

## **Draft Victims Bill – Equality Statement May 2022**

### **Introduction**

1. In December 2021, the Government launched ‘Delivering Justice for Victims’ – a consultation seeking views on how to improve victims’ experiences of the criminal justice system across England and Wales.<sup>1</sup> Our ambition is to build on the foundations provided by the Victims’ Code to substantially improve the system for victims and to ensure all victims of crime receive the support they need.
2. We are now publishing a draft Victims Bill to improve end-to-end support for victims of crime whether they choose to engage with the criminal justice process or not. This is so that (a) victims get the support they deserve and need to cope and recover, and (b) victims feel able to engage and remain engaged in the criminal justice system, and therefore support prosecutions to improve the effectiveness of this system.
3. This document considers the equalities impact of the legislative measures in the draft Victims Bill, drawing on evidence gathered through the consultation.
4. Through the consultation, we specifically asked respondents for their views on how the priorities and ideas set out could impact individuals with protected characteristics<sup>2</sup>. At the end of the consultation, we specifically asked one overarching question, as to how far we had correctly identified the range and extent of the equalities impacts under the consultation. From the 156 direct responses to this question, over half (56%) fully agreed we had correctly identified these impacts, while the remaining 44% felt that there were some impacts which had not been identified either due to proposals not adequately addressing equalities issues, or because the consultation process itself, the survey, was not considered to be fully inclusive.
5. Further action was taken to ensure the document was as accessible as possible, including producing large print and British Sign Language versions of the consultation.

### **Evidence and analysis - context**

6. As set out in our Victims Bill Consultation Equality Statement,<sup>3</sup> some groups with protected characteristics are more likely to be victims of crime. This data is available at Annex A. We know that particular groups are significantly more likely to be over-represented among victims of crime, specifically those who are: male, disabled, single, separated, 16-24 and 25-34 years old, black/African/Caribbean/Black British, and those who have no religion and bisexual or ‘other’ sexual orientation (Crime Survey for England and Wales).
7. We also know that some victims with protected characteristics face specific challenges when engaging with support services or the criminal justice system, and some of the evidence that demonstrates this is set out below for context.

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<sup>1</sup> ‘Delivering justice for Victims’ – GOV.UK (December 2021)  
<https://www.gov.uk/government/consultations/delivering-justice-for-victims-a-consultation-on-improving-victims-experiences-of-the-justice-system>

<sup>2</sup> [Protected characteristics | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/en/protected-characteristics)

<sup>3</sup> [https://consult.justice.gov.uk/victim-policy/delivering-justice-for-victims/supporting\\_documents/victimsbillconsultationequalitystatement.pdf](https://consult.justice.gov.uk/victim-policy/delivering-justice-for-victims/supporting_documents/victimsbillconsultationequalitystatement.pdf)

- a. **Confidence in the Criminal Justice System:** One of the key themes of the Commission on Race and Ethnic Disparities (CRED) report and our government response to this was the need to build trust and promote fairness, noting that at the moment too many people from ethnic minority backgrounds feel that the ‘system’ is not on their side.<sup>4</sup>
- b. **Access and awareness:** victims with protected characteristics may be less likely to be aware of, or able to access support for a number of reasons. For instance:
- Victims from black and ethnic minority backgrounds reported facing several barriers to accessing support including a lack of information about what services were available to them, fear of not being believed and not wanting to be judged by their community or to betray it. For some, it took between two to seven years to find the right help.<sup>5</sup>
  - Language barriers were also identified as a cultural issue for some black and ethnic minority victims accessing support services, with professionals highlighting that not all victims speak or understand English well enough to feel confident accessing services without interpreting provision.<sup>6</sup>
  - Mapping of domestic abuse services carried out by Galop and Durham University on behalf of the Domestic Abuse Commissioner’s office, identified that service provision for LGBT victims is patchy.<sup>7</sup>
- c. **The importance of tailored support:** a consistent theme through the consultation responses, was the importance of tailored support, which we know may make support services more accessible to victims with protected characteristics, due to these services’ ability to meet victims’ complex needs. For instance:
- Almost all of the 36 women in a small-scale study by Imkaan spoke about the importance of victims ‘seeing themselves’ in the services they accessed, offering a sense of relatability and a sense of safety, which was more than physical safety.<sup>8</sup>
  - LGBT victims also highlight a need for the professional supporting them to be close to their own identity, such as being LGBT or LGBT- friendly.<sup>9</sup>
  - Victims with learning disabilities who received support from a learning disability specific ISVA reported improved health and wellbeing by receiving emotional support from a service which was adapted to meet their needs in ways other services did not.<sup>10</sup>

