

2020/21 Annual Report

Dame Vera Baird QC
Victims' Commissioner
for England and Wales

CP463



**Victims
Commissioner**



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Dame Vera Baird QC
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for England and Wales

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

July 2021



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The pandemic has transformed all of our lives. As we recover, my ambition for victims is greater than ever

Welcome to this, my second annual report, covering the period April 2020 to March 2021.



I AM honoured to be the Victims' Commissioner for England and Wales. It is both pleasing to me and appropriate that this annual report will be laid before Parliament. This reflects both the importance of the work my team and I do to improve and promote victims' rights and reaffirms that, although I work well with government, my office is both independent of them and subject to broader accountability.

It has without doubt been an eventful year for victims and witnesses.

Listening to victims

Like much of my first year in post, we have been unable to meet face-to-face. This represents a particular problem in terms of communication with victims, who are often deeply affected by what has happened to them -and whose lived experience has to be understood so that policy can be framed with their needs in mind. We have all got used to Teams and Zoom, but it has also often led me to a sense of feeling sometimes remote from those I represent. I am certainly looking forward to resuming more personal contact as COVID19 restrictions are lifted.

My role as Victims' Commissioner is to regularly engage with as broad a range of victims and victims' charities as possible to ensure I know from first-hand experience what it is that victims need. I then take those needs directly to the government, judiciary and other authorities and challenge them to deliver for victims and hold them to account.

The role of victims in the justice system

Over the course of the year, I have continued to develop my thinking around the role of the victim in the justice system. I firmly believe it is time to recognise victims as participants in their own right in the criminal justice process. For it is victims who are likely to be most affected by a crime. They are deeply impacted by how the criminal justice system restores them from the wrong they have suffered. It is they who will live, sometimes forever, with the consequences. They are not parties to the proceedings, since the Crown prosecutes defendants on behalf of us all, but they should not be invisible or overlooked either. We must recognise justice cannot be delivered without victims and our justice

system needs to reflect this. This concept goes hand-in-hand with ensuring the rights of defendants are upheld, so that there can be fairness throughout. This thinking is set out further in my annual report.

Tackling violence against women and girls

The Domestic Abuse Act ended its Parliamentary journey an infinitely better piece of legislation than when it started, thanks a little to my joint interventions with others. Following the awful killing of Sarah Everard and the outpourings from Everyone's Invited, violence against women and girls (VAWG) has been high on the agenda, with new VAWG and Domestic Abuse strategies set to emerge in due course. There are provisions in the Police, Crime, Sentencing and Courts Bill which can be better shaped to best serve VAWG and DA victims. There are also clauses that will only serve to damage victim privacy and which we will work to amend. The rape review was not as strong as I would have wished, and it will certainly require more input and guidance if it is to truly reverse what I, among other voices, have called the decriminalisation of rape.

“This is a fascinating and challenging role, which I am privileged to have. Much has been done and much remains to be achieved”

It is also crucial that we do not overlook the experiences of men and boys. Whilst the focus on women and girls is welcome and recognises the gendered nature of these crimes, we must not forget that men and boys, too, are victims of violence and sexual offences. These victims are already affected by these crimes and this distress can be compounded by a lack of recognition of their experience. We must have a separate strategy that acknowledges and respects the experiences of men and boys and provides easy access to support services that enable them to cope and recover.

Better justice for victims

The Victims' Code was not strong enough either despite my best efforts, but we are promised a Victims Law early next year which can give it effective accountability. My team held many roundtables with a great diversity of victims to explore what any forthcoming victims' legislation would need to deliver and I will update and drive further those findings this year.

My team and I continue the fight on long-term concerns, too, such as the refusal of mental health tribunals to receive Victim Personal Statements, the lack of a

clear support pathway for victims of road crashes, the need to acknowledge those who suffer anti-social behaviour as victims of crime, and a myriad of other causes and concerns across the whole spectrum of crime.

This is a fascinating and challenging role, which I am privileged to have. Much has been done and much remains to be achieved. I thank my staff - tiny in numbers but great both in commitment and skill - for continuing to support me as my ambition to get better justice for victims of crime grows along with my exposure (albeit virtually) year-on-year.

Dame Vera Baird QC
Victims' Commissioner for England and Wales

The role of the Victims' Commissioner

The role of the Victims' Commissioner is set out in section 49 of the Domestic Violence, Crime and Victims Act 2004, as amended by the Coroners and Justice Act 2009:

"I was appointed Victims' Commissioner and took up my post on 24 June 2019. My term expires on 23 June 2022, with the option for renewal for a further 3 years"



Dame Vera Baird QC
Victims' Commissioner for England and Wales

(1) The Commissioner must –

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

(2) The Commissioner may, for any purpose connected with the performance of his duties under subsection (1) –

- (a) make proposals to the Secretary of State for amending the code (at the request of the Secretary of State or on his own initiative);
- (b) make a report to the Secretary of State;
- (c) make recommendations to an authority within his remit;
- (e) consult any person he thinks appropriate.

(3) If the Commissioner makes a report to the Secretary of State under subsection (2)(b)–

- (a) the Commissioner must send a copy of the report to the Attorney General and the Secretary of State for the Home Department;

(4) The Commissioner must prepare in respect of each calendar year a report on the carrying out of the functions of the Commissioner during the year

(5) The Commissioner must send a copy of each report prepared under subsection (4) to–

- (a) the Secretary of State for Justice,
- (b) the Attorney General and
- (c) the Secretary of State for the Home Department.

(6) Reports under subsection (2)(b) or (4) must be published by the Commissioner

(7) If section 48 comes into force after the beginning of a calendar year, the first report under subsection (4) may relate to a period beginning with the day on which that section comes into force and ending with the end of the next calendar year

The Office of the Victims' Commissioner

I have a small but dedicated team who support me in carrying out my duties.

THROUGHOUT THE year, my CEO was Russell A'Court, who was previously Head of the Public Protection Casework Section in Her Majesty's Prison and Probation Service (HMPPS). Russell retired at the end of the year and Katie Kempen will take up post as CEO from 21 June.

Katie joins the Office from the Independent Custody Visiting Association (ICVA), where she is the current Chief Executive. The ICVA leads, supports and represents local volunteer schemes, who make unannounced visits to police custody in order to check on the rights, entitlements and wellbeing of detainees and to prevent ill-treatment in detention. She brings with her a wealth of experience, expertise and a deep commitment to upholding human rights and dignity throughout the criminal justice system. With such pivotal moments for victims' policy on the horizon, I have no doubt that Katie, with her proven track record of delivering, will be the perfect addition to the team.

The Head of Reviews and Analysis is Dr Sarah Poppleton, who joined us on 7 April 2020, having formerly worked for the

Sentencing Council. Until May 2021, she was ably supported by a Senior Research Officer, Dr Julian Molina who used to work in the Prison and Probation Ombudsman's office.

For the second half of the year, my Communications Manager was Tom Cracknell who replaced Laura O'Hara on 2 November. Tom was formally a stakeholder communications manager in the Ministry of Justice.

On 2 September, we were joined by Becky Shortt, who took on the new role within the team of VAWG and Domestic Abuse Policy Manager. Becky



Katie Kempen
Chief Executive Officer

was formally a policy officer for the charity End Violence Against Women and prior to that she was a practising lawyer.

On 28 September we were pleased to welcome Hester Waterfield as our new Stakeholder Manager. Prior to this, Hester was a membership officer for the Fawcett Society.

Natasha Pizzuto used to work for the Court-based Witness Service and now looks after my diary. Joss Mistry is our Correspondence Manager, having previously worked in the Prisoner Casework Section of HMPPS.

Building Capacity

One of my first acts as Victims' Commissioner was to make a bid for a larger team to give us the capacity to improve my stakeholder engagement and undertake more reviews on the operation of the Victims' Code. I believe these are critical to the effectiveness of my role, enabling me to meet my statutory obligations and to reach out to more victims and those who work to support them.

The bid was not successful. In the coming year, we have a Comprehensive Spending Review and a Victims Law which potentially may set out additional powers for the role of the Victims' Commissioner. This would be a logical time to review the current budget to see whether it meets the requirements of the role.

Victims’ Commissioner’s Advisory Group

AS WELL as my office, I also have the able support of my Advisory Group, which meets four times a year to discuss current victim related issues and advise me on how I should handle them.

One of my first acts as Victims’ Commissioner was to appoint a new Advisory Group, expanding it to 23 members and this has worked well. Attendance has been high and there have been some excellent discussions, providing insight and challenge. I have made a couple of additional appointments which have further strengthened the group.

We have also established a Reviews and Analysis Advisory Group which is chaired by Dr Sarah Poppleton and meets three times a year. The objective of the group is to provide strategic guidance and advice on all aspects of the Commissioner’s research work. The members are: Professor Aisha Gill; Dr Dominic Willmott; Billy Gazard; Dr Jacki Tapley; Dr Oliva Smith; and Professor Iain Brennan.

As can be seen later in this report, the members of the Advisory Group come from a range of backgrounds with diverse skills and experiences.

“My Advisory Group helps to steer the direction of my work and that of my team. Members’ knowledge and experience is invaluable”



Definition of victims

As was acknowledged in my predecessor’s joint report with University of Portsmouth, some victims dislike the negative connotations occasionally associated with the term ‘victim’. Some victims and many non-statutory agencies prefer to use the word ‘survivor’ and I respect their view. For the purposes of this report however, I’ve again generally used the term ‘victim’ because it’s the term that most agencies use and understand when referring to someone who has experienced victimisation.

I accept the definition given in the Victims’ Code when considering relevant policy areas. But the legislation which underpins my role as Victims’ Commissioner makes clear my remit includes all victims, regardless of the type of crime committed against them, whether they report it to the police and whether or not anyone is convicted.

First Term Strategic Plan

Following my appointment in 2019, I published my First Term Strategic Plan which sets out the broad outline of my strategy for my first three-year term.

I am committed to ensuring victims are supported in coping and recovering from the impact of crime and are empowered to play a full part in the criminal justice system of England and Wales. This means they are able to access victim services that are tailored to their needs, they receive their entitlements as set out in the Victims’ Code, and they are treated with respect and decency by all the agencies who come into contact with them.

I am committed to working towards a Victims Law, so that these aims become their legal rights and I want to see the provisions of the Human Rights Act 1998 and the Equality Act 2010 utilised to ensure respect for the human rights of victims and equality and diversity of provision and support.

I am committed to championing the cause of victims of crime in all forums where their interests are at stake, including Crown and Magistrates Courts, Coroners inquests, Parole Board hearings and Mental Health Review Tribunals.

I am committed to be a voice for all victims and determined to inform my message to policy makers and service providers by reference to victims and witnesses’ lived experience.

I have five key strategic aims:

- 1.** Work with criminal justice agencies to ensure victims of crime are treated well, with a focus on the treatment of victims in the court room, so as to aid them to give best evidence as well as the support on offer to enable them to cope and recover from the impact of crime.
- 2.** Monitor and report on criminal justice agencies’ compliance with the requirements of the Code of Practice for Victims of Crime and the Witness Charter; identify areas that are deficient and make recommendations for change based on evidence of best practice; improve public awareness of entitlements.
- 3.** Ensure the interests of victims and witnesses are fully considered at all stages in any proposals for development and/ or change to the criminal justice system and its constituent agencies, including to victim support services and any related or other agencies whose activities may impact on victims.
- 4.** Through regular contact with victims and practitioners of victims’ services, articulate a view of the criminal justice system from the perspective of victims; contribute to, review and challenge decisions taken by policy makers and those responsible for developing practice.
- 5.** Through gaining first-hand knowledge and understanding of victims’ services, identify and actively promote examples of good practice and excellence.

An extraordinary mea culpa can't disguise serious compromise

A clear desire from ministers to fix the justice system for rape victims is let down by an Action Plan with a distinct lack of urgency and ambition.

VICTIMS OF rape and serious sexual offences have been comprehensively failed by the criminal justice system over the past five years. We have witnessed a seismic collapse in rape charging and prosecutions.

There is no escaping the numbers. About 56,000 rapes were recorded in 2020, and just 1,929 offences were charged. Just 1.6% of rapes recorded in 2020 have so far resulted in a charge or summons. This is shameful.

Last year, I warned that we were witnessing the effective decriminalisation of rape. Nothing in the past year has swayed me from that perspective. The uncomfortable truth is that if you are raped in Britain today, your chances of seeing justice are slim.

Make no mistake, this is of overwhelming public importance. Rape is often a serial offence and rapists carry on until they are stopped. This collapse in charging comes

with the risk that we are letting some guilty people escape justice, leaving them free to go on to attack more victims.

So, it is clear we are in a crisis and this crisis has been allowed to fester for at least the past four years.

The government's end-to-end rape review, published in June 2021, was commissioned more than two years previously to answer four questions: why complainants withdraw from the criminal justice process, why referral rates from police vary wildly from force to force, why Crown Prosecution Service (CPS) prosecutions have collapsed, and what the impact of the court process is on complainants. In its final form, it fails to answer any of them - and it is perfectly clear why not.

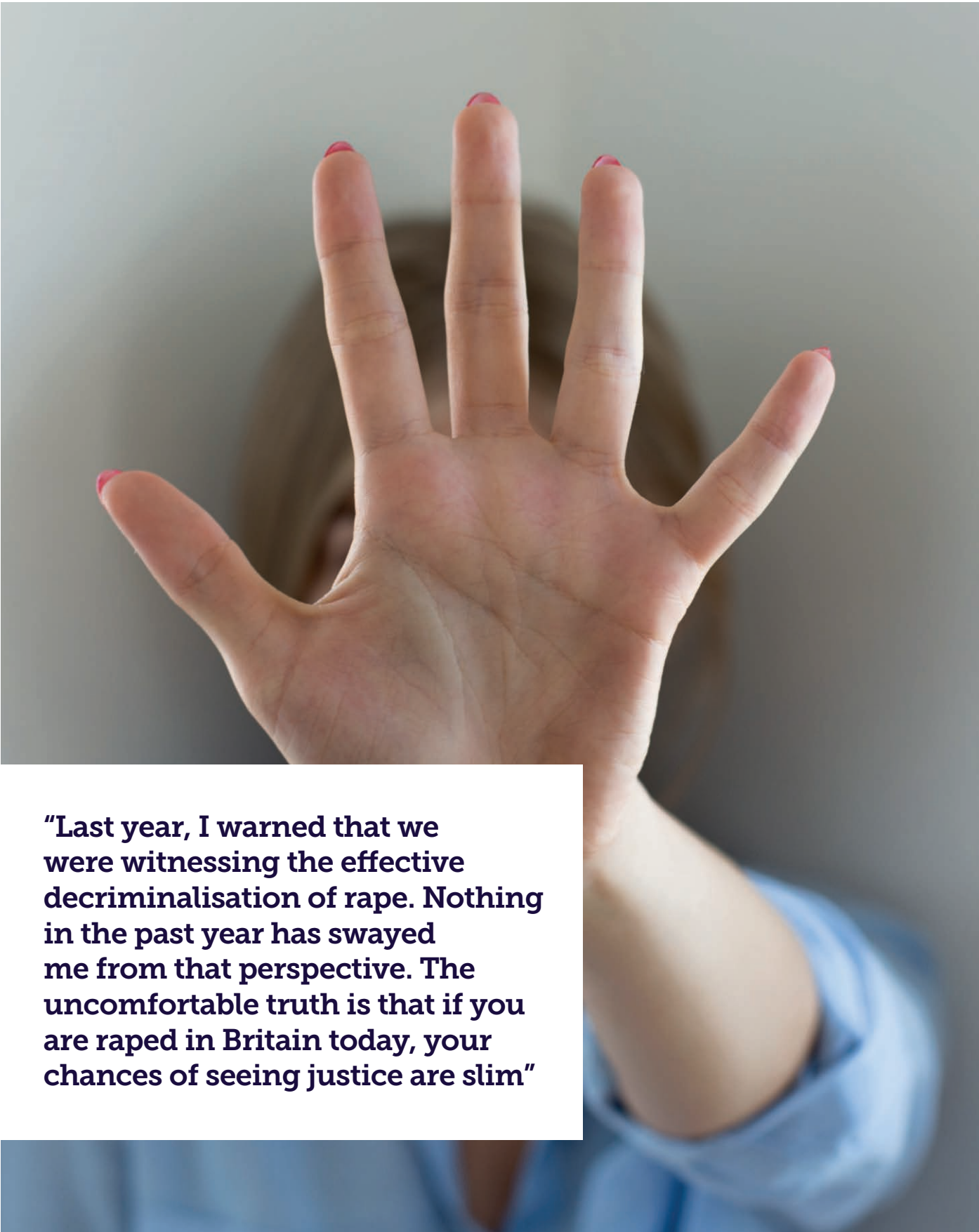
The review has been carried out by the very government departments and agencies responsible for the poor state of rape in the

first place. Far better and more focussed on the issues - and more radical in their recommendations - are the two inquiries into rape in the Northern Irish and Scottish justice systems, each carried out by an independent and very senior criminal judge. The English & Welsh review's action plan is riddled with compromise solutions, necessitated by the tendency of the responsible agencies to blame each other. Consequently, the proposals are underwhelming, both in their scope and resourcing, and represent some real missed opportunities to bring speedy and effective change.

That being said, the review and its action plan represent the government's proposed route out of the crisis. While it undoubtedly has serious limitations, it is and will remain the only show in town and some of its recommendations do hold promise.

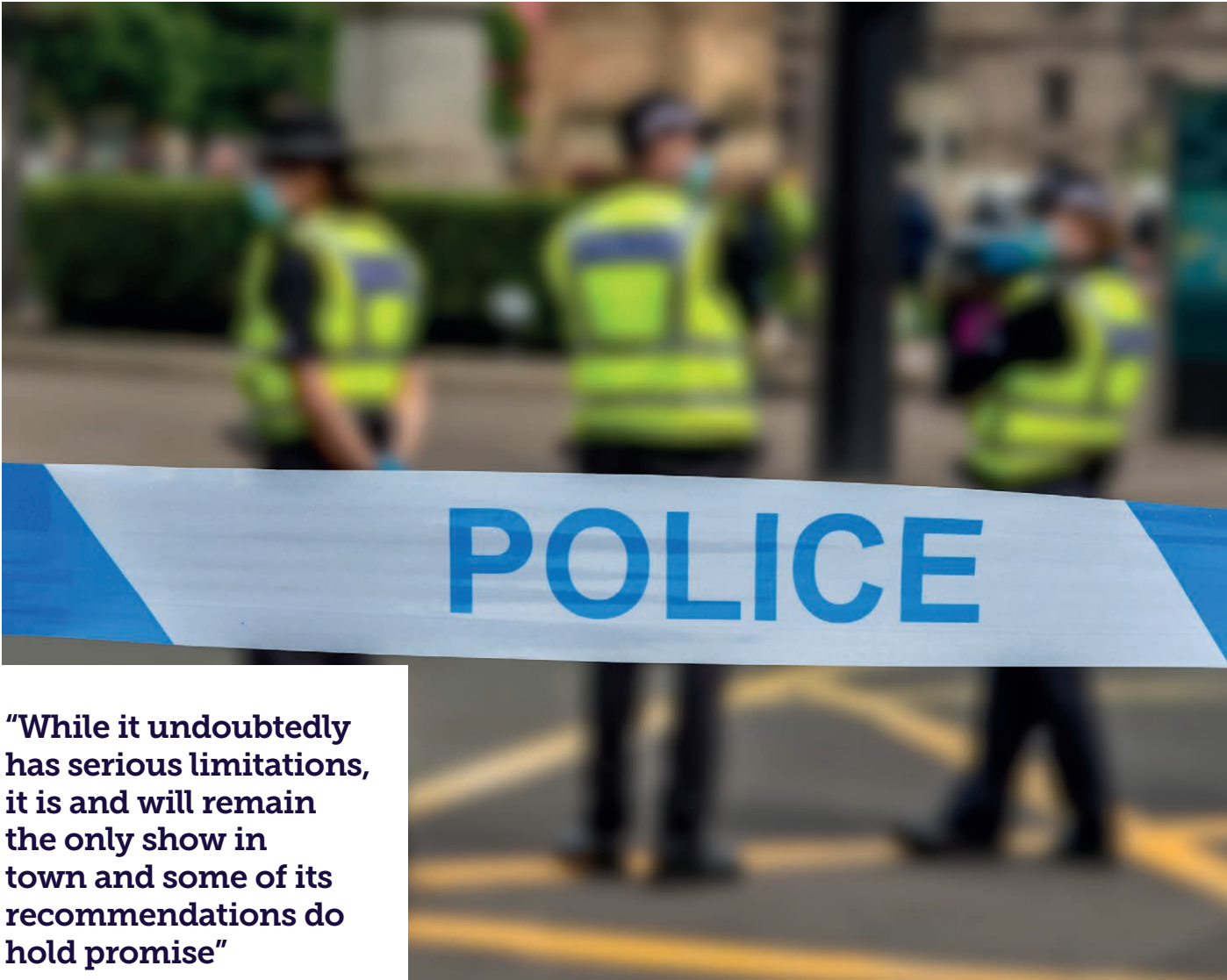
What is encouraging is the presence in the review of a powerful apology from the government, with ministers rightly voicing their shame at an abysmal record. They state a clear direction of intent to reverse this downward trend. This is both welcome and important.

