

Victims of Crime (Rights, Entitlements, and Notification of Child Sexual Abuse) Bill [HL]

HL Bill 39 of 2017–19

Summary

The [Victims of Crime \(Rights, Entitlements, and Notification of Child Sexual Abuse\) Bill \[HL\]](#) is a private member's bill introduced by Baroness Brinton (Liberal Democrat). The bill had its first reading in the House of Lords on 6 July 2017. It is scheduled to receive its second reading on 19 July 2019.¹

The bill is intended to improve protections for the victims of crime. It would create new rights and entitlements for victims, including regarding court treatment and police protections. Victims of crime would also have the right to request reviews into how crimes have been investigated. In addition, the bill would extend a new duty for people working with children to notify the police if they suspected someone had been a victim of sexual abuse.

Key Provisions

Defining a Victim of Crime

Clause 1 defines 'victims' for the purposes of the bill. A victim is either:

- someone who has suffered physical, mental, emotional or economic harm directly caused by a criminal offence;
- a close relative of someone whose death was directly caused by a criminal offence; or
- a close relative of an incapacitated victim.²

The bill specifies that someone can be a victim of crime even if no one has been charged or convicted of an offence.³ Individuals can also be a victim if there has been no complaint made about an offence.

This definition corresponds to that used in the victims' code of practice.⁴ This statutory code is published by the Ministry of Justice. It governs the services provided by criminal justice agencies in England and Wales to the victims of criminal conduct.⁵ It only applies to the victims of criminal conduct carried out in England and Wales.⁶

Changes to the Victims' Code of Practice and Other Protections

The bill would also amend the victims' code of practice.⁷ Victims would have added entitlements to:

- Receive information relating to the relevant crime and be provided with support from relevant agencies.

- Receive information on the perpetrator of the crime, including any prison sentences served previously.
- Receive adequate notice of all relevant court and other legal proceedings.
- Have access to adequate interpretation and translation services when required.
- Have access to direct contact details for criminal justice agencies and individuals involved in the court and other legal proceedings.⁸

HM Courts and Tribunal Service also would have to ensure that, during criminal proceedings, victims:

- would not be subject to unnecessary delays;
- were treated with dignity and respect; and
- did not experience discriminatory behaviour.⁹

In addition, victims would receive other forms of assistance in court. These include the following rights and entitlements:

- Victims would have access to an appropriate person to liaise with relevant agencies on their behalf.
- Victims would have access to the transcripts of relevant legal proceedings at no cost to themselves.
- Victims would have a right to take part in pre-court hearings to determine the nature of court proceedings.
- Children and vulnerable adults would be able to give evidence from a different location or from behind a protective screen.
- The investigating police force would be required to ensure the safety and protection of victims during criminal proceedings.
- Victims would be provided with legal advice in criminal proceedings, where considered necessary by a judge.
- The Secretary of State would also have to take steps to ensure victims were not required to disclose personal data in legal proceedings that put their safety at risk, unless required to do so by a judge.¹⁰

Economic Support and Compensation Orders

The bill would require the Secretary of State to ensure that victims of crime were provided with economic support.¹¹ This would include compensation for economic harms arising from the criminal case and reimbursement for expenses incurred by attending court. The Secretary of State would also be required to ensure victims were given the right to approve or refuse the payment of any compensation order made by the courts against a person convicted of a crime against them.

Role of the Parliamentary Ombudsman

Clause 4 would make changes to the way the victims' code of practice is enforced. It would expand the existing role of the Parliamentary Ombudsman, requiring it to investigate any complaints of a failure to perform a duty set out in the code. It would also require the ombudsman to report to both Houses of Parliament if someone was found to not have complied with the code and that fault had not been remedied.¹²

Other Protections for Victims in Court

The bill would provide other protections in addition to the changes to the victims' code of practice. Clause 9 would create a new training requirement. Those in the court service involved in a criminal case involving sexual and domestic violence would have to undertake specialist training on how to work with the victims of these crimes. This requirement would be implemented through secondary legislation. Clause 10 would require the crown court to hold ground rules hearings if any of the proposed witnesses giving oral evidence were eligible for assistance "on grounds of age or incapacity" or "on grounds of fear or distress about testifying". Ground rules hearings are currently used in courts to make arrangements to facilitate the participation of people, including defendants in trials.¹³

