

Written evidence submitted by the Victims' Commissioner (COR0234)

About the Victims' Commissioner

The Victims' Commissioner for England and Wales is dedicated to promoting the interests of victims and witnesses.

The role of Victims' Commissioner is set down in the Domestic Violence, Crime and Victims Act 2004¹:

- promote the interests of victims and witnesses;
- take such steps as she considers appropriate with a view to encouraging good practice in the treatment of victims and witnesses;
- keep under review the operation of the code of practice issued under section 32

The Commissioner is appointed by Ministers but is independent of government. She is committed to representing all victims and witnesses and has a particular focus on those who are most vulnerable. She seeks to be transparent in all her activities, placing her correspondence with ministers and criminal justice agencies onto her website (<https://victimscommissioner.org.uk/>). She is committed to make sure the voice of the victim is heard in all policy and practice across the criminal justice system.

Introduction

1. Since the Committee launched its' original inquiry, I have been encouraged to see some collaborative and innovative working emerging in answer to the issues raised by the pandemic. One example is the work on the ask for Ani project, which has now been launched. However, the proposal in principle was first raised with Home Office in about April of 2020 by the DAC and me. I had been approached with the suggestion by Professor Aisha Gill and Safe Lives were working on it too. Whilst it is vital that it contains proper safeguards to ensure the safety of those seeking help, proper training for potential recipients of requests for help and that local DA services are closely integrated, it did take an extremely long time to develop and implement. Very first indicators are that people are using it, often not for a one-off bid for help to escape abuse but for arrangement-making or accessing ongoing support from local services.

2. In the early stages of the pandemic hotel chains and universities both approached government to offer emergency or short-term follow-on accommodation for victims of domestic abuse. These seemed promising offers but could not be accepted without the need for accompanying services to be made available to support needs additional to

¹ Accessed at <https://www.legislation.gov.uk/ukpga/2004/28/part/3/chapter/3/crossheading/commissioner-for-victims-and-witnesses>

accommodation and there seemed never to be the join-up necessary to provide this holistic provision. At the same time, some refuges could offer fewer or no places because some residents developed covid and speedier action could have taken on this offer potentially filling some of the gap. The same offers were relayed to my office and others but government is the only agency which could have made these arrangements. There are still shortages of refuge spaces, since there is under-provision nationally and it is a pity that no understanding could have been made, in particular with hotels to supplement on a longer term basis and perhaps act as a semi-permanent reservoir of that kind of accommodation until refuge provision is sufficient, hopefully driven by the statutory duty in the DA Bill

3. Messaging in particular about the freedom to leave lockdown to avoid domestic abuse and sexual exploitation, was missing in the early months of the pandemic and so was publicising that DA and SV charities were working. #You are not alone was launched by Home Secretary at Easter, weeks later. The need to reassert those messages seems not strongly understood and I hope that the Prime Minister continues to repeat it

4. I am pleased that additional emergency funding has been provided to the domestic abuse and sexual violence sectors in what the figures make clear are times of high demand. Previous experience, even in this pandemic, shows that there is likely to be an increase in takeup of sexual violence services when the schools re-open and children are able to ask for help from there. Although Ministry of Justice has recently released two year funding for some services this is not the case with the Home Office. Emergency and short-term funding do not work for these services which rely on sufficient trained expertise to support vulnerable victims. Demand having increased, so that I hear on my bi-weekly calls with victims service hubs that ISVAs are often carrying caseloads of up to 75 cases. Some hubs cap their caseload at 60 which is absolutely realistic to ensure a high level of service but causes waiting lists to develop and grow. It takes perhaps 3-6 months to recruit an additional qualified IDVA or an ISVA and a further period of time to train them to the specific charity's processes. They are likely to need to support victims for several months and one year funding will effectively run out before they can complete even their first cohort. The reason why there has been a repeated need for emergency funding is because the DA and SV charities are not sustainably funded as a norm. they therefore approached this pandemic with, in the main, few reserves on which to call to meet the immediate increase in demand and were immediately thrown into near crisis. This should never be allowed to happen again, sustainable funding giving resilience to these essential services must be a lesson learnt from this period. This is the case across the board but particularly an issue for services who work with black and minoritised women, who face additional barriers to accessing support, meaning there are likely to be surges in demand once lockdown measures are eased. I add, in this broad context, that I wholly support for the reasons given to the Inquiry in April 2020 by EVAW that the Government should abolish the 'No Recourse to Public Funds Rules', as recommended in evidence provided to the inquiry. These rules prevent migrant women who are experiencing or at risk of abuse accessing refuges and other support, putting them and their children at serious risk. Many of these women are the backbone of the 'invisible' workforces on the frontlines now critical to tackling COVID-19 such as care workers, healthcare workers, cleaners and many others

