

**Dame Vera Baird QC  
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Rt Hon Robert Buckland QC MP  
Lord Chancellor and Secretary of State for Justice  
Ministry of Justice  
**Sent by email**

Dear Robert

**VICTIMS OF CRIME**

I am very much looking forward to continuing to work with you and hope we have the opportunity to meet in the near future to discuss your government's proposals for the criminal justice system.

I thought this would be a good opportunity to reflect on the direction of government policy in respect of victims in the new Parliament. I was pleased to see the Prime Minister reported in Grazia magazine last week as saying he was on the side of victims of crime:

*"We'll bring this (Domestic Abuse) Bill back as soon as possible...We must go further than legislation though which is why I want to double our funding for refugees and victim support services, pilot new domestic abuse courts to speed up cases and pass a Victims Law so that every victim in this country can get the support they are entitled to. We know that the court process can deepen the emotional trauma of those who have suffered abuse so we'll improve the system and make it easier for victims to come forward."*

This is all hugely positive. I particularly welcome his commitment to bring the Domestic Abuse Bill back as soon as possible. This is an important piece of legislation and a vehicle to provide a vulnerable group of victims with the support they need, as well as giving victims the confidence to come forward and report the terrible crimes being committed against them.

Clearly, the next five years promises to be an exciting time, with the scope dramatically to change the victim landscape for good. As Victims' Commissioner for England and Wales, I am keen to work with the Prime Minister, you and your Ministerial colleagues to deliver this radical agenda for victims.

Your manifesto includes a commitment to “... *pass and implement a Victims’ Law that guarantees victims’ rights and the level of support they can expect.*” As you are aware, I believe such a law is long overdue and if we use this opportunity wisely, it can significantly improve victims’ experience of the criminal justice system.

With this in mind, I have attached a list of twenty proposals for inclusion into a Victims’ Law. These include:

- statutory rights for victims and a requirement on criminal justice agencies to make sure all their policies and practices are consistent with these rights;
- stronger powers for Victims’ Commissioners to hold criminal justice agencies and government departments to account;
- statutory entitlements for the most vulnerable victims, having access to an independent advisor or being considered for a registered intermediary;
- greater public accountability for service providers, including a VC annual audit of Code compliance and a requirement on PCCs to include victim services in their five-year Police and Crime Plan;
- more support and rights for victims of persistent anti-social behaviour and improved access to restorative justice for those victims who wish to pursue this;
- victims of sexual crime having access to free legal representation to protect their Article 8 Rights; and
- victims of mentally disordered offenders having the same rights as other victims within the Victim Contact Scheme.

These proposals have the potential to change the victim experience for the better, particularly for the most vulnerable victims. I trust they will be given careful consideration.

I also welcome your manifesto commitment to set out the level of support victims should be entitled to expect. For me, this means the Government providing clear national standards of service delivery, so that victims across all parts of England and Wales can expect a minimum level of provision for locally provided victim support services.

However, decent services need to be adequately resourced. I am conscious that over the past five years, the budget for devolved victim services has been frozen, despite the fact that the demand for these services has significantly increased. I would welcome a guarantee that the Ministry of Justice will be submitting a robust case in the forthcoming CSR for increasing the budget for all victim support services to a level that enables providers to meet demand, whilst underpinning the high standards of provision we want for all victims of crime.

As well as a general commitment to resource victim services, I would welcome a specific commitment adequately to resource mental health and counselling services for victims of serious violent and sexual crime. Many victims report delays in accessing these services and this must change.

We also need to review the distribution of funding in respect of victim support services across all statutory agencies, including Police and Crime Commissioners, NHS, local government, to ensure there are no gaps in provision and that all of these agencies have sufficient funding to deliver the services that fall within their areas of responsibility.

I read with interest the commitment in your manifesto to: “...*conduct a root-and-branch review of the parole system to improve accountability and public safety, giving victims the right to attend hearings for the first time*”. Victims have had the right to

attend parole hearings since 2008 and so I will be interested to learn what more you have in mind. I hope any review of the parole process will include looking at the operation of the Victim Contact Scheme. Whilst I am impressed by the commitment of HMPPS to deliver a high standard of service to victims, there is more we need to do. For example, I am keen to see the outcome of the pilots in the North West where Victim Liaison Officers are co-located with victim support services. This co-location offers the opportunity to develop a seamless end to end support for victims.