Probably the best proposal is to further pilot a policing programme, first run in Avon and Somerset police as 'Project Bluestone'. It is founded upon five pillars, namely: suspect-focussed investigations; disruption of repeat offenders; victim engagement, training and learning for police; and improving the keeping and use of criminal justice data. It remains remarkable to me that police need to be instructed to investigate the suspect, not the victim. Indeed, academics who worked with the force speak of what was previously a 'complainant credibility unit' rather than a



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rape investigations department. This will be true of forces up and down the country.

The changes they have proposed and the commitment of force leadership has shown real potential to be transformative and to radically improve victims’ experiences. The same academics will scrutinise its development as it goes along, and it will now be taken up in four other forces. This is all to be welcomed. My concern, however, is that there is only funding for one year’s rollout and to just a further four police forces. The Lord Chancellor assures me that all criminal justice ministers will be pressing for it to be fully funded in the Spending Review. I will hold him to that.

Ministers’ plan to have performance

‘scorecards’ to measure the performance of all the agencies across the whole justice system and to publish the results on a six-monthly basis. This could drive much needed changes, provided that the ‘scorecards’ are carefully designed to avoid unintended consequences and shaped in a way to ensure that justice is protected.

The scorecard system aims to return the volume of cases prosecuted to 2016/17 levels, which is significant as prosecutions plummeted after this point. Earlier this year, the End Violence against Women Coalition judicially reviewed the CPS over this. The court accepted that, in order to improve conviction rates, CPS head office directed its rape lawyers to remove 350 ‘weaker’ cases

from the criminal justice system in that year by not prosecuting them. The court did not find that change to be unlawful. However, more than 850 cases were in fact removed nationwide and a further 1,000 removed the next year. Since then decisions to charge have been at what looks to be an all-time low, falling from a usual 3,500 or so each year over the preceding decade to about 1,800 now.

Cases made public by EVAW in the judicial review showed that decisions not to charge, made in accordance with the head office diktat, are riddled with rape myths and stereotypes, echoing the approach of the ‘complainant credibility unit’ found in Avon and Somerset police. It is just as well that ministers have apologised and promised a focus instead on the defendants where it should always have been.

I am pleased, too, that the Lord Chancellor has committed to the involvement of the Victims’ Commissioner and Domestic Abuse Commissioner on an external scrutiny panel, for this ‘scorecard’ process, alongside representatives from the criminal justice and sexual assault sectors. But what will the consequences for agencies be if they fail to make the promised progress - if any at all? The CPS has a dismal record in rape – if they don’t improve, what next?

The government has a mountain to climb if it is to restore victims’ confidence in the justice system. These measures are a start. But it is disheartening that truly transformative policies, such as the pre-recording of evidence of intimidated witnesses (Section 28), is to be put off by further piloting or general delay.

At a time when there is an ever-growing court backlog, especially in rape cases, the government knows that Section 28 needs to be rolled out as soon as possible. Pre-recording testimony and cross examination whilst the recollection is fresh- and releasing the complainant early from any further involvement in the trial - ends the long, anxious wait they currently experience as their case reaches court. Many victims now simply drop out of the justice system to get over what has happened to them and to try to resume their normal lives, abandoning hope of justice on the way. This is simply not acceptable nor sustainable.

Similarly, when concerns around digital disclosure deter so many victims from engaging with the criminal justice system, it is bizarre to see the Home Office legislating in the Police, Crime, Sentencing and Courts Bill to effectively legitimise over-intrusive data demands. The police, who need a new power around mobile phones, have agreed that a version of the same clauses amended by me to include protections for privacy are absolutely fit and acceptable to them. So, what is government playing at, determining that investigations will focus on defendants all the while empowering digital investigation of the complainant?

Which underlines also why it is so

a consultation about this, but that is likely to mean another year of inaction, when the need is pressing.

Which is to largely sum up much of the rape review as a whole: a clear desire from government and ministers to fix the justice system for rape survivors, let down by a distinct and frustrating lack of urgency and ambition in how to go about this. However, despite all its limitations, I truly hope this review will help drive us forwards.

The rape review may be finished on paper, but it is only just starting in delivery. I will be pushing ministers all the way to deliver justice for victims of rape and sexual assault, and to live up to their apologetic words.

“The government has a mountain to climb if it is to restore victims’ confidence in the justice system. These measures are a start. But it is disheartening that truly transformative policies, such as the pre-recording of evidence of intimidated witnesses (Section 28), is to be put off by further piloting or general delay”

disappointing that there is no plan for independent legal advice to tackle these well-documented instances of excessive and undue data requests by police and prosecutors, despite an excellent pilot scheme in Northumbria.

For three years independent solicitors gave legal advice and support to rape complainants, in challenging excessive requests for digital download, and demands for personal material in third parties’ hands, such as medical records, school reports and counselling notes. The pilot’s evaluation shows almost all those who took part in the scheme to be overwhelmingly positive. Advocates had to challenge data requests in 22/47 (47%) cases but on many occasions, police agreed that a narrower range of material was sufficient and became firm supporters of these interventions, which saved them a lot of time. The costs involved in a national rollout of this scheme (estimated at £3.9m) are a small price to pay to safeguard human rights. We are promised



Speaking up for victims

An important part of my role is to meet with ministers, the judiciary, heads of criminal justice agencies and government policy leads to discuss current policy and future change relevant to victims and their entitlements. I also use these meetings to feed in my own thoughts on what needs to be done, sharing issues of concern raised by victims and making sure their voice is heard.

I PLACE great importance on these meetings, as an opportunity to influence policies and practice, based on the feedback I receive from meeting victims.

In the past 12 months many of my meetings have focused on the impact of COVID19 either on frontline support services or on criminal justice agencies.

My website sets out the meetings I have held with agencies, policy makers and ministers since April 2020.

“I was asked to join the two working groups set up to oversee the recovery of the Magistrates’ Courts and the Crown Courts. These groups were so important as decisions being made had a direct impact on victims”

Whitehall

I meet regularly with ministers, either face-to-face, over the telephone, or virtually, where I have conversations on a wide range of issues affecting victims. I am grateful to them for giving me advanced notice of announcements and the opportunity to raise questions.

Shortly after my appointment, I joined the National Criminal Justice Board (NCJB). I also sit on three NCJB sub-groups, looking at cross-cutting issues, including the end-to-end rape review, exploring the reasons behind the collapse in the numbers of rape prosecutions, the handling of digital downloads of personal data within criminal investigations and case progression.

I am a member of the Ministry of Justice (MoJ) Victims Panel and sit on the Home Office Advisory Group on Anti-Social Behaviour. Given the strong overlap between women being victims of crime and committing criminal offences, I was pleased to be able to continue my involvement on the MoJ Advisory Board on Female Offenders.

Following the first lockdown, I was asked to sit on the MoJ Silver Command Group looking at cross-cutting issues affecting victims as a result of the pandemic. Eventually, I was asked to join the two working groups set up to oversee the recovery of the Magistrates’ Courts and the Crown Courts. These groups were so important as decisions being made had a direct impact on victims. I was glad to be



Above: Victoria Atkins, Parliamentary Under Secretary of State (Minister for Safeguarding)

Below: Welsh Womens Aid Visit
Right: VC Dame Vera Baird with Welsh Assembly Deputy Minister and Chief Whip, Jane Hutt



Dame Vera Baird with CEO of Criminal Injuries Compensation Authority



Above: Dame Vera Baird with Sonia Flynn, the Chief Probation Officer discussing information sharing with victims

“As well as meeting with ministers, I have also discussed my work with MPs and Peers across the political spectrum”



able to feed in a victim perspective. I have continued to take a close interest in the work of the Family Courts and the Civil Courts and how they work to support victims. I have been pleased to have the opportunity to hold several meetings with the MoJ Family Court Panel, tasked with reviewing the operation of the Family Court and I welcomed the publication of their findings in June 2020. I have regularly met with policy leads on a range of criminal justice issues, from both MoJ and the Home Office, giving me the opportunity to feed into the development of policy from a victim perspective.



Parliament
I am always pleased to have the opportunity to speak to Members of Parliament and Peers about my work and to feed into any reports or investigations they may be undertaking. This year I have met with the Justice Select Committee, the Home Affairs Select Committee, the Armed Forces Bill Committee and the Police, Crime, Sentencing and Courts Committee. As well as meeting with ministers, I have also discussed my work with MPs and Peers across the political spectrum. I very much hope this trend of seeking the views of the Victims’ Commissioner continues as it is an excellent opportunity for me to highlight the needs of victims within the justice system.

Wales
I’m delighted my role covers Wales, the land of my grandfather and a country that holds a close place in my heart. I was delighted to be offered a place on the Welsh Criminal Justice Board as this gives me a welcome opportunity to engage in programmes and activity designed to support victims of crime in Wales. My fortnightly meeting with representatives of local victims’ hubs has strong Welsh representation and this keeps me well informed on what is happening at a local level.

Ministry of Defence Service Justice Board
I have been asked to join the Service Justice Board and am delighted this offer has been made. I attended my first meeting in March. I was also asked to give evidence in front of the Armed Forces Bill Committee, which gave a useful opportunity to highlight the importance of victims of sexual assault and domestic abuse within the armed forces feeling able to come forward and report these crimes, confident they will receive the support they need. A member of my team has also recently joined the Services Justice Executive Group. I have met with the Judge Advocate General, HHJ Large, and with the Director

of Service Prosecutions, Jonathan Rees. My team has also engaged with Ministry of Defence (MoD) officials to undertake a victim walk through the services justice system. There is much the two justice systems can learn from each other in the treatment of victims and I look forward to working with the MoD and the JAG in identifying where more can be done to support their victims.

National Police Chiefs’ Council
The police have a critical role to play in supporting victims and delivering their entitlements under the Victims’ Code. This is why I meet regularly with relevant lead members of the National Police Chiefs’ Council (NPCC), including the chair, Martin Hewitt. I have also remained in touch Lynne Owens, Director General of the National Crime Agency. These discussions have been helpful and constructive, re-enforcing my view that police across the country are keen to support victims as best they can. DCC Emma Barnett holds the portfolio for Victims and Witnesses, and I have welcomed opportunities to discuss with her how police deliver victims’ entitlements contained in

the Victims’ Code. ACC Louisa Rolfe is the NPCC lead for domestic abuse and DCC Sarah Crewe leads on rape and sexual offences. I have valued my meetings and discussions with them and welcomed their desire to bring about real improvements in policing in these critical areas. Equally, Simon Bailey, the Chief Constable of Norfolk and NPCC lead for child exploitation and non-recent sexual abuse has been extremely helpful in keeping me updated on the work police are doing in tackling these crimes. Simon is due to retire this summer and will be greatly missed. I have also welcomed the opportunity to meet with ACC Neil Basu, the NPCC lead on counterterrorism to discuss the support being given to victims of terror attacks. ACC Andy Prophet leads on anti-social behaviour and I have welcomed his insights on what is happening in this area of policing.

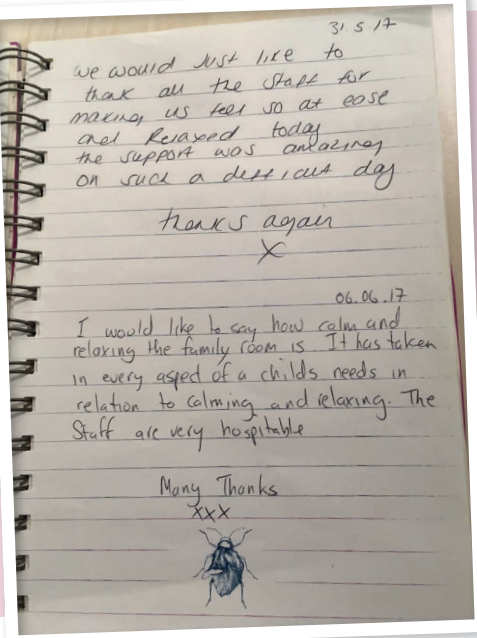
“The police have a critical role to play in supporting victims and delivering their entitlements under the Victims’ Code”

Association of Police and Crime Commissioners
I have maintained my close contacts with the Association of Police and Crime Commissioners and have attended their Victims and Witnesses Portfolio Group. I established a group of victim hub representatives who meet fortnightly with me to update me on what is happening with frontline local victim services and amongst other issues, the impact of court backlogs on victims and support organisations. I am calling for all PCCs to appoint a local victims champion who can be a link between them and local victim support services and offer a victim perspective at Local Criminal Justice Board meetings. If they agree to take this action, it has the potential to create a national network of victim champions, who can act as a powerful voice for all victims.

Her Majesty’s Courts and Tribunal Service (HMCTS)
I have met with the outgoing and incoming Chief Executives of the HMCTS, Susan Acland Hood and Kevin Sadler as well as having regular meetings with those officials responsible for court recovery after lockdown and for leading on issues relating to victims and witnesses. ➤

Special Measures

My review of special measures is reported separately in this report, but I want to express my thanks to those officials who cooperated with this piece of research. I am also grateful to those officials for keeping me informed and up to date on the rollout of pre-trial recording of cross examination of vulnerable victims, which is captured by video-recording and replayed at trial. I have raised other issues affecting victims and witnesses, such as, for example, shielding the screens which relay the evidence of those victims who are testifying outside of the court room. This is important as the whole purpose of remote evidence giving is to enable some victims to give sensitive evidence remotely and out of sight of the defendant.



COVID19 recovery

I have taken a close interest in the courts during the COVID19 lockdown period. I am concerned that the impact this will have on the backlog of cases awaiting trial will be significant. This will have a detrimental impact on victims, and we have already seen a significant increase in victims withdrawing their support for prosecutions, in part because the time it is now taking to complete investigations and get cases to courts.

As mentioned above, I played an active role on the two judicial-led groups considering options for post-lockdown recovery of the Magistrates Courts and the Crown Courts. I have also been invited to join other groups looking at issues such as the scope for changing court operating hours in order to increase capacity.

Office of the Domestic Abuse Commissioner

Nicole Jacobs, the Domestic Abuse Commissioner, and I have worked closely over the past year on issues relating to the support of victims of domestic abuse. Examples of our collaboration included feeding into the Do-

mestic Abuse Bill, writing to ministers on the sensitive issue of domestic homicide reviews and feeding into the No10 summit of ‘Hidden Harms’ arising from lockdown.

Our respective offices continue to work closely together.

Criminal Injuries Compensation Authority (CICA)

I have had two meetings with Linda Brown, CEO of the Criminal Injuries Compensation Authority and I have found these to be very productive. My office is now represented on their stakeholder group. I have written separately in this report about the progress being made by CICA and I will continue to take a close interest in this service.

National Probation Service (NPS)

I have had two meetings with the Chief Probation Officer, Sonia Flynn and the Head of the Public Protection Group, Gordon Davison. I have also met with Amy Rees, Director General for Her Majesty’s Prison and Probation Service (HMPPS), responsible for probation services and Her Majesty’s

Prison and Probation Service (HMPPS) in Wales. I feel my engagement with HMPPS has been productive.

I am particularly grateful to Sonia and Gordon for keeping me informed of high-profile cases that raise sensitive issues about the treatment of victims.

Parole Board

I have met with the Parole Board and welcomed the opportunity to address their annual conference in November.

The work of the Parole Board is again subject to scrutiny and in December I responded to the government consultation on making parole hearings public. This issue is covered elsewhere in this report.

Inspectorates

Criminal justice inspectorates have a vital role to play in making sure criminal justice agencies operate to the highest standards and deliver their statutory functions effectively.

My discussions with HMICFRS have focused on how police support vulnerable victims and witnesses and how we might work together to ensure inspections are focused on the right issues.

I have taken a close interest in the work HMICFRS is doing in response to police super-complaints. Many of the complaints submitted relate to the treatment of victims and it has been useful to have regular contact with the team handling these complaints.

I remain keen to feed into plans for joint inspection work on vulnerabilities.

I have met and entered into correspondence with Kevin McGinty, HMCPSI, specifically relating to the significant drop in rape prosecutions (covered earlier in this report) and the case study review undertaken by the HMCPSI as part of the government’s end to end rape review. As already noted, I shared the serious concerns of the VAWG sector in how this review was undertaken and am pleased to see the government has now commissioned a further and joint review to be undertaken by HMCPSI and HMICFRS.



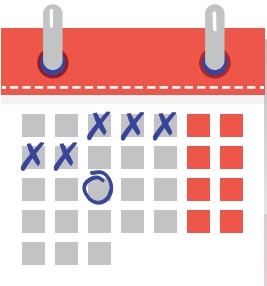
Senior judiciary

It was a pleasure to meet the LCJ, Lord Burnett and President of the Queen’s Bench Division, Dame Victoria Sharp to discuss a range of issues including the victim personal statement, the treatment of victims of sexual violence in the court room, the transparency of sentencing and how it might be better explained to victims and defendants.

Crown Prosecution Service (CPS)

I have met with officials from CPS to discuss Violence Against Women and Girls and I attended a stakeholder consultation meeting to discuss child sexual abuse. I have helpful discussions with CPS representatives on a number of groups and committees. Similarly, I meet with CPS staff on the National Police Chiefs’ Council sub-groups on domestic abuse and rape.

I have made no secret of the fact that I have been alarmed by the collapse in rape prosecutions since 2017. This dramatic fall took place after a series of CPS roadshows in which a senior official in the CPS is reported to have urged rape prosecutors to a “touch on the tiller” against prosecuting “difficult” rape cases in order to ensure a conviction rate of 60% and higher.



Government consultations

I have responded in depth to a number of government consultations over the past year. In line with my usual practice, I have posted my responses onto my website:

- Consultation on the Victims’ Code
- CPS consultation on pre-trial therapy
- Law Commission consultation on online harms
- Ministry of Justice Criminal Injuries Compensation Scheme Review 2020
- CPS consultation on its Rape and Serious Sexual Offences guidance
- The Root and Branch Review of the Parole System: Public Consultation on Making Some Parole Hearings Open to Victims of Crime and the Wider Public
- APP data extraction guidance
- Home Office call for Evidence on its ‘Violence Against Women and Girls’ strategy



Surveys - hearing about the victim’s lived experience

Hearing first-hand the lived experiences of victims going through the criminal justice system is so important to my work. It gives me a real sense of what is working and what is not. It also helps me to understand what matters most to victims.

HOWEVER, WITH the country under lockdown for much of the year, I have been unable to travel around the country meeting victims and hearing about their experiences. To remedy this, my team undertook two online victim surveys, which attracted responses from around 900 victims. I am so grateful to those who took the time to answer our questions. For some, their experience was clearly still very raw, and their testimonies made powerful reading. Their words provided a more compelling case for change than I ever could.

