

Dame Vera Baird QC
Victims' Commissioner for England and Wales

Office of the Victims' Commissioner for England and Wales
5th Floor, 70 Petty France
London SW1H 9EX

e: victims.commissioner@victimscommissioner.org.uk

7th August 2019

Rt Hon Robert Buckland QC MP
Lord Chancellor and Secretary of State for Justice

Sent by email

Dear Secretary of State

DOUBLE JEOPARDY

I wrote to your predecessor on 24 June seeking a commitment from the government to review the statutory provisions for a re-trial following acquittal. A copy of the letter is attached. As you will see, my enquiry was prompted by the case of six complainants who claim to have been sexually abused by the football coach Bob Higgins when they were children, although he was subsequently acquitted.

The legal representative for five of 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.

David Gauke replied to my letter on 15 July (copy attached), rightly stating that extending the list of qualifying offences is not something to be undertaken lightly. However, he acknowledged that the current list of offences cannot be regarded as set in stone and asked me to come back with proposals for particular offences that might qualify for inclusion.

As I set out in my earlier letter, 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. I fully recognise the need for care when

looking to add offences to the qualifying list. It is absolutely right the list is limited to the most serious of offences, coupled with other safeguards, such as the need for new and compelling evidence and a public interest test.

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.

Having consulted, I am proposing offences relating to non-penetrative sexual abuse of children be included.

I am not suggesting a significant increase in the number of offences, but simply those focussed on the typical activity of a child abuser. Your officials are probably best placed to advise you on this but, tentatively, I am proposing Sections 7,8,9 and 10 of the Criminal Justice Act 2003, as these cover sexual offences against children.

Where such offences were committed prior to the 2003 Act coming into force, they would have been prosecuted under the Sections 14 and 15 of the Sexual Offences Act 1956. Therefore, these provisions might also need to be included.

If you require any further information, please do not hesitate to let me know.

In line with my usual practice, a copy of this letter has been placed on my website.

Your sincerely

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

Dame Vera Baird QC
Victims' Commissioner for England and Wales