accessibility, which is essential given that the Crown Prosecution Services has found that disabled people—some of whom may struggle with written communication—are more likely to become victims of crime.¹⁹¹

Even without having to make a complaint through an MP, the Criminal Justice Alliance caution that the role of the PHSO in the complaints system is poorly understood by victims, with many unaware of how to navigate the procedure.¹⁹²

148. There is a broad parliamentary and stakeholder approval for the removal of the need for a victim of crime to raise a complaint via an MP before it can be escalated to the Parliamentary and Health Service Ombudsman. This move is long overdue. We support the proposal and also call on the Government to consider taking forward the Ombudsman’s request to allow victims to make a complaint in formats other than in writing. Alongside the removal of the MP filter the Government and Ombudsman service should take steps to increase the visibility of the Ombudsman service to victims of crime.

189 Ministry of Justice, [Delivering justice for victims: A consultation on improving victims’ experiences of the justice system: Consultation outcome](#), 25 May 2022

190 Parliamentary and Health Service Ombudsman ([VIC0012](#))

191 Parliamentary and Health Service Ombudsman ([VIC0012](#))

192 Criminal Justice Alliance ([VIC0033](#))

10 Other matters

Bill of Rights Bill

149. Through the Victims Bill the Government is seeking to put the needs and voices of victims at the heart of the justice system and to give them clearer routes to redress. During our inquiry we heard concerns that concurrent proposals to replace the Human Rights Act with a Bill of Rights might have a detrimental impact on victims. The End Violence Against Women coalition told us:

The rights provided by the HRA are incredibly important to ensuring that victims and survivors of VAWG receive an appropriate response and support because the Code is not enforceable—and will remain unenforceable even when made statutory. The Rights under the Human Rights Act also reach significantly further than the Code and provide victims and survivors with fundamental rights, without which their position would be significantly weakened.¹⁹³

150. Clause 5 of the Bill of Rights prohibits domestic courts from adopting new interpretations of convention rights that would require a public authority to comply with a positive obligation and provides that old obligations can still be enforced but only in limited circumstances. The Victims' Commissioner explained to us that such a step will affect the obligation on the state to protect people against breaches of their human rights. The Commissioner drew attention to the John Worboys case, in which two of his victims were able to bring an action to demonstrate that the Metropolitan Police had not protected their right to be safeguarded from inhuman and degrading treatment because they did not investigate their rape adequately.¹⁹⁴ Mark Elliott, Professor of Public Law, University of Cambridge, told us:

it would be significantly less likely that a domestic court would be in a position to decide a case like Worboys in the way that the Supreme Court decided the Worboys case. [...] my assessment is that judgments like Worboys would be much less likely under the Bill of Rights.¹⁹⁵

151. In response to the concerns raised in evidence to us, the then Minister for Justice and Tackling Illegal Migration wrote to the Committee. He stated:

I do wish to make it expressly clear that the Bill of Rights will not remove existing protections for victims, and nor will it prevent similar cases to this one from being brought in the future.¹⁹⁶

152. Measures to support victims set out in the Victims Bill and Code should not be diminished by reforms to the Human Rights Act. The safeguards provided by that Act are also important given the weaknesses in the Victims Bill with respect to the ability for individuals to enforce their rights under the Victims' Code.

193 End Violence Against Women coalition ([VIC0038](#))

194 [Q13](#) and [Q20](#) [Dame Vera Baird KC]

195 [Q43](#), Oral evidence taken on the Bill of Rights Bill, 5 July 2022, HC 562 [Professor Mark Elliott]

196 [Letter](#) from the then Minister for Justice and Tackling Illegal Migration, Tom Pursglove MP, dated 27 July 2022, on the Bill of Rights and victims of John Worboys

Drafting

153. In the annex to this report we raise a number of concerns relating to the drafting of the Bill. These are limited to technical matters and are not intended to cover points where we think the underlying policy approach needs to change. **The Government should consider the concerns we raise in the annex to this Report relating to technical matters in the drafting of the draft Bill before presenting the Bill to Parliament.**

11 Conclusion

154. A principal purpose of the draft Bill is to improve victims' experience of the criminal justice system but it is not clear that the Bill as drafted will do enough to achieve the change required. It has also been published against a backdrop of significant court backlogs, with victims of crime too often waiting years for their cases to come to court, and criminal legal aid advocates turning away from the profession. The Government is taking steps in tackling those deep-rooted problems but until they are resolved victims will continue to suffer harm for too long.

Conclusions and recommendations

Introduction

1. The Committee welcomes the opportunity to scrutinise the draft Victims Bill and supports the Government's ambition to improve victims' awareness of their rights under the Victims' Code. The Code is an important aspect of the Bill. It is disappointing that neither the draft of the proposed new Code nor the draft regulations setting out the key entitlements of that Code have been published alongside the draft Bill. This has limited our ability to scrutinise the Government's proposals to support victims (Paragraph 5)

