

Anti-social Behaviour, Crime and Policing Bill

Fact Sheet: Victims and Witnesses of Crime

Background

1. On 7 July 2012 the Government published its response to the consultation *Getting it Right for Victims and Witnesses*,¹ setting out a wide ranging package of reforms to deliver a more tailored and responsive service for victims and witnesses of crime. This included commitments to:
 - increase the spend on victims' services by up to £50 million per year, raised from offenders through the Victim Surcharge and other financial impositions, balancing the reforms to the criminal injuries compensation scheme to ensure the scheme is focused on the most seriously injured victims of crime;
 - move to a model of provision of support services for victims of crime where the majority of services are commissioned locally by Police and Crime Commissioners (PCCs);
 - review the Victims' Code and Witness Charter;
 - increase the number of victims able to make a fully informed decision as to whether to make a Victim Personal Statement; and
 - consider extending the scope of police powers under the Serious Organised Crime and Police Act 2005 to cover any individual the police consider to be in need of protection.

The following provisions of the Bill continue our delivery of these reforms for victims and witnesses.

Powers of local policing bodies to provide or commission services (clause 129)

2. Currently Central Government spends in the region of £66 million each year in grant funding to a wide range of organisations that provide support services.
3. Core Ministry of Justice funding for support services for victims of crime totals £50 million per year. In addition the Government intends to raise up to an additional £50 million from offenders by extending and increasing the Victim Surcharge and increasing the value of Penalty Notices for Disorder and motoring Fixed Penalty Notices (implemented in July and August 2013 respectively). This will, if realised, increase the total available from the Ministry of Justice for support services for victims of crime to up to £100 million per year, once all reforms are fully implemented.
4. In the response to the *Getting it Right for Victims and Witnesses* consultation, the Government was clear that support services, whether commissioned nationally or locally, should aim to achieve two outcomes

¹ <https://consult.justice.gov.uk/digital-communications/victims-witnesses>

for victims of crime – namely, to help victims to cope with and then (as far as is possible) to recover from, the impacts of crime upon them. Support should be particularly targeted at those who have suffered the greatest impact from crime; victims of serious crime, the most persistently targeted and the most vulnerable.

5. The Government is committed to ensuring that victims have access to high quality support. Different localities suffer from different levels and types of crime and local services must have the flexibility to meet different and changing local needs. PCCs, rather than Central Government, are best placed to commission support services to meet local needs.
6. Central Government will commission those services that it makes sense to commission on a national basis, such as services for victims of low volume but high impact crimes such as homicide, human trafficking and rape (through rape support centres), plus some other support for victims of sexual and domestic violence which we are to define with the help of victims' groups and support providers. The court-based witness service and some national helplines will also be commissioned nationally.
7. PCCs were established by the Police Reform and Social Responsibility Act 2011. When that Act was passed, PCCs were not expected to play a role in the commissioning of victims' services. Whilst the 2011 Act confers on PCCs the power to make grants to "secure, or contribute to securing, crime and disorder reduction in their area" we wish to ensure that PCCs powers are wide enough to permit them to provide or commission all of the local victims' services that might be needed, in a wide range of ways.
8. The provision in Part 10 will ensure that PCCs can provide or commission the widest possible range of support services for victims and witnesses of crime, by the widest possible means. It will also give PCCs the ability to provide or commission services for victims and others affected by anti-social behaviour. Anti-social behaviour was identified as a priority in all 41 of the PCCs' police and crime plans for 2013.

Surcharges: imprisonment in default and remission of fines (clause 154)

9. The Victim Surcharge was introduced by section 161A of the Criminal Justice Act 2003 ("the 2003 Act") and requires that when a court deals with an offender it must order him or her to pay a surcharge. This was originally set at a flat rate of £15 to be ordered with fines only. In its response to the consultation *Getting it Right for Victims and Witnesses* the Government set out proposals to reform the Victim Surcharge.
10. The Victim Surcharge has raised approximately £52.4 million over the last six years with all revenue being used by the Government to fund victim support services.

11. From 1 October 2012 the Victim Surcharge was extended to a wider range of in court disposals such as conditional discharges, community sentences and custodial sentences. The surcharge payable when a fine is imposed was also increased to 10% of the fine value, subject to a minimum of £20 and a maximum of £120. The reforms to the surcharge are intended to raise up to an additional £20 million on top of the revenue it currently generates each year.
12. These changes will see the surcharge payable when offenders are sentenced to a wider range of disposals, with the amount payable dependent on the seriousness of the sentence. By imposing the surcharge in this way, we intend that those given the most serious sentences will make the greatest contribution to victim support services – ensuring more offenders take responsibility for their actions.
13. Clause 154 of the Bill includes provisions to make two amendments to support these reforms of the Victim Surcharge. The first is to prevent those offenders given a custodial sentence in the magistrates' courts from discharging the Victim Surcharge as additional days in custody. This will help to maximise the revenue from the Victim Surcharge, estimated at up to £5-6 million per annum, from those offenders given a custodial sentence.
14. The second relates to the surcharge payable if a fine has been remitted (reduced). At present there are no provisions for allowing the surcharge to be reduced in line with a reduction in the associated fine, for example due to a change in the circumstances of the offender. The Bill enables the court when remitting a fine to make a consequential adjustment of the previously ordered Victim Surcharge. For example, where an initial fine of £500, with an accompanying surcharge of £50, has been imposed and is subsequently reduced to £300, the surcharge must be reduced by the court to £30.

Protection arrangements for persons at risk (clause 153)

15. The Serious Organised Crime and Police Act 2005 (“SOCPA”) provides for the protection of specified persons (listed in Schedule 5 to the Act) whose safety is at risk. This includes witnesses in legal proceedings, those who have held certain posts in the criminal justice system and persons closely associated with such a person (for example, family members). The current provision does not cover a person not specified in Schedule 5 whose life may be at risk and who the state would be obliged to protect under Article 2 of the European Convention on Human Rights (ECHR).
16. The lack of statutory provision in relation to those cases is not a barrier to protection being provided. Current police operating procedures mean that protection is given to any person where there is a risk to that person's safety as a result of a possible criminal offence. However, the safeguards available in SOCPA would not apply, such as the protection from criminal

liability when making false representations to enable the assumption of a new identity.

17. The provision will enable a protection provider (usually in practice the police) to provide statutory based protection for anyone in England, Wales and Scotland where there is a risk to that person's safety by virtue of the actual, or possible, criminal conduct of another.
18. As now, the police will decide whether protection arrangements should be made having considered the nature and extent of the risk to the person's safety, the cost of the arrangement, and whether that person will be able to adjust to any change in their circumstances as a result of the arrangement.
19. The change will ensure a more consistent and statutory based approach to protection and will enable statutory protection to be provided to those who may not be covered by the existing legislation, such as the potential victims of honour based violence.

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