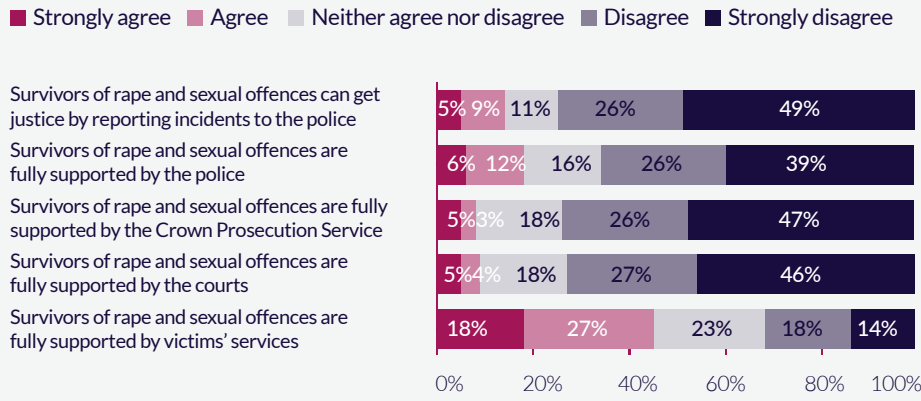
Survey of rape survivors – hearing the victim’s voice
I believe victims’ lived experience must be used to inform criminal justice policy. Surprisingly, the end-to-end rape review did not gather the views and experiences of victims. I decided to fill this important gap by conducting a survey with survivors of rape. Developed with the help of the victims’ services sector, the survey explored these survivors’ experience of the criminal justice system. Nearly 500 survivors chose to share their experiences with my researchers, and we are enormously grateful to them for their brave words.

On every page of this report, the victim’s voice could be heard loud and clear. As the graph shows, survivors have little faith in the

criminal justice system: just 14% believed they could receive justice by reporting incidents to the police. Being believed by the system is one of the most important things to survivors. The fear of not being believed emerged as the most important factor in the decision not to report, considered important by 95% of non-reporters - and considered very important by the vast majority of

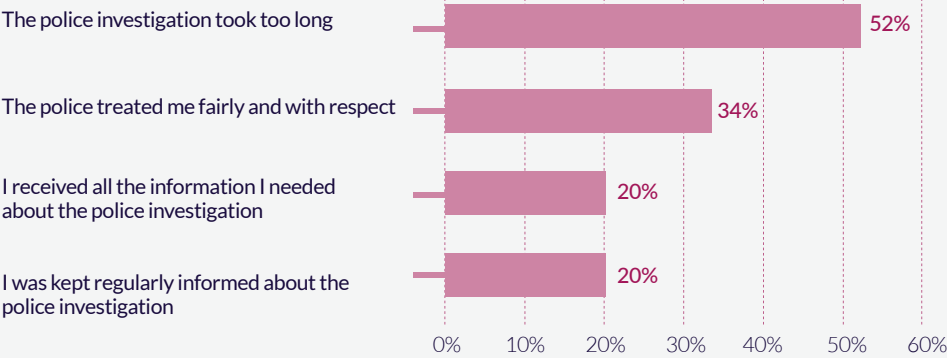


Attitudes to the criminal justice system



Source: Victims’ Commissioner survey of rape survivors, 2020

Proportion of respondents who agreed or strongly agreed with the following statements about the police and criminal investigation



Source: Victims’ Commissioner survey of recent victims of crime, 2020

these. Those survivors who did report often felt their credibility was tested through each stage of the criminal justice process. Requests to access their mobile phone data made this worse, a majority feeling that this was not sufficiently justified or explained, and that it felt intrusive.

The prevalence of rape myths also exerted a powerful effect: 88% of those who didn’t report said an important factor in not reporting was the fear that their case wouldn’t be investigated and/or prosecuted successfully because of their gender, sexuality or lifestyle. This was the second most important factor given. It implies they think that the case will only go forward if they are a ‘perfect’ victim, a model they don’t think they match. Rape myths also permeated the narratives of those who did report:

“The Police Officer taking my disclosure stated he didn’t believe me because ‘things like this didn’t happen in our green, leafy area’
“When I reported my rape at a local station in ‘...’, the desk clerk told me that as I remembered saying ‘yes’ to going home with him that there was nothing they could do.”

Survivors’ accounts were also peppered with language which expressed that the system re-victimised them. The police decision to take no further action and the CPS decision not to prosecute were frequently devastating for survivors. For

some, this also seemed procedurally unjust as they felt evidence was not considered, avenues not pursued, or reasons for discontinuance not justified. Those who had subsequent interactions with the Crown Prosecution Service tended to find them insensitive and were frustrated as it did not make any difference to the outcome in any of their cases.

Among those who got to court, a majority felt they were treated fairly and with respect by judges. But well over three quarters found cross examination traumatising. The Criminal Bar trains its members how to cross examine without re-traumatising people but only a handful of these survivors said that defence lawyers treated them fairly. Shockingly, more than 20 years after cross examination on previous sexual history was restricted by law, nearly two thirds reported that they were questioned about it. As I said at the time: *“This survey and the voices behind it reveal the extent of the crisis within our justice system.”*

Victims’ lived experience of the criminal justice system

Last year, COVID19 restrictions limited my opportunity to speak directly to victims and carry out research with victims. In April and May 2020, we conducted a survey to help give us at least a broad-brush barometer

of victims’ views. We received over 400 responses.

Respondents told us what mattered to them during the investigation stage, placing greatest importance on being treated fairly and with respect by police. Only around a third of those who had reported felt they were treated in this way. Despite the Victims’ Code entitlement to be kept informed, only a minority felt they were kept regularly updated or received all the information they needed about the police investigation. Based on their experience of reporting, less than half said they would report a crime again.

Of those who went to court, two thirds of respondents felt they had to wait too long for the case to start. Only a minority agreed that the sentence was clearly explained to them, that judges and magistrates take account of the impact of the incident on victims or agreed that victims are given enough support during the court process.

I wrote at the time, *“The victim of any crime should be at the heart of the criminal justice process. But this research shows this is not how many victims perceive it.”* These voices and experiences of victims provided powerful evidence for enforceable rights for victims, as I am petitioning for in the Victims Law.

Justice delayed is justice denied

The adage, ‘justice delayed is justice denied’ is still true today. The Crown Court backlog of cases is one of the biggest challenges facing the criminal justice system.

THE COURTS service has worked hard during the pandemic to get courts up and running despite many challenges. But the backlog of cases in the Crown Court now stands at over 59,000 and continues to grow.

We know some victims are now facing years of unacceptable delay in their quest for justice. I have heard of cases being listed as late as 2023. I hope these cases will remain outliers, but the overall trend remains that victims are waiting far too long in their quest for justice. The latest data suggests that in cases going to trial, on average, victims are waiting just under 50% longer once the case has been sent to the Crown Court, compared to pre-pandemic.

Delays prevent victims processing their trauma, with their lives put on hold as a result. This means some victims will simply decide to opt-out of the criminal justice process altogether, leaving them with no resolution and the public with the risk of a guilty criminal free to offend again.

Over the past five years, there has been a steady increase in the number of cases where the victim withdraws pre-charge. In the last 5 years it has gone up from 9% (2014/15) to 26% currently. The problem is worst for the most serious, interpersonal offences like violence against the person, which has leapt from 24% in 2014/15 to 45% in 2019/20. Excessive delays in getting cases to trial may only exacerbate this trend.

But delays for victims are nothing new and were endemic in our justice system long before COVID19. The case backlog before the pandemic stood at over 37,000. It has undoubtedly been exacerbated by the pandemic, but the pandemic is not how it started. The root cause was under investment, especially in sitting days for judges and part time judges.

So, while new Nightingale Courts and other measures introduced by HMCTS are welcome, the backlog will not be cleared overnight, and creative thinking is required if we are to keep victims engaged with the justice process long-term.

From my meetings with ministers and officials, I am in no doubt they are seized of both issues and are committed to addressing them. I welcome the announcement by the Lord Chancellor on 4 June that:

“...for the next year at least, that our Crown Courts will be authorised to work at full throttle, to their maximum capacity. What this means in effect is that we have removed the usual restrictions on the maximum sitting days in the Crown Court, so that judges are free to unleash the full potential of the courts system and they can start to work through the high numbers of cases waiting to be heard.”

This is an important step in the right direction. However, further and significant action is required to reduce and eliminate what were already chronic backlogs in cases.

Victim support services

There is now a clear and pressing need for new and increased funding for victims’ services across the board.

As the Lord Chancellor said in his speech of 4 June:

courts and individual judges to embrace these opportunities fully.

Remote Evidence Centres

I want us to make better use of Remote Evidence Centres – centres set up for witnesses to give evidence away from the court.

At the beginning of the pandemic my office undertook an exercise to count these and let HMCTS know how many there are nationally (27). Since then we understand that a new booking system has been introduced and their use has been encouraged but remains low.

I know that efforts are being put in to maximise the use of these, and some can’t accommodate social distancing. When requirements for social distancing lessen, I would like to see the use of these ramped up.

There are many advantages to taking the witness out of the court building, avoiding meeting the defendant, being in a less stressful environment, maybe closer to home.

Better communication

Witness Care Units within police forces have a pivotal function in liaising with victims and witnesses. I think well-resourced Witness Care Units (WCUs) and good communication with witnesses are vital to making the situation better.

Communication with victims and witnesses has long been below par and this has worsened under COVID19, as the system has struggled with scheduling.

WCUs are under unprecedented pressure, with caseloads doubling and cases staying on their books for longer and longer. We also hear that cases are becoming more serious, demanding more from these staff.

I am pleased MoJ is putting increased resource behind this pivotal role in the system, but I would like to have this confirmed and be sure that enough is being done to shore up this vital service.

Each witness should have a dedicated caseworker in Witness Care. And the caseload of each WCU officer should not be

unreasonable. This would mean that even if trials are delayed and court dates changed, witnesses will at least feel that they have been kept well-informed, and that they will have a named person that they can approach for updates.

Wider use of live-links

More witnesses are giving evidence via live link and there is a new welcome understanding that the live link screens need to be screened from the defendant and the public if witnesses are to have confidence.

Technological know-how in courts has improved. There is now a Digital Support Officer on site in every court, carrying out weekly checks of equipment and supporting staff with usage. I commend HMCTS for the speed which it has rolled out a number of technologies and processes in response to COVID19. But I would like to see even more done with these capabilities.

The introduction of the Cloud Video Platform has enabled hearings to happen remotely, and, in some cases, witnesses to give evidence remotely – so circumventing the fear associated with going to court. However, the Joint Inspection report on the impact of COVID19 on the CJS found waning use of this measure for victim/witness appearances and a preference for victims/witnesses to appear in person. If this is the case, we need to reverse this trend.

More Nightingale Courts

More Nightingale Courts are a good step forward.

At the height of the pandemic, they provided a total of over 60 court rooms. I particularly welcome the fact that in the first ‘super courtroom’ in Manchester complex cases will be heard, including multi-handler trials.

I understand some of these courts may revert back to their original use once lockdown is lifted. The government needs to identify further temporary sites for court rooms so that HMCTS can build capacity.



“The backlog of cases in the Crown Court now stands at over 59,000 and continues to grow. We know that some victims are now facing years of unacceptable delay in their quest for justice”

Victims must be participants in the justice system - not onlookers

The time has come to re-conceptualise the status of victims, so that they are seen as active participants from the point the crime is committed throughout the criminal justice process and beyond.

IN THE adversarial system, the defendant is at the centre of the court process. The prosecution prosecutes them; the defence defends, the jury determines guilt and the judge ensures their trial is lawful and fair. This centrality is not to be criticised and defendant’s rights need to be fully protected. However, all the agencies lean in towards this focus. It is inevitable that victims are all too often seen as temporary and marginal – at best ‘witness fodder’ as one academic has described.

Crimes are seen as an attack on the state and not against the victim. So, proceedings are not there to put right the victim’s wrong but to enable the state to inflict punishment and affirm the rule of law. If a case is brought, the victim can be compelled to be a witness but is not there to talk about what he/she has personally suffered, merely, like a bystander, to tell the court what the defendant did.

The treatment of victims as bystanders across the criminal justice system impacts not only on their experience of system but their perception of it. The time has come to re-conceptualise the status of victims so that they are seen as active participants from the point the crime is committed throughout the criminal justice process and beyond. If we can give the criminal justice agencies a clear

understanding of that, they may be more likely to treat victims with the respect and care they deserve.

The introduction of a Victims Law is an opportunity to address this by redefining the status of victims within the criminal justice system as active participants with rights that flow from this status.

Victims law

In February, I published my Policy Paper on a Victims Law which made a series of inter-related, evidence-based recommendations about what the Victims Law needs to include to support the redefined role of victims as active participants. Many of the recommendations are referred to throughout this report. Some will seem very specific and some relate to relatively small groups of victims. Nevertheless, they should be viewed in their totality, as a package of changes offering victims the right to engage in all parts of the criminal justice process, be better informed and advised and to be offered more opportunity to use their voice and to challenge decisions that impact upon them directly or their ability to secure a justice outcome.



“The criminal justice system, which can’t function without victims, needs to adjust its perspective to see them as valued participants and to support them appropriately.”

Victim as participant

My starting point in making the case for this change in status for victims of crime is that many will have suffered serious injury, sexual assault or the death of a loved one. They are intimately involved from the day of the offence through the process and often beyond. The notion is that the state prosecutes on behalf of all the public. But there is a great difference between the interests of members of the public in having a good criminal justice system and the profound interest in one specific case of a deeply affected victim. That special interest requires that victims have rights, but we do not acknowledge their unique position and by failing to do so, we fail to provide the rights urgently needed to support victims.

The criminal justice system, which can’t function without victims, needs to

adjust its perspective to see them as valued participants and to support them appropriately. The rights that should be afforded to victim participants are no challenge to the defence. They include help to understand the process, updates on their case, respectful treatment, procedural justice and support as and when it is needed. These are basic requirements to which it is hard to object. They help victims to recover from victimhood and to restore their confidence in a society which has, after all, failed to protect them from crime in the first place.

Victims also want their voice to be considered at important stages in the proceedings, but not to take on decisions which remain the responsibility of the state.

There is legal recognition of the victim’s special interest in their own case, requiring

care to be taken of their rights. As the late Lord Steyn said: (AG’s Ref 3 1999):

“There must be fairness to all sides. In a criminal case this requires the court to consider a triangulation of interests. It involves taking into account the position of the accused, the victim and his or her family, and the public.”

He reiterated the point in R v A (No. 2): *“It is well established that the guarantee of a fair trial under article 6 is absolute: a conviction obtained in breach of it cannot stand... The only balancing permitted is in respect of what the concept of a fair trial entails: here account may be taken of the familiar triangulation of interests of the accused, the victim and society. In this context proportionality has a role to play.”*

A report commissioned by me and prepared by the organisation Sisters for Change and published in December 2020, examines the role and rights of victims across England & Wales, Australia, Canada, New Zealand and the United States. The authors found that despite progress by UK governments over the years, victims continue to feel marginalised and peripheral to the criminal trial process. In contrast, the authors cite the example of the 2015 Victoria Law Reform Commission in Australia, which recommended the role and rights of the victim as participant in the criminal justice process should be laid out in law.

The Victoria Law Reform Commission in 2016 recommended:

“...the role of the victim should be conceptualised, understood and implemented in accordance with modern jurisprudence. In the modern trial, there is a triangulation of interests: those of the public, the accused and the victim. Within that triangulation, the interest of the victim in the criminal trial is not that of a party; but it is that of a participant.”

The State of Victoria moved legally to recognise the victim as participant in 2018. It is thereby acknowledged in law that the victim has an ‘inherent interest’ in the response by the criminal justice system and agencies are required to respect the rights and entitlements of victims as participants in proceedings.

In other words, the state redefined the role of bystander to that of participant – ➤

with a view to better practical treatment.

I believe the Victims Law is an opportunity for the UK government to give victims a distinct legal status within the criminal justice system, separate from that of the wider public. In doing so, there is recognition they have suffered a wrong. Importantly, their 'rights' are elevated from a favour, to be done where possible and if resources allow, to an inherent requirement and core function of the system. The default position is that they may participate in all parts of the criminal justice process, they have a right to be heard and the right to challenge where appropriate.

Again, it is important to reiterate this does not mean they become decision-makers, nor do their rights in any way impact upon the rights of defendants.

We have therefore concluded that a Victims Law which has the ambition of transforming the victim experience of the criminal justice system needs to start by re-conceptualising the status of victims within that system. It should offer a formal and recognised status for the first time. The Bill should offer recognition that a victim of crime has an inherent interest in the response by the criminal justice system to that crime, giving rise to rights and entitlements and acknowledging the victim's role as a participant, but not as a party, in proceedings for criminal offences.

This new status would need to be supported by a set of enforceable minimum guarantees which support them to participate.



Victims' rights
The new Victims' Code of Practice (the Code), which came into force on 1 April 2021, structures victims' entitlements into twelve key 'rights'. I welcome the new format of the Code and the decision to present the Code in this way. However, on their own, these rights are not enforceable. As such, they are not really 'rights' if that is a hallmark of rights. Neither are they always expressed as rights.

For example, the new 'Right 6' provides that where police/CPS are considering an out of court disposal, victims have the right to be asked their views and have them taken into account. Where this is not possible the police/CPS will tell the victim why. In other words, the victim's 'right' is confined to being told why they can't have their 'rights'. Another example can be found in 'Right 8', which tells victims that when attending court, they should be able to enter through a different entrance to the defendant and wait in a separate waiting room. The text continues – *"Some court buildings do not have separate entrances for victims and where informed HMCTS will... do their best"*. If occupying a separate waiting room was a right, the courts service would have to organise one, but at present they merely note that they will do what they can.

It is clear from the text that whilst well meaning, these rights are favours done, if it is convenient to the delivery agencies. My concern was echoed very strongly by many stakeholders during our stakeholder engagement exercise.

A Victims Law is an opportunity to put these rights on a proper statutory footing, requiring compliance at all times. This means they are not delivered under the discretion of the agency concerned, where convenience or resource allows, but are adhered to with the same vigilance that is correctly applied to the rights of the defendant.

Furthermore, when agencies revise policies and operational practices that may impact upon victims, they must be required to demonstrate that there is no conflict with victim rights.

In other words, victims' rights need to be deeply ingrained into the culture of the criminal justice system.

Statutory right to participate and challenge
For many victims, participation will be satisfied by information and support but for some it will involve being able to challenge decisions which directly impact upon them as well as to explain the impact of the crime on their lives.

For example, many victims, particularly victim of sexual violence, are – as our rape research showed – often 'devastated' when decisions are taken not to charge. The opportunity to meet with the CPS and the formal Victims' Right to Review scheme is an important recourse for such victims. The police and CPS Victims' Right to Review schemes, now incorporated into the text of the new Code, allow victims to request a review of any decision which will put an end to their case (for instance a decision not to charge). This year a judicial review in the High Court established that the CPS VRR scheme provides a fair opportunity for a victim to make submissions to get a favourable decision. The CPS said the VRR Scheme is only a complainant's request to have a review by them, not to

seek to influence its outcome. The Court disagreed – it's an opportunity to make representations, and if taken, the CPS must respond to representations made. This new right to representations should be promoted vigorously by the CPS in the public interest.

There is a current gap in the provision of a right to review. When the CPS provide the police with 'Early Investigative Advice' on whether they will charge and that advice is negative, there is no Victims' Right to Review the CPS decision not to prosecute since their advice is internal to the police. Ostensibly CPS have not made a negative charging decision. However, police have little choice but to follow such advice and discontinue the case. They will bear the task of explaining reasoning to the victim. There will be no value in launching a review of the police decision since they can only say that they have followed CPS advice. This leaves a complainant without a review of a de facto decision not to prosecute. This cannot be right, and victims must have the opportunity to request that the CPS review its decision.