Clause 1, defining victims of crime

2. In relation to the inclusion of witnesses in the definition of victim, no reference is made to the impact, if any, that the crime has had upon the witness. Some witnesses are certainly traumatised by the nature of the crimes they have been exposed to—incidents of violence are an obvious example—and there is logic in treating them as victims. Others may be unaffected. Further refinement is required, otherwise such a wide definition of witness may actually make the application of Code rights more difficult in practice. The Government also needs to set out what effect the inclusion of witnesses will have on the application of rights under the Code in general. (Paragraph 10)
3. As currently drafted, a victim of small-scale fraud is considered a victim of crime for the purposes of the Bill but a parent whose child has been murdered is not. This cannot be right. We recommend that the definition of victim in clause 1 of the Bill be expanded to include a close relative of a person whose death was directly caused by a criminal offence. As set out in the current Code, such a definition should refer to the spouse, the partner, the relatives in direct line, the siblings and the dependants of the victim and that other family members, including guardians and carers, may be considered close relatives at the discretion of the service provider. (Paragraph 13)
4. The existing Code makes no reference to rights for secondary victims of crime, specifically rape-conceived persons. Clause 2(4) sets out that the Code may make provision for those not defined as 'victims' in clause 1. This provides scope to extend Code entitlements to children born of rape but as drafted lacks the necessary assurances that this will happen and, being unsighted on any draft of an updated Code, we cannot be reassured that provisions in the Code will be extended to that group. We recommend that both the Bill and an updated Code make specific reference to the inclusion of rights under the Code for children born of rape. (Paragraph 15)
5. We recommend that victims of non-criminal anti-social behaviour who meet the threshold for a 'Community Trigger' should be recognised as victims for the purposes of the Bill and be entitled to rights under the revised Victims' Code. We think this is in line with the Government's aim of achieving a culture change in the attitude towards victims among criminal justice agencies and recognises that anti-social behaviour can have as much of an impact on those affected by it as criminal conduct. (Paragraph 17)

6. Many victims of crime do not pursue a criminal justice response, particularly those most at risk of being victims. We generally welcome the draft Bill's open definition of victim, subject to our comments in paragraph 10, but it needs to go further. All those who have suffered harm must be able, and have the confidence, to contact services such as the police, and to access their rights as victims. The lack of a firewall between the police and Immigration Enforcement denies safety to victims and witnesses and may allow perpetrators to commit further offences. (Paragraph 21)
7. We call for an immediate end to the sharing of victims' and witnesses' data between the police and the Home Office for immigration enforcement purposes and the introduction of a complete firewall for those groups. We recommend that the draft Bill includes a provision stating that victims' and witnesses' data cannot be shared by the police with Immigration Enforcement and that entitlements in the Code will not be restricted on the basis of immigration status. (Paragraph 22)

Clauses 2 to 4, the Code of Practice for Victims of Crime

8. As drafted, the Victims Bill does not appear to enshrine the Victims Code in law any more than is already provided for. The four overarching principles in the draft Bill are so broad and permissive that it is not clear that they serve any significant legal purpose. The current Code appears to comply with these principles, and it is hard to envisage any future Code not complying with them as a matter of course. (Paragraph 28)
9. The Government should publish its proposed draft of an updated Victims' Code and the draft regulations setting out the key entitlements of the Code at the same time as the Victims Bill is presented to Parliament to provide clarity for Members of both Houses as to what the Bill seeks to do. The regulations setting out victims' key entitlements under the Code should be subject to the affirmative resolution procedure to allow parliamentary scrutiny of its provisions. (Paragraph 29)
10. We are not convinced that the overarching principles, as drafted, are strong enough to drive the necessary cultural change in the treatment of victims in the criminal justice system. The approach taken retains the onus on the victim to claim rights they are often unaware of rather than requiring the relevant agencies to deliver them. As set out, this approach falls short of what is required. (Paragraph 33)
11. We recommend that clause 2 includes an additional subsection following subsection 1 which places an obligation on the relevant statutory services, including but not limited to the police, to make victims aware of the Victims Code. We further recommend that the principles currently set out in subsection 2 should be rephrased to set out what victims must have rather than should have—as provided for in the original consultation document. We suggest the following:
 - i) criminal justice agencies must provide victims with the information they need throughout the entirety of their case, from reporting through to post-conviction in a language or format that they can understand; this should include information on restorative justice where appropriate;

- ii) victims must be able to access services which support them (including, where appropriate, specialist services);
 - iii) victims must have the opportunity to have their voices heard in the criminal justice process;
 - iv) victims must be able to challenge decisions that directly impact them. (Paragraph 34)
12. Clause 3 obliges the Secretary of State to consult the Attorney General on preparing a draft of the Code and on any amendment to it. That obligation should be extended to include the Home Secretary, Victims' Commissioner, Domestic Abuse Commissioner and Children's Commissioner for all amendments. (Paragraph 38)
 13. As drafted, the Bill fails to adequately address the issue of agencies' non-compliance with the Code—we are concerned by this given that it is one of the principal reasons for the Bill. We have already recommended strengthening the principles in clause 2; that recommendation, combined with an increase to the powers of the Victims' Commissioner, which we discuss elsewhere in this Report, may go some way to improving levels of compliance with the Code. However, we recommend that the Government gives further consideration to this crucial aspect of the Bill before presenting it to Parliament. (Paragraph 41)
 14. Community Impact Statements are not new and the Government itself acknowledges that little is known about their use. We recommend that the Government undertakes further research on how Community Impact Statements have been used and provides guidance to support any further promotion of their use. (Paragraph 46)
 15. We support the Government's proposal to give a victim of a mentally disordered offender the right to submit a Victim Personal Statement to a Mental Health Tribunal. We recognise that there are particular sensitivities in the Mental Health Tribunal which differ from those in the prison and parole system, not least that a person who has been sectioned is deemed to lack capacity for their actions. In introducing this entitlement the Government must be mindful of the potential for retraumatisation, and the creation of unrealistic expectations if victims believe that their views might influence the tribunal's decision. The Government should ensure that adequate counselling support is in place before rolling out this measure. (Paragraph 52)
 16. To aid close relatives of victims of mentally disordered offenders to cope and recover from their trauma, the Government should consider whether further information could be provided on the nature of the offender's illness and how it impacted upon the motives for their actions. Without any such context and understanding, the recovery of the victim or their close relative is far harder. (Paragraph 53)
 17. There is room for improvement to the Right to Review schemes and the communication of them to victims. The details of the schemes in the Code need to be clearer and the CPS and police need to improve their performance in informing victims of the schemes' existence and how they operate, including a victim's right to make representations under those schemes. Witnesses to our inquiry made a number

of recommendations on how the Right to Review schemes could be improved. We have set these out in this Report and recommend the Government give each of them due consideration. (Paragraph 58)

