

Written evidence submitted by Sophie Linden, Deputy Mayor for Policing and Crime, Mayor's Office for Policing and Crime (VIC0052)

1. I am writing to submit evidence for the Justice Committee's pre-legislative scrutiny of the draft Victims Bill. I have addressed each of the Committee's points in turn below.

The Bill's definition of victim

2. The definition in the draft Bill does not include close relatives of those whose death was caused by a criminal offence, although that is included in the Code of Practice for Victims of Crime (the Code). As the purpose of the Bill is to enshrine the Code in legislation, this would appear to be a significant omission.

The Code in legislation

3. I welcome that overarching principles and key Code entitlements will be enshrined in law.
4. However, 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.
5. Similarly, it is positive that joint inspections will look at the experience and treatment of victims, but there is a lack of detail on how this will work, and how the rating of criminal justice agencies will flow from this. For there to be appropriate and proportionate measures to ensure Code compliance, then ratings should reflect this. Moreover, the PCC oversight role should mean that compliance data can inform the rating. It is not currently clear what should happen following a poor rating and this will need to be consulted on.

Key changes to the Code

6. I am supportive of the proposed changes to the Code and have some additional proposals, detailed below:
 - The Foreign Office should be added as an accountable body under the Code. Those bereaved by homicide abroad experience significant barriers to justice and support.
 - The Code should include the right to free legal representation for victims of rape and serious sexual offences, when police or CPS requests are made for mobile phones, counselling session notes etc. This will ensure that victims are aware of their rights, and that requests are being made correctly and fairly.
 - The Code should be stronger on the Unduly Lenient Sentence Scheme. Witness Care Units currently have responsibility for informing victims of the Scheme, but this excludes victims who are not witnesses, and bereaved family members. This oversight should be addressed.

7. On a separate note, further practitioner guidance and best practice for compliance with the Code would be beneficial for agencies.

Amending the role of Victim's Commissioner

8. I would like to restate my view that Government should be encouraging establishing independent Victim Commissioners within the Office of the Police and Crime Commissioner, who have been shown to be highly effective in raising the priority of victim issues in local areas.

Data collection for monitoring of Code compliance

9. There needs to be a broader mandate for local data-sharing over and above that which informs the monitoring of Code compliance.
10. The draft Bill's proposals for requiring Code compliance data to be recorded and shared is welcome and will assist PCCs to discharge their new responsibilities to enable greater local partnership oversight. However, the Bill could go further in enabling broader data-sharing arrangements which assist local areas in achieving better outcomes for victims. Legislation similar to Section 36 of the Police, Crime and Social Responsibility Act 2011 should be included to bring all statutory criminal justice agencies in line with the existing mandate on police forces to share data with local PCCs. This would empower PCCs to develop mechanisms to capture victims' experiences with the service provided to them by all criminal justice system (CJS) agencies, which would provide a deeper understanding than Code compliance data alone.
11. The Bill currently legislates to drive compliance with the Code within each CJS agency but does not address any of the barriers to delivering the Code. We know that the fragmented nature of the criminal justice system is a key cause of poor outcomes for victims. That is why I believe that legislation is needed to provide the basis for whole system solutions to Code compliance and achieving better outcomes for victims.
12. London is exploring the Victim Care Hub model as a potential whole system solution to improving outcomes for victims. The objective is to provide victims with information, advice and key updates on case progression from a single point of contact throughout their criminal justice journey. Importantly, this model can also ensure that key Code entitlements are delivered and monitored.
13. There are currently three main barriers to this, which could be overcome if relevant legislation were included in the Bill. First, the requirement for simple consent for a referral to an independent Victim Care Hub obstructs the single point of contact model the Hub depends on. Secondly, there is no end-to-end access to the various information systems used by CJS agencies, which restricts the ability to provide an integrated service. Thirdly, there is no power for local areas to agree how certain CJS functions, such as case progress updates and the duties of Witness Care Units, are delivered (i.e. by an independent Victim Care Hub).

Role of Inspectorates

14. As well as linking the inspectorate role to Code compliance, more detail is needed on the locus of inspections. Code compliance will be measured on a police force area basis, overseen by PCCs, who also commission the majority of support for victims. It would, therefore, make sense for inspections to be coterminous with these other functions.

