



## Coroners and Justice Bill: suggested amendments to the Bill.

## Committee stage briefing note for MPs.

6 February 2009

## **Introduction**

We wrote to you before Second Reading of the Coroners and Justice Bill with our views on how the Bill could be improved for victims and witnesses of crime. This note gives you more detail on our position and suggested amendments for Committee stage. We are urging Members of the Bill Committee to table and support these amendments, and for other MPs to encourage their colleagues to support these important improvements.

## **Coroners (part 1 of the Bill)**

Victim Support welcomes the overall reforms proposed to the coroners' system. But we all know that an inquest can be one of the most traumatic and bewildering experiences for the family and friends of the deceased. And yet there is no support system in place to explain the proceedings and provide emotional and practical help on the day of the inquest and afterwards.

Victim Support helps in some coroners' courts, where it can raise the local resources to do so. But its funding from Government does not cover this work. People attending coroners' courts are the forgotten witnesses. The Government's own 'Draft charter for bereaved people who come into contact with a reformed coroner system' (published on 18 June 2008) makes it clear that support is patchy; it says in paragraph 22 that "Some coroners now arrange for Court Support Services to operate on days when they hold inquests."

We are calling for the Government to establish a guaranteed support service for those attending inquests, in the same way that we have for witnesses attending criminal courts, with the resources to back it. The proposed amendment to the Domestic Violence, Crime and Victims Act 2004 would extend to witnesses attending inquests the current power to make grants to organisations that help victims, witnesses and others affected by crimes. This would enable the Government to set up and fund such a service.

### **Suggested amendment:**

after clause 34, insert new clause 34A:

- (1) The Domestic Violence, Crime and Victims Act 2004 (c.28) is amended as follows.
- (2) In section 56(1) omit "victims, witnesses or other persons affected by offences" and insert –
  - "1) victims, witnesses or other persons affected by offences, and
  - 2) witnesses attending inquests"

## **Reform of the law on homicide (part 2 of the Bill)**

Victim Support welcomes the proposed reforms of the partial defences to murder. But we have concerns that some aspects of it might be unworkable, and that the law could leave new areas of uncertainty. For example, the Bill proposes that:

- diminished responsibility should be based on a "recognised medical condition". Recognised by whom? For how long? Must there be evidence in the defendant's medical records at the time of the offence or will a subsequent diagnosis do?

- sexual infidelity should never be a ground for provocation. Why is that singled out for definition on the face of the Bill when there is no precise definition of what other kinds of words or deeds will qualify?

We are calling for clarity from the Government on these issues. On diminished responsibility, the proposed amendments seek to make it clear that the recognised medical condition has to be recognised by a competent authority to be designated by the Secretary of State and that the condition must have been evident at the time of the offence. On provocation, we are not opposing the exclusion of sexual infidelity, but wish the Government to explain how it will work in practice (by a probing amendment to delete the provision) and to assure the House that the current drafting achieves the intended effect of excluding sexual infidelity from the defence of provocation.

### **Suggested amendments:**

#### **1<sup>st</sup> amendment (diminished responsibility)**

Clause 39:

subclause (1)(1): omit "if D was suffering from" and substitute "if, at the time of the killing, D was suffering from"

- subclause (1)(1)(a): omit "a recognised medical condition" and substitute "a recognised medical condition, recognised by an authority designated by the Secretary of State".

- subclause (1)(1B): omit "if it causes, or is a significant contributory factor in causing" and substitute "if it caused, or was a significant contributory factor in causing".

#### **2<sup>nd</sup> amendment (probing amendment on sexual infidelity)**

Clause 42

- delete subclause (6)(c).

#### **3<sup>rd</sup> amendment (clarifying drafting on sexual infidelity)**

Clause 42

- subclause (6)(c): omit "the fact that a thing done or said constituted sexual infidelity is to be disregarded" and substitute "things said or done that constitute sexual infidelity are not to be considered a qualifying trigger."