18. The Government's Root and Branch Review of the Parole System merits more consideration than we have had opportunity to give to it during our scrutiny of the draft Victims Bill. It is a policy area we are likely to return to in the future. In the meantime, we wish to highlight the concerns raised in this inquiry regarding the potential for victim participation in the parole process to lead to retraumatisation of the victim without effective support from trained counsellors. Such support needs to be in place before the policy is rolled out and will require additional funding from the Government. (Paragraph 63)
19. Attending court can be a daunting experience for a victim, with potential to be confusing and retraumatising. We agree in principle with the Government's ambition for the CPS in high harm cases to support victims through that process and to keep them informed. However, any further demands on the CPS should be matched with the additional resources required. The best way to support victims is to have an efficient and effective criminal justice system. Any steps to divert already constrained CPS resources from their core prosecutorial task may have an adverse effect on the timely delivery of justice and, ultimately, provide a worse experience for victims. (Paragraph 71)
20. A right to information about restorative justice and how to access local restorative justice services is already an entitlement in the Code but it is clear that it is not being delivered consistently. Our predecessor Committee's 2016 report on restorative justice recommended that the Victims' Law should include a provision for victims to have a legislative right to access restorative justice services. That is also our view and we recommend that that right be included in the Bill as we have set out in paragraph 34. (Paragraph 75)
21. The decision whether to accede to a disclosure request of counselling notes and third-party material should not rest solely on the shoulders of victims, many of whom are vulnerable and traumatised. There is a case for providing independent legal advice for vulnerable victims facing disclosure requests and the Government should consider this further alongside its consultation on third party material. We welcome the work the Government is doing to ensure that disclosure requests are proportionate. (Paragraph 81)
22. The primary purpose of counselling is therapeutic not investigative. The law should still allow for disclosure of those notes where their probative value merits it; but the reasonable grounds test must be respected and enforced effectively if victim confidence in the criminal justice system is to be sustained. (Paragraph 82)
23. We recommend that the Code includes a right for victims whose cases are heard in the Crown Court to be offered a free transcript of the judge's sentencing remarks, in a format that they can access, and that bereaved families should be offered a free transcript of the Coroner's findings after an inquest. (Paragraph 83)

Clause 5, review of compliance with the Victims' Code

24. A lack of data has been a key barrier to the effective monitoring of the implementation of the Code, particularly with respect to minority groups. Meaningful data collected and published regularly can help amplify victims voices and hold underperforming agencies to account. We welcome the duty the Bill places on the criminal justice bodies to collect data on their compliance with the Code at a local level and to share that data with their PCC. We have set out some suggestions on what data should be collected. (Paragraph 90)
25. We recommend that clause 5 includes a duty for the Victims' Commissioner and local victims' groups to be consulted on the data required to hold agencies to account on their performance in delivering the Code. That data should be standardised to allow comparison across police areas. The duty should also require the PCCs to publish that data, in a form that can be disaggregated by crime type and protected characteristic, and to share that data with the Victims' Commissioner and, where necessary, the inspectorates. There will need to be safeguards within any data collection agreements to ensure that the duty does not compromise victims and survivors' confidentiality or jeopardise their ability to consent to access services and support. (Paragraph 91)
26. We support the Government's ambition to improve transparency in the delivery of the Code. However, transparency and roundtable discussions will only go so far in improving performance without any enforcement mechanism. The Government should set out in the guidance provided for in clause 5(6) the escalation routes available to PCCs where there are concerns about an agency's compliance with the Code and the quality of outcomes for victims. We do not believe that PCCs should be able to direct the work of agencies independent of them, but they should be able to raise concerns with bodies that do have this power. We therefore recommend that the guidance includes the right for PCCs to make representations to and share data with the inspectorates and the Victims' Commissioner. (Paragraph 95)

Clauses 6 to 8, collaboration in the provision of support services

27. We welcome the duty to collaborate. This duty, however, should also include providers of children's services to ensure the needs of child victims are met and to help facilitate the flow of necessary information between agencies. It is unclear whether the duty to collaborate is intended to support the provision of victim support services to those who do not make contact with or have withdrawn from the criminal justice system. We call on the Government to ensure that those people are included. (Paragraph 99)
28. We recommend that clause 8(3) also includes reference to section 3 of the Domestic Abuse Act 2021, namely that children can be victims of domestic abuse in their own right. Doing so will provide assurance that commissioners of support services must also consider the specific needs of child victims of domestic abuse and the adequacy of the provision of referral pathways. We further recommend that the statutory guidance advises the authorities to undertake a needs assessment for child victims in their community and addresses the difficulties child victims of abuse experience in accessing pre-trial therapeutic support. (Paragraph 102)

