



House of Commons
Justice Committee

**Pre-legislative scrutiny
of the draft Victims Bill:
Government Response
to the Committee's
Second Report**

**Eighth Special Report of Session
2022–23**

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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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Contacts

All correspondence should be addressed to the Clerk of the Justice Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 8196; the Committee's email address is justicecom@parliament.uk. You can follow the Committee on Twitter using [@CommonsJustice](https://twitter.com/CommonsJustice).

Eighth Special Report

The Justice Committee published its Second Report of Session 2022–23, [Pre-legislative scrutiny of the draft Victims Bill](#) (HC 304), on 30 September 2022. The Government's Response and a covering letter were received on 16 January 2023 and are appended to this report.

Appendix 1: Letter from the Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice to Sir Bob Neill MP

I am writing to thank you and your Committee colleagues for conducting PLS on this important draft Bill and to provide the Government response to your report. This letter briefly sets out our responses to the recommendations made by the Committee.

The draft Victims Bill was published on 25 May 2022, alongside a wider package of measures which aim to improve the experiences of victims and to help them navigate the criminal justice system.

Your Committee published the pre-legislative scrutiny report on 30 September 2022, making 47 recommendations. I have carefully considered these recommendations and we will be taking forward the following recommendations:

- **Definition of a victim:** The Bill will now be amended to include bereaved families, children who have witnessed domestic abuse, and individuals born of rape.
- **Victims' Code in law:** We will put an obligation on criminal justice agencies to make victims aware of the Code and will seek to develop an appropriate framework for doing this.
- **Victims' Code Compliance:** We will require the data to be standardised to allow comparison across police areas. This will be underpinned by regulations.
- **Advocates:** We will amend the Bill to state that statutory guidance issued on the roles of ISVAs and IDVAs will include information on their role, function, and relevant training.
- **Victims' Commissioner:** The Bill will be amended to remove the omission of the Code oversight function from the Victim Commissioner's remit, as well as requiring all named agencies to respond in all thematic reports and placing a duty on inspectorates to consult the Victims' Commissioner annually on how victims' experiences are incorporated into their programme.

The Government response sets this out in further detail, as well as, our response to your other recommendations.

I hope that you will welcome these changes to the Bill, which will be introduced at the earliest opportunity when parliamentary time allows, and I look forward to continuing to work with the Committee as the Bill progresses through Parliament.

Rt Hon Dominic Raab MP

Appendix 2: Government Response

Introduction

Overview of the Victims Bill

1. As many as three in five victims do not feel able to report the crimes that they suffer,¹ and approximately a third withdraw at the police investigation stage.² To tackle this, it is vital that we give victims the confidence and support needed to come forward to report crime and to stay engaged in the criminal justice system.
2. The Victims Bill is an important part of this work. It will deliver on the Government's manifesto commitment to introduce and implement a Victims' Law for the first time. The Bill and accompanying non-legislative measures that were announced in the consultation response aim to build victims' confidence and trust in the criminal justice system.
3. The Bill contains measures which aim to:
 - a) **Make victims' entitlements clearer:** by enshrining the overarching principles of the Victims' Code ("the Code") in primary legislation, to send a clear signal about what victims can and should expect from the criminal justice system.
 - b) **Increase transparency and oversight of criminal justice agencies' services to victims:** through a duty on criminal justice agencies to review their compliance with the Code, by collecting information from persons assessing services under the Victims' Code, with Police and Crime Commissioners (PCCs) taking a convening role in local compliance monitoring. Measures will also be included to improve national oversight including national scrutiny from the Victims' Commissioner, regular joint inspections from inspectorates, and to simplify the complaints process.
 - c) **Improve support for victims:** by improving the coordination of local support services and enhancing the roles of Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs).

Pre-legislative scrutiny process

4. A draft Victims Bill was published on 25 May 2022, and the Justice Select Committee undertook a period of pre-legislative scrutiny.
5. The Committee published their final report on 30 September 2022 setting out 47 recommendations and conclusions. The Government has carefully considered the

1 Office for National Statistics (year ending March 2020) [Crime in England and Wales: Annual Trend and Demographic Tables](#) – CSEW estimates show 39% of all crimes were reported to the police in year ending March 2020

2 HM Government (2022) Criminal Justice Scorecard – all crime – Between April–June 2022 29% of police investigations closed because the victim does not support further police action.

recommendations made by the Committee. This response outlines our response to each of the recommendations that they have made. We will seek to introduce the Bill at the earliest opportunity when parliamentary time allows.

6. We would like to thank the Committee for the thorough and robust work they have undertaken during the pre-legislative scrutiny process and extend our thanks to parliamentarians, those involved in oral evidence sessions, and to stakeholders who participated in submitting their written evidence, who have each influenced how we have strengthened the Bill.