## **Criminal procedure, especially vulnerable and intimidated witnesses (part 3 of the Bill)**

The Bill makes minor changes to the availability of special measures in court (eg screens or video links) for vulnerable and intimidated witnesses - for example it makes those under 18 automatically eligible rather than those under 17 as currently.

Special measures do not diminish the quality of a witness's evidence - quite the opposite: they help to reduce the fear and intimidation of the court room. Too often vulnerable and intimidated witnesses are not identified by the police and, even where they are, judges have a discretion to grant the measures or the equipment is simply not available in court. Last year our Witness Service identified 18,000 vulnerable and intimidate witnesses on the day of the trial who had not been identified until then. The system is not working and simply tweaking the law will not solve the problem.

We believe that automatic availability of special measures is needed for any witness who requests it. Choice is now an essential feature of most public services - but not the criminal justice system, where the witness has no say in how they are treated by the court. If that is a step too far for the criminal justice system, then a proper system is needed to identify vulnerable and intimidated witnesses before the trial and make sure the special measures are available in court.

Our amendments would give any witness the right to request special measures, regardless of whether they fall into the current eligibility categories of being vulnerable or intimidated.

### **Suggested amendment:**

after clause 86, insert new clause 86A:

“The Youth Justice and Criminal Evidence Act 1999 (c.23) is amended as follows.

After section 17 insert:

“17A: (1) Notwithstanding the effect of sections 16 and 17, any witness in criminal proceedings (other than the accused) may make an application to the court to give a direction for assistance under section 19.””

## **Sentencing (part 4 of the Bill)**

Victim Support welcomes the provisions in the Bill that require the Sentencing Guidelines Council to say what effect changes in sentencing practice are having on the demand for prison places and community sentences. But resource constraints are already meaning that legislation that would protect victims of crime is unimplemented years after receiving Royal Assent - for example, the major extension of the availability of harassment orders in the Domestic Violence, Crime and Victims Act 2004 is still unimplemented.

We are calling on the Government to give a statutory commitment that when new sentences are proposed a binding commitment is given to implement them within six months of Royal Assent and make available the necessary resources. Our amendment is necessarily limited to the provisions of this Bill, but would set a useful precedent.

### **Suggested amendment:**

clause 161:

- after subclause (5) insert:

(6) Notwithstanding the effect of subsections (1) to (5) all provisions of this Bill will come into force no later than six calendar months after the day on which this Act is passed.”

## **Victims Commissioner (part 5 of the Bill)**

Victim Support is concerned that almost five years after Royal Assent for the provisions creating the Victims Commissioner the Government has not implemented them or appointed a Commissioner - and is now resurrecting the idea in a watered down form.

At the time Victim Support agreed with the idea of a Commissioner, as a body with the weight to drive change through the criminal justice system. Since then, the Victims Code of Practice has brought about many of the basic improvements in the system that would have fallen to the Commissioner, so the rationale for the role is now much weaker. Further improvements could be better delivered through proper monitoring of the Code and regular increases in its service standards.

In addition, the real voice for victims lies with organisations such as Victim Support and others in the voluntary sector who help victims of crime. The Commissioner will duplicate that role and waste valuable resources.

We are therefore calling on the Government to set out a clear argument for why it thinks the Commissioner is still needed after five years have passed and, unless it is able to do so, to repeal the Commissioner provisions and redirect its funding towards front line services instead.

Our amendments call on the Government to do this and also to consider giving the Commissioner a unified role in taking on complaints from victims and witnesses about the services provided by the various criminal justice agencies.

### **Suggested amendments:**

#### **1<sup>st</sup> amendment (making the case for the Commissioner)**

- omit clause 122
- insert new clause 122(A):  
“(1) The Domestic Violence Crime and Victims Act 2004 (c.28) is amended as follows.  
(2) Sections 48 to 53 and schedules 8 and 9 shall cease to have effect.”

