



Briefing

Baroness Newlove, Victims' Commissioner for England and Wales

THE VICTIMS' COMMISSIONER HAS A STATUTORY DUTY TO REVIEW THE OPERATION OF THE VICTIMS CODE OF PRACTICE (THE VICTIMS' CODE). THE COMMISSIONER CHAMPIONS THE INTERESTS OF VICTIMS AND WITNESSES OF CRIME AND ADVISES AND HOLDS GOVERNMENT AND OTHER CRIMINAL JUSTICE AGENCIES ACCOUNTABLE FOR THEIR IMPLEMENTATION OF THE CODE.



"My priority this year is to ensure the Victims and Prisoners Bill, currently making its way through Parliament, truly delivers for all victims. I want to see this Bill transform the victim experience so that victims feel heard, respected, and supported throughout the criminal justice process. This has long been my aspiration and this Bill is an opportunity to make it a reality."

BARONESS NEWLOVE

A Victims Law: a once-in-a-generation opportunity

Upon my appointment as Victims' Commissioner in October, I was tasked by the government to play a vital role in scrutinising the Victims and Prisoners Bill as it progresses through Parliament, ensuring it serves its purpose to improve victims' experiences of the criminal justice system.

I have long called for such a Victims Law and while there is much in this Bill to commend it, I believe it needs to be much more ambitious if it is to deliver a transformation in the victim experience of our criminal justice system.

When the system treats victims well, it aids victims in their recovery from the impact of the crime. It encourages victims to come forward and report crime, as well as supporting any ensuing prosecution. Yet my [victim surveys](#) suggest we have a long way to go before we can say with some confidence that all victims receive their statutory entitlements and able to access the support they need. This is the challenge before us.

The primary focus of this Bill must be to empower: victims must be better informed, listened to, able to challenge and be appropriately supported.

The Victims and Prisoners Bill must deliver:

- (i) **Accountability** - ensuring criminal justice agencies are held to account in their delivery of victim rights under the Victims' Code;
- (ii) **Accessibility** - providing vulnerable victims with the specialist support and rights they need; and
- (iii) **Inclusivity** - extending the remit of the Code to include those victims seriously impacted by crime who are currently or partially excluded.

This briefing sets out a package of amendments to the Bill which, if incorporated, will deliver on these three priorities, and transform victims' experience of our justice system. I hope you will give it due consideration.

Accountability

Ensuring criminal justice agencies are held to account.

The Victims' Code of Practice (the 'Code') offers much of what victims need. The challenge is making sure criminal justice agencies deliver on it. Based on the patchy and incomplete data available, and feedback from my victim surveys, current Code compliance is poor.

Victim Support has found¹ that as many as 6 in 10 victims do not receive their rights under the Victims' Code, including 20% of victims not being referred to support services, 46% not receiving a written acknowledgement of the crime, and 60% not receiving a needs assessment.

Poor compliance is a result of a lack of effective monitoring and agencies not being properly held to account when they fail to deliver.

During pre-legislative scrutiny of the Bill, the Justice Select Committee found: "...as drafted, the Bill fails to adequately address the issues of agencies' non-compliance with the Code – we are concerned by this given that it is one of the principal reasons for the Bill."² I share these concerns.

There is low public awareness of the Code, even among victims. In my most recent survey, fewer than 3 in 10 respondents were aware of the existence of the Code. If victims are not aware of what they are entitled to, how can they challenge agencies when they fail to deliver?

The Bill in its current form makes good efforts to improve data collection and monitoring, but we must go further. There needs to be robust and independent scrutiny of compliance and agencies need to be held to account when they fail to deliver.

For the Victims and Prisoners Bill to deliver true **accountability, I am calling for:**

- **Baseline compliance standards** - Minimum threshold compliance levels for each right under the Victims' Code, complemented by independent inspections in cases of breaches by the respective criminal justice agencies.
- **An independent compliance report** - A statutory duty upon the Victims' Commissioner to compile and publish an annual independent report on Code compliance, drawing from data collected by Police and Crime Commissioners (PCCs).
- **Enhanced powers for the Commissioner** - Strengthened Victims' Commissioner powers, including a right to be consulted on changes to the Code and related guidance, and a statutory duty for agencies listed under the Code to co-operate with the Commissioner.

An in-depth briefing detailing proposed amendments to enhance monitoring of Code compliance can be found [online](#).

Accessibility

Providing vulnerable victims with the specialist support and rights they need.

For many vulnerable victims, particularly those who have suffered sexual violence and/or domestic abuse, their experience of the criminal justice system will depend on the availability and quality of the specialist support available to them.

The Bill can address this and there are some welcome measures within the Bill that represent a step in the right direction. Notably, it imposes a duty on key agencies to collaborate in providing support for victims of sexual violence and domestic abuse, including the provision of a needs assessment. I want us to go further.

Victims of sexual violence are being forced to choose between justice and their right to a private life. That is not a choice, that is an ultimatum. Victims frequently face unjustified demands by police and prosecutors for personal data held by third parties, such as lifelong medical, school and social services records or therapy and counselling

¹ Victim Support, [Victim of the system: The experiences, interests and rights of victims of crime in the criminal justice process](#), 2017

² Justice Committee, [Pre-legislative scrutiny of the draft Victims Bill: Second Report of Session 2022-23](#), 2022

notes. These requests often appear to be more about undermining the victim's credibility as a witness than pursuing a 'reasonable line of enquiry' and cases are frequently dropped if victims do not sign over their information. Worryingly, victims also face the possibility of having therapy and counselling records disclosed, something which deters some victims from supporting prosecutions and others delaying therapy until after trial.