## Summary of proposals

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<sup>4</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities>

<sup>5</sup> Thiara, R., & Roy, S. (2020) Reclaiming Voice: Minoritised Women and Sexual Violence Key Findings, Imkaan

<sup>6</sup> Love et al. (2017) Improving access to sexual violence support for marginalised individuals: findings from the LGBT and BME communities, Critical and Radical Social Work

<sup>7</sup> [Galop-LGBT-Domestic-Abuse-Service-Provision-Mapping-Study-Final.pdf](#) ([domesticabusecommissioner.uk](http://domesticabusecommissioner.uk))

<sup>8</sup> [2020+|+Reclaiming+Voice+-+Minoritised+Women+and+Sexual+Violence+\[Key+Findings\].pdf](#) ([squarespace.com](http://squarespace.com))

<sup>9</sup> Delle Donne, M., DeLuca, J., Pleskach, P., Bromson, C., Mosley, M., Perez, E., Matthew, S., Stephenson, R., & Frye, V. (2017) Barriers to and facilitators of help-seeking behaviour among men who experience sexual violence, *American Journal of Men’s Health*; Harvey, S., Mitchell, M., Keeble, J., McNaughton, C., & Rahim, N. (2014) Barriers Faced by Lesbian, Gay, Bisexual and Transgender People in Accessing Domestic Abuse, Stalking and Harassment, and Sexual Violence Services. Cardiff: NatCen Social Research

<sup>10</sup> Safelink (2016) Evaluation of learning disabilities Sexual Abuse Support Services

The draft Victims Bill comprises of the following measures. Here we set out how these measures may impact victims who may experience particular barriers to accessing justice, or support services as a result of their protected characteristics.

#### Overarching principles of the Victims' Code

8. We are placing the overarching principles of the Victims' Code<sup>11</sup> into law in the draft Victims Bill, will send a clear signal to all listed agencies that they must comply with delivering the Code, so victims better understand the level of service they can expect. The Victims' Code already stipulates that victims must be provided with services to assist them to understand and engage with the criminal justice process, without discrimination of any kind. This will make clear that all individuals who have suffered a crime must be treated as a victim first and foremost, regardless of barriers, such as having a protected characteristic, or insecure immigration status.

#### Duty for Police and Crime Commissioners (PCCs) and criminal justice agencies to monitor compliance with the Victims' Code

9. The consultation responses highlight how increased local cooperation, coordination, transparency, and strong national oversight, are key to improving support for all victims, including victims with protected characteristics. This is why we are introducing a duty on the relevant criminal justice agencies to collect data and keep under review their compliance with the Victims' Code, and require Police and Crime Commissioners to take a convening role in monitoring local Code compliance by chairing regular discussions with relevant local agencies. As part of this duty, PCCs and agencies will be required to take into account information from victims on their experiences to add to and contextualise Code compliance, so that there can be a better view of how the system is delivering for victims.
10. Current data collection methods provide a limited insight into whether victims, including which victims and their protected characteristics, are receiving their entitlements under the Victims' Code. The Bill measures on data collection further ensure we are fully understanding compliance with the Victims' Code, and whether all victims are getting equal access to services, and if not, allowing us to better respond to this.

#### Joint thematic inspections by criminal justice inspectorates on victims' issues

11. We are introducing an ability for the Home Secretary, Lord Chancellor, and Attorney General to direct the criminal justice inspectorates<sup>12</sup> to include regular joint thematic inspections dedicated to assessing victims' experiences of the Criminal Justice System within their Criminal Justice Joint Inspection programme. As part of this they will be able to jointly direct inspectorates as to the timing and overall theme of these inspections. This will enable regular and detailed assessment of the quality of service provided to victims by the criminal justice agencies, including looking at the end-to-end experience rather than looking at different stages of the process.
12. This means that issues in the quality of service provided to victims will be more easily identified, and subsequently addressed, including for victims with protected characteristics. It also means that more data will be collected on victims, and depending on the issue being inspected, could potentially mean more data is captured on the quality of service provided to specific groups, which speaks to concerns raised in the consultation responses that there is not enough data captured.