5. The delay in getting cases to trial (the partially Covid related court back-log) is having a significant impact on victims and victim support services of all kinds but highly relevant to Home Office provision is the near-crisis into which it has thrown the police Witness Care Units. It is reported by police sources that their work has almost doubled. They are now a significant presence on the risk registers of many forces. WCU staff are described as exhausted. They have to deal with victims and witnesses who are waiting to go to court and whereas that is usually relatively short term, now they are all on the WCU books for longer. It is reported from victims' hubs that cases are almost all now being given trial dates in 2022. We have heard today (4.2.21) that there are many cases now being listed in 2023. As Victims Commissioner I make the obvious point that it is unlikely that vulnerable or traumatised victims will hold out to see their case through the courts. People are often seeking closure and wanting to move on with their lives. We believe that the WCU issues concern that victims and witnesses are not going off their books for these extremely lengthy periods. Our victims hubs are reporting that victims now present with more complex overlapping problems since covid and lockdown between them have presented serious psychological issues to many vulnerable people. The understanding is that this is also impacting on the WCU staff who not only have more people for longer but also have more complex issues to manage. There are accounts of special measures, which are arranged in part by the WCUs are sometimes unavailable at the last minute for concerns relating to social distancing in court which can lead to adjournments. There seem to be more adjournments too because of the omnipresence of the pandemic and its ability to attack an important witness or require one to isolate at short notice. These pressures are of serious concern for public confidence overall and your focus on HO matters suggests that the impact on the WCUs is hard to overestimate.

6. There is a real risk of victim attrition rates increasing and more trials collapsing as a result.

7. I very much welcome the huge efforts on the part of HMCTS to roll out Section 28 of the Youth Justice and Criminal Evidence Act 1999 provisions which allow for pre-trial visual recorded cross-examination and re-examination. This offers an opportunity for vulnerable victims to give their evidence much earlier in the process. The extent to which this has been taken up by criminal justice agencies is reported to be 'patchy' and it is important that every effort is made to promote this work and ensure it is used to maximum effect. I am keen to see this being rolled out quickly to intimidated victims as well. I understand this proposal is being evaluated and hope this can be done at speed. Given the scale of the backlog and the potential delays in getting cases into court, I am not convinced that this should be the scale of our ambition. I would like to see the government exploring the possibility of offering pre-trial visual recorded cross-examination to as many victims as possible. Police have a key role in anticipating this and taking initial accounts down by video recording and not in statement form

Increased domestic abuse and online offending.

8. As has already been well explored by this Committee and evidenced by statistics, research and front-line organisations there has been an apparent increase in domestic abuse and online offending since the start of lockdown measures in March 2020.

9. The recent ONS statistical bulletin² shows this clearly in respect of domestic abuse.

10. There was a 10% increase in the total number of domestic abuse-related offences recorded by the police in the year ending September 2020 (842,813 offences) compared with the previous year. Unlike some other offences, the number of domestic abuse-related offences has not decreased during the coronavirus (COVID-19) pandemic.