Improvement in commissioning

15. I broadly welcome the duty for PCCs, Local Authorities and Integrated Care Boards to collaborate on commissioning victims' services. In London this will drive efforts to commission holistically and ensure that services are delivering better outcomes for victims. Whilst I accept the rationale for this to be joint strategy, the guidance needs to make clear that PCCs are expected to lead the development and implementation, rather than merely "convene the collaborative activity". I would also urge Government to reconsider the considerable resource implications of this duty for London, as detailed in the relevant section below.
16. To ensure joined-up local commissioning meets needs, devolution of some nationally commissioned services is necessary. PCCs have local responsibility for victim care, but the Homicide Service and the Witness Service are commissioned nationally. Victims of Domestic Abuse (DA), Sexual Violence (SV) and serious violence may go to court, some are bereaved, yet support services are not integrated at a local level. If Government believes, as I do, that more local integration will improve outcomes for victims, then they must consider devolution so these services can form part of a cohesive local victims' commissioning strategy.

ISVA/IDVA role

17. I welcome the creation of a statutory definition for IDVAs and ISVAs. However, to reflect feedback from the VAWG sector these should not be 'one size fits all' definitions, which could lead to specialist and/or 'by and for' roles being overshadowed by generic roles.
18. IDVAs and ISVAs are not a panacea for domestic abuse/sexual violence support provision - need and demand is too great, although the announcement today regarding pilots to enhance support for rape victims in court is welcome. There should be a wider acknowledgement that these specialist workers, not just IDVAs and ISVAs, play a critical role in the context of a larger system of support for DA and SV victims, not least their role in the court room, where victims are far more likely to be able to give their best evidence if their advocate is present. The Bill should legislate for the victim's entitlement to have their advocate present, rather than this being at the discretion of judges.

Implementation, resourcing, accountability

19. The estimated financial impact on PCCs in the Impact Assessment has been significantly underestimated from a London perspective.

20. For PCC oversight of Code compliance, MOPAC estimates the cost in London to be approximately double the high-end estimate in the Impact Assessment. This is estimated, in the Impact Assessment, as being the cost of two Senior Analysts. For MOPAC, the cost of this role is £56,925 per analyst (£79,450 with corresponding on-costs), therefore the cost to MOPAC is estimated as £158,900. The high-end estimate in the Impact Assessment is £3.5m across all PCCs, therefore an average of £81,395 per PCC.
21. Similarly, the financial impact of the duty to collaborate on commissioning has also been significantly underestimated. In London this involves MOPAC working with 32 Local Authorities, the City of London and five Integrated Care Boards. The number of staff involved has been underestimated, as has the amount of time it will take to develop and implement a strategy. This is a major undertaking for London and would require a multi-disciplinary team made up of representatives from each of the key agencies.
22. Finally, it appears that the proposal for a ISVA/IDVA registry is currently an uncosted burden on PCCs. Additionally, no funding has been allocated to improve standards by regularising training for ISVA and IDVAs. Government has a vital role in providing funding, infrastructure and support to ISVA/IDVA service commissioners and providers. The development of key elements of this infrastructure, such as the national directory and a quality standards regime would be immensely valuable and the Government is best placed to do this for the sector.

International examples

23. To achieve the stated aim of the legislation and put victims at the heart of the justice system, there is a compelling argument, put forward in Dame Vera Baird's consultation response that, following a precedent set in the Australian state of Victoria, a victim should be legally recognised as a participant in the criminal justice process and that the entitlements under the Victims' Law and the Code follow from that status in all cases.

Further measures to include in the Bill

24. The following are other measures that should be considered for inclusion in the Bill:

The right to privacy.

25. Privacy is conflicted by police requests for mobile devices, and CPS requests for counselling or social services records. Material must only be requested by following reasonable lines of enquiry. Victims must not be subjected unnecessarily to intrusive requests of this nature. This discourages victims from coming forward and engaging in their justice journey, leading to low prosecution rates for rape.

Migrant victims

26. I welcome plans to help migrant victims to report crimes and access support, regardless of immigration status. This is an opportunity to enshrine rights for migrant victims in legislation by introducing a 'firewall' between policing and immigration enforcement.

Bereaved families

27. As mentioned above, the definition of ‘victim’ in the Bill currently omits bereaved families, and this should be addressed. Furthermore, the Bill should legislate to provide better support and treatment to bereaved families, including publicly funded legal representation and a public advocate for families after major incidents. These are both things the Mayor of London has publicly called for.

28. I am grateful for the Justice Select Committee’s consideration of these points and I look forward to discussing the draft Victims Bill in more detail at the Justice Select Committee’s meeting on 21 June.

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