

## Victims and Prisoners' Bill Committee

### Written evidence from the Association of Police and Crime Commissioners

#### Introduction

The Association of Police and Crime Commissioners (APCC) is the national membership body for Police and Crime Commissioners (PCCs), Police, Fire and Crime Commissioners (PFCCs), Deputy Mayors and other local policing bodies across England and Wales. It supports them to fulfil their statutory role and deliver their priorities in their local police force areas, while providing national leadership and driving strategic change across policing, criminal justice, and the wider community safety landscape, to help to cut crime and keep communities safe.

This written submission is reflective of the views of the APCC Joint National Leads for Victims, building on the evidence submitted to consultation on the Victims' Bill and the pre-legislative scrutiny on the Victims' Bill. It also draws from engagement with PCCs and OPCCs over this period, and from meetings with the Ministry of Justice, Home Office and sector partners.

#### Questions raised at the oral evidence session

We agreed to return to the committee in writing on the following questions:

*"You are local representatives in your area. We heard this morning from Dame Vera Baird that she felt that the lack of antisocial behaviour being included in the Bill was problematic. I wonder if anyone would like to comment on whether antisocial behaviour should be included in the code."*

- PCCs would like to see more targeted funding to support victims of anti-social behaviour (ASB). However, should victims of non-criminal ASB receive entitlements under the code, current levels of funding would neither cover nor be applicable to spend on these victims, as the victims core funding from the MoJ can only be spent on victims of crime. Many PCCs do support victims of ASB out of their community policing budget to ensure that this cohort receives the care they deserve. Examples of support PCCs are currently commissioning include mediation, informative services, counselling and restorative justice. Examples of support PCCs are currently commissioning include mediation, informative services, counselling and restorative justice.
- We are also aware that those victims who do meet the case review threshold do not always receive the support to which they are entitled. The accompanying guidance to the Bill should clearly set out this threshold.
- The legislation stipulates that criminal justice agencies must take reasonable steps to promote awareness of the victims' code among users of those services and other members of the public. However, the Bill should also ensure agencies promote the Code within their internal structures to ensure that practitioners and officials are aware of their responsibilities; it should not be the responsibility of victims to advocate for their rights under the code. Agencies should understand their responsibilities to victims who do meet the case review threshold and more must be done to raise awareness of this responsibility.

- The APCC is currently undertaking work to understand current spend and demand for services PCCs commission for victims of ASB. We will share this information with the MoJ and HO to inform decision making around this Bill. The APCC has reason to believe that since the 2021 PCC Elections, the number of PCCs commissioning support for ASB victims has increased, following a rise in demand and public feedback.
- Additionally, the APCC is working with PCCs and partners to promote and identify notable practice with the ASB Case Review, formerly known as the Community Trigger and is described as ‘the victims voice’ for those who experience persistent ASB.
- In conclusion, the APCC would support greater clarity in determining the threshold for support for victims of criminal ASB and ensuring agencies are delivering on victims’ rights against the code in this area. We would support additional targeted resource to support victims of non-criminal ASB, and welcome discussions with HO and MoJ as to how this should be delivered.

*“Earlier this morning, Rachel de Souza, the Children’s Commissioner, said that where children are victims or have been exploited, their experience with the police often makes them feel like criminals, so they often do not come forward. She was suggesting that in the victims code there should be an amendment to address children as victims specifically. Do you share her view? May we have your general feedback on that, please?”*

- The Children’s Commissioner spoke about ensuring the legislation was more child friendly and that it recognised specifically children as victims of child criminal exploitation (CCE).
- The Victims’ Code already captures children and young people, and similarly, the duty to collaborate will capture this cohort if they are victims of one of the three specified crime types. However, the Bill enshrining children’s rights into legislation sends a clear message that the system is there to protect them, as we know that trust and confidence can be a real issue for this demographic.
- CCE is a critical issue and a definition captured within legislation would support policing and commissioned services to better work with children, and direct them to the support they need sooner. It is crucial that children who are victims of CCE are not criminalised so provisions in legislation would be useful for the sector in ensuring the right support at the right time.
- Given PCCs will be monitoring compliance, it is key that the agencies supporting young people and children report on performance against the code. The Bill does make provisions for youth offending teams, but the guidance should be clear on how this will work in practice.
- This legislation should also be considering what further focus and resource could be placed on preventing offending, supporting behavioural change, and reducing victimisation.

## Written submission to the Committee

The following written evidence builds on the areas raised at the oral evidence session and covers the clauses of most relevance to PCCs. We hope the Committee will take this into consideration and welcome further questions and engagement as the Bill progresses.

## Code Compliance

### Governance and escalation

PCCs welcome the duty requiring agencies to share data and review it locally, and for PCCs to take a leading role in monitoring that data. Most PCCs chair their Local Criminal Justice Boards (LCJBs), and we expect these forums will be the main meeting through which we review with agencies compliance against the code. The PCC Review part. 2 called for LCJBs to be made statutory, we want to reiterate the importance of this recommendation.