11. It is important to note here that the Crime Survey England and Wales (CSEW) from which most prevalence data is sourced has because of Covid moved to a telephone survey (TCSEW) and respondents are no longer being asked questions about domestic abuse and sexual violence as it was rightly feared that this could put victims/ survivors in a vulnerable position by being overheard. Although from a safeguarding and privacy perspective this is correct, I am very concerned about missing data from this time period, this move across to telephone happened in March 2020 so we are nearly 1 year on. Criminal Justice System data is inadequate as the majority of victims do not report and although there are some limitations to CSEW data it is currently one of most reliable ways of determining prevalence. As such the Government should look at other ways of ensuring prevalence through the pandemic is mapped accurately and self-reported data on these very personal and sensitive subjects are collected in the future, ideally in a way that is comparable with previous CSEW data.

12. Now that we have endured different levels of lockdown over the past nearly 12 months, we can see that there are patterns in help-seeking behaviour that broadly reflect the levels of lockdown. For example, reports of so-called Honour Based Abuse (a form of domestic abuse) to the charity Karma Nirvana³ follow a specific pattern which shows upticks in reporting when the public are afforded greater freedom or when professionals are back in contact with children or adults.

13. Their recent data compares their referrals data from March to November 2019 with March 2020 and November 2020 and shows:

- New victim self-referrals have increased by 20% - 612 – 735. The biggest increase of 50% happened between July and August, as lockdown restrictions were eased allowing victims to safely reach out for support;
- New professional referrals have increased by 4% - 791 – 823, the slight increase evidences the limited access professionals had to have contact with potential victims. September 2020 was the busiest month for professional referrals which can

² Crime in England and Wales: year ending September 2020, ONS
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingseptember2020>

³ Karma Nirvana deliver the Home Office funded national Honour Based Abuse and Forced Marriage helpline.

be attributed to schools reopening where children at risk became more visible, and professionals, social services, education, 3rd sector support workers with children returned to face-to-face support; and

- New third-party referrals have increased by 54% - 115 – 177, the most significant increase in new referrals evidences how family members, employers and friends contacted the helpline on behalf of victims for whom it was not safe to reach out for support.

14. Abuse also appears to be escalating. COVID-19 is being used as means of control and it is harder to leave. Women's Aid have provided me with the following which is taken from their survivor survey on COVID -19⁴:

- Abuse is escalating – 67% (31 out of 46) of survivors who are currently experiencing abuse told us it had got worse since COVID 19;
- It is harder to leave – over three quarters of survivors currently experiencing abuse (78%, 36 out of 46) stated COVID 19 has made it harder for them to leave;
- Abusers are using COVID 19 as a way of controlling or failing to take necessary precautions to prevent spread of virus – 72%% (33 out of 46) of survivors experiencing current abuse told us their abuser has more control over their life since COVID 19;
- Survivors are concerned about safe child contact;
- There are mental health impacts on survivors and children – just over half of survivors (74 out of 141) who experienced abuse in the past that need mental health support are unable to access it; and
- The financial impact of the crisis is fuelling economic abuse and increases barriers to leaving.

15. As early as April 2020 the NCA⁵ were predicting an increase in online child sexual abuse during lockdown. It stands to reason that as much of the world moved to online working, schooling and a degree of isolation with lockdown and social distancing measures there would be greater internet use, greater use of social media to keep in touch with friends and family and therefore better opportunity for those who would harm children and others to carry out offences/abuses on line.

16. In October, the IWF revealed that in the first six months of 2020, 44% of all the child sexual abuse content dealt with by the Internet Watch Foundation (IWF) involved 'self-generated' material. This was up 15 percentage points on 2019 when, of the 132,676

⁴ Women's Aid. (2020) A Perfect Storm: The Impact of the Covid-19 Pandemic on Domestic Abuse Survivors and the Services Supporting Them. Bristol: Women's Aid.