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<sup>11</sup> <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>

<sup>12</sup> HM Crown Prosecution Service Inspectorate; HM Inspectorate of Constabulary and Fire & Rescue Services; HM Inspectorate of Prisons; HM Inspectorate of Probation

### Remove the need for victims of crime to raise a complaint via an MP

13. We are simplifying the complaints process by removing an existing requirement for complaints by victims of crime to the Parliamentary and Health Service Ombudsman (PHSO) — in its Parliamentary Commissioner capacity — to be referred via a Member of Parliament (MP), before the complaint can be investigated. The PHSO made clear in their consultation response that removing this ‘MP filter’ would simplify the process for victims with protected characteristics, who will often find it more difficult to refer a complaint via an MP.

### Requirement for the Victims’ Commissioner to lay their annual report in Parliament

14. We are requiring the Victims’ Commissioner to arrange to have their annual report laid before Parliament. We are also imposing a new duty upon certain agencies and departments to formally respond to the annual report’s recommendations. We are transferring the Victims’ Commissioner’s function to review operation of the Victims’ Code at a local level to PCCs. The Victims’ Commissioner will still be able to engage on Code compliance at a national level.
15. This will not change the way in which the Victims’ Commissioner represents or advocates for the needs of all victims, and the role will still be there to represent all, including those with protected characteristics.

### Joint statutory duty on PCCs, local authorities and health bodies to collaborate when commissioning victim support services

16. We are placing a statutory duty on PCCs, local authorities and Integrated Care Boards to collaborate when commissioning services in ‘community-based’ settings as well as other settings like hospitals, for victims of domestic abuse, sexual violence and other serious violence. This will facilitate a more strategic local approach to service commissioning. It will require the publication of a local commissioning strategy, to set out the aims and approach for commissioning relevant services from each agency.
17. The strategy will need to be informed by a number of factors, including relevant local needs assessments and specific consideration of the service needs of those with protected characteristics who may experience barriers to using generic support services, such as children, male victims, and other victims such as lesbian, gay, bisexual and transgender (LGBT), minority ethnic, deaf, or disabled victims. This addresses consultation responses which called for improvements to provision of tailored services, and for these to specifically be considered by local commissioners.

### Statutory definition of the role of Independent Sexual Violence Advisor (ISVA) and Independent Domestic Violence Advisor (IDVA)

18. We know that advocates<sup>13</sup>, including ISVAs and IDVAs with tailored expertise such as those with the skills to work with victims with learning difficulties, are hugely beneficial. Their tailored services send a clear message to victims that their personal experience

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<sup>13</sup> Victim advocates come in many forms, but will all largely provide a crisis intervention role, with the goal of improving safety of and reducing risk to the victim. Advocates also work to ensure that victims can make informed choices and enable access to a range of services and agencies, including the criminal justice system. [Appendix 4: Literature Review - National scoping exercise of advocacy services for victims of violence against women and girls - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/appendix-4-literature-review-national-scoping-exercise-of-advocacy-services-for-victims-of-violence-against-women-and-girls-2018/pages/100-to-109.aspx)

matters, and that there is no expectation that victims should 'fit into' existing generic services<sup>14</sup>. More broadly, these victim advocate roles are well recognised as improving all victims' journeys, with research showing that 93% of rape victims receiving support from an ISVA or other support services reported the offence to the police, compared to 54% without this support<sup>15</sup>.

19. With this in mind we are introducing a statutory definition of Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs) – increasing their professional standing. The definition is framed to include specialisms for those working with victims with protected characteristics. We will introduce accompanying guidance for ISVAs and IDVAs in secondary legislation, recommending minimum standards, training expectations as well as best practice for interactions between other agencies. The draft Bill also imposes a duty on ISVAs, IDVAs and those who have functions relating to victims of criminal conduct, or the criminal justice system to take due regard for this guidance.
20. There was general agreement in consultation responses that providing clarity on the roles and functions of these roles was useful, particularly for those that work with victims with particular needs or protected characteristics such as children and young people. Therefore, sexual violence and domestic abuse victims with these characteristics may benefit more than others from the advocates measures.