I refer to the State of Victoria's Victims Charter Law 2018. This requires the Director of Public Prosecutions to take

all reasonable steps to advise a victim on details and progress of criminal proceedings, seek a victim's views regarding modifying or discontinuing charges, and provide reasons for decisions to a victim. I would like to see the government employ the same approach as part of a Victims Law.

Equally, as set out elsewhere in this report, I want victims to have the right to attend and participate across the criminal justice system. This means being able to: present a Victim Personal Statement at Parole Board hearings and hearings of the Mental Health Tribunal; attend Community Trigger resolution meetings to explain the impact of persistent anti-social behaviour on their lives; offer a pen portrait of their loved one at inquests; and in certain cases, have access to free legal representation. I am also calling for victims of sexual violence to be offered free legal advice when their Article 8 privacy rights are under threat. This means legal advice from a qualified lawyer competent to deal with the whole gamut of HR and Privacy law, and likely to be called in for that purpose only by the ISVA.

"For many victims, participation will be satisfied by information and support but for some it will involve being able to challenge decisions which directly impact upon them as well as to explain the impact of the crime on their lives"



Review of criminal injuries compensation - an opportunity for timely reform

Criminal injuries compensation is an important part of the package of support on offer to victims of sexual and violent crime. A compensation award can be made even if there is no prosecution or conviction as long as the victim has co-operated with the criminal justice system in seeking justice. Being granted compensation can be cathartic since society is acknowledging that a wrong has been done to the complainant. That acknowledgement can be an important contributor to a victim's recovery.

IN DELIVERING a compensation scheme of this nature, we must never lose sight of the fact that many victims who make applications are traumatised and still suffering from the perhaps life-changing psychological and physical injuries inflicted upon them.

I therefore welcomed the government's review of the criminal injuries compensation scheme and made detailed submissions to the public consultation. These can be found on my website.

Compensation without retraumatisation

My predecessor, Baroness Newlove, published a review of the experience of victims claiming criminal injuries compensation. The review: "Compensation without retraumatisation", concluded that whilst compensation awards were well received by victims, the process of making their claim was often traumatic, and beset by delays, uncertainty and poor communication. To many, fairly or unfairly, the scheme

seemed "calculated to frustrate and alienate".

In the 18 months since her review, a lot has changed and much for the better. The Criminal Injuries Compensation Authority (CICA) has invested a significant amount of work reviewing processes and seeing how they might be improved, making standard letters more empathetic and reducing the complexity of the application form.

I have had extensive discussions with CICA leadership. In particular I suggested that given that the award decision relies on the police file, it is unnecessary for sexual abuse victims to be required to repeat, on the CICA application form, the story of the crime committed against them. CICA acted on my suggestion and this is now the norm, making the application process much less traumatic for these victims.

I also welcome the move to provide a single point of contact or named caseworker in specific kinds of case. They include victims who have suffered bereavement, were aged over 70 or had limited life expectancy

and for complex cases, including multiple applications or claims which had previously fallen under the "same roof rule". I understand this has been well received by victims as it personalises the service and avoids victims constantly having to repeat their stories.

Given that only victims of the most serious crimes are eligible for compensation and many will have experienced trauma I would like to see the offer of a single point of contact given to all applicants. This would require the Ministry of Justice (MoJ) to fund the additional staffing requirement but would be a small price to pay for transforming the compensation scheme into a personalised and supportive service.

Raising awareness of criminal injuries compensation

The new 'Victims' Code of Practice' sets out responsibility for the police to advise victims of their eligibility for compensation. This is something I have been calling for.

However, simply placing this into the

Code is not sufficient. There needs to be a concerted campaign to raise awareness of criminal injuries compensation across the criminal justice system so that more victims are properly advised of their eligibility.

The government review of criminal injuries compensation regulations raises a number of pertinent and sensitive issues and I have set out my response here to just a few.

Consent in sexual assault claims

The review suggests there should be a factual question when making an application for compensation whether an under aged complainant 'in fact' consented to sex. The determinative argument should be that the law says, with good reason, that a person under 16 does not have the capacity to consent. Anyone who has sex with a person under the age of 16 has therefore imposed a criminal injury. It is contrary to public policy for a state institution to take a stance which contradicts the law.

I accept CICA guidance is now less exclusionary than it was prior to the 2017 campaign to establish this very point. The scheme now operates a presumption that there was no consent. However, I believe this is insufficient and I am very concerned how an official within CICA will purport to assess whether a child who the law says cannot consent, in fact consented.

There is abundant research showing the prevalence of rape myths and stereotypes in the population including, as with all other sectors, inevitably, officials required to make these decisions. Young girls have suffered in the recent past from criminal justice and social services officials approaching their early involvement with males as a lifestyle choice, based on precisely such myths and stereotypes.

In my view, no under-age child should be exposed to deeply intimate personal scrutiny by unqualified civil servants within CICA in order to second guess, for compensation purposes, the law's stance that she/he is incapable of giving consent. Any wrong finding of consent will be deeply injurious to the future well-being of such a child, compounding the injury done to him/

"Given that only victims of the most serious crimes are eligible for compensation and many will have experienced trauma I would like to see the offer of a single point of contact given to all applicants"



her by what the law clearly accepts was a sexual assault in the first place

Victims of homicide abroad

I strongly support the government's suggestion to extend eligibility to criminal injuries compensation to include families who have lost a loved one to homicide in another jurisdiction.

My report "Struggling for Justice" highlights the experience of bereaved families when a loved one is murdered abroad. To lose a loved one to murder is a horrific and devastating experience, no matter where the crime takes place and, in that report, I argue that we have a duty to treat all such victims equally and fairly.

Currently, families of those murdered abroad have fewer entitlements than other bereaved families. These families are not entitled to criminal injuries compensation, unless the death occurred as a result of a terror attack. This is unjust, particularly when bearing in mind they will have just the same additional financial burdens as a victim of terrorism abroad and significantly more than someone bereaved at home.

I would like to see the government move at speed to extend eligibility to claim compensation to all UK families bereaved following homicide abroad.

Unspent convictions

I share the view of stakeholders such as The Independent Inquiry into Child Sexual Abuse (IICSA) and the APPG for Adult Survivors of Childhood Sexual Abuse that the rule making claimants with unspent convictions ineligible to claim compensation should either be revised to give decision-makers case by case discretion or abolished altogether.

The scheme fails to consider victims who have been forced to offend by their exploiters and abusers or those whose damaging exposure to sexual or domestic abuse has contributed to their subsequent criminality

The government argues offenders must fairly bear the consequences of their offending, including exclusion from compensation. This presents a binary view of criminality and victimisation at a time when the rest of the criminal justice system, law enforcers, prosecutors and sentencers, are becoming increasingly aware of the interaction between being a victim of crime and becoming a defendant. There is an increasingly well-understood overlap between the two.

There is also disproportionality built into this exemption, since a minor unspent offence loses the claimant compensation even where they may have sustained life-changing injuries. ►



I would like to see Tribunal members dealing with criminal injuries compensation appeals once again having the power to exercise judgment/discretion over who should and who should not be disqualified from compensation through unspent offences. They are highly qualified and are accustomed to assessing what is fair and able to exercise good judgement in a graded and nuanced approach to what is just.

The “same roof” rule

I support the proposal to remove the same roof rule which applies only to adults. The same roof rule was unfair and created inequality of treatment for many victims of abuse. Following the ruling of the Court of Appeal that it was discriminatory, the government was right to abolish it in cases where the victim was a child. For exactly the same reasons, it should do the same in cases where the victim was an adult at the time the abuse took place.

Injury awards

I agree that no amount of compensation can ever make up for the harm and suffering caused to victims of violent and sexual crime. Nevertheless, compensation is an important and public recognition of their suffering and with this in mind, it is disappointing that the

“The same roof rule was unfair and created inequality of treatment for many victims of abuse. Following the ruling of the Court of Appeal that it was discriminatory, the government was right to abolish it in cases where the victim was a child”



tariff of payments is not adjusted in line with annual inflation. In practice, this means public recognition is in effect being steadily eroded year on year. The impact of the crime upon the victim remains the same, but the level of recognition is gradually diminished.
I have flagged this concern with ministers.

Bereavement payments

Baroness Newlove raised valid concerns about the fact bereavement payments maybe withheld or reduced on the grounds of the conduct or character of the deceased. A decision of this nature can have a devastating impact on the family. It is wrong to penalise those suffering grief and trauma on the grounds of some perceived shortcomings of their loved one.

It can make sense for living victims of non-fatal violent crime to be penalised in this way if they contributed in some way to the attack on them. At least these victims would be aware of the facts of the attack, and in a position to challenge any decision to reduce or withhold a payment. Bereaved family members however, will usually be in no such position, but there may be some regrettable cases where the public would dislike an award of compensation to the family.

The factors to be balanced here suggest not hard and fast rules but leaving decisions on whether to withhold or reduce payments to the discretion of experienced tribunal judges. I hope the government will consider taking on this position in the interests of fairness.



Migrant victims need justice too

Some of the most vulnerable people in society suffer significant, avoidable harm in fear that criminal justice authorities will treat them as a questionable immigrant, not a victim. This must stop.

IMMIGRATION STATUS is used as a weapon by criminals and abusers to deter victims from getting help. People need to be sure that if they need help, they will be treated as victims of crime first and foremost. Currently, many fear the criminal justice authorities will treat them as a questionable immigrant, not a victim. They dare not try to leave abusive relationships or get free from the grip of criminals.

Some of the most vulnerable people in our society, including victims of sexual assault, domestic abuse, modern slavery and human trafficking suffer significant, avoidable harm through fear of the very agencies there to support them. This has to stop.

A joint investigation by HM Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS), the College of Policing (CoP) and the Independent Office for Police Conduct (IOPC) found that victims of crime with insecure or uncertain immigration status are fearful that, if they report crimes to the police, their information will be shared with the Home Office.

The report recommended that police forces should restrict

the sharing with immigration enforcement of information about vulnerable victims of crime.

The report was published following a policing super-complaint, submitted by Liberty and Southall Black Sisters about the practice of the police sharing of victims’ immigration information with the Home Office.

The investigation looked at migrant victims in highly vulnerable circumstances – usually arising from crimes of domestic abuse or modern slavery and human trafficking – and found that there are inconsistent approaches to information sharing between police and the Home Office about victims and witnesses to crime.

It recommended:

- where officers only have concerns or doubts about a domestic abuse victim's immigration status, they should immediately stop sharing with Immigration Enforcement information on those victims;
- the Home Office should review the relevant legal framework and policy to establish sound and fair priorities regarding

migrant victims of crime and migrant witnesses to crime, with insecure or uncertain immigration status;

- the Home Office and the National Police Chiefs’ Council should develop a safeguarding protocol about the police approach to migrant victims and witnesses of crime; and

- the police should establish safe reporting pathways for all migrant victims and witnesses to crime.

I congratulate HMICFRS on seeing the immediate need to restrict information sharing with immigration enforcement when police are dealing with a vulnerable victim of crime.

I hope the government will accept all the recommendations in this report.

Recourse to public funds

Presently, many migrant victims cannot get any support – including a life-saving place in a refuge – because their immigration status means they cannot access public funds.

Women are forced to remain in dangerous relationships because they have nowhere else to go and those being used as slave labour are forced to remain with their abusers. This is because the immigration system is used as a tool by abusers to further control their victims, who fear that if they report to the police then they risk detention or deportation.

We need to ensure migrant victims with no recourse to public funds are able to access victims’ services. The government has promised to introduce a Support for Migrant Victims Scheme and we await further detail on how this will work.

Giving victims a voice

Speaking and media opportunities enable me to speak up for those who feel they do not have a voice. The role of the Victims’ Commissioner has very little statutory power. But what I do have is the power of my voice: speaking up for victims, highlighting inequality of treatment and the needs of vulnerable victims, and talking about victims’ experiences of the criminal justice system.



DA Roundtable: Victims Law roundtable discussion on DA & VAWG

“The past year has undoubtedly presented new challenges as we have all had to adapt to new ways of working under the pandemic. This has necessitated changes in how my office and I communicate and engage”

SINCE MY appointment, I have been keen to use all forms of media to talk about my work and highlight the issues that matter most to me. In order to achieve this, my team and I have used a range of media to promote my role, key messaging, and my calls to action.

‘Stay at home’ – connecting virtually

The past year has undoubtedly presented new challenges as we have all had to adapt to new ways of working under the pandemic. This has necessitated changes in how my office and I communicate and engage. While this has closed off some opportunities, such as in-person visits and speaking engagements, it has also opened up many others.

From my home I have been able to reach audiences up and down the country through broadcast, print and social media. From BBC Breakfast to ITV News, the Today programme and Sky News to Newsnight, my reach has expanded even as our worlds have shrunk. This has added flexibility, too, as I am able to accept media opportunities that

would otherwise prove a challenge to fit into my schedule.

This has also helped me deliver more speaking engagements than I would ever have been able to do previously. Through engagement with a range of organisations, charities, not-for-profits and agencies, I have been able to appear on podcasts, film pre-recorded messages, or join conferences and virtual visits and speak directly to victims, practitioners and volunteers in the safety of their homes and from the safety of mine.

Communications team

Over the course of the past year, my office has recruited a new Communications Manager and a new part-time Stakeholder Manager. Together they join our existing part-time Correspondence Manager to form a new Communications team.

As a team, they play a crucial role in ensuring my messaging lands successfully with the media and our stakeholders, victims and the wider public. My Communications Manager proactively briefs journalists on key issues to ensure our messages are carried

and inaccurate reporting is challenged. In partnership with our new Stakeholder Manager, they provide strategic advice on communications and engagement activities, including devising, co-ordinating and executing strategies that drive news agendas, build trust, mobilise support and minimise reputational risks.

As a new team, they are currently in the process of drawing up a new communications strategy which will include specific media, digital and stakeholder engagement plans.

Press and media

Over the course of the year, my work has received significant media interest and my communications interventions have frequently helped set the news agenda. I have tried to accept media requests wherever possible, to highlight my campaigns and messages, reaching out to the widest possible audience across TV, radio and online.

With the appointment of a new full-time Communications Manager in November, we have been able to build and maintain key



Muslim Women UK: Meeting with Muslim Women UK to discuss Muslim women’s experience of the criminal justice system

relationships with influential individuals and publications across a broad and growing range of media. This has had a noticeable impact in terms of the breadth, depth and frequency of coverage and the range of media.

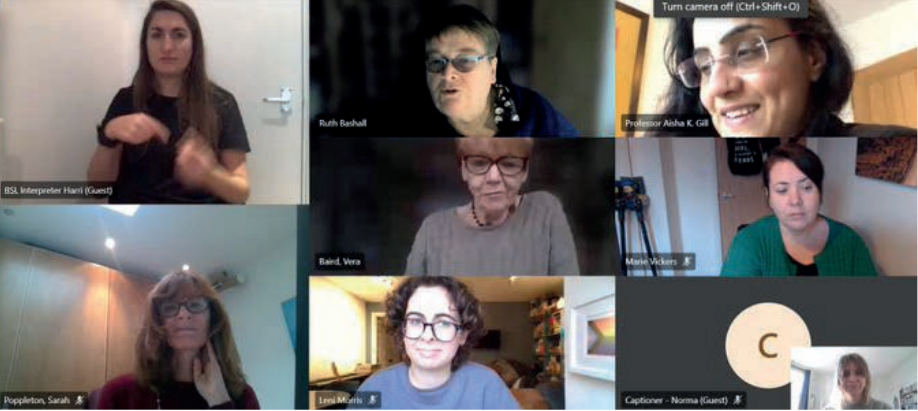
I want to be considered a trusted and authoritative independent voice for victims and witnesses by the public and the media. To this end, we have built valuable relationships with key print and broadcast journalists and TV and radio producers at established outlets. This has been rewarded with regular coverage and interest in my office and its work. I have regularly appeared as a guest on the Today programme, Sky News, and Times Radio and written op-eds for Times Red Box, the Telegraph, and Express newspapers.

In a bid to reach younger audiences and diverse groups, we have worked with more youth-focused outlets such as Vice, BuzzFeed, Global Radio, iNews and HuffPo, and worked with minority-focused outlets such as Eastern Eye. We are looking to further our engagement with outlets

that target diverse communities in the coming year.

It is also important to me to work with regional outlets. I have appeared on regional evening broadcasts including BBC Look North and ITV Tyne Tees, and given interviews to regional outlets, such as the Newcastle Chronicle.

Alongside traditional media, we have also explored new forms of media, like podcasts.



BSL: Victims Law intersectionality roundtable covering accessibility, representation and the role of intermediaries in the courts.

We worked with Tortoise Media on a series of investigative podcasts looking into domestic homicide in early 2021 and are looking to guest on other long-form audio platforms in the coming year.

Notably, this year was also the year my office received international exposure. My office has received interest from TV outlets in France, Germany and Russia, and featured in press as far afield as the Washington Post. ➤

Social media

Twitter remains an important communication channel, which allows me to reach the public, our stakeholders and the media directly. This drives new supporters to our work, raising awareness as well as driving debate and genuine two-way conversations.

My Twitter account continues to experience strong subscriber growth. We have close to 14,000 followers, which represents year-on-year growth of well over a third. This growing platform allows me to reach larger audiences but also provides space for me to promote organisations and work taking place in the victims’ sector. Digital communications will form a key plank of the new strategic communications strategy. This will also explore whether my office should adopt new social media platforms, in addition to Twitter and YouTube.



Suzy Lamplugh Trust: Meeting with Suzy Lamplugh Trust to discuss how to improve support for victims of stalking

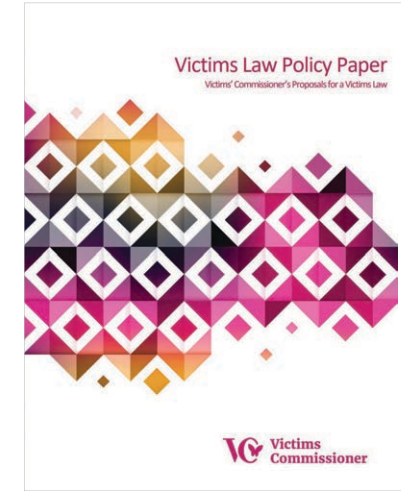
Publications

This past year has seen growing interest in my research and reviews. In total, I published five reviews and my survey of rape survivors. These generated significant media attention, especially for areas that may otherwise be considered niche. With each publication, my office has been able to create more advanced press and stakeholder campaigns and the impact has been clear. My Victims Law Policy Paper secured coverage in almost every major newspaper and online news site, as well as strong and coordinated stakeholder support online and in the media.

Stakeholder engagement

Stakeholders are fundamental to the work of the Victims' Commissioner. They offer insight into the lived victim experience of the justice system, expertise and professional knowledge of supporting victims, and lend credibility and legitimacy to campaigning, communications and calls to action.

Stakeholder engagement must form a key part of planning and executing all work undertaken by my office, from shaping policies to campaigning for and communicating them. To this end, my office has worked to pull together a strategic stakeholder engagement plan. This plan will form a strong foundation for my work in the coming year, in which I will look to strategically engage with stakeholders to deliver informed proposals for policy and



good practice and use my platform to better support and endorse partners and their work.

We will also be launching a new, regular stakeholder communications product, which will feature a bulletin of our latest activity.

Stakeholder bulletin

To further strengthen our stakeholder engagement, we will be launching a new, regular stakeholder bulletin service. This will feature a condensed update on activity from the Victims' Commissioner and the sector more widely. The introduction of a stakeholder bulletin will provide regular channels of communication with a wide array of stakeholders and deepen two-way information sharing.