⁵ 'NCA predicts rise in online child sexual abuse during coronavirus pandemic' THE GUARDIAN 3rd April 2020 <https://www.theguardian.com/society/2020/apr/03/nca-predicts-rise-in-online-child-sexual-abuseduring-coronavirus-pandemic>

webpages actioned, almost a third (38,424 or 29%) contained self-generated imagery. This trend was so concerning that the APPG on Social Media has launched an inquiry⁶.

17. It is of importance to note that in its' annual report⁷ the IWF, reporting on data from 2019 demonstrated that the overwhelming majority of child sexual abuse imagery they considered in the preceding year was of girls at 92% female victims⁸. The same report also shows that the overwhelming majority of 'self-generated' images are also of girls. We must ensure that this gendered element is not lost.

18. Adult women are also being increasingly targeted for on-line abuse and harassment. A joint report by EAW and Glitch⁹ showed that:

- Almost 1 in 2 (46%) women and non-binary people reported experiencing online abuse since the beginning of COVID-19;
- 1 in 3 (29%) of those who had experienced online abuse prior to the pandemic reported it being worse during COVID-19;
- 84% of respondents experienced online abuse from strangers – accounts that they did not know prior to the incident(s);
- Most of the abuse took place on mainstream social media platforms (Twitter 65%, Facebook 29%, Instagram 18%) despite tech companies' commitments to making their platforms safe and addressing gender-based and intersectional abuse; and
- Gender was the most often cited reason for online abuse, with 48% of respondents reported suffering from gender-based online violence.

19. A recent survey by Rights of Women also showed greater sexual harassment of women whilst working from home¹⁰.

20. In short, whilst positive steps have been taken by Government to try and address the issues the pandemic has either exacerbated or highlighted, the above figures clearly demonstrate there is much more to be done.

BAME, Disabled and Migrant victims of abuse

⁶ New national inquiry into 'disturbing' rise of 'self-generated' child sexual abuse material, Blog, UK Safer Internet foundation Nov 20 accessed at <https://www.saferinternet.org.uk/blog/new-national-inquiry-%E2%80%98disturbing%E2%80%99-rise-%E2%80%98self-generated%E2%80%99-child-sexual-abuse-material>

⁷ IWF, Annual Report 2019 accessed at https://www.iwf.org.uk/sites/default/files/reports/2020-04/IWF_Annual_Report_2020_Low-res-Digital_AW_6mb.pdf

⁸ 132,676 URLs (webpages) were confirmed as containing child sexual abuse imagery, having links to the imagery, or advertising it.

⁹ THE RIPPLE EFFECT- COVID-19 AND THE EPIDEMIC OF ONLINE ABUSE, September 2020, accessed at <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/Glitch-and-EAW-The-Ripple-Effect-Online-abuse-during-COVID-19-Sept-2020.pdf>

¹⁰ Rights of Women research into sexual harassment at work during lockdown. 1st November 2020 <https://rightsofwomen.org.uk/news/rights-of-women-survey-reveals-online-sexual-harassment-has-increased-as-women-continue-to-suffer-sexual-harassment-whilst-working-through-the-covid-19-pandemic/>

21. It is widely recognised that BAME victims of domestic and so-called honour abuse stay in abusive environments longer when compared to victims more generally. With many not reporting to police or seeking alternative protections¹¹. This is even more likely if the victim has insecure immigration status.¹² Victims of so-called honour-based abuse (HBA) tend to live in large, extended families and communities and face multiple perpetrators¹³ within their own family and the wider community. Whilst community measures to address harm can be helpful, especially in a pandemic in terms of vigilance and encouraging help-seeking. It is important to recognise the community can also apply pressure to stay put and not report abuse. This can particularly be an issue for those experiencing HBA.

22. It is well understood that the window of opportunity for BAME victims of domestic and honour abuse to come forward and seek help was already recognised as a 'small window of opportunity' pre-pandemic. Since the pandemic and implementation of restrictions, the 'small window of opportunity' for BAME victims of domestic and HBA is virtually non-existent.

23. As such community or bystander campaigns need to ensure that they represent the needs of these communities and think about options for their safe disclosure. It is also vital that statutory agencies are even more alert to these issues in the current circumstances.