29. The duties on bodies responsible for commissioning victim support services are complex and they are supported by multiple funding streams. The Government should use the Victims Bill and the guidance provided under the duty to collaborate to draw these different duties and funding models together, to ensure that they work cohesively on the ground. If this legislation simply adds new duties to an already crowded landscape, then it will be incredibly challenging for the relevant agencies to deliver on all pieces of legislation effectively. (Paragraph 104)
30. PCC, local authority and health board areas are rarely coterminous. This will necessarily add complexity to collaboration and the development of a single strategy for the delivery of victim support services for each police area. In setting guidance to the relevant authorities on their duty to collaborate, the Government must include clear guidance around governance and accountability. (Paragraph 105)
31. We are concerned that the duty to collaborate does not go far enough to ensure that vital, community-based support services are available to victims of domestic and sexual abuse. The duty must be strengthened to require the agencies described to collaborate and commission community-based services. That duty should be accompanied by an appropriate, multi-year funding package. Without the necessary funding in place the Bill risks raising victims' awareness of their rights only to leave them unable to access them due to the relevant services already working at full capacity. (Paragraph 110)
32. We recognise the challenges for local commissioners in identifying and funding small or highly specialist services, and for those services to access commissioned funding. We recommend that the Government put in place a national multi-year ring-fenced fund to ensure specialist support services are supported and for that funding to be available in the simpler grant form. This fund should complement a responsibility on PCCs, health and local authorities to commission 'by and for' services, including through co-commissioning at a regional level where necessary. (Paragraph 113)
33. Commissioning of support services for victims works best when commissioners have an accurate understanding of need. As drafted, the Bill requires the authorities to consider any needs assessment they may have carried out in preparing the strategy. This needs to be strengthened to require the authorities to undertake the needs assessments identified in clause 6(4), and to do so before a strategy is developed. In making those assessments commissioners should be mindful of the potential for under-reporting in areas where there may be a lack of specialist representation, for example with respect to male victims of abuse, or LGBT+ and other victims with protected characteristics who may require support services. (Paragraph 114)
34. The statutory guidance to be provided by the Government should include advice on addressing the potential for under-representation in the needs assessment. It should also include signposting to specialist support for those groups that may be available elsewhere or at a regional or national level. (Paragraph 115)

Clauses 9 to 10, IDVAs and ISVAs

35. ISVAs and IDVAs have a valuable role in supporting vulnerable victims through the criminal justice process. Defining their role in statute and the amendment to the Criminal Procedure Rules will raise their profile further and should go some way to addressing concerns of inconsistent access to the court room. We recommend that the Government monitors IDVA and ISVA access to the court. The accompanying guidance should set out clearly that those who meet the criteria of being an ISVA or IDVA have a right to support complainants at hearings and that the presumption should be for access to the court to be granted. (Paragraph 121)
36. We recommend that the Bill includes the entire definition of a domestic abuse victim as it appears in the Domestic Abuse Act 2021. We further recommend that the Bill also defines Independent Sexual Violence Advisors and Independent Domestic Violence Advisors who support children—so called CHIDVAs and CHISVAs. (Paragraph 124)
37. Clause 9(3) states that the guidance may include provision on the role, functions and appropriate training and qualifications of an ISVA and IDVA. We find no reason why it should not be required to do so. If a role is to be recognised in statute it is not unreasonable to suggest the criteria defining that role be also set out, not least if people performing that function are to have consequent rights such as being allowed to support complainants in court. The Ministry of Justice will also need to clarify how any guidance produced with respect to ISVAs corresponds to existing guidance published by the Home Office. (Paragraph 126)
38. Guidance on appropriate training and qualifications for the independent advisors must be co-designed with the expert services already in the sector who have established and grown those roles and should be drafted in such a way that does not discredit the specialism of other advocacy models or those specialising in particular areas, where training and provision may differ to reflect the diverse needs of their clients. We further recommend that the guidance stipulates that ISVAs and IDVAs must be independent from the police and that access to their services is not restricted to people engaged in the criminal justice system. (Paragraph 127)
39. The Victims Bill will likely put additional strain on already stretched services as victims of domestic or sexual abuse become more aware of their rights. Advocacy services already face unmanageable referral levels and caseloads. Additional funding is required to enable services to meet demand and allow the Victims Bill to live up to its ambitions. (Paragraph 129)

Clause 11, the Victims' Commissioner

40. We support the then Minister's ambition for the role of the Victims' Commissioner to have 'even greater national prominence.' We recommend that the Victims' Commissioner retains a duty to oversee the operation of the Victims' Code at a national level. Clause 11(2)(a) should not be included in the Bill. (Paragraph 132)
41. We welcome the Government's proposal for those subject to recommendations in the Victims' Commissioner's Annual Report to be required to reply to

those recommendations and to do so within 56 days. We recommend that the requirement is extended to include the Victim's Commissioner's thematic reports to help support their recommendations being taken forward. We note that such a requirement already exists with respect to reports produced by the Domestic Abuse Commissioner. (Paragraph 134)

42. We recommend that the Victims Bill places a duty on HM Inspectorate of Constabulary and Fire and Rescue Services, HM Inspectorate of Probation, HM Inspectorate of Prisons and HM Crown Prosecution Service Inspectorate to consult the Victims' Commissioner annually on how the victims' experiences should be incorporated into their ongoing programme of inspections. (Paragraph 136)

Clause 12, joint inspections relating to victims

43. We agree with the Government's intention to increase the inspectorates' focus on victims. The inspectorates should be required to consult the Victims' Commissioner and consider representations and data from PCCs as part of the development of their work programme. (Paragraph 143)
44. We support the Government's intention to improve monitoring mechanisms of agencies' performance with respect to victims and note the Government's plans to work with the inspectorates to develop a ratings system. A crucial part of this work will be ensuring that there are adequate levers in place to ensure that those agencies that are found to be failing victims take the necessary steps to improve their performance. One of those levers should be reinspection. We look forward to the further development of these proposals (Paragraph 145)