#### **Public Sector Equality Duty (PSED) aims**

21. We have considered the above draft Bill provisions in light of our Public Sector Equality Duty obligations. Key considerations are listed below.

#### Direct discrimination

22. We consider that the draft Victims Bill proposals are not directly discriminatory within the meaning of the Equality Act as they do not treat people less favourably because of their protected characteristics.

#### Indirect discrimination

23. We do not believe the provisions in the draft Bill will result in indirect discrimination, given they will be applied in the same way to all individuals in scope and are not considered likely to result in any particular disadvantage for anyone with a protected characteristic compared to those who do not share the protected characteristic.
24. This said, as we have detailed above, victims are more likely to specifically share some particular protected characteristics. While we anticipate the draft Bill measures should generate positive outcomes for these individuals, we remain mindful to ensure special consideration for these victims, and those working to support them, and will continue to engage with these groups as the draft Bill progresses.
25. Further, the duty to collaborate when commissioning community-based support services relates to victims of domestic abuse, sexual abuse and other serious violence only. This is to enable targeted focus on these particularly traumatic offences which have a high number of victims each year. These offences typically involve victims also accessing a range of services commissioned by more groups that would therefore benefit from more collaboration and coordination, such as health, local authorities and policing bodies.

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<sup>14</sup> <https://safelinksupport.co.uk/safelink2016/wp-content/uploads/flipbook/4/book.html#p=5>

<sup>15</sup> Rape survivors and the criminal justice system – Victims' Commissioners Office (October 2020), p.14. This is an association, rather than causal. Survivors may be more likely to report because they have an ISVA or those who report are more likely to be referred to an ISVA.

### Discrimination arising from disability and duty to make reasonable adjustments

26. Our assessment is that the draft Bill measures are not likely to result in any discrimination for those with disabilities. However, we recognise it is important that we continue to make reasonable adjustments for victims with disabilities to ensure appropriate support is always given.
27. For instance, while work to remove the MP filter for victims of crime when making complaints to the PHSO will help all victims, we remain conscious of the continued problems victims with protected characteristics may face in using this complaints mechanism. For example, complaints will still be required to be 'written' for the PHSO to be able to investigate them, and we acknowledge the disadvantage this gives people who cannot read, write, or for whom English is not their first language. The PHSO have indicated they will need time to make changes to their existing systems to manage the receipt of complaints directly from the public. Once this system is in place, and as part of ongoing consultation with the PHSO to improve outcomes for victims - especially those with disabilities - regarding criminal justice agencies, we will consult with PHSO to work towards amending the 'written' requirement for complaints to the PHSO in future.

### **Harassment and victimisation**

28. We do not consider that the draft Bill measures will give rise to harassment or victimisation within the meaning of the Equality Act.

### **Advancing equality of opportunity**

29. We anticipate the draft Bill is likely to advance equality of opportunity for all victims, particularly for those with protected characteristics identified from the data. We are, however, cognisant of the need to continue to improve the tailoring of support for all victims to ensure access for everyone.
30. Through introducing more powers and duties at the local level to provide oversight of the Victims' Code, we are increasing scrutiny of the delivery of the Code, to ensure everyone receives the level of service they can expect. Further to this, we are responding to calls from key stakeholders, including the Victims' Commissioner to encourage better data sharing, by introducing a duty on Police and Crime Commissioners and criminal justice agencies. This will ensure that different groups are able to exercise their entitlements and receive equal access to services, giving us a better understanding of the needs of the demographics of the victim population.
31. The draft Bill measures on community-based services and advocacy will also enhance equality of opportunity. We will provide specific consideration of the service needs of those with protected characteristics and the barriers they may face in accessing more 'generic' support.
32. Through defining ISVAs and IDVAs, we will also ensure there is flexibility to account for the wide-ranging roles provided, including by 'by and for' tailored services for particular groups, such as LGBT, deaf, disabled and black and ethnic minority victims of domestic abuse and sexual violence.