Recommendation 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.

7. The Government recognises the importance of appropriate Parliamentary consideration and oversight. **We will consider how best to ensure that Parliament is given the information necessary during the passage of the Bill to provide clarity about the content of the regulations and changes we intend to make to the Code.**

Clause 1, defining victims of a crime

Recommendation 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.

8. The Government agrees that the inclusion of witnesses in the definition of victims for the purposes of the Bill should be confined to those who have suffered harm by witnessing the crime. We have already accounted for this within the definition of a victim in Clause 1, which defines the “harm” that a victim might suffer from. A witness will only fall under the definition of “victim” if they have suffered harm as a result of witnessing criminal conduct. **We therefore do not consider that any change to this principle is necessary.**

9. **The inclusion of witnesses in the Bill does not impact the application of the Code**, as witnesses can already be defined as victims in the current Victims’ Code (set out under “Support for Witnesses”). The Code entitlements apply differently depending on which aspects are appropriate for the type of victim (Clause 2(3) of the draft Bill, which restates the existing legislative framework in the Domestic Violence, Crime and Victims Act 2004, enables this). Different provision is needed because it would be impractical to apply the

Code in exactly the same way to all victims. For example, a victim who has suffered harm as a direct result of witnessing a crime would be able to be referred to services that support victims, but may not be entitled to receive information about attending court or have expenses paid if they are not required to attend court as a witness.

Recommendation 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.

10. We thank the Committee for their recommendation and **we will amend the Bill to include bereaved families ahead of introduction**. Bereaved families are rightly defined as victims and receive entitlements under the Victims' Code. On reflection, the Government agrees that the Bill should equally recognise this group, and the harm they have suffered as a result of crime, to ensure these victims benefit from the Bill measures. We will also carefully consider which relatives are listed in the Code and how to best define them in legislation, while continuing to allow for appropriate discretion from service providers in their application of the Code.

Recommendation 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.

11. We thank the Committee for their recommendation, and we agree that there is need for clarity around the entitlements of individuals who have been born as a result of rape. Where persons born as a result of rape have suffered harm, they are already eligible to claim Code entitlements. However, we understand that because the current Code does not explicitly reference them or specify which entitlements they may reasonably claim, some people in these circumstances are not always recognised in practice as victims. To reassure the Committee that the measures in the Code and Bill can benefit this group of victims, **we intend to reference persons born as a result of rape in the definitions of a victim in the Bill and in the new Code.**

Recommendation 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.

12. The Victims' Code and Bill are designed to improve the experiences of victims of crime and to help them navigate the criminal justice system. Where somebody is a victim of anti-social behaviour (ASB) which amounts to criminal conduct, they are already defined as a victim under the Bill and have entitlements under the Code. Where somebody suffers from non-criminal ASB, neither the entitlements under the Code (e.g., Right 6: To be provided with information about the investigation and prosecution), nor the Bill measures which seek to strengthen application of the Code, are relevant to them. **We therefore do not consider that any changes are necessary.**

13. The Government acknowledges the Committee's points that ASB can have a significant impact on an individual, and will therefore continue to support those suffering from persistent ASB outside of the Bill and Code. Last year, the Government laid out its plan for tackling crime and ASB in the Beating Crime Plan, including a commitment to establish principles for a strong and effective partnership response to ASB, working with PCCs, local authorities and other partners (published in July). We also launched the fourth round of the Safer Streets Fund, investing £50 million in support of 111 projects across England and Wales that are aimed at increasing the safety of public spaces, with a particular focus on addressing neighbourhood crime, ASB and tackling violence against women and girls.

Recommendations 6 and 7

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.

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.

14. The Government acknowledges the points raised by the Committee. However, the [Home Office Review published in December 2021](#) sets out the reasons why data sharing restrictions for victims and witnesses for immigration purposes are not considered operable by Immigration Enforcement nor policing. The National Police Chiefs' Council (NPCC) [Guidance on information sharing with the Home Office](#) provides that the police have discretion on sharing information relating to migrant victims with the Home Office. A person's immigration status may be relevant to a criminal investigation and could identify the victim as vulnerable to harm and/or assist in taking measure to protect

them from harm. Additionally, the Home Office is setting out a statutory code of practice around data sharing on domestic abuse victims for immigration purposes and developing a Migrant Victim Protocol to provide protection from immigration enforcement action for victims of domestic abuse and other serious crimes. **As such, we do not consider that any changes are necessary.**

Recommendations 8, 10 and 13

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.

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.

As drafted, the Bill fails to adequately address the issue of agencies' noncompliance 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.