Case study: Victims Law Policy Paper

In November 2020, my office embarked upon a consultation on the proposed Victims Law with a broad range of stakeholders. This consisted of a stakeholder survey and a series of nine stakeholder roundtables held over two months, in which I sought their views on what provisions they would like to see in a Victims Law. These sessions formed a key pillar of my Victims Law Policy Paper, which was published in February 2021. Through early and consistent engagement, we generated considerable stakeholder communications support on the day of publication, with many stakeholders featuring across traditional media and social media to voice their support, helping the recommendations gain significant traction in the media.

Victim correspondence

Correspondence from victims continues to grow. From April 2020 to March 2021 my Correspondence Manager handled over 600 enquiries. This averaged out at just over 50 cases a month, which remains consistent with last year. As would be expected, victim correspondence was shown to peak shortly after my office published reviews or I featured in the media. This exemplifies the continued importance of raising awareness and visibility of my role in the media – and the impact my interventions continue to have. Notably, correspondence concerning domestic abuse increased 180% over the previous year. This follows periods of tough lockdown conditions, where we know domestic abuse cases spiked. There was also extensive media interest in this area through much of the year. We also saw enquiries from survivors of sexual violence increase by 118%, two concerning but not surprising trends. In all, the top areas of concern were domestic abuse (representing 24% of all correspondence), sexual assault (14%) and anti-social behaviour (13%). In all, these three areas accounted for more than half (51%) of the total volume of victim correspondence.

We need a separate strategy for tackling physical and sexual violence against men and boys

The Home Office needs to offer a separate strategy for developing the rights and support services for men and boys who are victims of interpersonal violence of a physical or sexual nature.

AMIDST THE huge amount of focus on delivering a new strategy to combat 'Violence Against Women and Girls' (VAWG) I am concerned that insufficient attention is being given to devise a separate strategic approach to male victims.

My concerns came into sharp focus when I discovered that some male survivors' organisations have been asked to distribute to their membership a survey for responses for the VAWG/domestic abuse consultation. These questionnaires were addressed mainly to women and referred to crime types as VAWG. I share the view of these organisations that it is wholly insufficient to seek to survey men and boys about a VAWG strategy. Adding men and boys into a VAWG strategy is not realistic or practical and any attempt to do so is capable of being offensive and exclusionary.

It may be that the scale of men and boys' victimisation is not currently being fully considered. Whilst crimes such as rape and domestic abuse are

overwhelmingly perpetrated by men against women, there are significant numbers of male victims of these crimes too:

- The prevalence figures estimate around 20% of adult sexual assault victims under 60 are men.
- The Crime Survey for England and Wales (CSEW) suggests that around 4 in 100 men were victims of domestic abuse in year end March 2020.

- Police records of rape against males July 2019 to June 2020 included 2,111 incidents where the victim was a boy under 13. This figure represents 37% of police recorded rape offences where the victim was male, which is not insignificant, particularly as the overwhelming majority of sexual offences are not reported to police.

It is imperative men and boys who experience these types of crime and abuse are able, meaningfully, to feed into any strategy which affects them. Such a strategy requires a process whereby men and boys are invited to contribute to a survey solely about men and boys.

The outcome should be a separate strategy for men and boys which sits independently of a VAWG strategy focussing on women and girls.



Should parole hearings be open to victims of crime and the wider public?

Proposals to open parole hearings to the wider public should be handled with care and sensitivity.

THIS WAS the theme of my response to the government consultation on opening parole hearings to the public. The needs of victims must be the overriding priority.

I am a strong advocate of open justice and am of the view that victims should be viewed as participants of the justice system, which includes being given greater access to information. Nevertheless, there are complex considerations at play in opening up parole hearings. After careful reflection, my support is tempered by the need to protect the privacy of victims and other third parties. We also need to be confident that even without open hearings, the information currently shared with victims is as full and comprehensive as it can be.

Current victim engagement with the parole process

Great strides have been made in opening up the parole process from what was a closed system, shrouded in secrecy, to the point where victims can: submit a Victim Personal Statement; present the statement in person at oral hearing; receive a high level summary of the reasons behind a parole decision; and apply for parole decisions to be re-considered. There is better engagement with victims on what to request in respect of licence conditions. All of this is positive and the increasing levels

of victim engagement in the parole process re-enforces my wider message that victims wish to be treated as participants within the criminal justice process and not simply as bystanders.

The Parole Board and Ministry of Justice have achieved a great deal in opening up the parole process to victims, but there is still much more we can do.

Open parole hearings

I support victims being able to apply to attend hearings, but this needs to be handled with great caution and care.

Hearings are not confined to examining data solely relating to the offender but will include information relating to the victims and other third parties. I am concerned that the disclosure of personal data relating to victims and their families at an open hearing may cause them distress. There would need to be adequate measures in place to prevent this from happening.

Another consideration is that most offenders usually attend multiple parole hearings before being released, which means victims having to re-live the experience time and time again. Victims normally only attend one trial and for many, this can be a painful experience. The prospect of attending or reading in

the media about a series of parole hearings, could have a devastating impact on them, undermining any form of closure achieved in the intervening years.

Where victims opt to attend and observe hearings, listening to the offender's evidence might be hugely traumatising. We would have to ensure these victims would always be offered access to professional support.

For this reason, I do not support opening up hearings to the press and wider public at this point in time. Instead, any scope for open hearings should be restricted to the victims of the crime. The Parole Board should have the discretion to determine whether access to the hearing be in full or subject to some restriction.

There are also practical considerations relating to parole hearings given that they always take place within the confines of prisons. This is particularly the case where there are multiple victims and extended families involved. It may be more comfortable for victims to observe the hearings by video link, possibly in victim hubs, where support was readily available if required.

Information sharing

Opening up parole hearings will not by itself make the parole process more transparent. It needs to be seen as part of a much bigger



Meeting with the Parole Board discussing the parole process - Oct 2019

the
**Parole
Board**
working with others
to protect the public

piece of reform covering the whole of the victim journey from trial to release.

Information sharing with victims should not be restricted to the hearing, but throughout the sentence. Annual contact letters from the Victim Contact Scheme (VCS) should contain at least basic facts to explain the prisoner's progress through the sentence. For example, I'm delighted Her Majesty's Prison and Probation Service (HMPPS) agreed to my request that victims should be told of recategorisation decisions.

High-level summaries

I also want to be sure that the high level summaries of Parole Board decisions which are offered to victims in the VCS are offering as much information as they should, particularly as these summaries are the only source of information for those victims wishing to seek a Parole Board re-consideration.

In 2018, the government scrapped the privacy requirement in the Parole Board Rules, enabling victims to be informed in summary form, of the reasons behind their decisions. Over 2,500 victims in the Victim Contact Scheme have opted to be sent high level summaries.

Last year, the re-consideration mechanism was introduced. This offered an opportunity for both offenders and victims

"The Parole Board and Ministry of Justice have achieved a great deal in opening up the parole process to victims, but there is still much more we can do"

to challenge the Parole Board. Challenge is a good thing. It requires decision-makers to reflect. Ultimately, it brings better practice and better decisions.

This is the right time to evaluate the effectiveness of these summaries and whether there is scope to share more information with victims. Plans to allow victims to attend parole hearings open the way for victims to hear in much greater detail the evidence being placed before the Parole Board. It would be incongruous for this level of detail to be made available to the victim at the hearing but not referred to in the subsequent written high-level summaries.

Expanding the high-level summaries would make the parole process far more open and transparent regardless of whether the victim opts to attend the hearing.

Options for the funding of legal representations at inquests

I have called on the government to undertake a review of the funding of legal representation at inquests in all cases where someone has died whilst in the custody or care of public authorities, or where a public authority is involved in the circumstances of the death.

"As JUSTICE pointed out in its report, when there are a number of public authorities all represented by counsel and arguing accountability, the inquest can become 'an adversarial wolf in inquisitorial sheep's clothing' "



IN MAKING this request, I have been working with the Rt Rev Sir James Jones, former Bishop of Liverpool, who led the Hillsborough Independent Panel and authored the report: The Patronising Disposition of Unaccountable Power. We have been joined by the human rights charity, JUSTICE, which published its report: When Things Go Wrong: the response of the justice system in August 2020; and with the charity INQUEST, which provides expertise on state related deaths and their investigation to bereaved people.

We are calling on the review to look at giving bereaved families access to free (non-means tested) legal representation whilst at the same time placing limits on the expenditure of the authorities who are named as interested persons. The desired outcome

should be to give these families access to justice and ensure parity with those who may be involved in their loved one's death whilst incurring no additional cost to the exchequer.

The types of cases falling within the scope of this review would be those where the role or responsibilities of public authorities are relevant to exploring how the death happened, for example a terror attack or the handling of a public safety incident such as Hillsborough. There may be a criminal element and/or potential civil liability on a public authority for exacerbating or failing to alleviate risk. The case might involve a single death, having taken place in a mental health setting, in police or immigration custody or in prison. Equally, such cases often form part of a wider narrative, in which "systemic patterns of

failure" are an evident cause or factor.

In their oral evidence to the Justice Select Committee inquiry into the coronial system, INQUEST described how families go through the inquest process in the hope of answers and acknowledgment of what went wrong. It is clearly in the public interest to identify any faults and harmful practices to prevent future deaths. Yet INQUEST observe that this hope is often frustrated by a culture of institutional defensiveness from public agencies who are focused on reputational management rather than a search for the truth.

Although inquests are intended to be inquisitorial and not adversarial, as JUSTICE pointed out in its report, when there are a number of public authorities all represented by counsel and arguing

accountability, the inquest can become 'an adversarial wolf in inquisitorial sheep's clothing.' State bodies are unrestricted in the quantum of funding and level of representation they incur. As taxpayers, the families of the deceased are likely to be contributing to this legal representation for public bodies who may hold responsibility for their loved ones' death, yet they are denied public funding for representation for themselves.

It is manifestly unfair that in current coronial proceedings, bereaved families are reduced to mere bystanders, beholden to the coroner to ask questions on their behalf, should the coroner agree to do so. In effect, they are rendered legally defenceless.

We must also not lose sight of the fact that in order to 'cope and recover' from the death of a loved one, the bereaved need to

understand how their loved one met their death and to have their questions answered and their doubts met.

The Bishop of Liverpool's report on the experience of the Hillsborough bereaved families (The Patronising Disposition of Unaccountable Power) included two points of learning covering this issue. The first reiterates my request, and the recommendation of the JUSTICE working party, that publicly funded legal representation should be made available to bereaved families at inquests at which a public authority is to be legally represented. The second was that the government should identify a means by which public bodies can be reasonably and proportionately represented but are not free to use public money without restriction.

These circumstances give

rise to two separate but related demands. One is that the State whose agencies are involved in the inquest should supply funding to provide for families to be represented where they wish to be. The second is that such funding should be on a similar scale to that of the relevant State authority. There is a critical need for this imbalance to be addressed, "a level playing field" to be provided and for the human rights concept of "equality of arms" to be made available.

One suggestion is the establishment of a separate fund with its own criteria. It might possibly be retained and administered by the Ministry of Justice or by a supplemented Office of the Chief Coroner. Following the fund's establishment, it ought to have the power to require contributions to the fairness

of the proceedings from public authorities who choose to be represented at inquests so that they share the cost of ensuring advice and representation for bereaved families.

Another suggestion is that public authorities should match their own expenditure in a particular case with an equivalent contribution to the family's costs. The prospect of having to match fund in this way should incentivise public authorities to restrain their own expenditure and would reduce the unfair imbalance of legal firepower, which commonly distorts the nature of inquests.

In an inquest where several public authorities are represented, in either suggestion, they would all contribute proportionately but with no link to any presumed finding of fault or any implicit or express in the inquest's verdict.



Domestic homicide - are we handling this correctly?

Together with the Domestic Abuse Commissioner, Nicole Jacobs, I have called on the government to undertake a review into domestic homicide sentences, as well as a direction that all domestic homicides and suicides should be subject to a domestic homicide review.

“Grounds of diminished responsibility, often claimed by defendants in domestic homicide cases, can allow perpetrators to mask the realities of these offences”

WE NEED to recognise the devastation caused by domestic homicide, and there needs to be a programme of work to address deficiencies across the criminal justice system and statutory services.

We have seen the effects of a culture of misogyny throughout the criminal justice system, to the detriment of women across England and Wales. This is evidenced by falling criminal justice outcomes for crimes that disproportionately affect women, particularly rape. This is clearly demonstrated in the response to domestic homicides.

Investigations, defences and sentencing

Nicole Jacobs and I are very concerned some sentences received by men who kill their female partners, or ex-partners do not reflect the seriousness of domestic abuse, nor do they reflect the fact that these homicides often follow a period of prolonged abuse. The Sentencing Council’s guideline is based on the appreciation by the criminal judiciary that offences committed in a domestic context should be taken more, not less, seriously. However, this does not appear to be translating either into the quality of criminal investigations, the effort made in challenging defences or in the sentencing exercise when men are convicted.

Grounds of diminished responsibility, often claimed by defendants in domestic homicide cases, can allow perpetrators to mask the realities of these offences. What

will be claimed as a loss of control due to a mental health issue appears to blunt police professional curiosity. There is abundant research to demonstrate that many apparently sudden femicides are, in fact, the culmination of a hidden history of control and abuse.

There was a surge in domestic abuse during lockdown and an increase in the gravity of such incidents. In the first trial for a domestic homicide that happened during the COVID19 pandemic, the perpetrator’s defence was that he was suffering from a mental health episode due to the stress of lockdown. That defence was successful, despite the homicide occurring just a few days into the first national lockdown. We would not want this case to set a trend for defendants to use the stresses of lockdown as a justification or a defence for killing, and this resulting in lenient sentences.

Poor mental health or stress does not cause domestic abuse. Perpetrators choose to abuse. Further, it is well understood by expert domestic abuse organisations that perpetrators of abuse are very manipulative, because they have practised controlling the victim and excluding all routes to assistance whilst presenting themselves as good citizens to others, often for many years. It is vital the government, and the criminal justice system, remains firm on this point.

It is right that in sentencing offenders, courts consider their previous good character and, likewise, any relevant previous convictions they hold. However, we are concerned this often fails to reflect the realities of domestic abuse. Many defendants in domestic abuse cases are seemingly of good character because the majority of domestic abuse is never reported.

Given the likelihood that there are no relevant previous convictions – and with falling criminal justice outcomes, this is even more likely – we are concerned that sentences for domestic abuse offences will fail to reflect the history of abuse.

The lack of understanding of domestic abuse is also of huge concern in relation to the sentences received by women who kill their partners in self-defence, or after a long period of abuse. Their punishments

can appear disproportionate. Sally Challen is a key example. She killed her husband after years of abuse, and was originally convicted of murder, but that verdict was quashed on appeal. On pleading guilty to manslaughter on the grounds of diminished responsibility, ahead of a proposed re-trial, she was sentenced to 9 years and 4 months. In her case, the mental health was worsened, if not completely caused, by the violence and control which had been inflicted on her virtually throughout her entire married life. She offers a fairly clear picture of a woman whose responsibility had been systematically undermined until it was almost absent and yet there was no assessment that her responsibility was very low.

One difference which could be cited concerns sentencing guidelines, which consider the use of a weapon to be an aggravating factor. For many male abusers, their hands are the only weapons they need when they murder their partners. It is curious not to reflect that imbalance of strength and power in sentencing, while at the same time disproportionately punishing weaker women, who do not have the strength to resist and feel that they have to take up a weapon. We know the use of a weapon by a woman is usually because of previous abuse and the physical reality of an imbalance of strength. We would therefore question why this would be considered an aggravating factor in this situation.

We are also concerned that self-defence, which is often the reality of when a woman kills their abuser, becomes murder if the use of a weapon tips it over into the appearance of being disproportionate. This is notwithstanding an imbalance of strength and often a long-term exposure to the violent use of that extra strength. We would request serious consideration be made to extending self-defence in domestic abuse cases, where victims feel they have to use weapons to cover any disproportionality in that reaction.

Surely disproportionate self-defence should be as available for a victim of domestic abuse defending her body as it is for ‘An Englishman defending his castle,’ which is the formula which gave rise to the legal changes following the Tony Martin case.

We are pleased the government is now recognising that men’s ‘hands’ can be a deadly weapon by criminalising non-fatal strangulation through the Domestic Abuse Bill. This of course will not impact upon sentencing in domestic homicide cases so, the sentencing guidelines for manslaughter should also recognise the seriousness of strangulation by making this an aggravating factor in domestic homicides.

The Centre for Women’s Justice found that 77% of women who killed their partner or ex-partner had been subject to abuse from the person they killed. This is why it is vital that a specific statutory defence is introduced to recognise the effect of domestic abuse on victims who offend.

Preventing future deaths

Not only must perpetrators be brought to justice swiftly and fairly, but we must learn from the tragedy of domestic homicide to prevent future deaths. Robust Domestic Homicide Reviews (DHRs) are a key part of this. Every domestic homicide should be subject to a review, to bring together partners locally and understand what went wrong.

Therefore, we are calling for a strong national oversight mechanism for domestic homicides, which would sit within the Domestic Abuse Commissioner’s Office, independently of government. This is crucial to ensure that the right questions are asked following a domestic homicide or suicide, and that recommendations are implemented effectively and embedded locally to prevent future deaths. We therefore welcome the amendments laid by the government to support this endeavour, but it must go further. DHRs alone do not give the full picture, and we are calling for all relevant reports to be shared with the Domestic Abuse Commissioner and her office, including Coroner’s reports, Serious Case Reviews and other relevant reports and reviews conducted by a range of statutory agencies.

In conclusion, we have called on the government to conduct a review into domestic homicides and introduce an oversight mechanism through the Domestic Abuse Commissioner’s office.

New Victims' Code gives victims 'rights'

The new Victims' Code sets out victims' entitlements more clearly than ever before. It needs to be underpinned by effective monitoring of compliance and clear lines of accountability, if it is to be truly effective.

OVER THE past year, the Ministry of Justice has consulted widely on its plans to develop a new Victims' Code of Practice. It received thousands of responses and the New Code was launched on 1 April. It places victim entitlements under the heading of twelve 'rights' in a document that is easier to follow and understand than previously. It is a step in the right direction.

We know many victims are not receiving their entitlements under the Code. The compliance monitoring systems currently in place are ineffective and it is difficult to hold criminal justice agencies to account if they fail to deliver.

Criminal justice agencies all have separate complaints systems, so a victim wishing to complain about their treatment has several winding paths to climb. If they are dissatisfied with the outcome of their complaint, they cannot go further without asking their MP to support a referral to the Parliamentary and Health Service Ombudsman who receives, as a consequence, very few complaints.

In our Victims Law Policy Paper published in February, we made a series of inter-related, evidence-based recommendations for robust systems to monitor compliance, to provide greater accountability and scrutiny and to offer effective means of challenge.

"Whilst the Code gives victims entitlements, the Commissioner is there to give them a voice and to review the operation of the Code on their behalf. In short, the Code and the Commissioner are two sides of the same coin, intended to make sure all victims are treated with decency and respect"



The role of the Victims' Commissioner

Whilst it should fall to the Ministry of Justice and Police and Crime Commissioners to put in place systems to monitor compliance and provide robust data, there is also a case for creating a statutory role for the Victims' Commissioner in monitoring the quality and effectiveness of this compliance. This role would be consistent with the current statutory provisions which require the Victims' Commissioner to 'review the operation' of the Code.

It is no coincidence the statutory provisions creating the role of the Victims' Commissioner are in the same Act of Parliament as those creating the Victims' Code. Whilst the Code gives victims entitlements, the Commissioner is there to give them a voice and to review the operation of the Code on their behalf. In short, the Code and the Commissioner are two sides of the same coin, intended to make sure all victims are treated with decency and respect.

At present, it is impossible for me to effectively keep the operation of the Code under review. There is no statutory requirement for agencies to either consider or respond to the Victims' Commissioner's recommendations for change and improvement. This needs to be addressed. Furthermore, this requirement needs to be supplemented with the Victims' Commissioner having the power to set a deadline for responding so that consideration cannot be open ended. These powers would be consistent with those of the Inspectorates and other Commissioners and would provide a basis for delivering effective scrutiny.

