

Dame Vera Baird QC
Victims' Commissioner for England and Wales

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Rt Hon David Gauke MP
Lord Chancellor and Secretary of State for Justice
Sent by email: INSERT

Dear Secretary of State

DOUBLE JEOPARDY

The recent conviction of Bob Higgins on charges relating to sexual abuse of teenage boys when he was a football coach has raised the issue of double jeopardy.

In 1992 Higgins was charged and faced trial for similar offences against a group of six complainants, all of whom were children when the alleged offences took place. I am not familiar with the detail of these cases, other than the CPS took the decision to withdraw all six cases on grounds of insufficient evidence. As a result, Higgins was acquitted on all charges.

In 2017, Higgins was charged with sexual abuse in respect of a further 23 complainants. The original six complainants were not included in these proceedings due to the double jeopardy rules that prevent an accused person from being tried again for the same charges after an acquittal. This meant that the original six complainants have been deprived of the opportunity to seek justice for the terrible crimes committed against them. They were able to provide "bad character" evidence in the recent trial which led to Higgins been convicted in respect of other complainants.

The legal representative for the six complainants is of the view that there is new and compelling evidence in their cases. However, the statutory provisions for a re-trial following acquittal (double jeopardy) as set out in Chapter 10 of the Criminal Justice Act 2003 restrict scope for a re-trial to "serious cases" as listed in Schedule 5 of the Act. The sexual offences listed in schedule 5 are those that involve penetration and, as I understand, carry a maximum sentence of life. Sexual assaults as alleged by the six complainants are not included.

I was a member of the Bill Committee during the passage of the 2003 Act and supported the ground-breaking provisions allowing certain cases to be re-tried. For understandable reasons, the provisions were restricted to the most serious of offences and cases could only be referred to a re-trial if there was new and compelling evidence and it was in the public interest.

However, sixteen years later, we now have a much better understanding of the terrible and long-term consequences of sexual offences committed against children. Our approach towards complaints and complainants is very different, as is the way in which we conduct investigations and gather evidence.

The six complainants in the case referred to above have been unable to obtain justice and closure. I suspect there are others in a similar situation. This is a matter of serious concern.

I am therefore writing to request the Government take this opportunity to commit to undertaking a review of the retrial provisions in the 2003 Act, specifically to consider whether it would be appropriate to extend the list of "serious offences" to include, amongst others, certain sexual offences committed against children.

I should add that I am not looking to change the provisions that require new and compelling evidence, nor the public interest test, only the list of serious offences contained within Schedule 5.

A copy of this letter has been placed on my website.

Yours sincerely

A handwritten signature in black ink, appearing to be 'V. Baird', written in a cursive style.

Dame Vera Baird QC
Victims' Commissioner for England and Wales