

**Supplementary written evidence submitted by Claire Waxman OBE,
Independent Victims' Commissioner for London (VIC0053)**

1. My thanks to you and the committee for the opportunity to give evidence earlier this week alongside my fellow Commissioners. I hope that you and the other members found this of value.
2. I wanted to take this opportunity both to thank you, and also to briefly add further to my verbal evidence. As I think was clear, we had a significant amount of feedback on this draft Bill, and while I hope we were able to cover the majority of our views, I would like to add a couple of areas I feel I left out or would benefit from greater attention.

Defining Victims

3. I welcome the time and attention given by the Committee to the definition of victims in this legislation. It is crucial that we get this definition right, as otherwise there will be wider ramifications across the justice system for victims.
4. Further to the evidence I provided around the importance of recognising 'secondary victims', such as bereaved family members, I also would like to extend my support for the recognition of children born of rape in this definition, affording them rights under the Victims' Code. The Centre for Women's Justice submitted a briefing to Government's consultation in relation to this proposed inclusion, which would help counter the lack of recognition and support currently available for those who are born as a result of rape, for whom such a discovery can be profoundly traumatic.

Right to Privacy

5. We touched on the right to privacy at various moments throughout the session, and I welcomed the opportunity to call for free legal representation for certain victims at key moments in their justice journey, including where their mobile devices and third-party material are requested, and when they decide whether to exercise their Victims Right to Review (VRR).
6. In addition to this, I also wanted to speak specifically about the role of advocates in the justice system, and the implications for disclosure of their notes. In formalising the role of ISVAs and IDVAs – as well as, I hope, other advocates – Government clearly recognises the value of these roles in advocating for victims and providing them with independent support. I hope this independence will be respected, and as part of this I would wish to see advocates' notes being protected from requests by the police and Crown Prosecution Service.

Ground Rules Hearings

7. I believe I may have briefly touch on this subject, but thought it would be helpful to provide further details on what I am calling for. Meeting victims' expectations means supporting them to give their best evidence, and Ground Rules Hearings are a mechanism designed to enable this by agreeing the 'ground rules' of questioning in advance. CPS guidelines already state that it is best practice for Ground Rules Hearings to take place in any case where a witness is considered vulnerable, and in 2014 the Court of Appeals recommended that Ground Rules Hearings should be used in every case involving a vulnerable witness, save for exceptional circumstances
8. Despite this, Ground Rules Hearings do not happen in nearly enough eligible cases, and victims have relayed deeply retraumatising experiences on the witness stand, including being aggressively accused of lying or inappropriate questioning about third party disclosures such as previous mental health. I believe this law should make Ground Rules Hearings mandatory in all rape and sexual offence cases as a means of enabling witnesses to give their best evidence – by setting expectations, reducing anxiety, and ensuring the remit of defence questioning is fair and appropriate.

Court Awarded Compensation & Victim Surcharge

9. Regarding the proposal to increase the Victim Surcharge, I am supportive of measures such as this which increase the level of accountability on the offender. However, I believe Government must prioritise recouping this money from offenders, as the latest data from HMCTS shows that after 18 months, only 61% of the victim surcharges have been recovered from the offender.
10. The issue of reclaiming financial impositions from offenders is broader than just the surcharge, and this Victims' Bill could provide an opportunity to reform the wholly inadequate system of court-awarded compensation. Since 2014 I have been calling on the Ministry of Justice to pay court awarded compensation upfront to the victim in a single one-off payment shortly after sentencing, and HMCTS recover the funds from the offender, as takes places in the Netherlands.
11. Paying the victim upfront would avoid the unnecessary ongoing relationship between the victim and offender. Victims continue to suffer from the impact of the crime as HMCTS fail to retrieve payments from compensation orders in a timely and effective way. The Victims' Bill is intended to improve victims' experiences and help them to recover, however court compensation orders are preventing this due to irregular payments that span decades and serve as an ongoing reminder of the offender and the crime for the victim.

This is particularly dangerous in cases of stalking, coercive control, and domestic abuse where the perpetrator is able to continue to exert control over the victim by withholding payments and paying erratically.

Legal Aid

12. The Mayor of London and I have recently added our support to cross-party calls for changes to the justice system to ensure fairer treatment for bereaved families and to prevent others going through what the Hillsborough families have had to endure.
13. This Victims' Bill could provide the passage to ensure police and public officials are compelled to tell the truth by law and for all bereaved families in inquests and mental health tribunals to have access to adequate public funding (Legal Aid) to support their fight for justice.
14. Such measures should include a statutory duty of candour on public servants, including police officers, which applies during all forms of public inquiry and criminal investigation; proper participation of bereaved families at inquests, through publicly-funded legal representation and an end to limitless legal spending by public bodies; a Public Advocate to act for families of the deceased after major incidents; and clarification in law that major inquiries commissioned by the Government or other official bodies constitute "courses of public justice".