While in many areas PCCs have excellent relationships with criminal justice agencies who attend LCJBs, senior officials must be committed to attending and participating in open and transparent conversations about their performance on code compliance. Agencies must also be committed to providing data at force level to ensure comparability.

PCCs do not have the power or levers to hold criminal justice agencies to account for performance. As chairs of LCJBs PCCs can use these forums to review data in relation to code compliance, discuss improvement action needed and to establish a culture of shared accountability. However, these are soft powers only and require the good will of all criminal justice agencies.

Through LCJBs and individual relationships we expect many performance issues may be solvable through local problem solving, and establishing a shared culture of accountability. However, where issues arise there must be defined routes for escalation through agencies and to the national governance forums. PCCs must feel reassured that concerns about performance are taken seriously.

For PCCs to effectively monitor compliance we must have levers to ensure accountability amongst agencies. Equally, all agencies must feel reassured that the victims code is being upheld. Therefore, we recommend that where the data indicates there are failings, agencies should be required to present, through the local forum (LCJB), a performance plan which may also be shared with MoJ.

The Bill currently does not address enforceability of the code. While agencies and PCCs must monitor compliance with the victims' code, there are no clear penalties in place or recourse for action in the event of non-compliance.

The Committee might look to other industries for examples of how to implement such a practice of enforcement. For example, the Information Commissioners Officer has the power to issue enforcement and penalty notices, and inspect, where it feels there has been failings. Any such enforcement must be built with respect to the current inspection system.

The APCC would also expect to be represented on national governance forums. This will support join up between local and national scrutiny. We have seen in the National Criminal Justice Board, a forum with a good representative membership, that does not meet regularly or with impact. Should new governance be established the MoJ must be committed to regular meetings with driven agendas which are linked to wider criminal justice strategic goals in order to have the most effective impact.

### Data

To date, national code compliance exercises have faced a number of challenges which has left it impossible to meaningfully undertake this exercise, including CPS only reporting national figures, and HMCTS not reporting their code compliance data at all.

The Bill could do more to break down barriers to data sharing. Criminal justice agencies should be mandated to share data locally over and above that which informs the monitoring of Code compliance, building data sharing recommendations arising from the PCC Review Part 2.

Legislation similar to Section 36 of the Police, Crime and Social Responsibility Act 2011 should be included to bring all statutory criminal justice agencies in line with the existing mandate on police forces to share data with local PCCs. This would empower PCCs to develop mechanisms to capture victims' experiences with the service provided to them by all criminal justice agencies, which would provide a deeper understanding than Code compliance data alone.

The Bill currently legislates to drive compliance with the Code within each criminal justice agency but does not address any of the barriers to delivering the Code. We know that the fragmented nature of the criminal justice system is a key cause of poor outcomes for victims. Equally, the inability to track a victim's journey from end to end and understand the standard to which Code rights and entitlements were delivered for a specific cohort makes Code monitoring challenging.

In engaging on the development of the metrics we have been clear they must be ambitious and reflect where the system wants to be and what we want to know. We cannot settle for only using data that agencies already have, and the process must be iterative. We also believe local PCCs and agencies, through their LCJB should be able to decide if additional data collection is necessary to further support performance and delivery of the code.

As a minimum the metrics must also cover each of the 12 code entitlements so that agencies can clearly understand how they are delivering for victims and PCCs can effectively monitor compliance. The MoJ must also be clear which agencies own which metric, and the metrics must also cover each of the 12 code entitlements. Obligations in the Bill to collect information will lead to improvements for victims only if the requirements to do so are comprehensive and robust.

In monitoring code compliance all agencies must ensure they are listening to the lived experience of victims. We were pleased that the MoJ listened to feedback following pre-legislative scrutiny to requests to include victims' feedback in the wider metrics.

## Resourcing

The APCC has been engaging with the MoJ regarding the additional burdens costs of monitoring code compliance. We are reassured that there will be additional resource to undertake this exercise and are working with MoJ to develop a more detailed understanding of whether the assumptions made in the impact assessment are correct to meet the additional burden. A one size fits all approach to distributing the overall pot of funding will not be appropriate and the department should consider the effects of population size, data volume and complexity in determining allocations. PCCs must have the resource to deal with the volume of information and data, including where appropriate undertaking deep dives, and also formulating the performance reports. Similarly, the allocations must take into account difference in regional pay for such positions so that PCCs can attract the best candidates and pay equitable salaries.

The funding should also be delivered flexibly, including capacity to both support analysis but also partnerships, strategy and policy, as monitoring code compliance will involve interfacing with each partner agency effectively, and developing strong working relationships.

## Local Champions

We noted the discussion on local victims' champions/advocates in our oral evidence session and in other evidence sessions. The APCC believe that PCCs must choose how they discharge their role as local victims' advocates, whether through their PCC role, or in appointing a separate individual/s. This is the national position held by the APCC. Individual members may hold differing opinions.

## **Duty to Collaborate**

PCCs welcome the duty to collaborate, collaboration between partners is essential for delivering better outcomes for victims. In many cases it is formalising processes that already exist locally. We are supportive of taking a 'public health' approach so by incorporating commissioners with different expertise and interests we would hope to capture a broader range of victims, and increase coverage of multiple issues. We might even consider how the duty might look to capture a broader range of victims. We would hope this might reduce the 'post-code lottery' effect of service provision.