15. The draft Bill sets out the principles that will underpin the new Code to raise its profile and to send a clear signal to criminal justice agencies on what victims can and should rightly expect from them. The principles protect the Code's underlying purpose, while allowing flexibility to be able to strengthen the detailed entitlements set out in regulations or the Code itself. There is already a safeguard in legislation, restated in Clause 3(9) of the draft Bill, which prevents changes to the Code which would significantly reduce the quality or extent of services for victims, or significantly limit those who are entitled to receive them. We consider that this, taken together with the new oversight and monitoring provisions set out in Clause 5, will encourage the desired culture change to ensure compliance with the Code. **We therefore do not consider that any changes are necessary.**

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

Recommendation 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.

16. As set out in our response to recommendation 1, we will ensure that Parliament is given sufficient information about our proposals to provide effective consideration. We **do not consider that the affirmative resolution procedure is necessary** for the proposed regulations. We consider that the requirement to publicly consult on future changes to the Code and to lay a revised Code in Parliament before it can be implemented provides an appropriate level of scrutiny.

Recommendation 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 postconviction 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.*

17. The Government strongly supports the principle of increasing awareness of the Code. The Code already requires that organisations listed in it must include information about the Victims' Code on their websites and the police must explain to victims where they can get information about their entitlements as a victim. In the response to 'Delivering Justice for Victims' we recognised that more needs to be done to raise awareness of the Code. **We therefore intend to accept this recommendation (to place an obligation on the relevant statutory service, including but not limited to the police, to make victims aware of the Victims' Code) and will work with government departments and other partners to develop an appropriate framework.**

18. With regards to rephrasing the principles, the key effect would be to frame them as duties. There is a clear expectation arising from the Code itself that agencies will deliver the entitlements set out therein and the new monitoring and oversight provisions in Clause 5 of the draft Bill will promote compliance. However, as framed by the principles, the Code allows the necessary operational flexibility for agencies to tailor their response to the victims they support. The Code already takes the form of statutory guidance, so agencies

would be required to justify any departure from the Code if challenged by victims or by the courts. A more prescriptive framework risks removing this discretion and **therefore we do not see the recommended change as appropriate.**

Recommendation 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.

19. In accordance with standard drafting practice, the Bill does not specify the Secretary of State for Justice, but refers to the "Secretary of State", which means any of His Majesty's Principal Secretaries of State. Secretaries of State by convention are not required to consult one another, as they form part of the same Government. Consultation with the Home Secretary will, of course, take place as part of any relevant policy development and established internal Government decision making procedures. The Bill requires the Secretary of State to publish a draft Code and to consider any representations before laying the Code in Parliament. It is our usual practice to consult with key stakeholders, including relevant Commissioners, practitioners and the victim sector on proposed changes to the Code. **We do not consider it necessary to list these stakeholders in legislation** as the Code is wide-ranging and consultation may require a flexible and nuanced approach.

Recommendation 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.

20. Our 'Delivering Justice for Victims' consultation asked for information about the use of Community Impact Statements, and we have committed to providing further information about them in the Victims' Code. **We will consider whether research on Community Impact Statements would be helpful to supplement the information we received in the responses to the consultation, ahead of delivery of our commitment to include more information about them in the new Victims' Code.**

Recommendation 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.

21. The Government welcomes the Committee's recognition of the differences between the Mental Health Tribunal and the prison and parole system, and the importance of supporting victims of crime in all settings. Victims of patients made subject to a hospital order with or without restrictions are eligible for His Majesty's Prison and Probation Service's (HMPPS) Victim Contact Scheme in the same way as victims of offenders in the prison estate. If they choose to accept this offer, they are provided with support from a Victim Liaison Officer, who will keep them informed about key updates in their case, such as informing them when the offender is being considered for release. We agree that it is important that the purpose of allowing victims to submit a Victim Personal Statement to the Mental Health Tribunal is clearly articulated to victims who are engaged in this process and that support is in place to help them navigate it. **We will consider how to do this effectively ahead of publication of a new Victims' Code.**

Recommendation 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.

22. We acknowledge the Committee's intention is to support victims to cope and recover, including those who have lost their loved ones. **We will consider this complex issue further and assess whether there is an appropriate way to share further information with the victim or a close relative to aid their recovery, whilst balancing a patient's right to confidentiality.**

Recommendation 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.

23. We acknowledge the Committee's concerns about the effectiveness of the schemes and will work closely with the police and the Crown Prosecution Service (CPS) to assess the recommendations included in the report. The Code requires that victims are provided with information about these schemes and we have committed to make the information in the Code on these schemes clearer.

24. The Government recognises the victim's right to challenge certain decisions as a key principle underlying the Code. **We will consider this issue, and should any future changes to the schemes be considered appropriate, ensure that these are properly updated in the Code.**

Recommendation 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.