### **Fostering good relations**

33. The draft Victims Bill proposals, particularly those aimed at strengthening compliance with the Victims' Code and taking into account direct victim feedback, could assist with promoting understanding between people from different backgrounds, or with different, intersecting protected characteristics.
34. The draft Bill will also work to better ensure local agencies work together to commission services that work for everyone. This directly speaks to consultation responses that highlight how commissioners should have a greater understanding of the needs of their local populations, and better engagement with the services that can meet those needs.

#### **Data limitations**

35. While efforts have been made to source information related to the areas covered by the consultation, there are still gaps in our evidence base. We do not, for example, have a full picture of how well support services access victims with particular needs, what proportion of current complaints come from victims with protected characteristics, and whether these victims are more or less likely to receive their entitlements under the Victims' Code. This is something we will look to improve in future.
36. In light of our continuing duty to consider the equalities impacts of these proposals, we would welcome any further views, experiences and other new evidence from and about victims with the protected characteristics post publication of the consultation response, and as the draft Bill progresses through pre legislative scrutiny.

## Annex A

### Characteristics of adults who were victims of CSEW personal crime (excluding fraud and computer misuse) and all adults, year ending March 2019 CSEW

England and Wales	Adults aged 16 and over	
Personal characteristic <sup>1</sup>	Victims of personal crime (excluding fraud and computer misuse) <sup>2</sup>	All adults <sup>3</sup>
	Percentage	
<b>Sex</b>		
Male	53.8	49.0
Female	46.2	51.0
<b>Age</b>		
16-24	25.8	12.8
25-34	22.6	17.1
35-44	14.7	15.8
45-54	15.8	17.2
55-64	11.5	14.8
65-74	6.0	12.5
75+	3.5	9.9
<b>Ethnic group</b>		
White	87.3	86.3
Mixed/Multiple	2.0	1.4
Asian/Asian British	5.3	8.2
Black/African/Caribbean/Black British	4.4	3.0
Other ethnic group	1.1	1.1
<b>Marital status</b>		
Married/civil partnered	32.6	49.7
Cohabiting	14.8	12.8
Single	41.5	24.7
Separated	2.8	1.8
Divorced/legally dissolved partnership	5.4	5.2
Widowed	2.9	5.8
<b>Disability<sup>4</sup></b>		
Disabled	22.9	16.9
Not disabled	77.1	83.1
<b>Religion</b>		
No religion	47.5	38.1
Christian	45.1	52.7
Buddhist	0.9	0.5
Hindu	0.9	1.6
Jewish	0.5	0.5
Muslim	4.0	5.3
Sikh	0.4	0.8
Other	0.7	0.5

Unweighted base - number of adults <sup>5</sup>	1,276	34,163
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**Sexual orientation<sup>6</sup>**

Heterosexual/straight	91.3	96.0
Gay/lesbian	2.2	1.6
Bisexual	4.9	1.6
Other	1.5	0.8

Unweighted base - number of adults <sup>7</sup>	1,118	27,366
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Source: Office for National Statistics - Crime Survey for England and Wales

1. See Section 7.3 of the [User Guide](#) for definitions of personal characteristics.
2. Personal crime includes violence, robbery, theft from the person and other theft of personal property.
3. The general population figures are for those aged 16 and over and are based on the CSEW. As such, they may provide different estimates of the general population to the comparators used in other national statistics.
4. The definition of disability used is consistent with the core definition of disability under the Equality Act 2010. A person is considered to have a disability if they have a long-standing illness, disability or impairment which causes difficulty with day-to-day activities.
5. Unweighted base refers to respondent sex; other bases will be similar.
6. The terminology used to label this data has been changed to 'sexual orientation' from 'sexual identity' to align with terminology used in legislation (Equality Act 2010). Sexual Orientation is an umbrella concept which encompasses sexual identity, attraction and behaviour. This question described within this principle is based on a substantial body of research and is designed to capture self-perceived Sexual Identity. An individual could respond differently to questions on either sexual identity, attraction or behaviour. The measurement of Sexual Identity was identified within the research as the component of Sexual Orientation most closely related to experiences of disadvantage and discrimination. The question was not designed for specific or detailed studies of sexual behaviour or attraction where a series of more detailed questions and answer categories might be more appropriate.
7. The question on the sexual orientation of respondents is asked in the self-completion module of the questionnaire, which is only asked of 16-74 year olds. Therefore, the unweighted base for sexual orientation is lower.