



Baroness Newlove of Warrington
Victims' Commissioner for England and Wales
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3 December 2018

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

Dear Secretary of State

CONSULTATION ON ESTABLISHING AN INDEPENDENT PUBLIC ADVOCATE

I am writing in my capacity as Victims' Commissioner for England and Wales, in response to your public consultation on establishing an independent public advocate (IPA).

Firstly, I should say that I very much welcome this proposal. I have spent a significant amount of time in the past 18 months speaking to victims of the recent terror attacks and I sense that they would also welcome it too. Coping with bereavement, trauma or life changing injuries arising from a large-scale incident can be bewildering and frightening for victims. Having someone who will be working on their behalf, explaining processes and enabling them to fully participate in the investigation can provide some comfort and reassurance.

I agree with the proposal that the decision as to whether an incident warrants an IPA should fall to the Secretary of State as this ensures such decisions are accountable to Parliament. I would also want to be assured that it will be open to victims of such incidents to apply to the Secretary of State for an IPA or to have an administrative means of challenging a decision not to allocate one.

As Victims' Commissioner, I believe that empowering victims to challenge decision-makers is important as it affords them the status of active participants as opposed to passive by-standers.

I believe it is important not to be too prescriptive as to when an IPA can be used. In my view the criteria should go beyond multiple fatalities to include incidents where multiple victims have suffered psychological trauma, life changing injuries, or severe economic loss. All of these groups of victims have a strong and legitimate interest in engaging in any subsequent inquiry and investigation process. To restrict the services of an IPA solely to incidents resulting in fatalities risks creating a "victim hierarchy" and this would be unacceptable.

I would favour the legislation setting out in broad terms those eligible for the support of an IPA, with scope for the IPA to include others if there is a public interest requirement. Again, it is important not to be too prescriptive as this will only cause difficulties further down the line. There should be a requirement that the IPA provides reasons when using discretion or when he/she decides it is not appropriate to do so.

There are a range of public agencies who have responsibilities for supporting victims and it is important that the IPA does not duplicate these as this will only cause confusion. However, in practice, the IPA is likely to be required to signpost victims to relevant service providers and it is reasonable to assume that they will have a good understanding of services available.

Families and groups of victims will often hold conflicting views about the best course of action. Sometimes the dynamics between individuals and groups will require great sensitivity and care. Legislation can never overcome this. Those appointing future IPAs will have to be mindful of the need to manage potential conflict and seek those candidates who have the inter-personal skills to be able to build consensus.

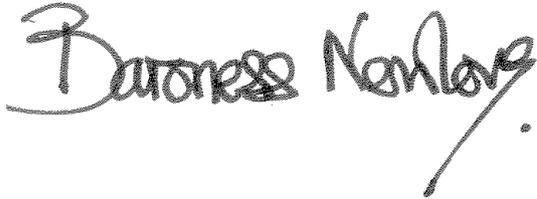
I am unable to comment on how the IPA role may differ depending on the nature of the investigation, but the fundamental principle is that they will be able to support, inform and guide victims. This applies regardless of the particular inquiry process.

It is important that the IPA has an opportunity to feedback on the work they are doing and their observations, so that policymakers and service providers can use the IPA's experiences and knowledge to good effect. I would have thought that the means by which the IPA shares this feedback should be an annual report to Parliament.

There would be a conflict in the IPA being required to advise Ministers. The importance of the word "independent" should not be forgotten. When victims feel let down by the state and by the government, they must feel that their IPA is solely focused on their interests. It would undermine the credibility of the IPA with victims if they had a dual role.

In line with my usual practice, this letter will be placed on my website.

Yours sincerely

A handwritten signature in black ink that reads "Baroness Newlove". The signature is written in a cursive style with a long, sweeping underline that extends to the right and ends in a small dot.

**The Baroness Newlove of Warrington
Victims' Commissioner for England and Wales**

Cc: Edward Argar