25. The Government is committed to ensuring that victims who observe parole hearings have access to emotional support if they need it and we are putting measures in place to deliver it – **we therefore accept the Committee's recommendation.**

26. As part of our commitment to ensure the system operates effectively and safely for all concerned, we are introducing the ability to observe hearings in a gradual and controlled manner beginning with a limited testing phase in the South West Probation Region. As part of the testing, we are working with the five PCCs in the South-West so that victims who attend parole hearings can be offered a pathway into the professional emotional support services available near them.

27. The testing phase will enable us to refine the hearing process to minimise the risk of retraumatising victims, to identify what the final package of the support provisions should be and to assess the resource implications of the whole policy. We anticipate national roll-out for victims observing hearings will not take place until summer 2023 at the earliest.

Recommendation 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.

28. We agree with the Committee that any new expectations placed on the CPS must be deliverable and properly resourced. Following [the publication of independent research](#) commissioned by the CPS, work is now well underway to review their current procedures concerning communication with victims. We consider that a duty on the CPS to meet with victims in certain cases should form a key part of their new approach, underpinned by a thorough assessment of the resource required to deliver it effectively.

Recommendation 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.

29. The Government is committed to the effective use of restorative justice in appropriate cases. As the Committee has noted, victims are entitled to information about restorative justice, and to be referred to support services, including those which provide restorative justice services. We have already committed in the Government response to the *Delivering Justice for Victims* consultation to make information about restorative justice more consistently available for victims of crime. Victims or offenders can ask for restorative justice, but it is always voluntary for all parties, and it must be agreed by all involved, including facilitators, that it is safe and appropriate to proceed. Offenders must have accepted their guilt and both the offender and the victim must acknowledge the basic facts of the case. The welfare of the victim is paramount and any party can choose to withdraw at any time. For these reasons, **we do not consider that a right to access restorative justice is practical or appropriate.**

Recommendation 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.

30. The Government launched a public consultation on police requests for third party material in June 2022 which closed in August 2022. The Government has considered the responses to the consultation and will shortly publish its response. On the point of providing legal advice, the MoJ carried out a consultation with practitioners and experts on *Enhanced Support for Victims of Rape or Serious Sexual Assault on Matters of Personal Information, Disclosure, and Privacy Rights*. This concluded in June 2022, and we are considering the responses to this consultation alongside the wider work on third party material.

Recommendation 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.

31. **We thank the Committee for their recommendation, which reflects the Government's existing position.** The recently published CPS pre-trial therapy guidance makes it clear that this type of third-party material should only be considered when necessary, proportionate and related to a reasonable line of enquiry in the case.

Recommendation 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.

32. We agree that victims including bereaved families should be able to access information and documents about their case, in a format that is accessible to them. Victims whose cases are tried in the Crown Court are already able to request a transcript of judge’s sentencing remarks for a fee; the average cost in 2022–23 will be £42.36. It is not appropriate for the victim to receive the transcript of judge’s sentencing remarks in every case, and there are some exceptions where the Court can take the decision as to whether to provide the transcript. **It would therefore not be appropriate to make this a universal Code right for all victims, so we do not consider any changes to be appropriate.**

33. **We thank the Committee for the recommendation on Coroner’s findings following an inquest.** There is already regulatory provision for the bereaved family, as interested persons, to receive the Record of Inquest by email free of charge.

Clause 5, review of compliance with the Victims’ Code

Recommendation 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.

34. The Government agrees that meaningful data collection is essential for effective monitoring of the implementation of the Victims’ Code. We welcome the suggestions on data collection, and as we develop the minimum dataset required for collection to monitor compliance, **we will consider the suggestions set out in the report.**

Recommendation 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.

35. The Government agrees with the Committee that effective oversight and transparency of criminal justice bodies’ delivery of victims’ entitlements is crucial to securing confidence

in the system. We have, therefore, broken this recommendation into its various parts to ensure each aspect raised received the necessary consideration for Clause 5. Those parts are:

- i) Consulting the Victims' Commissioner and local victims' groups on the data collection requirement.
- ii) Standardising the data to allow comparison across police areas.
- iii) Placing a duty on PCCs to publish the data in a form that can be disaggregated by crime type and protected characteristic, and share it with the Victims' Commissioner and inspectorates.
- iv) Ensuring the necessary safeguards within the data collection and sharing to ensure victims' and survivors' confidentiality is not compromised or jeopardise their ability to consent to access services and support.