However, all too often, victims feel locked out of the criminal justice system, as a result of being provided with only the bare minimum information. In the past two years, the parole system has become more transparent and I am pleased to note that this has been well received by victims. I want this transparency to be extended, with more information being shared with victims throughout the offender's sentence. For example, this might include information on the categorisation of the offender, ongoing work on risk management and offending behaviour, plans for managing the offender in the community and providing victims with assurances as to their safeguarding.

On the wider theme of transparency, we also need to look at how we make sentencing more easily understood, both to victims and defendants. As you have correctly identified, for many, current sentencing provisions are simply not transparent. This can heighten victims' frustration with the criminal justice system. Whilst your plans to reviewing sentencing might be part of the answer, it is also about improving communications. This means police officers and prosecutors setting realistic expectations of sentencing from the outset. I also want to see transcripts of judges' sentencing remarks being made freely available and drafted in a way that can be readily understood by the public.

I also believe that the Victims' Commissioner should sit on the sentencing Council to provide a strong voice for victims and sending a strong signal that victims matter.

Continuing the thread on transparency, I would like to see a commitment to make judicial training by the Judicial College open and transparent and for the government to encourage joint training involving both the Bar and the Judiciary.

From a policy perspective, now is also a good time to reflect on how we can be sure the needs of victims are fed into all aspects of policy and practice across the criminal justice system. To this end, I would welcome a commitment on the part of government that the Victims' Commissioner will be engaged from the outset, on behalf of victims, in all proposed changes or developments within the justice system, including policy development and methods of implementation

Finally, and importantly, I would welcome a commitment from government for a root and branch reform of the family courts in how they deal with family cases where domestic abuse is a factor.

These are all important strategic issues, which cut across the whole of the justice system. I note your manifesto refers to a Royal Commission on the criminal justice system. I trust that the remit of this Commission will include looking at victim engagement and welcome the opportunity to talk to you about how this might be achieved.

I would welcome the opportunity in the New Year to meet with you and discuss these and other issues.

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

Kind regards

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**

## **VICTIMS' COMMISSIONER'S PROPOSALS FOR A VICTIMS' LAW**

### **Victims' Rights and Support Services**

*A set of core victim statutory rights, with a statutory duty on criminal justice agencies listed in the Victims' Code of Practice to ensure all their policies and practices are compliant with these rights.*

If we are to change the status of the victim within the criminal justice system, there needs to be a set of core statutory victim rights, which do not erode defendant rights, but require criminal justice agencies to treat victims as an integral part of the justice process. These rights should enshrine the right of victims to be informed, to be heard and to challenge. Furthermore, agencies must proactively make sure their policies and practices are compliant with these rights, for example, undertaking an audit and publishing the results.

*Police and Crime Commissioners to be required to include within their five-year police and crime plans a section on their plans for providing victim services.*

Consistent with the Conservative Party Manifesto Commitment to make PCCs more accountable, there should be a statutory requirement to publish their plans for devolved victim services. This requirement should form part of their five-year Police and Crime Plans.

*Victims to be empowered to approach the Parliamentary and Health Services Ombudsman directly when they want to complain about non-compliance with the Victims Code.*

Currently, if a victim wants the PHSO to investigate such concerns, they must make their complaint to their local MP; the MP has the discretion whether or not to refer the matter to the PHSO. In practice, very few do refer cases to the PHSO – around 8 cases in the past year. This filter is an unnecessary obstacle and victims should be allowed to go direct to the PHSO.

*Court ordered compensation should be paid up front to victims.*

The present system requires the offender to make payments to HMCTS who forward the money to the victim. Often, payments are made in tiny instalments and can take years to pay in full. This is distressing to victims, it prolongs their engagement with the offender and impedes their ability to move on with their lives. I want this compensation to be paid upfront by the courts so that the offender is engaged in repaying HMCTS and not the victim. When Victim Support looked into this in 2016, it estimated it would cost the exchequer £17 million a year.