For these victims to receive true justice, the Victims and Prisoners Bill must enhance **accessibility to justice. I am calling for:**

- **An accessible Code** - A statutory duty upon the Secretary of State to ensure the Code is accessible to victims who are deaf, disabled, visually impaired or who do not speak English as a first language.
- **Free independent legal advice** - Victims of sexual violence must be given free legal representation in respect of any decisions taken by criminal justice agencies which compromise victims' Article 8 rights to privacy. A 2018 pilot in Northumbria showed a notable boost victim confidence and reduced the frequency of such requests.
- **Enhanced protections for third-party materials** - More robust safeguards for victims to limit requests for personal records from third parties to what is strictly necessary and proportionate in pursuit of a reasonable line of inquiry, mirroring protections for digital materials (i.e., data held on phones).
- **Keep counselling confidential** - Records of therapy and counselling to be made subject to a form of privilege which protects confidential communications from disclosure without the victim's express permission.

An in-depth briefing detailing proposed amendments to the Bill, and specifically aimed at improving the criminal justice system for victims of rape and sexual assault, is available [online](#).

Inclusivity

Extending support to those victims seriously impacted by crime who are currently or partially excluded.

As well as looking at how we treat victims, I also want to see the Bill extend the remit of the Code and the entitlements this should afford to specific groups of victims currently excluded. There should also be parity of treatment to all victims who fall within the remit of the Code.

Victims of anti-social behaviour

Persistent and targeted anti-social behaviour (ASB) is a crime, and it causes high levels of harm, as I know only too well. The impact is derived from the continuous nature of the conduct. Yet the police often treat ASB as a misdemeanour and not as a crime. As a result, many victims of persistent ASB are not made aware they are victims of crime; neither are they referred to victim services. Regrettably, there is no mention in the Bill of how these victims can be guaranteed to receive the support they often desperately need. This must change.

Victims of mentally disordered offenders

Victims of mentally disordered offenders have suffered some of the worst crimes and yet have fewer rights than victims whose offender is serving a sentence in prison. Unlike victims involved in parole proceedings, they cannot submit a Victim Personal Statement (VPS) to the Mental Health Tribunal or directly present their statement to the panel. I want to see this group of victims afforded the same rights as all other victims.

Victims of homicide abroad

Bereaved victims of overseas homicide must grapple not only with the emotional pain of losing a loved one to violence but also face the added challenges of navigating a foreign jurisdiction. This group is not recognised under

the Victims' Code, and they are ineligible for criminal injuries compensation unless the death is due to an act of terror. They deserve the same level of support as victims of homicide within England and Wales.

Migrant victims

We know those with insecure immigration status face significant barriers to accessing the support and protection they need. I support the Domestic Abuse Commissioner in seeking to remove obstacles for migrant victims who need the protection and support of enforcement agencies and victim support. Victims must be able to seek safety and justice without fear and regardless of their status.

Child victims of modern slavery

Children of victims of modern slavery will witness the most appalling abuse of their parents and yet, unlike children of victims of domestic abuse, they are not recognised as victims of crime in their own right. This needs to be addressed.

The Victims and Prisoners Bill must promote *inclusivity* if we are to deliver for all victims. I am calling for:

- **ASB victims to be given access to support services** - Victims of persistent and targeted anti-social behaviour should be recognised as victims within the Bill, with access to support services as provided to other victims. Those victims who qualify for the ASB Case Review should be listed within the definition of a victim. ***An in-depth briefing can be found [online](#).***
- **Parity of treatment for victims of mentally disordered offenders** - Provide victims of mentally disordered offenders with the right to submit a Victim Personal Statement, and the right to make representations to the Mental Health Tribunal in person. ***An in-depth briefing can be found [online](#).***
- **Recognition for bereaved victims of murder abroad** - Bereaved victims of murder abroad must be recognised under the Victims' Code.
- **Remove obstacles for migrant victims to seek safety and justice** - Ensure victims and survivors can access safety and justice regardless of their immigration status.
- **Children of victims of modern slavery must be recognised as victims of crime** - Many of these children will have witnessed appalling abuse and will have been traumatised as a result.

Additional calls

- **Access to sentencing remarks** – I have been calling for victims of sexual and violent crime to be offered access to free transcripts of judges' sentencing remarks and support this becoming a statutory entitlement.
- **Local victim champions** – I endorse calls for local victim champions in every police area through which victims will have a voice and can influence local policy and practice and promote stronger compliance.
- **Unduly Lenient Sentence (ULS) scheme** – I support calls to create a statutory duty on the CPS to inform victims of the ULS scheme and provide circumstances under which the timeframe for appeals can be extended.
- **Court ordered compensation** – I back calls for court awarded compensation to be paid upfront to the victim shortly after sentencing.

For the latest up-to-date and in-depth briefings, updates, and more, visit [the Victims' Commissioner's website](#).