36. We agree that the Victims' Commissioner's and local victims' groups' views are valuable in developing the data collection required to monitor agency's compliance with the Victims' Code. We have and will continue to engage closely with these stakeholders as we progress with this work. The Bill currently states that the Secretary of State must consult such persons as they consider appropriate, which allows the flexibility to consult based on the specifics of the data being collected. **As such, we do not consider this change to be necessary.**

37. As set out in Clause 5(3) of the draft Bill, the relevant criminal justice bodies are placed under a duty to collect data and keep their Code compliance under review with regulations setting out what data should be collected and shared. This will ensure consistency across England and Wales, building a national picture of delivery of the Victims' Code across the criminal justice system, but also generate insights into disparities and enable the sharing of best practices to help local criminal justice agencies drive improvement. **Therefore, we accept this recommendation.**

38. The Government recognises the value in disaggregating data by crime type and protected characteristic and will explore this as we develop the minimum dataset required for collection to monitor compliance, which will seek to be both proportionate and sensitive to the challenges that come with collecting individual-level information, including the potential administrative costs. Additionally, we intend for the data collected to be published where feasible, encouraging cooperation and transparency. We will consider the most appropriate route for publication and will explore the best way to share data with the Victims' Commissioner and the inspectorates to utilise their valuable insights. **We will, therefore, consider this recommendation further as we explore options for publication.**

39. We recognise the importance of having adequate protections in place when collecting and handling data. We thank the Committee for raising these points and **will consider them as we develop the data collection requirements.**

Recommendation 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.

40. Whilst the Bill ensures robust mechanisms are in place to help identify cross-system issues and to drive improvements locally, we agree that national oversight is also fundamental to provide strategic insights and an escalation route for issues that cannot be resolved locally. **Therefore, we will consider this recommendation as we develop the relevant guidance, including how the valuable insights of the Victims' Commissioner and inspectorates can be captured as part of this process.**

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

Recommendation 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.

41. To improve strategic commissioning, the Bill rightly requires collaboration between groups responsible for that commissioning. The Government recognises the important role that providers, including providers of children's services, play in the commissioning process, and that they give insight into demand and what works when delivering victims services. This is why the Bill already requires commissioners to consult providers when preparing the joint commissioning strategy, including those that provide services for children. However, it would be inappropriate to collaborate with providers when making strategic commissioning decisions, in the context of fair and transparent procurement. **We therefore do not consider that it would be appropriate to extend the duty to collaborate when commissioning to include the providers of services alongside commissioners.**

42. The Government also acknowledges the Committee's point that considering the needs of children is important. Those bodies responsible for commissioning services for child victims are PCCs, local authorities and Integrated Care Boards (ICBs), which are already specified in the Bill under the duty to collaborate. To emphasise that children's support needs are distinct from those of adults, **we will update the Bill to require commissioners to specifically have regard to any assessments they have carried out that reflect the needs of child victims when preparing their joint commissioning strategy.**

43. The Government supports the aim of the recommendation to ensure the duty to collaborate supports the provision of victim support services to all victims, regardless of whether they are in contact with the criminal justice system. The Bill already enables this through its definition of a victim (Clause 1), which is explicit in that it does not require the crime to have been reported or proven. **Therefore, we do not consider that any changes are required to reflect this.**

Recommendation 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.

44. It has always been the Government's intention to capture children as victims of domestic abuse in their own right as part of this duty. **Therefore, we agree with the Committee that the Bill should align with the full Part 1 definition of domestic abuse as it appears in the Domestic Abuse Act 2021 and will implement this change ahead of introduction.**

45. As set out in paragraph 42 we recognise the Committee's concern that the needs of child victims should be considered by commissioners, and we will update the Bill to require commissioners to specifically have regard to the needs of child victims when preparing their joint commissioning strategy. **We will consider how guidance can support authorities in fulfilling this requirement, and will consider how to include any relevant background to services that agencies may want to commission, including pre-trial therapy and the CPS's relevant updated guidance.**

Recommendation 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.

46. We recognise that victim support by its nature interlinks with a range of related issues—including community safety, preventing and reducing serious violence, or safeguarding children—which means that there are multiple relevant funding streams and duties. The Bill aims to bring some of these together through this duty to collaborate, so that local areas can improve strategic planning for delivering victim support services. This is supported by the Victims Funding Strategy.

47. The Victims Funding Strategy, published in May 2022, is a cross-government strategy that sets out a framework which will improve the way we fund victim support services across government, seeking to better co-ordinate funding to enable victims to receive the support they need, and simplify the funding landscape. The strategy also introduced national commissioning standards, that all commissioners of victim support services are expected to adhere to, as well as core metrics and outcomes to be collected on government funding, which will encourage a comparable quality of service for all victims, and allow better alignment.

48. **We will continue to consider how to bring transparency about funding streams and related wider activity.**

Recommendation 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.