However, the legislative landscape is already very busy. The MoJ must be clear on the specific added value of this duty, and how it works cohesively with others in this space. Victims and delivering partners must have a clear sense of value and purpose, and collective commitment to these as the duty in itself will not deliver change.

PCCs will step up to be the convening partner in the duty, we have vast experience in bringing partners together and creating a shared sense of purpose. Many PCCs already have excellent relationships with our Local Government and Health partners.

Local areas will have the best sense of how to achieve the aims of the duty, so there must be flexibility in delivery structures including in how funding is spent and the devising and delivery of the joint strategies. In practice this means local partners should be able to decide the mechanisms for delivering the joint strategies through whichever forums they feel best suited, whether that be through current forums or the creation of new ones. It is critical that the duty does not create duplication and ensures value for money.

With regard to Strategic Needs Assessments (SNAs). We noted some, such as the Domestic Abuse Commissioner, gave evidence in support of mandated Joint SNAs. We are supportive of an approach which ensures that all information is captured and that any gaps are assessed and addressed. This could involve joint assessment, and it could also involve capturing relevant information from current assessments. However, the Committee and the department should consider the costs of such exercises, and ensure resourcing matches any expectations. For examples, MOPAC's most recent Strategic Needs Assessment, published in March 2022, which covered all types of victimisation, cost an estimated £110,000 when internal resource costs are taken into account.

Additionally, we are clear that any gaps to services identified through SNAs must be funded. PCCs are driven to develop an evidence base around gaps in services for victims and in notable practice, in order to build the case for further funding of critical services. This is an ambition we know is shared across our partners in Health and Local Government.

Finally, the MoJ must provide clarity on how they will undertake national oversight and share best practice. These strategies must have purpose both locally to inform service delivery, and national to inform strategic decision making on funding.

## Resourcing

The APCC has welcomed conversations with MoJ on the resourcing of this duty. However, we are clear the current Impact Assessment does not go far enough in providing adequate resourcing, and is a vast underestimation of the actual resource that would be needed to deliver the duty effectively. The APCC continues to work with the MoJ to develop an estimation of the actual cost to PCCs and partners.

We must be reassured that the funding will be adequate for delivering the duty and will not be a 'one size fits all' approach to distribution the overall pot of funding. There must be a good degree of flexibility to account for population size and number of partner agencies that will be involved in the duty.

Critically, the funding does not cover the continuing implementation of the strategy in order to deliver an ongoing, collaborative and sustained approach beyond the initial strategy development. In order to drive progress across a joint strategy, resourcing must cover the ongoing costs to deliver and review the approach.

The lack of funding for delivery of services is deeply concerning. PCCs, ICBs and LAs must also receive sustainable funding across the board to deliver services, and we must have flexibility locally to decide how it is spent in line with local priorities and need, in order to deliver an ongoing, collaborative and sustained approach. This will be the most effective way to better collaboration and deliver in the spirit of the duty.

The Committee might note both the comparable DA Act pt. 4 duty, and the SV Duty, received funding for both the delivery of services and the implementation of duties. The DA Act pt. 4 duty to deliver safe accommodation has received £257 million new burden funding across two years.

The government should invest in services in both the services named in the duty, and in critical early intervention and prevention services, targeting behaviour before it becomes criminal.

## **Guidance about independent domestic violence and sexual violence advisors**

The APCC is supportive of guidance on ISVA/IDVAs. Guidance will provide clarity for commissioners in ensuring we are commissioning effectively, however, we are clear that ISVA/IDVAs are only one service that we offer to victims. PCCs also commissioner other vital service that support victims.

We are also clear that the demand for ISVA/IDVAs and other services is considerable and though we welcome the funding that the government has provided for these services, victims are still suffering delays in accessing services. The court backlog is just one of the issues facing the sector and driving demand. The current economic situation is also creating a difficult situation for providers and commissioners in ensuring consistent services for victims.

While guidance is welcome, the government should look to deliver increased resourcing so that it can be best put into practice.

## **Independent public advocates**

The APCC is clear that PCCs locally choose how they discharge their role as local victims advocates, whether through their PCC role, or in appointing a separate individual/s. Should the IPA be introduced, PCCs must be assured that the role compliments that of the PCCs in supporting and advocating for victims.

## **Scope of the bill**

The Minister has clearly set out the departments reasons for including part 3 in the Bill.

While the APCC is supportive of an approach that focuses on reducing reoffending and preventing victimisation we were surprised to see part 3 included in this Bill. We have long called for victims to be placed at the heart of the CJS, this bill is an opportunity to do just that, sending a clear message to victims.

The government must be clear that any measures put in place do not cause further trauma to victims and bereaved families, nor provide false hope. The Bill should consider provisions for victims as well as prisoners the parole process in order to protect their rights. Victim support must be fully resourced and integral to the plans for the Parole Board in order for this Bill to truly reflect its original purpose of being a victim centred piece of legislation.