*Statutory entitlement to be offered the support of an advisor/advocate for victims of specific crimes.*

In February, my predecessor published research on the benefits of victim advocates in respect of vulnerable victims. I prefer the term "advisor" as opposed to "advocate". The government's Victims Strategy commits to explore this further. Whilst there are ISVAs, IDVAs, CHICHISVAs and FLOs for specific groups of vulnerable victims, there are other vulnerable victims

who are not eligible for this one to one support. Our research shows that having one person you know and trust to support you through your journey has many benefits, including a more positive relationship with all parts of the criminal justice system, a lower attrition rate and improvements to the victims' mental health and their ability to recover. The development of the role of "Advisors" has been ad-hoc and piecemeal and I want to see all vulnerable victims having a statutory right to access to this support.

*All child victims under a specified age to be considered for a Registered Intermediary*

My predecessor's review on Registered Intermediaries (RIs) highlighted variable practice both at the ABE stage and in court, with fewer children getting access to an RI in certain parts of the country and even within forces, police officers using different criteria for deciding whether an RI is necessary. This means some children are unable to give best evidence as they did not receive appropriate support. To achieve consistent practice, I am proposing there be a statutory requirement to demonstrate that the use of an RI was actively considered in every case involving children under the age of 10 and with reasons given in cases where it is not appropriate.

*Victims of a specified crime to be offered a transcript of the judge's sentencing remarks.*

The government is committed to improving the transparency of the criminal justice system and I welcome this. In particular, we need to enhance victims understanding of sentencing. Anecdotal evidence shows many victims are uncertain about what the sentence handed down in court means in practice. Information available to them is often patchy and unclear. I want to see victims of serious sexual and violent offences being offered a transcript of the judges' sentencing remarks free of charge in order to assist victims.

*Agencies listed in the Victims' Code should have a statutory duty to provide training to staff who deal with victims in trauma care.*

It is so important that everyone in the criminal justice system treats victims with sensitivity and empathy. Many vulnerable victims are likely to be traumatised by the crimes committed against them and it is important that staff in the criminal justice system are trained and able to identify the signs and know how to react appropriately. Some will already have received training in trauma care, but the ambition should be that this training is available to all. I want to see a statutory provision that requires all, including the judiciary, both lay and professional, to undergo compulsory trauma informed training. I also want the judiciary to undergo training in order to fully understand the impact on victims of domestic and sexual abuse. In addition to those working in criminal justice agencies, the time has come for compulsory training for those at the criminal bar, as a condition of practising in cross examination without injuring traumatised victims.

**Victims' Commissioner (VC)**

*The VC to also have the power to refer cases to the PHSO.*

I do not have the statutory power to investigate individual cases and I accept it would not be appropriate for me to do so. However, I do come across cases

where there would appear to be a clear breach of the entitlements within the Victims' Code. I believe the VC should be able to refer cases directly to the PHSO where appropriate. At present they deal with around 8 victim complaints a year, suggesting many breaches are not being reported.

*Criminal Justice Agencies to be required to respond to VC recommendations within a timescale determined by the VC.*

At present, there is no statutory requirement for agencies to consider or respond to VC recommendations and some consistently fail to do so. This needs to change if the work I undertake is to be actively considered in the manner intended when the post was created. Furthermore, the VC should have 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.

*Criminal justice agencies to be subject to a statutory duty to cooperate with the VC, including providing data on request.*

This would include the power to request data and information. Most agencies already cooperate, to varying degrees, but this needs to be formalised so that it is a statutory duty and not a favour. This would be in line with the powers of other commissioners and inspectorates.

*VC reports and reviews (including the annual report) to be laid in Parliament.*

It is important that the VC has direct reach to Parliament so that Parliamentarians are aware of what she/he is saying and so that Parliament is able to call the VC to account. It is also important to underline the VC independence from government. At present, all my reports, including my annual report, are submitted to Ministers. I am proposing that in future, there should be a duty on MoJ to lay them in Parliament.