Clause 13, the PHSO

45. There is a broad parliamentary and stakeholder approval for the removal of the need for a victim of crime to raise a complaint via an MP before it can be escalated to the Parliamentary and Health Service Ombudsman. This move is long overdue. We support the proposal and also call on the Government to consider taking forward the Ombudsman's request to allow victims to make a complaint in formats other than in writing. Alongside the removal of the MP filter the Government and Ombudsman service should take steps to increase the visibility of the Ombudsman service to victims of crime. (Paragraph 148)

Other matters

46. Measures to support victims set out in the Victims Bill and Code should not be diminished by reforms to the Human Rights Act. The safeguards provided by that Act are also important given the weaknesses in the Victims Bill with respect to the ability for individuals to enforce their rights under the Victims' Code. (Paragraph 152)
47. The Government should consider the concerns we raise in the annex to this Report relating to technical matters in the drafting of the draft Bill before presenting the Bill to Parliament. (Paragraph 153)

Conclusion

48. A principal purpose of the draft Bill is to improve victims' experience of the criminal justice system but it is not clear that the Bill as drafted will do enough to achieve the change required. It has also been published against a backdrop of significant court backlogs, with victims of crime too often waiting years for their cases to come to court, and criminal legal aid advocates turning away from the profession. The Government is taking steps in tackling those deep-rooted problems but until they are resolved victims will continue to suffer harm for too long. (Paragraph 154)

Annex: Drafting points

Clause	Text	Question	MoJ response	Cttee conclusion
5(9)	"This section does not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duties imposed by this section)."	Are any words needed before "take"? Who or what should "take into account" the relevant duties?	Noted.	Wording should be improved to clarify which persons need to take account of the duties to avoid potential confusion.
5(1)(c)	"...a Minister of the Crown, in exercising functions in relation to prisons (within the meaning of the Prison Act 1952)..."	It is unclear what "meaning" is relevant here: is it the meaning of "prison" – limiting the meaning to non-military prisons under s53(1) of the PA 1952 – or the meaning of "functions"?	This wording reflects that used in section 10(5)(d) Police Reform and Social Responsibility Act 2011 which is intended to confirm that a prison "does not include a naval, military or air force prison."	Wording should be improved to clarify that this concerns the definition of "prisons".
6(10)	"in determining whether a disclosure would do so, take into account..."	See comment on clauses 5(9).	Noted.	Wording should be improved to avoid potential confusion.
7(1)(b)	"Part 2 of the Health and Care Act 2022..."	Drafting point: this should refer instead to Part 2 of the National Health Service Act 2006, where s.19 of the 2022 Act (Part 1 of that Act) inserted new provision.	Noted.	Drafting error should be corrected.

Clause	Text	Question	MoJ response	Cttee conclusion
8(3)(b)	<p>“... ‘domestic abuse’ has the meaning given by section 1 of the Domestic Abuse Act 2021...”</p>	<p>The definition in section 1 Domestic Abuse Act 2021 applies only to those over 16, so it is assumed the intention to exclude those victims subjected to such abuse who are 16 or under (though witnesses of such conduct could be of any age).</p> <p>Not all “domestic abuse” as defined in section 1 Domestic Abuse Act 2021 constitutes “criminal conduct”, so there would be an extra step needed to determine whether those suffering or witnessing abuse constitute “victims” for these purposes. Some of those suffering such abuse would not qualify.</p>	<p>The victims captured under the support services within the duty to collaborate should be considered in the round across domestic abuse, sexual abuse and other serious violence.</p> <p>The duty captures child victims of domestic abuse (defined in the 2021 Act as a child who sees or hears, or experiences the effects of, the abuse; and is related to either the abuser or the abused) (as you note). Where abuse would constitute the distinct definition of child abuse (i.e. relevant harm against those under 16) our intention is to catch that criminal conduct via the inclusion of child victims of serious violence.</p> <p>On the second point in relation to criminal conduct, the purpose of this Bill is to support victims of crime so this distinction is intended.</p>	<p>The legal position is understood, but see comments in the report on the policy implications of this; and see the comments on clause 8(6)(a) below.</p>

Clause	Text	Question	MoJ response	Cttee conclusion
8(4)	<p>"In determining for the purposes of subsection (3)(c) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded."</p>	<p>This provision is not just limited to the length of sentence, but "any limitation", which may mean that some of the listed breaches are not offences or sexual offences at all (at least as might be ordinarily understood) – is that the intention? For example, under the Sexual Offences Act 2003 Schedule 3 paragraph 14, prohibited images might include obscene images other than those of persons under 16.</p>	<p>You are correct that our intention was to remove the limitations relating to the requirement of conviction or sentence for a particular period as it is our intention to provide a high level definition of sexual offences. We note your flag that the current approach may produce unintended effects and will consider further.</p>	<p>Wording should be improved to ensure that it is clear which offences are captured by this definition.</p>
8(5)	<p>"... does not include terrorism withing the meaning of the Terrorism Act 2000 (see section 1 of that Act)."</p>	<p>Typographical error.</p>	<p>Noted.</p>	<p>Drafting error should be corrected.</p>
8(6)	<p>"In considering whether violence amounts to serious violence, the relevant authorities must take into account the following factors— ..."</p>	<p>This appears to be a non-exhaustive list, but it could be read otherwise. It may be worth considering clarifying (for example, saying "must include").</p>	<p>This is intended to be non-exhaustive. Drafting suggestion noted.</p>	<p>Wording should be improved to avoid potential confusion.</p>