24. As well as the above Imkaan have documented that Black and minoritised women are not only experiencing increased violence and abuse, but "racialised discrimination and the disproportionate impact of structural inequalities."¹⁴

25. COVID 19 is also impacting severely on Deaf and disabled women, who already face higher risks of gender-based violence and health inequalities, they are often increasingly reliant on abusers for care and access to basic essentials. This creates further barriers in accessing help and support, exacerbated by suspension of protections through the Care Act 2014, and threatening their independent living, health and wellbeing.¹⁵

¹¹ Of BME women who experience violence, only 37% make a formal report to the police, on average only 9% make an application for a non-molestation order despite 56% suffering from post-separation harassment, and 1 in 4 have insecure immigration status, giving them limited access to welfare and housing benefits. (Vital Statistics, Ravi Thiara & Samanta Roy, Imkaan, 2010.

https://drive.google.com/file/d/0B_MKSoEcCvQwdHhTMnpWUTc1NjQ/view)

¹² A 2010 survey by IMKAAN ('Vital statistics' IMKAAN & Vital Statistics 2: Key findings report on Black, Minority Ethnic and Refugee Women's and Children's experiences of gender-based violence. IMKAAN https://drive.google.com/file/d/0B_MKSoEcCvQwdHhTMnpWUTc1NjQ/view) found that 40% of 183 women with insecure immigration status stayed with their abuser for more than 5 years for fear of deportation. 92% of those women faced threats of deportation from the perpetrator.

¹³ 50% of BME women victims of violence experience abuse from multiple perpetrators. (Vital Statistics, 2010, Ravi Thiara & Samanta Roy, Imkaan

https://drive.google.com/file/d/0B_MKSoEcCvQwdHhTMnpWUTc1NjQ/view)

¹⁴ Imkaan, The Impact of the Two Pandemics: VAWG and COVID-19 on Black and Minoritised Women and Girls', 2020.

¹⁵ Sisters of Frida, The Impact of COVID 19 on Disabled Women from Sisters of Frida, 2020 <http://www.sisofrida.org/the-impact-of-covid-19-on-disabled-women-from-sisters-of-frida/>

26. When I gave evidence to this committee on the last occasion, I recommended that legal aid be provided to victims of abuse without means testing in order that they can obtain protective orders and for hearings in respect of children/ child custody. I stand by that recommendation. The means test is causing unnecessary delay and additional barriers for those seeking help and protection from the family courts.

27. Finally, Rights of Women¹⁶ and others have flagged the very real issues that women face around child access/custody in the Covid context. It is imperative that women are not penalised for failure to send children for contact visits when they feel the 'Covid' arrangements are unsafe for their children or for them as non-abusive parent.

Vaccination as a priority for those providing support services

28. The impact on specialist services, has again been well explored by this committee and in other areas of Government. As outlined above, services face chronic underfunding and have in this Covid context had to adapt new ways of working, many of which are inadequate (such as remote support where the survivor may be forced to speak to a service with a perpetrator in the room), or for which they did not have adequate funds.

29. I am in regular contact with many front-line service providers and I am hearing that staff absence due to sickness, Covid isolation and stress as workloads are at an unprecedented level are commonplace. These life -saving workers should be afforded the same respect and positioning as other key workers. I therefore recommend Government should ensure that the guidance for vaccination cohort 2 makes clear that all VAWG services – including refuges, community-based services, and non-commissioned services – should be prioritised for the vaccine.

Anti-Social Behaviour

30. I have been in correspondence with the Home Office raising my concerns about the sharp increase in anti-social behaviour during lockdown. Such spikes are surely inevitable when communities find themselves having to work, learn and play at home or in the immediate vicinity. When this pressure is combined with the stress of living through a pandemic, we have the perfect conditions for inconsiderate and hostile behaviour and reduced levels of tolerance between neighbours. When these conditions are in place, it is inevitable that the most vulnerable members of the community are the most at risk.

