

Victims and Prisoners Bill

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

BARONESS FINLAY OF LLANDAFF

Clause 1, page 1, line 14, at end insert “, including the death by homicide of a British national outside the United Kingdom”

Member's explanatory statement

To provide bereaved victims of homicide abroad with the same support given to victims of homicide within the UK in recognition of the distress they experience and which can be exacerbated by having to deal with the criminal justice systems of foreign jurisdictions.

LORD PONSONBY OF SHULBREDE
THE LORD BISHOP OF MANCHESTER

Re-tabled version of the amendment printed on HL Bill 31(a)

Clause 1, page 2, line 3, at end insert –

- “(c) “child criminal exploitation” means where a child under the age of 18 is encouraged, expected or required to take part in any activity that constitutes a criminal offence.”

Clause 2

BARONESS CHAKRABARTI

Re-tabled version of the amendment printed on HL Bill 31(d)

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 shall make provision for services which reflect the principles that victims –
 - (a) must be provided with information to help them understand the criminal justice process;
 - (b) must be able to access services which support them (including, where appropriate, specialist services);
 - (c) must have the opportunity to make their views heard in the criminal justice process;
 - (d) must 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

Clause 3, page 3, line 28, at end insert “and the Commissioner for Victims and Witnesses”

Member's explanatory statement

This refers to the duty on the Secretary of State to prepare a draft Victims' Code. The Victims' Commissioner has a statutory duty to “review the operation” of the Victims Code. The amendment would put a statutory duty on the Secretary of State to consult the Commissioner when making any changes to the victims' code or issuing any statutory guidance relating to it.

BARONESS CHAKRABARTI

Clause 3, page 3, line 34, after “General” insert “and the Commissioner for Victims and Witnesses”

Member's explanatory statement

This refers to the duty of the Secretary of State to consider any representations made in relation to the drafting of the victims' code in consultation with the Attorney General.

Clause 4

BARONESS CHAKRABARTI

Clause 4, page 4, line 22, after “General” insert “and the Commissioner for Victims and Witnesses”

Member's explanatory statement

This refers to the duty on the Secretary of State to consult the Attorney General on any revisions to the victims' code.

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 with that person, they may –
 - (a) issue a notice of general guidance that is not specific to a particular victim, to that person or to all persons with similar functions as to how to improve compliance with the relevant aspect of the victims' code, and
 - (b) 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 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 a 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 by issuing general notices and publishing these in the event of non-compliance. These may be further enforced by the bringing of legal proceedings and/or proceedings under the Human Rights Act or Equality Act. However it does not allow specific notices in relation to particular victims.

Clause 6

BARONESS CHAKRABARTI

Clause 6, page 5, line 27, after “consult” insert “the Commissioner for Victims and Witnesses and any other”

Member's explanatory statement

This refers to the Secretary of State's duty to issue regulations on the information to be collected by PCCs at a local level in relation to compliance with the Victims' Code. The clause as currently drafted requires the Secretary of State only to consult persons they consider to be appropriate.

Clause 7

BARONESS CHAKRABARTI

Clause 7, page 6, line 22, after “consult” insert “the Commissioner for Victims and Witnesses and any other”

Member's explanatory statement

This refers to the Secretary of State's duty to issue regulations on the timing and format of the information to be collected by PCCs at a local level in relation to compliance with the victims' code. The Clause as currently drafted requires the Secretary of State only to consult persons they consider to be appropriate.

Clause 11

BARONESS CHAKRABARTI

Clause 11, page 9, line 33, after “consult” insert “the Commissioner for Victims and Witnesses, the Domestic Abuse Commissioner for England and Wales and any other”

Member's explanatory statement

This refers to the Secretary of State's duty to issue guidance on the collaboration of agencies (police, NHS and local authorities) “in exercise of victims support functions” in respect of victims of domestic abuse, serious violent offences and sexual offences. The clause as currently drafted requires the Secretary of State only to consult persons they considers to be appropriate. This amendment require them to consult with the Commissioner for Victims and Witnesses, the Domestic Abuse Commissioner for England and Wales and the Commissioner for Children.

Clause 14

BARONESS CHAKRABARTI

Clause 14, page 12, line 3, after “consult” insert “the Commissioner for Victims and Witnesses, the Domestic Abuse Commissioner for England and Wales and any other”

Member's explanatory statement

This refers to the Secretary of State's duty to issue guidance on the collaboration of agencies (police, NHS and local authorities) "in exercise of victims support functions" in respect of victims of domestic abuse, serious violent offences and sexual offences. The Clause as currently drafted requires the Secretary of State only to consult persons they consider to be appropriate. This amendment requires them to consult with the Commissioner for Victims and Witnesses, the Domestic Abuse Commissioner for England and Wales and the Commissioner for Children.

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