Clause	Text	Question	MoJ response	Cttee conclusion
8(6)(a)	<p>"...the maximum penalty which could be imposed for the offence (if any) involved in the violence ..."</p>	<p>It is unclear what precisely was meant by a penalty imposed for the "offence... involved in the violence", and why it was necessary to add the words "(if any)". Does this mean that it is necessary to take into account the penalty for the offence that's been committed as a result of whatever violence has occurred? For example, if there has been an offence of wounding with intent to commit grievous bodily harm, should the maximum sentence of life imprisonment be considered? In that case it is unclear why the words "(if any) involved in the violence" are needed (instead of just saying, for example, "the offence concerned"). (There must be an offence for these provisions to bite at all; and it is already clear that the element of violence is required.)</p>	<p>We are grateful for this flag. This drafting was taken from the Police Crime Sentencing and Courts Bill and does require amending prior to introduction to reflect our different policy intention. In the Police Crime Sentencing and Courts Act this inclusion was specifically aimed at including domestic abuse below the threshold of criminal offence. As set out in our answer to your query on 8(3)(b) we do not intend to include this here and so this will need to be amended prior to introduction.</p>	<p>Wording should be improved to avoid potential confusion.</p>

Clause	Text	Question	MoJ response	Cttee conclusion
9(6)(b)	<p>"Any person having functions relating to (a) victims, or (b) any aspect of the criminal justice system, must have regard to the guidance."</p>	<p>There are many people in the criminal justice system who have no responsibilities regarding victims of domestic or sexual abuse (for example, traffic police, those in the Serious Fraud Office, and many others). Are they under a legal duty to have regard to this guidance? If so, why; if not, how should this provision be read so as to distinguish those who do and don't need to have regard to the guidance?</p>	<p>There are a large number of criminal justice bodies (and other bodies, for example healthcare providers) who have functions which interrelate with ISVAs and IDVAs when those advisors are acting to support victims. Rather than list specific bodies (where that list would be extensive), we placed the duty on any persons who have functions relating to victims or any aspect of the criminal justice system to have regard to the guidance. Whilst this includes a wide range of persons/bodies, the guidance itself will contain recommendations on how persons who have functions or work within settings which relate to these advisors should work with them, such that in practice, the duty will only arise where such persons/bodies are undertaking functions in relation to ISVA/IDVAs.</p>	<p>Legal duties should only apply to those who are required to comply with them, and the legislation ought to be amended make this clear, rather than relying on guidance (which would not itself extinguish the duty for those who should not be subject to it).</p>

Clause	Text	Question	MoJ response	Cttee conclusion
10	All	<p>This clause repeats a lot of the wording regarding definitions that is in clause 8 (for example, clause 10(3) and (4) essentially repeats clause 8(3) and (4)), suggesting the drafting could be slimmed down for ease of understanding (for example, the definitions could be put in an Interpretation section for the whole bill).</p> <p>The essential purpose of this clause appears to be to define what a "primary victim" of domestic and sexual abuse is, which could benefit from being condensed.</p>	Point noted	Wording should be improved to make the provisions easier to understand.
10(3)	"The offences... are an offence..."	There appears to be a plural/singular mix-up here – this contrasts with the wording of clause 8(3)(c), which could be replicated instead.	Point noted	Wording should be improved to avoid potential confusion.
12(1)	"the Prisons Act 1952"	Typographical error: this should be "Prison Act" (singular).	Noted.	Drafting error should be corrected.

Clause	Text	Question	MoJ response	Cttee conclusion
13(2)	<p>"(a) a written complaint is duly made by a member of the public, who claims to have sustained injustice in consequence of maladministration in connection with the action so taken, to—</p> <p>(i) if, in the complainant's opinion, the complaint relates to the complainant's experience as a victim, the Commissioner..."</p>	<p>The wording "to – if" does not quite work grammatically. It would be worth considering rewording to avoid confusion. (For example: "to – the Commissioner, if...")</p>	<p>Noted.</p>	<p>Wording should be improved to avoid potential confusion.</p>
13(3)	<p>"(a)... to the member of the public, to – (i) if, in the complainant's opinion..."</p>	<p>See previous comment.</p>	<p>Noted.</p>	<p>Wording should be improved to avoid potential confusion.</p>

Clause	Text	Question	MoJ response	Cttee conclusion
13(6)(c)	<p>“(c) the publication of a report or statement by the Commissioner—</p> <p>(i) under subsection (1), to the person who made the complaint, or</p> <p>(ii) under subsection (1A), to a member of the House of Commons ...”</p>	<p>In the existing section 10(5)(c) of the Parliamentary Commissioner Act 1967, this provision concerns publication by an MP (after being sent to the MP), rather than publication by the Commissioner to the MP.</p> <p>Section 10(5)(a) covers publication by the Commissioner “in making a report” to an MP.</p> <p>So it would be expected that amendments should be made to section 10(5)(a) as well as (c) covering complaints that were not made via MPs. As drafted, this change would mean that both (a) and (c) would now cover publication by the Commissioner (even for reports sent to MPs).</p>	<p>We consider that section 10(5)(a) caters for the situations provided for in section 10(5)(3) and (3A) where the Commissioner is making a report to either House of Parliament for those purposes. Section 10(5)(c) concerns report or statements to an individual “member of the House of Commons”.</p> <p>Further, we have interpreted your query as questioning why we have not provided for absolute privilege to attach to a publication by an MP to the complainant (ie a non-MP referral). The Office of Parliamentary Counsel advised that the only communication between an MP and the complainant protected by unamended section 10(5)(c) was the MP passing on the Commissioner’s report or statement. Amended section 10(5)(c) now provides for absolute privilege to attach to a report or statement by the Commissioner to the complainant removing the need for the MP to pass on the Commissioner’s report or statement to the complainant.</p>	<p>This issue appears in fact to concern a misunderstanding of amendments to section 10(1) and the insertion of section 10(1A), which are unclear regarding what is meant by “the person who made the complaint” where an MP makes a referral: whether that is the original complainant or the MP. The clauses state:</p> <p>(1) In any case where the Commissioner conducts an investigation under this Act or decides not to conduct such an investigation, he shall send to the person who made the complaint a report of the results of the investigation or, as the case may be, a statement of his reasons for not conducting an investigation.</p> <p>(1A) Where the person who made the complaint is not a member of the House of Commons the Commissioner may, with the consent of the person who made the complaint, send the report or statement to such member of that House as the Commissioner considers appropriate.</p> <p>The Bill is intended to provide that all investigation reports are sent direct to the original complainant, whether the complaint was made by the complainant or made via an MP, and the protection of absolute privilege is intended to apply accordingly. That would be achieved if the phrase “person who made the complaint” in section 10(1) referred only to the original complainant. However, section 10(1A) suggests that this person may either be the original complainant, or the MP where there has been a referral. The wording should be improved to avoid potential confusion.</p>