¹⁶ Rights of Women (2020) Coronavirus and child contact arrangements. <https://rightsofwomen.org.uk/get-information/family-law/coronavirus-and-child-contact-arrangements/>

31. Too often, the authorities regard ASB as low level. This shows a complete lack of understanding of the impact of persistent ASB on its victims. It can have a devastating effect on the victims' mental health, affecting their sleep, their relationships and their ability to work effectively.

32. Trying to assess the scale of the increase in ASB is difficult, as the police all too often conflate breaches of lockdown regulations with acts of ASB. Even taking this into account, the evidence from a range of sources all point to a significant increase in persistent and serious ASB:

- The NPCC and the charity Resolve ASB have jointly commissioned a YouGov poll on ASB which shows four in ten respondents saying ASB was a problem where they lived and 36% saying ASB had got worse since lockdown, with high numbers showing dissatisfaction with police and council responses.
- Even when Covid-19 related incidents, such as complaints over breaches of social distancing regulations, were stripped out, the NPCC analysis showed levels of anti-social behaviour were still 12% higher than last year.
- Victim Support which supports victims across the UK has recorded a 41% increase in victims being referred or self-referring for support as a result of ASB. Victims do not seek emotional and practical support from local victim services because a neighbour has breached a social distancing regulation, but because the behaviour is so serious, it has having a detrimental impact on their wellbeing. They also report that victims are needing more intense engagement.
- Feedback from my own fortnightly meetings with local victim hubs from different parts of the country repeatedly highlights sharp spikes in ASB compared to similar period in 2019 and the general consensus is that this is a result of lockdown.

33. In short, the police, victim services and the third sector are sending a unified message of sharp increases in the level of ASB whilst communities are under lockdown conditions. I have raised this repeatedly with the Home Office, but for reasons I cannot understand, they do not accept there has been a sharp spike in ASB as a result of lockdown conditions.

Actions Going Forward

34. There are a number of steps I believe the Home Office need to take to address this issue.

Police Data

35. There needs to be a data requirement that breaches of lockdown regulations not directly impacting on other members of the community are recorded separately to incidents of ASB so that we can better assess the scale of the increase in ASB during lockdowns.

Living a Nightmare

36. My predecessor, Baroness Newlove, published a report on ASB on 29 April 2019 under the title 'Living a Nightmare'. It set out a number of recommendations, including giving

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victims access to local resolution meetings arising from the Community Trigger, such meetings being chaired by an independent person and independent right of review where the victim is dissatisfied with the outcome of such reviews. To date nearly all of these recommendations have not been addressed.

37. I have called on an implementation team working through the recommendations in Living a Nightmare and deciding how the changes in that report might be delivered. The recommendations were designed to give victims a voice, to offer challenge to local agencies, to provide transparency and to hold agencies to account when they fail to deliver.

Victims' Law

38. The proposed Victims Law should be the vehicle for amending the definition of crime to include victims of persistent ASB. This is not a Home Office matter, but I hope the Committee will support this.

ASB Strategic Board

39. There also needs to be challenge in the centre of government. I would like to see an independent person chair the Home Office ASB Strategic Board and agreed and published work plan and minutes of meetings published on the Home Office website.

101 Calls

40. HMICFRS should be invited to undertake an inspection on the efficacy of the 101 call service. I receive complaints of victims waiting for long periods of time before calls are answered and not receiving any follow up. Yet, victims of ASB are told this is the correct route for recording their complaints.

Lockdown

41. Local authorities and police should be invited to report on current levels of ASB, with a view to providing additional "nightingale" support to those local authorities experiences sharp spikes in ASB and are struggling to cope. The onus would be on the local authority to make the case for assistance.

Police and Crime Commissioners

42. PCCs should be tasked to ensure activity across other agencies in respect of ASB is coordinated, with, for example, single points of contact. If they do not wish to arbitrate on ASB community resolution outcomes, they should be invited to appoint someone to do so on their behalf.

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