Neither is there any statutory obligation for agencies listed under the Victims' Code to co-operate with the Victims' Commissioner, for example to provide data and information when required. Most agencies already co-operate, to varying degrees, but this needs to be formalised so that it is a statutory duty and not a favour.

The Victims' Commissioner should also be required to undertake an annual report on the Victims' Code and compliance. This report, which could be laid in Parliament,



would provide an independent assessment of how Code entitlements are being delivered across all criminal justice agencies, providing the opportunity for scrutiny and accountability.

Effective accountability for delivering victim entitlements

Victims all too often do not understand the system and their rights within it. In my report: 'An Analysis of Victimisation Data in the Crime Survey for England and Wales' published in March 2020, we analysed victimisation data within the survey and highlighted the fact that fewer than one in five victims are aware of the existence of the Victims' Code. This means they do not know what support and information they are entitled to receive and when they might be able to challenge decisions. Crucially, it means victims cannot hold agencies to account when they fail to deliver their Code entitlements.

Developing an effective system of compliance monitoring is one means of increasing accountability, but on its own, it is insufficient. It is unlikely to change the existing culture within agencies where victims' needs are seen as secondary to the delivery of core business.

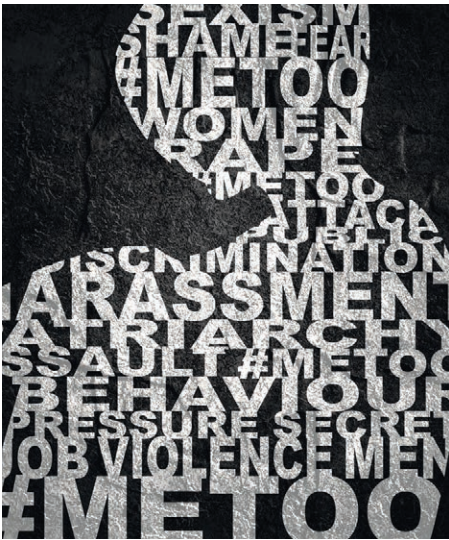
I want to see all national criminal justice agencies listed under the Victims' Code having a statutory duty to promote the Code and to make victims fully aware of what they are entitled to expect from them. In practice, this means every conversation and letter makes reference to the Code and

what the victim is entitled to expect.

There also needs to be local accountability. Since 2015, when responsibility for providing the bulk of victim support services was devolved to Police and Crime Commissioners, there has been a great deal of work to develop local commissioning models that best meet the needs of the local population. However, as with all other parts of the criminal justice system, we recognise this area of work is secondary to Police and Crime Commissioner's primary role of scrutinising the police. Neither is it clear how their local electorate might be expected to hold them to account for their delivery of victim services.

A Victims Law should include a requirement that Police and Crime Commissioners publish their plans for devolved victim services. This requirement should form part of the five-year Police and Crime Plans. This five-year plan provides a basis for more effective local scrutiny of the delivery of local victim services.

I also want to see all Police and Crime Commissioners appointing a local Victims Champion, someone who is independent of the police and accountable to the Commissioner. This person would be responsible for providing local scrutiny of the police and other local criminal justice agencies in their compliance with the Code and supporting victims more generally. They would also be the point of contact when victims are dissatisfied with local services. ➤



Effective complaints system

Whilst greater awareness of the Code will offer victims the opportunity to hold criminal justice agencies to account, this accountability will only be meaningful if there is a clear and effective complaints system.

This is a challenge, as victims will come into contact with a range of criminal justice agencies and it is often unclear who is responsible for what. Furthermore, each agency has its own separate complaints system. This can be bewildering and off-putting, particularly when victims have complaints that cut across several agencies. Such complexity can only act as a barrier to victims challenging agencies when they feel they have not been treated appropriately.

Moreover, challenging a criminal justice agency can be even more difficult if, as a victim of serious sexual or violent crime or bereavement, you are struggling with trauma and injury.

I believe we need to move away from the multitude of complaints processes and instead, establish a single complaints process, including a single point of contact for processing all initial victim complaints. This single point of contact might also be responsible for coordinating complaints that extend beyond just one agency to ensure the victim receives a comprehensive response.

Once internal complaints processes have been exhausted, if the victim is still feeling

Data on victims

Better compliance can only be achieved through the capture of victim data. Currently, most criminal justice system agencies do not systematically collect data on victims. We don't know who is in the system at any one time, and we don't know the extent to which they are receiving their entitlements under the Code. For example, to the best of our knowledge, we have no way of knowing how many vulnerable victims (e.g. children and young people under 18) are in the system or in different parts of the system at any one time.

In order to monitor Code compliance, we first need to know who our victims are – basic information like which crimes they have been a victim of, their ages, gender and other protected characteristics, and whether they have been a victim before. Then we need to be able to link this to whether these individuals have been offered and received their entitlements under the Code through a centralised management information system across agencies, or within agency systems collating directly comparable data.

In November I published an independent report on the Constitutional Powers of the Victims' Commissioner which recommended that a revised Code establishes protocols for data collection on Code compliance by named agencies.

If a statutory obligation is placed on public bodies named in the Code to provide access to data and information, that does not necessitate that those agencies collect information of sufficient quality or standardisation to facilitate effective review of Code compliance. First, the data needs to be collected in a standardised, analysable format. Secondly, these data need to be centrally collated and scrutinised.

To this end, in my Policy Paper on a Victims Law, I am calling for a duty to be placed on agencies to collect information about individual victims and a duty on the Ministry of Justice to produce statutory guidance about what information should be collected, including information on protected characteristics and the provision and receipt of Victims' Code rights.

These proposals for providing effective monitoring, clearer lines of accountability, more accessible complaints processes and better data will provide a basis for delivering victim entitlements and assessing the quality of delivery.

dissatisfied, they are able to refer the matter to the Parliamentary and Health Services Ombudsman (PHSO). However, they can only do so through their local constituency MP. I understand the PHSO only receives a handful of complaints each year, either because MPs are unaware of the fact the PHSO can deal with victim complaints or they are operating a vigorous sift. It is more likely in my view to be the former. Whatever the reason, this cannot be acceptable and suggests there may be many victims who simply feel they have run out of options

if they are dissatisfied with the internal complaints process. I have concluded these victims must be given direct access PHSO.

Some victims refer their complaints to my office. The statutory provisions creating the role of Victims' Commissioner preclude me from getting involved in investigating individual cases. I believe this should continue to be the case, but holders of this office should be able to refer cases to the PHSO as well. At present, I can only make such referrals by writing to the victim's local MP, which is an untenable situation.

Victims of Anti-Social Behaviour cannot be allowed to suffer in silence

Surges in anti-social behaviour (ASB) 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.

Too often, the authorities regard ASB as 'low level' and an irritant as opposed to a cause for concern. This shows a complete lack of understanding of the impact of persistent ASB on its victims. It can have a devastating effect on the victim's mental

health, affecting their sleep, their relationships and their ability to work effectively.

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:

41%

Increase in victims being referred or self-referring for support as a result of ASB



- The The National Police Chiefs' Council (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 COVID19 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 is having a detrimental impact on their wellbeing. Victim Support also reports 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 a similar period in 2019 and the general consensus is that this is a result of lockdown.

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 it does not accept there has been a sharp spike in ASB as a result of lockdown conditions. ➤

Actions going forward

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

Data

Data on the number of ASB incidents and the level of seriousness is patchy and inconsistent. The problems with police data have been exacerbated by the decision to include breaches of COVID19 regulations under the heading of ASB. Guidance needs to be issued to police and local authorities on the collection of ASB data so that we can get a consistent picture across the country. This should include a 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 should there be future lockdowns. Victim support services should also be contacted as

the level of ASB victim referrals to these services gives an indication of the seriousness of ASB incidents. We must remember victims are referred to support services where there is a need for practical and emotional support to assist them to cope and recover. These victims are most likely to be suffering from serious and persistent ASB.

Living a Nightmare

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 victims access to local resolution meetings arising from the Community Trigger, with such meetings being chaired by an independent person and an independent right of review

where the victim is dissatisfied. To date nearly all of these recommendations have not been properly addressed.

I have called for an implementation team working through the recommendations in Living a Nightmare and decide 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

The proposed Victims Law should be the vehicle for amending the definition of crime to include victims of persistent ASB. This would mean these victims are eligible to access victim support services. At present, they are not and PCCs

have to use discretionary expenditure to meet the cost of this support. Many do, but some don't, leading to inconsistent treatment of victims, depending where they live.

101 calls

Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (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.

Police and Crime Commissioners

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.

These actions will not by themselves eradicate ASB, but they offer victims a chance to report the ASB committed against them and to be listened to and where necessary, receive the emotional and practical support they need. They deserve nothing less.

"I have called for an implementation team to work through the recommendations in Living a Nightmare and decide how the changes in that report might be delivered"



All victims must have equal access to victim support services

Minoritised groups are more likely to be victims of crime and less likely to report or obtain access to specialist services than majority populations.

SERVICE PROVISION tailored to these groups can be patchy at the local level. Children, perhaps the most vulnerable of all victims, are not always being offered the services they need. And we have no systematic way of knowing whether CJS agencies are delivering on their obligations to victims under equalities legislation.

This is why I have called on the government to use a Victims Law to create a framework for monitoring and delivering equality of access for all victims to support services and to justice.

Data from the Crime Survey in England and Wales shows that in the year ending March 2020:

- The likelihood of being a victim of crime decreased with age, with 18% of 16 to 24-year-olds having been a victim of crime and 5% of those aged 75 years or older having been a victim of crime;
- People of a Mixed or Multiple or Asian ethnic background were significantly more likely to have experienced crime in the last year, at 20% and 15% respectively, compared to 13% of White people;
- People who identified as Heterosexual or Straight were less likely to have experienced

crime (14%) than those who identified as Gay or Lesbian (21%) or those who identified as Bisexual (21%);

- People with a disability were slightly more likely to have experienced crime (14%) than people who did not have a disability (13%);
- Christians were less likely to have experienced crime (11%) than those with No Religion (15%) and Muslims (17%).

An academic study of trans people's experience (Ellis, Bailey and McNeil 2016) included a survey of 660 trans people, and found incidences of physical violence were relatively common with 20% reported having been hit or beaten up for being trans; 42% of whom reported having been hit or beaten up a few times or many times. Nearly 7% of respondents reported having been raped and 15% having been sexually assaulted at least once because they are trans. Social hostility comprised the most commonly reported transphobic incidents. Of all respondents, 75% reported having been made fun of or called names for being trans; an overwhelming majority, 81% of these (61% of all respondents), having experienced this a few or many times.

SafeLives' report, 'Disabled Survivors

Too: Disabled People and Domestic Abuse', found disabled women are twice as likely to experience domestic abuse than non-disabled women and typically experience abuse for a longer period of time before accessing support.

Galop's report, 'Recognise & Respond: Strengthening advocacy for LGBT+ survivors of domestic abuse' found more than one in four gay men and lesbian women and more than one in three bisexual people have reported at least one form of domestic abuse since the age of 16. Gay, bisexual and trans survivors and LGBT+ survivors with BME background, are considerably more likely to access LGBT+ specialist services ➤



over other domestic abuse support. Out of approximately 900 full time IDVAs working in England and Wales only four are hosted within specialist LGBT+ services.

As well as being more likely to become a victim of crime, we are also aware that people from minority groups are less likely to seek support. This was recorded in Catch 22’s 2018 report ‘The Changing Needs of Victims’ which found:

“Reasons for this vary across groups, but active outreach from local, tailored services can help to create support pathways for these demographics. Services should always be flexible and responsive enough to support people from all backgrounds, and if there’s more expertise needed, teams should work with local specialists to make sure individuals get what they need.”

Another issue is the availability of specialist support services for minoritised groups to turn to, having become the victim of a crime. Provision of such services fall to Police and Crime Commissioners and the availability of their commissioned services across England and Wales is variable, not least because in some parts of the country

the providers simply do not exist. The current situation is that access to specialist support services for minoritised groups is a postcode lottery. Where such support is not at hand, inevitably, some groups of victims may be reluctant to report or to engage with the criminal justice system.

I believe it is central to any justice system that all citizens should be treated equally and fairly regardless of their protected characteristics, whether they be defendant or victim. In light of evidence this is not happening, I want to see a Victims Law introduce a range of measures to address this deficiency in our justice system.

Equality of access to support services needs to be a key theme of a Victims Law.

Whilst Legislation cannot change cultures within the criminal justice system or the treatment of individuals, it can create a framework where equality of access can be monitored effectively, and deficiencies are able to be swiftly addressed.

Section 149 of the Equality Act 2010 places a Public Sector Equality Duty (PSED) on public authorities to have ‘due regard to the need to’, in brief, eliminate discrimination,

advance equality of opportunity, and foster good relations. Equality and Human Rights Commission (EHRC) guidance on the PSED sets out that having regard for advancing equality involves:

“Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.”

The EHRC has powers to monitor the PSED and issue compliance notices.

It is not clear how, at present, criminal justice agencies monitor their PSED and identify what steps are needed to meet the needs of protected groups. Data is patchy and incomplete. It is also unclear the extent to which PSED feeds into policymaking and setting priorities. The current lack of centralised, national data collection about victims, prevents comprehensive assessment of whether criminal justice agencies are meeting the PSED.

I want the Victims Law to include an obligation on criminal justice agencies listed within the Victims’ Code to produce an annual report on how it is meeting its PSED in respect of victims of crime. These reports should monitor and evaluate the performance of criminal justice agencies in preventing discrimination of victims under the Equality Act 2010. The reports should include an assessment of disparities, disproportionality, and discrimination in meeting victims’ needs, access to services and support, criminal justice outcomes and Victims’ Code rights.

This would increase transparency about the justice system; build confidence that criminal justice agencies are actively preventing direct and indirect forms of discrimination and allow agencies and the public to identify improvements and gaps in service-level provision to victims.

This requirement should also apply to Police and Crime Commissioners.

I also want future Victims’ Commissioners submitting an annual report to Parliament in respect of the operation of the Victims’ Code, which includes an assessment of the extent to which agencies and Police and Crime Commissioners have ‘due regard to the need to’, eliminate discrimination, advance equality of opportunity, and foster good relations in respect of victims.

The Domestic Abuse Act – a huge milestone and no small feat

On 29 April, the Domestic Abuse Bill formally became the Domestic Abuse Act as it received Royal Assent. Make no doubt, this is a huge milestone and no small feat.

IT HAS taken an immense amount of work from victims, campaigners, charities and politicians to get to this point. To its credit, too, the government has listened, engaged and reflected. This is now a much-improved piece of legislation as a result and it introduces many reforms that will help victims and save lives.

Domestic abuse affects millions of people up and down the country. Victims and survivors can be subject to physical, emotional and financial abuse for years at a time and the long-term effects – including on children – can be devastating. So, it is vitally important to ensure survivors can escape to safety and access the support they need to cope and recover from abuse.

Domestic abuse has, rightly, risen up the political agenda during the past year.

Lockdown has made it so much easier for perpetrators to tighten their grip on victims and we have seen sharp rises in domestic abuse, reported by specialist organisations supporting victims of this heinous crime. The order to ‘Stay At Home’ during lockdowns was more than a temporary hardship for many – it was downright dangerous.

So, the need for legislation has never been more pressing.

The measures the Act will introduce are wide-ranging. Victims can expect greater protection and support and more perpetrators of abuse will be held to account.

Many of these measures were hard fought for by campaigners and members of the House of Lords.

In a huge win for victims, charities and campaigners, the government created a specific offence of non-fatal strangulation, punishable by up to five years in prison.

Campaigners also fought for provisions to ban the so-called “rough sex defence” in court, which was so publicly exploited in the tragic case of Natalie Connelly. The Act will also extend the law against revenge pornography to cover the very threat of publication, a dreadful way that perpetrators use to oppress coercively controlled domestic victims and a change that has been hard fought for.

Importantly, the Act also recognises children as victims of domestic abuse in their own right. Children can be profoundly affected by domestic abuse in their childhood and the impacts are huge and far-reaching, as shown in my ‘Sowing the Seeds’ report.

But while there are congratulations in order for campaigners and the government for reaching this milestone, the work remains far from over. There is still more to do to protect victims and survivors of domestic abuse and we must go further.

Many important amendments were dropped along the way as the Bill progressed to Royal Assent.

Presently, many migrant women domestic abuse victims cannot get any support – including a life-saving place in a refuge – because their immigration status means they cannot access public funds. Women are forced to remain in dangerous

relationships because they have nowhere else to go and the immigration system is used as a tool by abusers to further control their victims, who fear that if they report to the police then they risk detention or deportation.

It was very disappointing that we did not see the necessary concessions from the government on this.

But we have seen that the government will engage and compromise and we now have some high-profile opportunities before us to push for further change on this and other fallen amendments. I hope that the government continues to engage with campaigners on these crucial issues.

These legislative vehicles include the Police, Crime, Sentencing and Courts (PCSC) Bill and the expected Victims Law in the summer.

A number of amendments have been suggested to the draft PCSC Bill to ensure there is far-reaching and swifter protection for victims and I will be working with the sector to continue to push for better support for all victims, including those who are most marginalised and face the greatest barriers to accessing support.

Passing the Domestic Abuse Act is a historic step and throughout this Bill, we’ve seen cross-party cooperation at its best. But there is still much to be done. Domestic abuse is unacceptable whoever the victim is – and this needs to be reflected in law.



Ending the terror of non-fatal strangulation

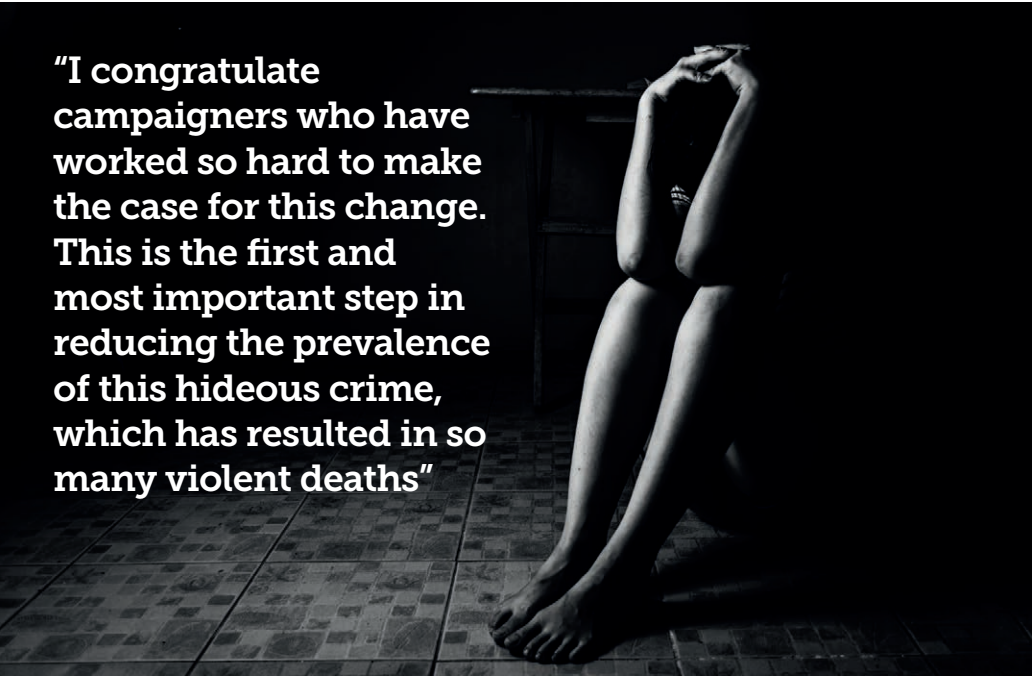
One of the highlights of the passage of the Domestic Abuse Bill through Parliament was when the government supported an amendment to the Bill creating an offence of strangulation or asphyxiation.