Formal minutes

Wednesday 21 September 2022

Members present:

Sir Robert Neill, in the Chair

Dr Kieran Mullan

Maria Eagle

The following declarations of interest to the inquiry were made.¹⁹⁷

Draft Report (*Pre-legislative scrutiny of the draft Victims Bill*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 154 read and agreed to.

Summary agreed to.

Annex agreed to.

Resolved, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available (Standing Order No. 134).

Adjournment

[Adjourned till Thursday 22 September 2022 at 10:30 am

¹⁹⁷ For a full record of interests in relation to this inquiry see the formal minutes for the inquiry pertaining to meetings on 14 June 2022, 21 June 2022, and 28 June 2022.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 14 June 2022

Dame Vera Baird DBE KC, Victims' Commissioner for England and Wales; **Nicole Jacobs**, Domestic Abuse Commissioner for England and Wales; **Dame Rachel de Souza DBE**, Children's Commissioner for England; **Claire Waxman OBE**, Victims' Commissioner for London

[Q1-75](#)

Tuesday 21 June 2022

Councillor Nesil Caliskan, Chair, Local Government Association Safer and Stronger Communities Board, Leader, Enfield Council; **Sophie Linden**, Deputy Mayor for Policing and Crime in London, Joint Lead for Victims, Association of Police and Crime Commissioners; **Mark Norris**, Principal Policy Advisor on Resilience, Safety and Regulation, Local Government Association

[Q76-120](#)

Tracy Blackwell, Director of Strategic Partnerships, Refuge; **Jayne Butler**, Chief Executive Officer, Rape Crisis England and Wales; **Suzanne Jacob OBE**, Chief Executive, SafeLives; **Alex Mayes**, External Affairs Manager, Victim Support; **Dr Hannana Siddiqui**, Head of Policy and Research, Southall Black Sisters

[Q121-160](#)

Tuesday 28 June 2022

Mark Fenhalls KC, Chair, Bar Council; **Jan Lamping**, Chief Crown Prosecutor for Yorkshire and Humberside, Crown Prosecution Service; **Baljit Ubhey**, Director of Strategy and Policy, Crown Prosecution Service; **Tyrone Steele**, Criminal Justice Lawyer, JUSTICE

[Q161-230](#)

Tom Pursglove MP, Minister for Justice and Tackling Illegal Migration, Ministry of Justice; **Amy Randall**, Director for Victims and Vulnerability Policy, Ministry of Justice; **Victoria Atkins MP**, Minister of State for Justice, Ministry of Justice

[Q231-306](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

VIC numbers are generated by the evidence processing system and so may not be complete.

- 1 Association of Police and Crime Commissioners ([VIC0045](#))
- 2 BAWSO ([VIC0017](#))
- 3 Baobab Womens Project CIC ([VIC0006](#))
- 4 Barnardo's ([VIC0044](#))
- 5 Boscolo, Flavia ([VIC0016](#))
- 6 Byrom, Dr Natalie (Director of Research and Director, Justice Lab, a special initiative of The Legal Education Foundation) ([VIC0043](#))
- 7 Centre for Public Data ([VIC0014](#))
- 8 Centre for Women's Justice ([VIC0030](#))
- 9 Champion, Sarah (Member of Parliament, House of Commons) ([VIC0051](#))
- 10 Changing Lives ([VIC0028](#))
- 11 Cheung, Professor Sin Yi (Professor of Sociology, Cardiff University) ([VIC0015](#))
- 12 Cox, Professor Pamela (Professor of Sociology and Criminology, University of Essex); and Lamont, Dr Ruth (Reader in Law, University of Manchester) ([VIC0021](#))
- 13 Criminal Justice Alliance ([VIC0033](#))
- 14 Criminal Justice Joint Inspection (CJJI) ([VIC0029](#))
- 15 Crown Prosecution Service ([VIC0063](#))
- 16 Detention Taskforce ([VIC0025](#))
- 17 End Violence Against Women Coalition ([VIC0038](#))
- 18 Galop ([VIC0035](#))
- 19 Hundred Families ([VIC0046](#))
- 20 Hundred Families ([VIC0005](#))
- 21 Hourglass ([VIC0058](#))
- 22 JUSTICE ([VIC0062](#))
- 23 Latin American Women's Rights Service ([VIC0002](#))
- 24 Law Centres Network; Greater Manchester Law Centre; and Harrow Law Centre ([VIC0042](#))
- 25 Local Government Association ([VIC0034](#))
- 26 Lyon, Malcolm (Partner, Articulate Arguments); and Browne, Gabrielle (Partner, Articulate Arguments) ([VIC0010](#))
- 27 Mayor's Office for Policing and Crime (MOPAC) ([VIC0052](#))
- 28 Ministry of Justice ([VIC0064](#))
- 29 Our Streets Now ([VIC0011](#))