Area Victims Plan

Clause 5 would require elected police bodies to have an area victims plan. The purpose of these would be to address the needs of victims in police body areas. The plans would also be used to assess the adequacy and effectiveness of victims services. Elected police bodies would be required to publish an annual report on the implementation of the plan. Under clause 6 of the bill, the national Victims' Commissioner would assess the adequacy of all area victims plans. The commissioner would also publish quality standards about the provision of victims services.¹⁴

Reviews of Decisions Not to Prosecute and Homicide Reviews

The bill would enable victims to request reviews into how crimes had been investigated and the perpetrators prosecuted. Clause 7 would require the Secretary of State to introduce secondary legislation to provide victims with the right to request a review of a decision by a prosecutor not to prosecute a relevant offence. Clause 8 would require the Secretary of State to establish homicide reviews. These would review the circumstances in which someone over the age of 16 had died as a result of a homicide but either no one has been charged or someone had been charged and then acquitted.¹⁵

Victims of Sexual Abuse: Duty to Notify the Police

Clause 11 would create a duty on certain professionals to notify the police regarding possible victims of sexual abuse. This duty would apply to people working with children as a health care professional, teacher or social care worker. They would be required to notify the police if children told them about abuse. They would also be required to do so if they reasonably suspected a child had been sexually abused.

Background: Government Policy on Victims of Crime

The Government has published its own proposals intended to improve the protections provided to the victims of crime and the way in which services are provided to them by agencies. However, these have been criticised—including by Baroness Brinton. She has argued that any new legislation would need to ensure agencies were required to provide certain levels of service to victims.¹⁶

In its 2017 manifesto, the Conservative Party stated it would introduce legislation to "enshrine victims' entitlements in law". This would establish "what level of service they should expect from the police, courts and criminal justice system".¹⁷ In September 2018, the Government published its *Victims Strategy*.¹⁸

The strategy included the following commitments:

- The victims' code of practice and the role of the Victims Commissioner would both be strengthened.
- Agencies providing services to the victims of crime would have to comply with improved reporting, monitoring and transparency standards.
- More registered intermediaries would be recruited, and new victim-friendly waiting areas would be added to courts.

The document also stated that the Government would consult on proposals to change the law in this area, referring to the introduction of a new "victims law".¹⁹

In June 2019, the House of Lords debated the Government's plans to support victims of domestic violence and abuse.²⁰ During this debate, Baroness Brinton made reference to her private member's bill.²¹ She argued the Government needed to go further than outlined in its *Victims Strategy* and that relevant agencies should be required by law to provide support to the victims of crime. She stated:

I was pleased when the Government published their new *Victims Strategy* last autumn, but noted with concern that we had moved only to holding, "agencies to account for compliance with the victims' code through improved reporting, monitoring and transparency", rather than insisting that these agencies have a duty to deliver the support that victims require.²²

The Victims Commissioner for London, Claire Waxman, has also argued the Government needed to do more to strengthen the victims' code of practice.²³ She has said the Government should give the Victims Commissioner more powers to hold agencies to account.

Victims Law Consultation

In January 2018, the Government published its response to a separate consultation on proposals to provide greater protection for the victims of domestic violence.²⁴ The consultation response also included a draft domestic abuse bill.²⁵ However, the Government's consultation on a new 'victims law' has yet to be published. In April 2019, the Government stated it would publish this consultation later this year.²⁶

The then Victims Commissioner, Baroness Newlove, who had campaigned for changes to the law regarding victims, welcomed the publication of the Government's *Victims Strategy*.²⁷ She also stated her support for a new victims law. In May 2019, Baroness Newlove stated in an interview that the Government needed to fulfil its commitment to introduce this legislation. She stated:

I'm glad the Government now have done the Victim Strategy. But that's just one step. I want victims to have legal rights, for people to recognize what needs to be done.²⁸

Mandatory Reporting Duty

As stated above, clause 11 of Baroness Brinton's bill would create a duty for individuals in certain professions to notify the police of suspected sexual abuse. In 2016, the Government published a consultation that included proposals for a mandatory duty to report child abuse or neglect.²⁹ In March 2018, the Government responded to this consultation stating it would not implement these proposals.³⁰ It argued the evidence it had received as part of the consultation process did not demonstrate that the

measures would sufficiently improve outcomes for children. The Government argued these measures:

[...] could risk creating unnecessary burdens, divert attention from the most serious cases, hamper professional judgement, and potentially jeopardise the vital relationships between social workers and vulnerable families in their care.³¹

The Government stated that it would instead seek to improve information sharing between agencies. It would also consider whether the current legal framework regarding offences concerning the concealment of child abuse and neglect was robust enough.