Sentencing Remarks

15. The National Victims' Commissioner briefly touched on sentencing remarks during the session, and I wish to reiterate the value of free, accurate, and timely transcripts of sentencing hearings in a victim understanding the reasoning behind a sentencing decision, and in providing closure to their case.
16. As a first step, I support calls from Dame Vera for victims whose cases are heard in the Crown Court to be offered a free transcript of the judge's sentencing remarks, and that bereaved families should be offered a free transcript of the Coroner's findings after an inquest.
17. Furthermore, I believe this Bill provides an opportunity to make much-needed changes to the Unduly Lenient Sentence (ULS) Scheme. Currently, victims have a strict 28-day time limit from the point of sentencing within which they can make an application under the ULS Scheme. This relies on the victim or family being informed within good time, in order to be able to consider the scheme and make an application. Victims who do not attend the sentencing hearing often do not receive communication for a prolonged period of time. Meanwhile, offenders can appeal their sentence outside of the 28-day timeframe in certain circumstances, however this right is not currently extended to victims.

18. I believe this Victims' Bill could repair and improve the ULS Scheme, through a statutory duty for a justice agency (most likely the CPS) to inform the victim of their rights under the ULS in good time following sentencing. Furthermore, flexibility should be provided in the 28-day time limit in certain circumstances, such as where the aforementioned justice agency fails to inform a victim of this right in sufficient time.

Children's Rights

19. The Children's Commissioner strongly advocated for the explicit inclusion of children throughout this session, and I believe this Bill presents an opportunity to strengthen protections for children. You will likely be aware of recent media attention around the campaign for 'Jade's Law', which seeks to provide a mechanism for the automatic removal of parental responsibility where that person is found guilty of murdering the other parent. I fully support the campaign launched by Jade's family, and believe this Victims' Bill provides an opportunity to protect child victims and bereaved families rights in this process.

The Role of the Ombudsman

20. In discussing the removal of the MP filter, which I believe we all welcome, I also briefly mentioned the possibility for Parliamentary and Health Service Ombudsman (PHSO) to be given the power to undertake investigations proactively. Such 'own initiative' powers would support vulnerable and marginalised groups who are least likely to complain. There are situations where the PHSO is aware of a problem, but a complainant is unable or unwilling to come forward. The PHSO has estimated that around 70% of Ombudsmen around the world have 'own initiative' powers, and this is reflective of best practice.

Victim Care Hub

21. Finally, I would like to return to a point which underpinned much of what I raised during the session, namely that this Bill lacks any kind of mechanism to ensure the rights set out are actually delivered to victims.
22. It is very clear from conversations with victims and the sector that timely and effective communication is fundamental to a victim's engagement with the justice system. You may be aware that in my 2019 Review into the Victims' Code I made a recommendation for a 'Victims Hub' model. This legislation and its supporting documents (including the Victims' Code and any relevant guidance) present a golden opportunity to transform a victim's journey through the justice system. The Government recognises the value of ISVAs and IDVAs, and I would like to see this principle of advocacy extended more broadly.

23. There must be a recognition that justice agencies are continually struggling and failing to deliver victim care and rights under the Victims' Code, and to address this in London we are working towards a 'Victim Care Hub', which would take the above principle and deliver it to victims through a service which would provide a single point of contact, provide key updates on case progression, provide information and advice, answer questions, refer on to specialist support, ensure entitlements under the Victims' Code are being delivered, and monitor this to drive better performance.
24. This Victims' Bill and Code gives us an opportunity to achieve this, and I believe it should allow agencies to discharge their victim care and update obligations under the Code in a way that benefits victims and the justice process. Along with an obligation to share data and actively liaise with any Hub, this will enable victims to be best served and will help improve justice outcomes.
25. A Victims' Bill should enable local areas to take forward a Victim Care Hub in the way that best meets the needs of victims in their area. The Bill and Code need to enable these models, which might be a fully independent hub, or one that is run by their police force (such as the Lighthouse Model in Avon and Somerset).
26. I thank you once again for this opportunity, and if you or other members of the Committee have any further questions, or if I am able to support the development or passage of this Bill in any other way, please don't hesitate to reach out.

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Independent Victims' Commissioner for London

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