49. We recognise that multi-agency collaboration where areas are not coterminous can be challenging, and that local strategies will rightly reflect the range of activity across each different agency. In the Government's response to the consultation, we set out our expectation that PCCs will play a convening role to drive forward relevant activity across the joint duty, and therefore the Bill defines a local area by PCC areas. **We will consider how the guidance might be used to clarify which local authorities and ICBs fall within each police area, and we will continue to carefully consider how accompanying statutory guidance will clarify local and national governance and accountability arrangements.**

Recommendation 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.

50. The Government recognises that victim support services are crucial for victims to be able to cope and recover from the impact of crime. This support is commissioned by PCCs, ICBs and local authorities in a range of ways under existing statutory responsibilities, which vary by commissioner. For example, currently PCCs may commission victim support services; ICBs are required to commission services to meet the health needs of their population; and local authorities have safeguarding and community safety responsibilities. All of this commissioning activity may include services that benefit victims, even if it is not a service commissioned solely for victims.

51. To improve service provision, the Bill requires collaboration so that those existing commissioning processes can be strengthened through integration across health, local

government and policing. We consider that this recognises the separate commissioning responsibilities of these different groups to provide services across a range of settings and cohorts, while requiring specific joint consideration of how these services work for victims. **We therefore do not consider that any changes are necessary.**

52. The Bill aims to join up commissioning processes, and to make best use of resources across the services they commission. **While the Government recognises that funding for service provision is crucial, this is being addressed outside of legislation.** Funding for different commissioners is separate, and the Victims Funding Strategy, published in May 2022, provides a framework for how agencies across government should work together to best resource the victim support sector. It also promotes multi-year funding and sustainable commissioning practices. The Government has recently increased multi-year funding for PCC-funded victims services to a minimum of £460 million over the next three years (22/23 to 24/25 inclusive), and NHS England’s funding for sexual and domestic abuse will increase with an additional £20m over the next three years, up from £42m in 2021/22.

Recommendation 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.

53. **The Government recognises the importance of multi-year funding for ‘by and for’ and specialist support services, and is addressing this outside of the Victims Bill.** As part of the Government’s commitment to tackling violence against women and girls (VAWG), the Government has committed up to £6 million in a specific funding stream for ‘by and for’ services over two years, from 2023/24 to 2024/25. This funding comes alongside a further up to £2.5 million, including £1.5 million for specialist services during the same period. This funding package, £8.5 million in total, will help ensure that victims are able to access the specialist or ‘by and for’ service that is right for them.

54. To recognise the importance of tailored services to meet the diverse needs of victims, the Bill already requires commissioners to have regard to the needs of those with protected characteristics when preparing their joint commissioning strategy. However, it is important to allow local commissioners to have discretion over which services best support victims in their local context of varied need and available provision. During our consultation, we heard some commissioners choose to integrate tailored support within broader services, or undertake other activity to support smaller providers. **Therefore, we do not consider that it would be appropriate to place a responsibility on local commissioners to specifically commission ‘by and for’ services.**

Recommendation 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 underreporting 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.

55. The Government recognises that needs assessments are vital in informing decisions on how to commission local services. These form an integral part of existing commissioning processes by each agency. The Bill aims to facilitate greater strategic coordination between PCCs, local authorities and ICBs where they support victims of domestic abuse, sexual violence and serious violence. However, ICBs and local authorities are responsible for commissioning a range of services which may benefit victims as part of a wider cohort, such as mental health support. This means that requiring specific needs assessments for delivery of services to victims of crime could result in duplicative activity. **We therefore do not consider that changes are necessary.** Instead, the Bill requires commissioners to use the information within existing needs assessments, so that relevant information can be sought and extracted within existing processes. It also already requires this to be done as part of preparing the strategy. **We will consider how statutory guidance can support commissioning bodies in pointing to relevant considerations within needs assessments.**

Recommendation 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.

56. We thank the Committee for noting these issues and **we will carefully consider them when developing the statutory guidance.**

Clauses 9 to 10, IDVAs and ISVAs

Recommendation 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.

57. The Government acknowledges the points raised by this Committee. ISVAs and IDVAs provide valuable support to victims, including supporting their clients through the criminal justice system. It is a matter for the judiciary to manage, and therefore monitor,

access to the court room, should they choose to do so. As highlighted by the Committee, the Criminal Procedure Rules Committee Rule Amendment acknowledges the courts' power to give directions for the participation of witness companions, which includes ISVAs and IDVAs. The law provides that anyone has access to the courts unless there are reasons for the judge to refuse. As such, **we do not consider it necessary to monitor ISVA and IDVA access to the court.** We will clearly set out in statutory guidance that victims have the right to be supported by ISVA and IDVAs throughout the criminal justice system.