The issue of reporting child sexual abuse was raised during an oral question in the House of Lords on safeguarding failures identified by the Independent Inquiry into Child Sexual Abuse.³² Both Baroness Brinton and Baroness Walmsley (Liberal Democrat) argued the Government should introduce mandatory reporting of child abuse for professionals working with children. The Parliamentary Under Secretary of State at the Department for Education, Lord Agnew of Oulton, responded by stating that 70 percent of those who responded to the 2016 consultation thought this would have an adverse impact.³³

Further Information

- [Debate on 'Victims Strategy'](#), HC *Hansard*, 11 October 2018, cols 331–78
- [Debate on 'Victims of Domestic Violence and Abuse'](#), HL *Hansard*, 6 June 2019, cols 182–216

¹ UK Parliament website, '[Victims of Crime \(Rights, Entitlements, and Notification of Child Sexual Abuse\) Bill \[HL\] 2017–19](#)', accessed 4 July 2019; and [HL Hansard, 6 July 2017, col 983](#).

² Clauses 2(1) and 2(5).

³ Clause 2(2).

⁴ Ministry of Justice, [Code of Practice for Victims of Crime](#), October 2015, p 1.

⁵ Domestic Violence, Crime and Victims Act 2004, s 32.

⁶ Ministry of Justice, [Code of Practice for Victims of Crime](#), October 2015, p 1.

⁷ The victims' code of practice is a statutory code introduced under the Domestic Violence, Crime and Victims Act 2004. It is also referred to as the Code of Practice for Victims of Crime.

⁸ Clause 3(2).

⁹ Clause 3(3).

¹⁰ Clauses 3(4)–3(9) and 3(10)(d)–3(10)(e).

¹¹ Clauses 3(10)(a)–3(10)(c).

¹² Clause 4(10).

¹³ Criminal Procedure Rules 2015, SI 2015/1490, r 3.9.

¹⁴ Clause 6(2).

¹⁵ Clause 8(1)

¹⁶ [HL Hansard, 6 June 2019, col 196](#).

¹⁷ Conservative Party, [The Conservative Party Manifesto 2017](#), May 2017, p 44.

¹⁸ HM Government, [Victims Strategy](#), September 2018, Cm 9700, pp 8–9.

¹⁹ *ibid.* Further information on the *Victims Strategy* is provided in the House of Commons Library briefing [Victims Strategy](#) (9 October 2018).

²⁰ [HL Hansard, 6 June 2019, cols 182–216.](#)

²¹ *ibid.*, col 196.

²² *ibid.* Baroness Brinton used in her speech a quotation from the *Victims Strategy* (HM Government, [Victims Strategy](#), September 2018, p 18).

²³ Claire Waxman, '[Here is Everything That's Wrong with The Government's New Victims Strategy](#)', *Independent*, 10 September 2018. The Victims Commissioner for London is a separate role to that of the national Victims Commissioner. Claire Waxman was appointed by the Mayor of London, Sadiq Khan, in 2017.

²⁴ HM Government, [Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#), January 2019, CP 15.

²⁵ *ibid.*

²⁶ House of Commons, '[Written Question: Victims](#)', 16 April 2019, 242062.

²⁷ Victims Commissioner, '[New Victims Strategy Pledges to Deliver Reform of Victim Rights](#)', 11 September 2018.

²⁸ Victims Commissioner, '[Victims Commissioner Calls Upon Government to Give Victims Full Legal Rights](#)', 20 May 2019. A new Victims Commissioner, Dame Vera Baird, was appointed in May 2019 and took over from Baroness Newlove in June 2019 (Victims Commissioner, '[Dame Vera Baird Appointed as New Victims' Commissioner](#)', 13 May 2019).

²⁹ Home Office and Department for Education, '[Reporting and Acting On Child Abuse And Neglect](#)', 21 June 2016.

³⁰ Home Office and Department for Education, '[Government Outlines Strengthened Plans to Tackle Child Abuse](#)', 5 March 2018.

³¹ *ibid.*

³² [HL Hansard, 10 September 2018, cols 2093–5.](#)

³³ *ibid.*, col 2095.

House of Lords Library briefings are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the briefings with the Members and their staff but cannot advise members of the general public.

Any comments on briefings should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to purvism@parliament.uk.