NON-FATAL strangulation or asphyxiation, is an utterly terrifying experience and can cause significant long-term mental and physical trauma to victims and survivors. It is often part of a pattern of abuse that is not sufficiently recognised or investigated. Strangulation is repeatedly used as a tool to exert power and control, and to instil fear, rather than being a failed homicide attempt. It can also be a matter of life and death. The Femicide Census’ analysis identifies the prevalence of strangulation in the cause of

death. Over a quarter (27%) of all female homicides were by strangulation. This compares to 3% among male homicides, making it clear that strangulation is a gendered crime. The report’s most shocking finding is that in the years 2009 to 2018 – one woman was murdered every three days. This represents a shameful final tally of over 1,425 victims. That’s 1,425 mothers, daughters, sisters, partners, friends and colleagues. Victims are seven times more likely to be killed at the hands of their partner if they have previously

“Strangulation is repeatedly used as a tool to exert power and control, and to instil fear, rather than being a failed homicide attempt”

been non-fatally strangled. Yet non-fatal strangulation has been significantly under-charged across the UK and there is no distinct offence. This is a systemic issue and the law prior to this was not fit for purpose. A specific offence with appropriate sanctions makes the harm and dangers of non-fatal strangulation – and the appropriate action by law enforcement – crystal clear. As a result of this change in the law, police and criminal justice agencies are required to treat cases with the gravity that they deserve. This is consistent with international best practice. New Zealand, the USA and Australia have all introduced specific offences for non-fatal strangulation. I congratulate campaigners who have worked so hard to make the case for this change. This is the first and most important step in reducing the prevalence of this hideous crime, which has resulted in so many violent deaths.



“I congratulate campaigners who have worked so hard to make the case for this change. This is the first and most important step in reducing the prevalence of this hideous crime, which has resulted in so many violent deaths”

The law must protect rape victims from excessive intrusions into their privacy

Over recent years, it has become practically routine for rape victims to be asked to hand over digital devices and for most, or all, of the personal material held to be trawled. This deeply intrusive invasion of privacy is distressing for many victims.

THROUGH MY recent survey of rape complainants and through my network of stakeholders, I hear that the CPS will frequently seek this level of material and a complainant’s refusal to submit will result in the case not proceeding to charge. This has a chilling effect on victims’ confidence in reporting crimes and may impact upon victim attrition. Analysis conducted by my office, of a Rape Crisis administrative dataset, showed that one in five victims withdrew complaints, at least in part, due to disclosure and privacy concerns. Victims in 21% of complaints had concerns about digital downloads and disclosing GP, hospital, school, employment records, and a combination of negative press coverage. I echo the concerns of many senior police chiefs that there has been a fall in public and victim confidence in the police, in particular in relation to rape cases. The issue of digital data extraction plays a big role in this. The Northumbria Sexual Violence Complainants’ Advocate Scheme (SVCAS) engaged local solicitors to provide legal advice and support to rape complainants in Northumbria primarily related to complainants’ Article 8 rights to privacy. The pilot

demonstrated what is happening in practice, at least in that region. About 50% (22/47) of requests were not strictly necessary and proportionate. These were challenged by the advocates through the scheme. A 2020 report by the Information Commissioner (ICO) on data extraction from mobile phones, outlined that the way in which police were operating did not comply with data protection legislation and argued that the gateway of ‘consent’ which police had been reliant on was not open to them for a number of reasons. They could rely on ‘strict necessity’ for law enforcement purposes but that comes with a number of prior conditions which must also be met. The report additionally outlined concerns about the realities of such downloads, impacting on others’ right to privacy, such as family and friends whose sensitive data may also be contained on a complainant’s mobile but from whom consent is never sought. A great deal of work has been done at a policy level to address some of these issues. None of the work to date has sought to alter police powers to obtain and scrutinise a digital device. The police have sought a power in legislation which addresses a very specific

circumstance, whereby a member of the public might offer a phone to an officer stating there is relevant evidence on there, please examine it. The clauses in Part 2, Chapter 3 of The Police, Crime, Sentencing and Courts Bill were originally designed to allow police to take a phone in these circumstances, addressing fears that should they currently accept a device this way, they would not be compliant with the framework in the Investigatory Powers Act 2016 (IPA). I was consulted about the clauses and raised concerns that the power, whilst intended to address the above circumstance, would also have implications for victims of crime, particularly victims of rape. I suggested some amendments to the clauses, which the police and ICO were in full agreement with, but in the end, the government chose not to incorporate most of them. The power in the Bill is wide ranging and I fear it effectively provides a legal basis for current practice, with the safeguards for victims of crime relegated to guidance. It is vital that whilst from a data protection legislation perspective the police can rely on strict necessity for law enforcement, victims are agreeing to the download, which

means that they fully understand what is being sought and that agreement is freely given. Furthermore, existing case law makes clear that agreement for digital extraction can only be sought if the officer believes relevant material can be extracted from a phone; for criminal investigations this means relevant to a reasonable line of enquiry. This means no speculative searches. There must be specificity based on a reasonable line of enquiry. Further, such information may only be extracted in so far as it is strictly necessary and proportionate for the investigation, the officer must also be satisfied that there are no other less intrusive means of pursuing the line of enquiry available. The Police, Crime, Sentencing and Courts Bill is an opportunity to provide a statutory framework for the police when seeking to extract personal data from a victim’s device. This framework must afford adequate protection to victims, as well as providing clarity to police officers as to when this information can lawfully be extracted. I will continue to work with the Home Office, NPCC, ICO and other interested parties to develop a set of provisions which can deliver for victims.

Victim Contact Scheme - positive changes promised

The Probation Reform Programme (PRP) offers an opportunity to make transformational changes to the Victim Contact Scheme – hopefully these changes will result in more victims opting into the scheme but this will need to be funded.

FOR VICTIMS of serious violent and sexual crime, trauma and life changing physical and psychological injuries do not stop at the point at which a guilty verdict is handed down. These victims often need a significant amount of support after trial. All too often they will be unaware of the scale of what awaits them following a conviction, including appeals, applications to Criminal Cases Review Commission (CCRC), tariff reviews, transfer to open conditions, parole hearings and licence conditions.

Any of these events can leave victims feeling anxious and uncertain, wondering if their criminal justice journey is ever truly over.

Cope and recover

The government's overriding objective is to help victims to cope and recover from the crimes committed against them and this has to be the mantra of all services involved in the support of victims. It is important the Victim Contact Scheme (VCS) is not simply viewed as being a transactional service, a conduit of information, whose only focus is meeting a series of deadlines. Instead, it must be viewed within a wider context, as part of an end-to-end package of support put in place to help victims cope and recover.

Current guidance to staff appears to define the VCS as a transactional service and I do not believe this is either possible or desirable. The VCS cannot operate in an emotional vacuum. Its staff need to be alive to the sensitivity of the information they are providing and its impact upon the recipient. A high proportion of victims in the scheme

will be suffering from PTSD. Victim Liaison Officers (VLOs) must have the inter-personal skills and emotional intelligence to engage with these victims, with an understanding of local counselling and support services so that they can signpost when appropriate. This guidance needs to be reviewed.

Professional service

I suspect many VLOs do have these skills and go beyond the parameters set out in the guidance. However, a professional service requires staff who are accredited to undertake this important work and who can expect to receive continuous professional development and supervision. This qualification would facilitate VLOs offering victims an informed insight into how the justice system works and what their rights are, so that they are able to make informed decisions.

Four years ago, following Transforming Rehabilitation, all VLOs were placed at Band 3, with around a third being redeployed to other parts of the NPS as they were Band 4. The VCS lost many of its most experienced staff in the process. This review is an opportunity not to re-visit this decision but to reflect on whether complex and challenging cases should be handled by more senior and qualified staff working at a higher grade. There cannot be a one size fits all approach and the structure must recognise this.

Referral process

The process for inviting victims to "opt in" to the VCS has not worked in the past and I

"The government's overriding objective is to help victims to cope and recover from the crimes committed against them and this has to be the mantra of all services involved in the support of victims"



40%

fewer than 40% of parole cases include a Victim Personal Statement (VPS)

welcome the initiative to change the method for inviting victims to join. I understand a new referral process has been trialled whereby all qualifying victims are referred directly to the VCS and they are not asked if they wish to be referred by the police or Witness Care Units. When piloted, this has worked well and has been reflected in the new Victims' Code so that it can be rolled out across all parts of the country. This is a positive development.

Co-location

It can be daunting for victims, having built relationships with victim support workers and victim advisors, to be presented with yet another criminal justice agency. The challenge is how we make the transition from pre-trial to post trial as seamless as possible.

As a first step, victim services and the VCS should collaborate closely to facilitate this difficult transition. One obvious way of doing this is co-locating VLOs with victim support workers, giving victims the opportunity to meet VLOs before trial to understand how the transition works.

Co-location has other benefits. I have already referred to the need for VLOs to sometimes signpost victims. This process is greatly helped if the signposting is to a co-worker in the same office. Digital communications allow for ongoing collaboration between VLOs and offender managers (who more often than not are based in different parts of the country) but the physical presence of VLOs and victim support workers in victim hubs presents victims with a seamless and reassuring package of support.

Tracing victims

There is also the question of how we reach out and offer support to those victims who have already declined to opt into the scheme. Those who have not signed up to it are no less likely than those who have signed up to be traumatised or affected by what has happened to them and frightened or worried by the imminent release of their offender.

I do not underestimate the scale of this challenge. The Parole Board advises fewer than 40% of parole cases include a Victim

Personal Statement (VPS). I accept there will be cases where the victim simply doesn't want to make a VPS, but it suggests there may be thousands of victims who are simply unaware their offender is approaching release. It is essential the new Victim Contact Scheme is resourced to be able to trace as many of these victims as possible so as to make another offer of ongoing contact.

I am pleased to hear that this work is in hand and am keen to see how successful it is in bringing more victims into the scheme.

Funding

Finally, and importantly, these changes to the VCS, if successful, will see far higher numbers of victims joining the scheme and being eligible for support. It is imperative the scheme is funded to accommodate this growth, otherwise we will be left with VLOs carrying excessive caseloads, and unable to deliver the level of service required.

I will be scrutinising the service in the coming year to make sure this does not happen.

My reviews and reports

Research and analysis to underpin policy.

IN ADDITION to my two important surveys with victims, I published five research reports and reviews this year. One of my key areas of concern has been the provision of special measures – arrangements which help witnesses give their best evidence, despite being vulnerable or intimidated. I wanted to take stock of existing provision and find out what more needed to be done to help the court’s most important but often most vulnerable users. This issue is vitally important, particularly at a time when participation in court proceedings was difficult and the system was under unprecedented pressure due to COVID19.

Next steps for special measures: a review of the provision of special measures to vulnerable and intimidated witnesses

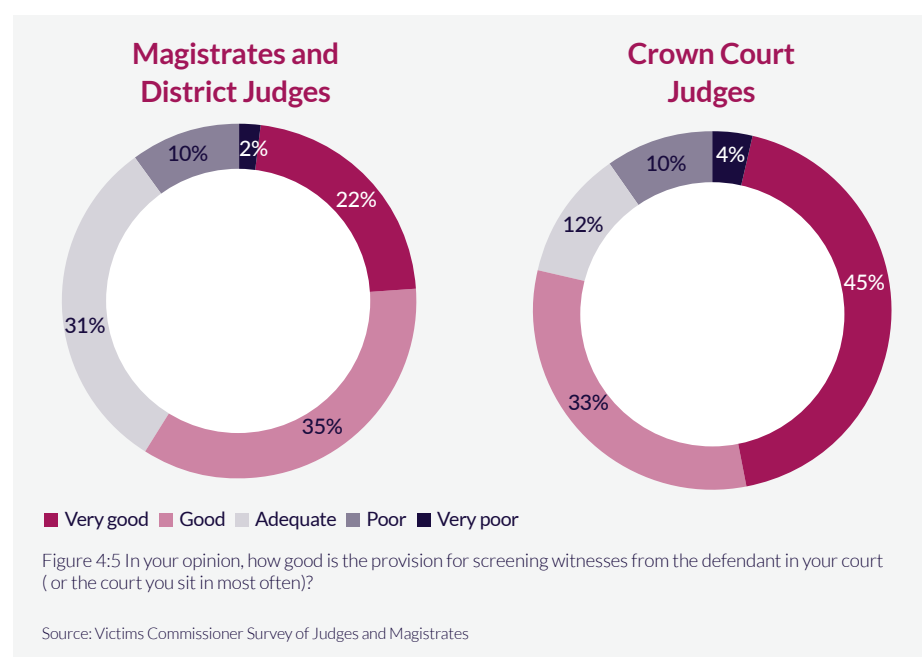
My recently published review showed that not everyone who needs special measures appears to be receiving them. A key barrier seems to be a lack of thorough and comprehensive assessment of witness’ needs. Over half of magistrates and district judges, and a quarter Crown Court judges, felt that prior to coming to court, vulnerability was only being accurately assessed some of the time or less often. We found the process of assessing need and obtaining special measures was cumbersome, involving multiple agencies interfacing across different systems, with no single agency having overarching responsibility.

An important step forward during COVID19 has been HM Courts and Tribunal Service’s (HMCTS) rapid rollout of Section

“An important step forward during COVID19 has been HM Courts and Tribunal Service’s (HMCTS) rapid rollout of Section 28 across all Crown Courts”

28 across all Crown Courts. This allows vulnerable witnesses to have their evidence in chief, and also their cross examination, pre-recorded. This short-circuits the wait to attend court to testify with all the stress that entails. It captures the evidence while the memory is fresh, frees those who need therapy to get it, without any fear of an impact on the trial and allows victims to get on with their lives. This is particularly relevant at a time when there is a large backlog of cases and witnesses are waiting sometimes for years.

COVID19 has precipitated much greater use of live links during trials. It is noteworthy



“A systematic, widespread review of applications and use of special measures, including specific information about which special measures are used, is urgently needed”

that, notwithstanding some glitches around quality of audio-visual technology, 86% of Witness Service staff felt the use of video links had a positive effect on witnesses’ experiences of giving evidence. Ninety four percent of staff felt that video links made courts more accessible to witnesses. This is an important vote of confidence for the increased use of audio-visual technologies in courts, supporting our recommendation to expand s28 as widely as possible as soon as possible.

The magistrates’ court appeared to lag behind the Crown Court on special measures: facilities were seen as poorer (see graph) and special measures granted less often. This is important because the Domestic Abuse Act 2021 confers automatic entitlement to special measures on victims of domestic abuse and most such cases are heard in the magistrates’ courts. Parity is urgently needed.

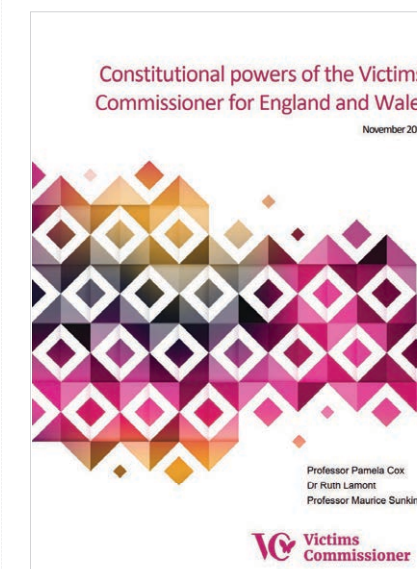
The review also highlighted shortcomings around the whole court experience for victims and witnesses: a lack of consideration in relation to listings, poor communication and variable practice in relation to making sure a victim does not bump into the defendant or their supporters while entering or leaving court or in the waiting room. Witnesses need to be more of a priority during COVID19. Without them, there would be no justice.

Special measures literature review

The first phase of my research into special measures was a review of the literature,

authored by Dr Samantha Fairclough, lecturer at Birmingham Law School.

Published last summer, the review found there was limited research in this area, with what there is focusing almost exclusively on trials in the Crown Court. Survey evidence showed special measures work for victims and witnesses, but there was also worrying evidence that there are barriers to their effective use. The review highlighted that there are no centrally collected statistics on demand for and use of special measures in England and Wales. A systematic, widespread review of applications and use of special measures, including specific information about which special measures are used, is urgently needed.



Constitutional powers of the Victims' Commissioner for England and Wales

In December I published two expert reviews which have been instrumental in informing my proposals for the Victims Law and revisions to the Victims’ Code.

The first was a comparative review of the powers of various public scrutiny bodies in England and Wales, authored by a research team led by Dr Pamela Cox, Professor of Sociology and Criminology at the University of Essex. It posed two key questions: if victims’ rights are important, why is it that they cannot be enforced? If agencies have duties, why is it that they cannot be compelled to perform these duties?

The academics’ review identified significant gaps in the powers of the Victims’ Commissioner in relation to the current Victims’ Code. It identified ten key changes that could be made to close these gaps and enable me and subsequent Commissioners to better fulfil the statutory duties of the role. For example, a key enhanced power would be to undertake effective review of the operation of the Code, in turn requiring greater resourcing; a statutory obligation on agencies to facilitate and co-operate with VC reviews; protocols for data collection by named agencies; and a regulatory framework governing how the Victims’ Commissioner may access relevant data and conduct a review. ➤



“This report, authored by internationally known human rights law and public policy experts, Sisters for Change, compared best practice in the treatment of victims across five comparable justice systems”

The role and rights of victims of crime in adversarial criminal justice systems: recommendations for reform in England and Wales

This report, authored by internationally known human rights law and public policy experts, Sisters for Change, compared best practice in the treatment of victims across five comparable justice systems (England and Wales, the USA, Canada, Australia and New Zealand). It found England and Wales provides weaker substantive participatory rights to victims than similar jurisdictions. These include the right of victims to express a view on criminal justice decisions affecting them, the right to have these views taken into account, and the right to legal representation in some circumstances. The report argues that it is time to acknowledge the unique position of victims of crime in the criminal justice system – not parties but nevertheless ‘participants’, with rights and interests that must be recognised by criminal justice agencies.

I am enormously grateful to Sisters for Change and Professor Cox and her colleagues for providing the strong,

evidence-based arguments for changes we need to see and powers the Commissioner needs to have in order to make a substantial difference to the experience of victims.

Victim statistics, year ending march 2019: victims’ services, restorative justice and information, advice and support

In June I published the second part of my review of victims’ experiences in the aftermath of crime, based on Crime Survey for England and Wales data. This is a nationally representative survey which gives us robust, detailed data on incidence of crime (both reported and unreported) and experience of the criminal justice system.

The report provided insights into what works in supporting victims of crime. The data showed that the proportion of victims having contact with victims’ services had decreased over a five-year period (13% in 2014-15 to 10% in 2018-19). Most victims were satisfied with this contact: over a three-year period, 54% of victims said they found contact with victims services helped them cope with the impact of the incident, but this rose to 77%,

72% and 70% for victims of sexual offences, burglary and threats of violence. Face to face and telephone contact were valued more highly than less personal methods.

Face to face interviewing for the Crime Survey had to be suspended under COVID19 and a scaled-back telephone survey used instead. It is a matter of concern to me that we won’t have this level of detailed data on victims’ experience of victim services and the criminal justice system in 2020/21. Nor will we have CSEW estimates for personal and sensitive crimes like sexual offences because understandably, these questions could not be asked in this format. But it is important because police recorded crime is only part of the picture as so much crime goes unreported. I look forward to the resumption of the survey in full.