- 30 NSPCC National Society for the Protection of Cruelty to Children; Barnardo's; Action for Children; The Children's Society; National Children's Bureau; and Just for Kids Law; and Children's Commissioner for Wales ([VIC0019](#))
- 31 Parliamentary and Health Service Ombudsman ([VIC0012](#))
- 32 Plan International UK ([VIC0009](#))
- 33 Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly ([VIC0036](#))
- 34 Prison Reform Trust ([VIC0023](#))
- 35 REMEDI Restorative Justice Services ([VIC0001](#))
- 36 Rape Crisis England and Wales ([VIC0061](#))
- 37 Refuge ([VIC0020](#))
- 38 Restorative Justice Council ([VIC0007](#))
- 39 Rights of Women ([VIC0018](#))
- 40 Royal Mencap Society and Challenging Behaviour Foundation ([VIC0056](#))
- 41 SEREDA Project, University of Birmingham ([VIC0003](#))
- 42 SafeLives ([VIC0054](#))
- 43 SignHealth ([VIC0060](#))
- 44 Smith, Ian (Barrister, 33 Chancery Lane) ([VIC0048](#))
- 45 Solace Women's Aid ([VIC0008](#))
- 46 Southall Black Sisters ([VIC0055](#))
- 47 Spotlight on Corruption ([VIC0050](#))
- 48 Stay Safe East ([VIC0059](#))
- 49 Survivors Manchester ([VIC0057](#))
- 50 SurvivorsUK ([VIC0022](#))
- 51 Suzy Lamplugh Trust ([VIC0037](#))
- 52 The Bell Foundation ([VIC0047](#))
- 53 The Children's Society ([VIC0031](#))
- 54 The Drive Partnership ([VIC0041](#))
- 55 The Josh Hanson Trust ([VIC0039](#))
- 56 The Rt Hon Lord Woolf ([VIC0049](#))
- 57 Transform Justice ([VIC0004](#))
- 58 Victim Support ([VIC0026](#))
- 59 Victims' Commissioner for England and Wales ([VIC0013](#))
- 60 Why Me? ([VIC0024](#))
- 61 Waxman OBE, Claire (Victims' Commissioner for London) ([VIC0053](#))
- 62 Women's Aid Federation of England ([VIC0027](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

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1st Special	Court capacity: Government Response to the Committee's Sixth Report of Session 2021–22	HC 548
2nd Special	Covid-19 and the criminal law: Government Response to the Committee's Fourth Report of Session 2021–22	HC 644
3rd Special	The Future of Legal Aid: Updated Government Response to the Committee's Third Report of Session 2021–22	HC 698

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1st Special	The future of the Probation Service: Government Response to the Committee's 18th Report of 2019–21	HC 475
2nd Special	Rainsbrook Secure Training Centre: Government Response to the Committee's Second Report of 2021–22	HC 565
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5th Special	Mental health in prison: Government Response to the Committee's Fifth Report	HC 1117

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1st	Appointment of Chair of the Office for Legal Complaints	HC 224
2nd	Sentencing Council consultation on changes to magistrates' court sentencing guidelines	HC 460
3rd	Coronavirus (COVID-19): The impact on probation services	HC 461
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5th	Ageing prison population	HC 304
6th	Coronavirus (COVID-19): The impact on courts	HC 519
7th	Coronavirus (COVID-19): the impact on the legal professions in England and Wales	HC 520
8th	Appointment of HM Chief Inspector of Prisons	HC 750
9th	Private prosecutions: safeguards	HC 497
10th	Sentencing Council consultation on sentencing guidelines for firearms offences	HC 827
11th	Sentencing Council consultation on the assault offences guideline	HC 921
12th	Children and Young People in Custody (Part 1): Entry into the youth justice system	HC 306
13th	Sentencing Council: Changes to the drugs offences definitive guideline	HC 751
14th	Appointment of the Chair of the Independent Monitoring Authority	HC 954
15th	Appointment of the Chief Inspector of the Crown Prosecution Service	HC 955
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1st Special	Prison Governance: Government Response to the Committee's First Report of Session 2019	HC 150
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3rd Special	Transforming Rehabilitation: Followup: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 152
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5th Special	Coronavirus (Covid 19): The impact on the legal professions in England and Wales: Government Response to the Committee's Seventh Report	HC 898
6th Special	Ageing prison population: Government Response to the Committee's Fifth Report	HC 976

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7th Special	Court and Tribunal reforms: Further Government response to the Committee's Second Report of Session 2019 and Coronavirus (Covid-19): The impact on courts: Government response to the Committee's Sixth Report of Session 2019–21	HC 1008
8th Special	Coronavirus (Covid-19): The impact on prisons: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1065
9th Special	Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee's Twelfth Report of Session 2019–21	HC 1185
10th Special	Private prosecutions: safeguards: Government Response to the Committee's Ninth Report	HC 1238
11th Special	Children and Young People in Custody (Part 2): The Youth Secure Estate and Resettlement: Government Response to the Committee's Sixteenth Report of Session 2019–21	HC 1357