*The VC to be required to submit to Parliament an annual report on compliance with the Victims' Code.*

The VC is required to keep under review the operation of the Victims' Code. PCCs are responsible for monitoring key Code compliance at a local level and I have argued that the VC should be responsible for compiling a national report on compliance, which is published annually. This would maintain the integrity of the monitoring process and it would be consistent with the statutory requirement that the VC review the operation of the Code.

## **Sexual Violence**

*Statutory recognition of victim advocates and advisors (e.g. – ISVA/IDVA) across the criminal justice system*

Anecdotal evidence from meeting with practitioners and third sector service providers is that some courts still do not recognise ISVAs/IDVAs and allow them to accompany their clients when in court. This can cause distress to victims and set back their recovery. Placing on statute the role and status of these professionals would remove the scope for discretion and ensure a consistent approach across the court service.

*Victims of sexual offences to have access to free legal representation if their Article 8 right to privacy are being intruded upon.*

Complainants of sexual assault can be disempowered when put into the position where they risk discontinuance of the case if they don't agree to extensive disclosure of their personal data at the outset of the inquiry. They are often suffering from trauma and have no one to advise them of their rights. When defendants make applications to question the victim on their previous sexual history, the victim has no right to be represented at the directions hearing where the application is considered. In these specific situations, I am proposing that these victims be given access to free legal advice and representation. This would empower victims, encourage police and CPS to adapt their approach to one more responsive to the victim's concerns and offer proper challenge.

### **Anti-Social Behaviour**

*Victims to be given a statutory right to attend Community Trigger resolution meetings to explain the impact of the ASB on them and their families.*

Home Office Guidance states it is good practice to invite victims to Community Trigger resolution meetings but anecdotal evidence suggests this rarely is the case. This disempowers victims and excludes them from a process that should be focused on improving the quality of their lives. The meeting should also be chaired by an independent third party in order to provide challenge and give victims confidence in the objectivity of the consideration. A statutory requirement that victims be entitled to attend and there should always be an independent chair would change the focus and the culture surrounding these resolution meetings.

*ASB victims who meet the threshold for a Community Trigger should be recognised as victims of crime and be entitled to the rights set out under the Victims Code*

I am concerned many victims of ASB do not fall within the statutory definition of a victim of crime. As a result, some of these victims do not receive victims support services. There are some PCCs who provide support and they are required to fund this from discretionary spend. There needs to be consistency in provision and a recognition of the cumulative impact of ASB. This change in the law would achieve both.

### **Victims of Mentally Disordered Offenders**

*Victims of Mentally Disordered offenders to be given the right to submit a VPS to mental health tribunals and to attend the tribunal to make representations to the panel on discharge conditions.*

My predecessor made this recommendation her report on victims of mentally disordered offenders. This requires a statutory change and the proposal was endorsed by the report published in December 2018 Modernising the Mental Health Act. A Victims' Law offers an opportunity to underline the need to give all victims the same entitlements, regardless of the status of the offender.



Victims of mentally disordered offenders do not have the same entitlements as other victims and this must change.

### **Restorative Justice**

*The right for all victims of crime to be told about and participate in Restorative Justice.*

This is an entitlement in the Victims' Code, but the vast majority of victims are not made aware of it. I am proposing it be made a statutory entitlement. I understand it was costed at £30m pa by the Criminal Justice Alliance (2017). The Pre-sentence Restorative Justice legislation lays out a definition of RJ and how it can be used in pre-sentence.

### **Anti-discrimination**

*A non-discrimination clause to prevent victims who have insecure immigration status being treated not as victims of crime but as 'suspect' immigrants first.*

There is significant concern regarding unlawful data sharing between the police and the Home Office immigration enforcement department. This deters migrant victims from reporting crimes and leads to discrimination since they are not treated as victims with all the protections and rights that this entails. This is currently the subject of a police super-complaint. Victims of crime have a right to be equally protected irrespective of their immigration status and the law should make this unequivocal.