

Victims and Prisoners Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 2

BARONESS CHAKRABARTI

Leave out Clause 2 and insert the following new Clause –

“The victims’ code

- (1) Schedule (*The victims’ code*) to this Act contains the code of practice as to the services to be provided to victims by persons having functions relating to –
 - (a) victims, or
 - (b) any aspect of the criminal justice system.
- (2) In this Part, the “victims’ code” means the code of practice in Schedule (*The victims’ code*) as from time to time amended by way of subsection (4) below.
- (3) The victims’ code makes provision for services which reflect the principles that victims should –
 - (a) be provided with information to help them understand the criminal justice process;
 - (b) be able to access services which support them (including, where appropriate, specialist services);
 - (c) have the opportunity to make their views heard in the criminal justice process;
 - (d) be able to challenge decisions which have a direct impact on them.
- (4) The Secretary of State may amend the victims’ code by way of regulations made by statutory instrument.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) But the Secretary of State may make regulations under subsection (4) only if satisfied that such amendment would not result in a significant –
 - (a) reduction in the quality or extent of the services provided in accordance with the victims’ code, or

- (b) restriction in the description of persons to whom services are provided in accordance with the victims' code.
- (7) The victims' code may restrict or vary the application of its provisions to—
 - (a) victims of specified descriptions (including those who are victims by virtue of specific conduct or conduct constituting specified offences);
 - (b) specified persons who have functions of the kind mentioned in subsection (1).
- (8) The victims' code may include provision requiring or permitting the services which are to be provided to a victim to be provided to one or more other persons—
 - (a) instead of the victim (for example, where the victim has died), or
 - (b) as well as the victim.
- (9) The victims' code may make different provision for different purposes including different provision for—
 - (a) victims of different descriptions;
 - (b) persons who have different functions of a kind mentioned in subsection (1);
 - (c) different areas.
- (10) The victims' code may not require anything to be done by a person acting in—
 - (a) a judicial capacity, or on the instructions of or on behalf of such a person;
 - (b) the discharge of a prosecution function, if that function involves the exercise of a discretion.
- (11) In this section, "specified" means specified in the victims' code."

Member's explanatory statement

This amendment places the victims' code on a firmer statutory footing as a Schedule to the Bill, amendable by regulations subject to the affirmative procedure. Another amendment will follow to add the Schedule referred to in this clause.

Clause 3

BARONESS CHAKRABARTI

Leave out Clause 3 and insert the following new Clause—

"Amending the victims' code

- (1) This section applies in relation to any amendment to the code of practice under section (*The victims' code*).
- (2) The Secretary of State may prepare a draft amendment to the code.
- (3) The Secretary of State must consult the Attorney General and the Commissioner for Victims and Witnesses.
- (4) After preparing the draft the Secretary of State must—
 - (a) publish the draft;

- (b) specify a period during which representations about the draft may be made to the Secretary of State.
- (5) The Secretary of State must –
 - (a) consider, in consultation with the Attorney General and the Commissioner for Victims and Witnesses, any representation about the draft made to the Secretary of State before the end of the period specified in accordance with subsection (4)(b);
 - (b) if the Secretary of State thinks it appropriate, modify the draft in the light of any such representations.
 - (6) After carrying out the duties under subsection (5), the Secretary of State must lay the draft code before Parliament.
 - (7) The draft code does not come into force until it has been approved by a resolution of each House of Parliament.”

Member's explanatory statement

This amendment, and the amendment to leave out Clause 4 in the name of Baroness Chakrabarti, alters the procedure for amending the victims' code to require formal consultation with the Commissioner for Victims and Witnesses and affirmative parliamentary procedure in cases of non-minor amendments and negative procedure in the case of minor amendments.

Clause 4

BARONESS CHAKRABARTI

Leave out Clause 4 and insert the following new Clause –

“Minor amendments to the victims' code

- (1) The procedure in section (*Amending the victims' code*) applies to a revision of the victims' code except that, if the Secretary of State considers that all of the revisions are minor, the procedure in subsection (3) may be used instead.
- (2) Revisions are minor if –
 - (a) they make corrections or clarifications, or
 - (b) they are consequential on changes to the law, practice or procedure relating to any aspect of the criminal justice system.
- (3) The procedure in this subsection is that the Secretary of State must –
 - (a) consult the Attorney General and the Commissioner for Victims and Witnesses about the proposed revisions,
 - (b) lay a draft of the revised code before Parliament, and
 - (c) if the draft code has not been subject to annulment in pursuance of a resolution of either House of Parliament within 40 days it being laid, bring it into operation on such day as the Secretary of State appoints by regulations.”

Member's explanatory statement

This amendment, and another to leave out Clause 3 in the in the name of Baroness Chakrabarti, alters the procedure for amending the victims' code to require formal consultation with the Commissioner for Victims and Witnesses and affirmative parliamentary procedure in cases of non-minor amendments and negative procedure in the case of minor amendments.

Clause 5

BARONESS CHAKRABARTI

Leave out Clause 5 and insert the following new Clause –

“Effect of non-compliance

- (1) If a person fails to act in accordance with the victims' code, save for under subsection (4) to (7) below, the failure does not of itself make that person liable to criminal or civil proceedings.
- (2) But the victims' code is admissible in evidence in criminal or civil proceedings, and a court may take into account a failure to act in accordance with the code in determining a question in the proceedings.
- (3) Further, the Commissioner for Victims and Witnesses may seek to enforce compliance with the code subject to the procedure set out below.
- (4) Where the Commissioner for Victims and Witnesses is of the view that a person with relevant functions under section (*The victims' code*)(1) has failed adequately to comply with the victims' code and having consulted that person, they may –
 - (a) issue a notice of general guidance to that person or to all persons with similar functions as to how to improve compliance with the relevant aspect of the victims' code, or
 - (b) issue a notice requiring specific actions in relation to a particular victim or class of victims so as better to comply with the victims code, and having allowed a reasonable time for the relevant person to comply with the notice, publish that notice including any additional views on the delayed compliance or non-compliance with it.
- (5) Where the Commissioner for Victims and Witnesses is of the view that a person with relevant functions under section (*The victims' code*)(1) has failed adequately to comply with a notice issued under subsection (4)(a) or (b) –
 - (a) they may apply to an appropriate court or tribunal for enforcement of that notice, and
 - (b) where having consulted the relevant victim or class of victims, they are of the view that non-compliance with the victims' code also constitutes a breach of the Human Rights Act 1998 or the Equality Act 2010, they may bring proceedings for such a breach or breaches.
- (6) In subsection (5)(a) “appropriate court or tribunal” means such court or tribunal as may be determined in accordance with rules.

- (7) In subsection (5)(b) proceedings against an authority include a counterclaim or similar proceeding.
- (8) Where a court or tribunal is of the view that it would be in the interests of justice to do so, it must issue appropriate relief as is within its jurisdiction for non-compliance with the Commissioner for Victims and Witnesses' notice and the victims' code."

Member's explanatory statement

This amendment gives the Commissioner for Victims and Witnesses an additional role in seeking to ensure compliance with the victims' code. They may issue general or specific notice, may publish these and in the event of non-compliance may bring legal proceedings for enforcement of the notice and/or proceedings under the Human Rights Act or Equality Act.

Clause 33

BARONESS CHAKRABARTI

Clause 33, page 32, line 39, leave out subsections (7) and (8)

Member's explanatory statement

This amendment removes the prohibitions on advocates representing victims while under the age of 18 and carrying on legal activity.

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