#### **2<sup>nd</sup> amendment (complaints role for the Commissioner)**

clause 122:

- before subclause (3)(a) insert “(3)(A): before subsection (1)(a) insert “(A) investigate a complaint from a particular victim or witness about an authority within the Commissioner’s remit as specified in schedule 9”.”
- after subclause (4) insert “(4A): Omit section 51(a) (restrictions on exercise of functions)”

### **Other issues not in the Bill: Criminal Injuries Compensation Scheme (CICS)**

The Government recently made major changes to the compensation scheme for the armed forces, which is based on the CICS for victims of violent crime. Service personnel no longer have their awards reduced if they have multiple injuries (they get the full lump sum for each injury, unlike victims of crime) and the maximum lump sum they can receive has been increased to £570,000 (compared to £250,000 under CICS). Compensation for victims of crime is now lagging far behind.

We are calling on the Government to use the Bill to end the disparity between victims of crime and the armed forces. Our amendments would bring the CICS up to the level of the armed forces scheme.

## **Suggested amendments:**

### **1<sup>st</sup> amendment (harmonising the tariff amounts of the CICS and armed forces scheme)**

- after clause 99, insert new clause 99(A):

“(1) The Criminal Injuries Compensation Act 1995 (c.53) is amended as follows.

(2) After section 2(3)(b) insert “The maximum amount payable in the Tariff shall be set at an amount not less than the maximum equivalent tariff amount payable under the Armed Forces (Pensions and Compensation) Act 2004 (c.32).”

### **2<sup>nd</sup> amendment (abolishing the multiple injury under CICS to bring it into line with the armed forces scheme)**

after clause 99, insert new clause 99(A):

“(1) The Criminal Injuries Compensation Act 1995 (c.53) is amended as follows.

(2) After section 3(1) insert new subsection 3(1)(A): “Notwithstanding the effect of subsection 3(1), the amount of compensation may not be reduced by reason of the applicant having multiple injuries.”

## **Background on Victim Support**

Victim Support (VS) is the independent national charity for people affected by crime.

Our highly-trained staff and volunteers in the community give free and confidential help to victims of crime, their family, friends and other people affected. This takes the form of information, emotional support and practical help. Victims don't have to report a crime to the police to get our help and can ask for support at any time, regardless of when the crime happened.

We have a network of offices right across England and Wales running and co-ordinating our local services. We also run the Witness Service in every criminal court to help those called as witnesses and our Victim Supportline (0845 30 30 900) gives immediate help over the phone and puts people in touch with our local teams. We are not a government agency or part of the police.

As well as providing services, we campaign for greater awareness of the effects of crime and to increase the rights of victims and witnesses.

Our website can be accessed at [www.victimsupport.org.uk](http://www.victimsupport.org.uk).

For further information please contact our National Centre on 020 7268 0200 and ask to be put through to a policy adviser.



## **Coroners and Justice Bill: a missed opportunity for victims of crime**

## **Introduction**

The Coroners and Justice Bill is a missed opportunity to help victims and witnesses of crime. It could have been a radical and coherent programme of reform to put them at the heart of the criminal justice system. Instead it is a jumble of changes with no clear strategy behind them; once again victims of crime appear to be an afterthought.

We are urging you to press the Government to go further and seize this opportunity to turn rhetoric into reality: to really put victims at the heart of the criminal justice system and end the public's perception that it's offenders who are always protected. We will be suggesting significant amendments to the Bill at Committee stage and we hope you will back them.

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**We will be pressing the Government for clarity on these issues.**

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**What is needed is automatic availability of special measures for any witness who requests it. Choice is now an essential feature of most public services - but not the criminal justice system, where the witness has no say in how they are treated by the court. If that is a step too far for the criminal justice system, then a proper system is needed to identify vulnerable and intimidated witnesses before the trial and make sure the special measures are available in court.**

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