58. The Ministry of Justice (MoJ) will continue to work with the Judicial Office to consider ways to keep building awareness of the role and benefits ISVAs and IDVAs have to victims, while remaining respectful to the importance of judicial independence.

Recommendation 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.

59. As set out in paragraph 44, the Government agrees with the Committee that the Bill should align with the full Part 1 definition of domestic abuse as it appears in the Domestic Abuse Act 2021 **and will implement this change ahead of introduction.**

60. The Government recognises the importance of meeting the unique needs of children and young people. Therefore, we will carefully consider how statutory guidance might clarify the ways in which ISVAs and IDVAs should support the needs of children and young people.

61. While we acknowledge the importance of Children's Independent Domestic Violence Advisors (CHIDVAs) and Children's Independent Sexual Violence Advisors (CHISVAs), these roles are less established. We therefore will not seek to define these roles in legislation while these roles are still developing.

Recommendation 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.

62. The Government recognises the Committee's concern with the draft Bill that sets out that statutory guidance 'may' include provision on role, functions, and appropriate training and qualifications of ISVAs and IDVAs rather than stating it 'must'. These areas of the guidance will be important for helping to ensure consistency of support and understanding of the roles more widely. **We will therefore accept this recommendation.**

63. The MoJ and the Home Office are collaborating to ensure that new ISVA statutory guidance usefully builds on and replaces the original Home Office 2017 guidance: *The Role of the Independent Sexual Violence Adviser: Essential Elements*.

Recommendation 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.

64. We agree with the Committee's recommendation to co-design statutory guidance with support sector experts. The MoJ has already begun to engage with relevant stakeholders and will continue to do so to ensure that the guidance does not inadvertently disrupt or discredit existing specialisms and that it sufficiently caters for the diverse needs of victims.

65. The principle that ISVAs and IDVAs should be able to support victims whether or not they have chosen to engage with the criminal justice system is well established and reflected in the Victims' Code. **The MoJ will work with other departments and bodies who commission ISVAs and IDVAs to further consider the independence of these roles and how this might be reflected in guidance.**

Recommendation 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.

66. The Government has provided increased funding for support services. For 2022/23, the MoJ is providing £34 million ringfenced funding for ISVAs and IDVAs. The MoJ is further increasing the number of ISVAs/IDVAs funded by MoJ by 300 to over 1,000 by 2024/25. **We will continue to monitor the demand for advocacy services through PCCs.**

Clause 11, the Victims' Commissioner

Recommendation 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.

67. The intended effect of the draft Bill was to avoid duplication in light of the new duty placed on PCCs to keep under review local Victims' Code compliance under Clause 5. On consideration of the Committee's findings, we will amend the Bill to retain the Victims'

Commissioner's duty to oversee the operation of the Victims' Code at a national level and will consider how the guidance accompanying Clause 5 might best clarify the remit of the PCCs' new role, to ensure it complements the Victims' Commissioner's retained oversight duty. **We thank the Committee for their recommendation and will implement this change to the Bill ahead of introduction.**

Recommendation 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.

68. We agree that agencies within the Victims' Commissioner's remit should be required to respond to all reports produced. We will implement this change ahead of introduction.

Clause 12, joint inspections relating to victims

Recommendation 42 and 43

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.

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.

69. We agree with the recommendation that the inspectorates should be required to consult with the Victims' Commissioner and will seek to implement this change. We will work closely with the Victims' Commissioner and inspectorates to develop a framework, as well as affected departments and agencies. Data sharing between the PCCs and inspectorates is addressed in paragraph 38 as part of the response to recommendation 25.

Recommendation 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.

70. The Government's response to the 'Delivering Justice for Victims' consultation set out non-legislative commitments to improve the focus on victims in core inspections, to rate criminal justice bodies treatment of victims and to ensure processes are in place for bodies which inspectorates rate poorly. Reinspection is already utilised by the inspectorates and the government agrees that reinspection will play a helpful role in driving up improvement. **We therefore accept this recommendation.**

Clause 13, the PHSO

Recommendation 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.

71. Removing the need for victims to submit a complaint to the Parliamentary and Health Services Ombudsman (PHSO) through an MP will help to improve access to the service. For those who may not be able to submit a complaint in writing, the draft Bill enables victims to nominate someone else (such as a family member) to submit the complaint for them. **We therefore do not consider changes to the format in which complaints can be made to be necessary.**

72. **We agree with the Committee that steps should be taken to increase the visibility of the PHSO.** Outside of legislation we are working on improving access to, and quality of, materials on complaints, including ensuring victims know how and where to complain. This work covers criminal justice bodies' complaints processes, but also other avenues such as the PHSO. The PHSO are also doing outreach work with underrepresented communities and working with government departments on making complaints more visible.