Fraud victimisation

Fraud accounts for over a third of all crime according to the Crime Survey for England and Wales. Indeed, as I said in a speech to the Association of Police and Crime Commissioners (APPC) this year, fraud seems to be the ‘volume crime of our times’ with millions of victims each year. But I don’t sense we are allocating enough resource to tackle fraud or responding to the scale of fraud with sufficient urgency. I fear too many victims are falling through the gaps and not getting the support they need. To help address these concerns, this year I began a review of fraud victimisation. As a first stage of this work, I wanted to understand the landscape of fraud victimisation, across the spectrum from those who suffer little harm and loss to those who suffer very high harm indeed. I have commissioned Dr Kitty Lymperopoulou, Senior Research Associate at Manchester Metropolitan University, to develop a typology of fraud vulnerability using data on fraud victims from the Crime Survey for England and Wales. Our typology will be a first step to understanding what works best in supporting victims across the spectrum, particularly those who are most vulnerable by virtue of their personal circumstances or the crimes against them. This will be published over the Summer.

Office of the Victims’ Commissioner

Budget Report

	Budget	Forecast	Outturn
20/21 total			
Pay	524,00	548,017	-24,017
Non-Pay			
Non-Pay Breakdown			
IT and Telecommunications	1,500	1,172	328
Travel and Other	2,000	593	1,407
Printing, Postage and Office Expenditure	4,000	2,492	1,508
Other Expenditure	28,500	9,469	19,031
Gross	560,000	561,743	-1,743



Victims' Commissioner's plans for 2021/22

2021/22 promises to be an exciting and challenging year - my team and I have a packed agenda.



Our work plans include:

- Work with MoJ, HMCTS, NPCC and CPS to implement the recommendations of my review, on the provision of special measures, to ensure those victims who require the help of special measures are correctly identified and are given the support that they need.
- Promote the rollout of Section 28 (pre-recorded cross-examination) with the focus on making it available to all intimidated victims.
- Make recommendations to MoJ about the treatment of rape complainants in the court room and press for a concerted effort across the criminal justice system to rebuild the levels of rape prosecutions, to pre 2016 levels.
- Respond to the recommendations of the government End to End Rape Review; engage with ministers on the need to provide specialist sexual violence support with a sustainable funding model; and continue to make the case for rape complainants to be given access to free legal advice, when their human rights are put at risk by the criminal justice agencies.
- Capture victim lived experiences through online surveys and monitor victim correspondence; using the feedback to feed into policy and practice recommendations.
- Seek to work with the President of the Mental Health Review Tribunal to discuss the treatment of victims within the mental health review process, with a view to securing a change in practice directions; to enable victims to submit a VPS and attend hearings.
- Work with other key stakeholders and engage with MoJ ministers to press for legal representation for the families of victims of crime, at inquests into their deaths.
- Liaise with Her Majesty's Prison and Probation Service (HMPPS) to monitor the outcomes of the Probation Reform Programme, in reforming the operation of the Victim Contact Scheme and press for more information to be shared with victims in the VCS, about the prisoner's journey through their sentence.
- Engage with MoJ and the Parole Board in measures to make the parole process transparent and continue to call for an evaluation of the effectiveness of high-level summaries and the re-consideration mechanism.
- Continue to press for better treatment for the families of victims murdered abroad, including seeking access to police advisors on the same basis, as if the murder had happened at home. I will continue to campaign for such families to have eligibility for criminal injuries compensation within the UK.
- Conduct a review of the role, purpose and effectiveness of independent victim advocates. This includes Independent Domestic Violence Advisers (IDVAs); Independent Sexual Abuse Advisors (ISVAs); the various kinds of supporters for victims of modern slavery and the more generalist Independent Victims Advisers (IVAs). This is with a view to ascertaining if they are well-tailored to deal with the diverse roles they play and how the various models should develop going forward.
- Actively engage with the government in developing provisions for a Victims Law, which increases victim participation in the criminal justice system, develops effective means of monitoring compliance with victim entitlements and which delivers equality of access to victim support.
- Engage with the Home Office on the development of a new VAWG strategy which fully meets the needs of victims and make the case for a separate strategy to meet the needs of men and boys.
- Engage with policymakers and ministers to ensure there are statutory provisions in the Police Crime, Sentencing and Courts Bill which adequately protect complainants of sexual crime from excessive demands to access their digital data.
- Working with the Equality & Human Rights Commission, to produce a joint report on barriers to justice for rape victims who have protected characteristics.
- Use a variety of media, including print and broadcast, digital media, stakeholder platforms and speaking opportunities, to highlight the victim experience in the criminal justice system.
- Implement the stakeholder engagement strategy effectively, to ensure proactive engagement with a wide range of key stakeholders involved in supporting victims of crime.
- Complete and publish the first stage of a deep dive review of the experience of fraud as a crime (a typology of fraud victimisation) and the pathways of support for victims.
- Oversee the completion of a victims' satisfaction survey for victims within the Victim Contact scheme, working closely with Her Majesty's Prison and Probation Service (HMPPS).
- Review the prevalence and experience of victims of online harms and conduct an online survey with victims, relating this to the system of oversight put forward in the Online Harms Bill.
- Press for reform of the Community Trigger so that it facilitates engagement with victims of ASB; make the case for victims of persistent ASB to be given the same support as victims of crime and engage with the Home Office and stakeholders for better treatment of ASB victims within the criminal justice system.

Members of the Victims' Commissioner's

Advisory Group 2020/21



Jon Collins Jon is Chief Executive of Prisoners' Education Trust, the UK's leading prison education charity. Jon joined Prisoners' Education Trust in

April 2021, having previously been Chief Executive of the Magistrates Association, the membership body for magistrates in England and Wales. Prior to that, Jon was Chief Executive of the Restorative Justice Council and he has previously worked at the Police Foundation, the Criminal Justice Alliance, The Fawcett Society and Nacro. Jon is a member of the Commission on Crime and Problem Gambling and a governor of a London primary school.



Duncan Craig OBE

Duncan is the founder and Chief Executive of Survivors Manchester, a ground-breaking Voluntary Community and Social Enterprise organisation providing

support to male victims/survivors of sexual violation across Greater Manchester. As a survivor of childhood sexual abuse and exploitation, he has personal-professional knowledge of male sexual violation, leading him to work with government on policy including Victim Strategy and the cross-government position statement on male victims of VAWG crimes; NHS England, CPS, police and media projects for BBC, Channel

4's Hollyoaks and ITV's Coronation Street. His knowledge has led to work in USA, Iceland, New Zealand and in Uganda - focusing on male victims of sexual violence in conflict. Duncan co-founded, The Male Survivors Partnership and the Men and Boys Coalition, and a Trustee of Sick Festival. Duncan is the proud recipient of an OBE for services to Male Victims of Rape and Child Abuse from the 2020 New Year's Honours List.



Kim Doyle Kim is the Joint Chief Executive of LimeCulture CIC, a national sexual violence organisation based in the UK. For the last 30 years she has worked

extensively in the field of sexual violence and child protection. Kim qualified as a barrister and joined the Crown Prosecution Service in the UK in 1986. Since 1995 Kim has worked closely with the police, health, lawyers and other third sector agencies working to improve the standard of rape and child abuse investigations and prosecutions across the UK and internationally.



Diana Fawcett Diana is Chief Executive of Victim Support. She joined the charity as Director of Operations in February 2015 and became CEO in January 2018. Before

joining Victim Support, Diana was Director of Operations at Shelter for seven years where

she was responsible for all the charity's advice and support services. She has also worked for four London boroughs and three housing associations, managing housing, development and care services. She has been trustee of a charity in south London, providing advice and support to refugees and migrants since 2013. She is a non-judicial member of the Sentencing Council with specific responsibility for promoting the welfare of victims of crime.



Mark Fenhalls QC

regularly appears in the most serious and complex of criminal cases, ranging from large scale Fraud and Corruption cases to Murder. He is ranked

as a leader of the Bar in both Legal 500 and Chambers & Partners. He took silk in 2014. He was Chair of the Criminal Bar Association (2015-16) and Chair of the Fraud Lawyers Association (2017-19). He was Leader of the South Eastern Circuit, one of the six Circuits of England and Wales (2019-20). He is the current Vice Chair of the Bar Council and will serve as Chair of the Bar in 2022.



Professor Aisha K Gill Ph.D. CBE

Aisha is Professor of Criminology at University of Roehampton. Her main areas of interest and research focus on health

and criminal justice responses to violence

against black, minority ethnic and refugee women in UK, Georgia, Iraqi Kurdistan, Libya, India, Pakistan and Yemen. She has been involved in addressing VAWG, 'honour' crimes and forced marriage at the grassroots level for the past 21 years. Current research and activism are focused on crimes related to femicide, 'honour' killings, coercion and forced marriage, child sexual exploitation and sexual abuse in South Asian/Kurdish and Somali communities, female genital mutilation, sex selective abortions, intersectionality and women who kill. In 2019, she was appointed Co-Chair of End Violence Against Women Coalition. During the coronavirus pandemic, she has been hands-on at the grassroots level in raising emergency funds for abused migrant women and children who have no recourse to public funds. In April 2021, she was appointed to the The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) People's Tribunal hearings into women's human rights in the UK.



Lucy Hadley Lucy is Head of Policy, Campaigns & Public Affairs at Women's Aid Federation of England, the national charity working to

end domestic abuse against women and children. She leads the charity's policy development and national campaigns - including the Save Our Services (SOS) : Save Refugees; Save Lives campaign that has secured government commitment to a long-term funding solution for refuge services; the Child First: Safe Child Contact Saves Lives campaign for safety in the family courts, and work to influence the landmark new Domestic Abuse Bill. Lucy leads the charity's engagement within government and parliament and regularly represents Women's Aid in broadcast media. Lucy previously held policy advisor



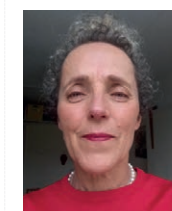
Amelia Handy Amelia is the policy officer for Rape Crisis England & Wales and has been working in the Rape Crisis movement for three years. Prior to

working for Rape Crisis England & Wales, Amelia worked for SERICC, a specialist sexual violence and abuse service. Rape Crisis England & Wales is the national membership body for a network of independent Rape Crisis Centres; all member Centres provide specialist support and services for victims and survivors of sexual violence.



Julian Hendy Julian is an award-winning documentary filmmaker and investigative journalist. He is the founder of the Hundred Families charity, which

supports and advocates for families across the UK bereaved by homicides, perpetrated by people with mental illness. Hundred Families works with the NHS, Ministry of Justice, and others to prevent further tragedies, and provides evidence and training to promote lasting improvements in services.



Lucy Jaffé Lucy is Director of Why me? The charity was established by a victim of crime, to increase access to restorative justice for all victims

of crime. Since her involvement, Why me? has expanded its focus from campaigning and communications to include service delivery. She has supported the Victims' Commissioner, as a member of the advisory

group since August 2017. She is Vice-Chair of the Criminal Justice Alliance, contributing experience and insights into victim policy. Lucy previously ran her own marketing and communications consultancy and was Sales & Marketing Director of Whitespace Software from 1998 to 2006. She was a founder and National Coordinator of Reunite, the National Council for Abducted Children, and was a trustee of the Women's Resource Centre for six years.



Alison Levitt QC

Alison Levitt QC is a barrister. In 2009 she became Principal Legal Advisor to the Director of Public Prosecutions where she dealt with

some of the most high-profile and important cases of the time, including drafting her well-received report into the lessons to be learned from the Jimmy Savile case. In 2014 she became a partner at law firm Mishcon de Reya, establishing and leading their white-collar crime group. In 2018 she returned to self-employed practice at 2 Hare Court where she specialises in criminal law and associated regulatory work, both prosecuting and defending serious crime. She is a Recorder (part-time judge) sitting in both civil and criminal law and holds Old Bailey and Serious Sexual Offences tickets. She is a Master of the Bench of the Inner Temple where she has chaired their Education and Training Committee for the past four years. She is a Trustee of the Kalisher Trust and the Royal United Services Institute.



Sophie Linden Sophie is London's Deputy Mayor for Policing and Crime. Previously she was a special advisor to David Blunkett in the Department for Education

and Employment, before moving to the Home Office to work with the police in tackling crime and anti-social behaviour. From 2006, Sophie was a Councillor at Hackney Council ➤

until her appointment by the Mayor of London and was Deputy Mayor of Hackney Council from 2011. During Sophie's time at Hackney, the borough received an award for Public Partnership working for its ground-breaking gangs' unit and named 'Council of the Last 20 years' at the local government Chronicle (LGC) Awards. Sophie also led the council to achieving excellence on the Equality Framework for Local Government. Sophie is a former member of the Local Government Association Safer Communities Board, a peer reviewer for the LGA on community safety and a member of the HMICFRS advisory board on PEEL inspections.



David Lloyd David Lloyd has been Police and Crime Commissioner for Hertfordshire since 2012. David is recognised for the pioneering work he has done in developing

and improving support services for victims of crime. He chairs the Hertfordshire Criminal Justice Board and has been a leading member of the Association of Police and Crime Commissioners since its foundation, serving both as a board member and chairman of the organisation and has served on a range of bodies including the government's Serious Violence Taskforce. He is a member of the National Criminal Justice Board and was chair of the Police Reform and Transformation Board. Previously, he was the deputy leader of Hertfordshire County Council; a borough councillor in Dacorum; chair of the Hertfordshire Police Authority and was the executive member for the Fire and Rescue Service at the county council.



Cris McCurley Cris is partner and Head of International Family Law at Ben Hoare Bell LLP. She has specialist knowledge of Domestic Violence, so-called

honour-based violence, forced marriage, abduction, trafficking and 21st century slavery. She regularly contributes to government consultations and enquiries. Cris has developed partnership working with the BME women's DV network and the NE Women's network, working with these networks on CEDAW, BME women's rights and access to justice. Cris is a member of several specialist advisory groups and professional panels, including The Children Panel and International Child Abduction Panel. She is a member of the ROW advisory board, the Victim's Commissioner's Advisory Group, The Law Society Access to Justice Committee and the National Resolution, and a member of the joint working part with TLS and the MOJ working group on legal aid and victims of DA.



Pragna Patel is a founding member of Southall Black Sisters' advocacy and campaigning centre and Women Against Fundamentalism. She

worked as a co-ordinator and senior case worker for SBS from 1982 to 1993, when she left to train and practice as a solicitor. In 2009 she returned to SBS as its Director. She has been centrally involved in some of SBS' most important cases and campaigns around domestic violence, immigration and religious fundamentalism. She has also written extensively on race, gender and religion.



Ruth Parker was appointed as Chief Executive of Victims First Northumbria in June 2016. VFN is a leading national victims charity set up in 2015.

Prior to her appointment, she spent over 20 years working for Her Majesty's Courts and Tribunals Service where she had a passion for the care offered to victims of crime and those giving evidence in court.

This was recognised when she opened the first dedicated victim and witness suite in the country. Ruth is proud to have led the VFN team in being awarded the Restorative Services Quality Mark (RSQM) and runner up in the category Outstanding Organisation of the Year, both of which culminated in a Royal visit to recognise this. Ruth was delighted to be added as a member of the Victims' Commissioner's national Advisory Group in 2019 and feels that through this group she is able to influence local and national strategy.



HHJ Peter Rook Peter was appointed Vice Chair of the Parole Board in February 2020. Called to the Bar in 1973, he specialised in criminal law and became a QC

in 1991. He has served as Chairman of the Criminal Bar Association and Head of Chambers 18 Red Lion Court. He sat as a judge at the Old Bailey for 12 years and retired in 2017 but continues to sit as a Deputy. He also sat in the Court of Appeal. He co-authored a legal textbook 'Rook and Ward' on 'Sexual Offences: Law and Practice' and he ran a course for the Judicial Studies Board to train judges authorised to try sexual offences. He lectures on sexual offences to judges, barristers, solicitors, police and medical practitioners and has lectured on "vulnerable witnesses" in Trier, Edinburgh, Belfast, Jersey and at the International Criminal Court.



Gabrielle Shaw Gabrielle has led the National Association for People Abused in Childhood (NAPAC) as Chief Executive since April 2015. NAPAC is

the UK's leading national charity offering support to adult survivors of all types of childhood abuse, including physical, sexual and emotional abuse and neglect. Gabrielle is a senior international non-governmental

organization (INGO) executive with over 13 years' leadership, policy and strategic decision-making achievements across charity, government and statutory sectors. Gabrielle's experience includes heading up the external affairs work of the global charity World Animal Protection, to strengthen its campaigning on issues such as disease control and negotiations on Sustainable Development Goals (SDGs); and leading on international relations and external affairs for Child Exploitation and Online Protection (CEOP), the agency now based within the National Crime Agency and focused on combating child exploitation and abuse.



Andrea Simon Andrea was appointed Director of End Violence Against Women Coalition (EVAW) in January 2021. EVAW is a

UK-wide coalition of more than 100 women's organisations and expert members working to end all forms of violence against women and girls (VAWG). Established in 2005, EVAW campaigns for every level of government to adopt better, more joined up approaches to ending and preventing violence against women and girls and challenges the wider cultural attitudes that tolerate and condone this abuse. Prior to this, she was EVAW's Head of Public Affairs, leading the organisation's work influencing legislation and policy to improve responses to women and girls at risk of and experiencing abuse. She has also spent more than a decade working for Members of Parliament and previously led campaigns and research on the issues of child exploitation and modern slavery.



Dr Olivia Smith is a Senior Lecturer in Criminology and Social Policy at Loughborough University and sits on the co-ordination group for the British Society of

Criminology Victims' Network. She has over 10 years' experience in researching gender-based violence, with her recent book Rape Trials in England and Wales representing the first exploratory observation study of court responses to sexual violence since Sue Lees' foundational work in the 1990s. Olivia's other research includes a number of evaluations of support interventions, interviews with support workers about the Criminal Injuries Compensation Scheme; focus groups with disabled people about reporting hate crime, and public attitude surveys on justice policies.



Dr Jacki Tapley is Principal Lecturer in Victimology and Criminology, Institute of Criminal Justice Studies, University of Portsmouth. Prior to

this, Jacki worked as a Probation Officer in Dorset. Her teaching and research focuses on victims of crime, victimology, and professional culture and practices in criminal justice. Her specialist areas include victims of sexual violence, domestic abuse and fraud, the role of victims in the criminal justice system, victims' experiences, and the implementation of policies and legislation. She is the Independent Facilitator for the Wessex CPS VAWG Scrutiny Panel and a member of the Hampshire Victim and Witness Working Group. She is a member of the Victim Commissioner's Advisory Group, and a trustee for Aurora New Dawn, a domestic abuse, sexual violence and stalking charity.



Dame Sara Thornton Dame Sara Thornton is the Independent Anti-Slavery Commissioner responsible for encouraging good practice in the prevention

and detection of modern slavery and the identification of victims. She was Chief Constable of Thames Valley Police from

2007-2015 and the first Chair of the National Police Chiefs' Council from 2015-2019. She is chair of the National Leadership Centre's Advisory Board and an Honorary Air Commodore in the Royal Air Force. She is Honorary Professor in Modern Slavery at the Centre for the Study of International Slavery, University of Liverpool.



Claire Waxman Claire was appointed in 2017 by Mayor of London, Sadiq Khan, to be London's first Independent Victims' Commissioner, and

was subsequently reappointed in May 2021. Claire has undertaken an ambitious programme of work to transform the criminal justice system, to provide a better experience for victims of crime. She works alongside victims, amplifying their voices, and promoting their interests throughout the criminal justice journey; ensuring their experiences are used to inform and shape practices, policies, and service provision. Her achievements in the role include convening London's first ever Victims' Summit; publishing the Victims' Code of Practice Review and London Rape Review; holding a series of roundtables to better understand the experiences of specific groups of victims; and successfully lobbying for key changes to the Domestic Abuse Bill.



Sir Thomas Winsor Sir Thomas was appointed as Her Majesty's Chief Inspector of Constabulary in October 2012. He is the first

holder of that office to come from a non-policing background. In July 2017, he was appointed as the first ever Her Majesty's Chief Inspector of Fire & Rescue Services. Between 1999 and 2004, Sir Thomas was the Rail Regulator and International Rail Regulator, the economic regulatory authority for the railways in Great Britain.

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Dame Vera Baird QC
Victims' Commissioner
for England and Wales