Other matters

Recommendation 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.

73. The Bill of Rights will strengthen our protection of victims by requiring courts to give great weight to the importance of reducing the risk to the public from those who are subject to a custodial sentence, and by removing blockers to the deportation of foreign national criminals.

74. Nothing in the Bill of Rights will prevent serious cases from being brought in future. More generally, encouraging litigation against the police is not an effective means of ensuring accountability but instead skews public focus and resources. Decisions on prioritisation should be taken by operational professionals, and not the courts.

As such, we do not consider that any changes to either the Victims Bill or the Bill of Rights are necessary.

Annex A: Drafting and minor issues

Location in the draft Bill	Select committee observation	Government response
Clause 5(9)	Wording should be improved to clarify which persons need to take account of the duties to avoid potential confusion	<p>Subsection (9) of clause 5 provides that information cannot be disclosed under the duties imposed by the clause if such disclosure would be contrary to the requirements imposed by the data protection legislation. So the safeguards under data protection legislation must be applied when considering whether disclosure is required or permitted under the new duties.</p> <p>However, understanding the priority between statutory powers to disclose and the restrictions on disclosure contained in the data protection legislation has caused some difficulties in the past (as discussed in the Supreme Court case of <i>Christian Institute v Lord Advocate (Scotland)</i> [2016] UKSC 51). The difficulty arises as, although a power conferred by a statutory gateway may be subject to the data protection legislation, the data protection legislation itself enables disclosures in some circumstances where disclosure is required or authorised under another enactment. The words in brackets in subsection (9) are included to clarify that the new power conferred by clause 5 is to be taken into account when applying the data protection restrictions by whoever is determining whether the disclosure would contravene the data protection legislation (the person proposing to make the disclosure or, ultimately, the court)</p>
Clause 5(11)(c)	Wording should be improved to clarify that this concerns the definition of "prisons".	We thank the Committee for highlighting that the wording of clause 5(11)(c) could be clearer and we will revise the drafting.
Clause 6(10)	Wording should be improved to avoid potential confusion	Please see our response in relation to clause 5(9) above

Location in the draft Bill	Select committee observation	Government response
Clause 7(1)(b)	Drafting point: this should refer to Part 2 of the National Health Service Act 2006, where s.19 of the 2022 Act (Part 1 of the Act) inserted new provision. Drafting error should be corrected.	We will correct this.
Clause 8(3)(b)	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.	We will ensure that the Bill recognises children as victims of domestic abuse in their own right (as referred to in section 3 of the Domestic Abuse Act 2021).
Clause 8(4)	Wording should be improved to ensure that it is clear which offences are captured by this definition.	We will revise the drafting to ensure that victims of sexual offences are properly captured.
Clause 8(5)	Drafting error should be corrected.	We will correct this.
Clause 8(6)	Wording should be improved to avoid potential confusion. This appears to be a non-exhaustive list but it could be read otherwise.	We will revise the drafting to reflect the fact that it is a non-exhaustive list.
Clause 8(6)(a)	Wording should be improved to avoid potential confusion.	We will revise the drafting.
Clause 9(6)(b)	Legal duties should only apply to those who are required to comply with them, and the legislation ought to be amended to make this clear, rather than relying on guidance (which would not itself extinguish the duty for those who should not be subject to it).	We thank the Committee for their comments in relation to this clause. The Government's intention is to ensure that all persons who have 'functions' relating to victims are required to have regard to the guidance, which could cover a wide range of bodies depending on the facts of a particular case. In light of this an exhaustive list is not considered to be appropriate.
Clause 10	Wording should be improved to make the provisions easier to understand.	We agree that the drafting of these provisions could usefully be clarified, and we will revise the drafting accordingly.
Clause 10(3)	Wording should be improved to make the provisions easier to understand.	We agree that the drafting of these provisions could usefully be clarified, and we will adjust the drafting accordingly.
Clause 12(1)	Drafting error should be corrected.	We will correct this.
Clause 13(2)	Wording should be improved to avoid potential confusion	We agree that the drafting of these provisions could usefully be clarified, and we will adjust the drafting accordingly.
Clause 13(3)	Wording should be improved to avoid potential confusion.	Please see our response in relation to Clause 13(2) above.

Location in the draft Bill	Select committee observation	Government response
Clause 13(6)(c)	<p>The 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 it, 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 out 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.</p> <p>The wording should be improved to avoid potential confusion.</p>	<p>We agree that the drafting of this provision could be clarified to avoid potential confusion, and so that the provision operates correctly in circumstances where the MP filter is, and is not, in place. We will make adjustments to clarify the drafting.</p>