

**Victims'  
Taskforce**

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RECOMMENDATIONS  
ON A VICTIMS' LAW  
**REPORT FOR THE  
LABOUR PARTY BY THE  
VICTIMS' TASKFORCE**

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February 2015  
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## EXECUTIVE SUMMARY

There is a growing consensus that our criminal justice system does not serve victims well. The problems are obvious. Many victims, particularly victims of personal or sexual violence, lack the confidence to come forward to report crime, lack adequate support if they do so and face an unacceptable ordeal in the court room if their case gets that far. All involved in the delivery of criminal justice, including the police, prosecutors and judiciary agree that the situation needs to improve. The question is how?

Having conducted an end to end review of the criminal justice process from a victim perspective, we have concluded that:

- There needs to be a cultural shift in thinking on victims' rights, which will only happen if they are enshrined in a Victims' Law.
- The enactment of a Victims' Law has to be a defining moment for victims' rights and a clear departure from the piecemeal approach so far adopted.
- The focus for a Victims' Law should be on 'access to justice' (i.e. how do we increase victims' confidence in coming forward and support them when they do) rather than on 'sanctions' (length of sentence). The start of the victims' journey through the criminal justice process is often the hardest part.
- The role of the Victims' Commissioner needs to be radically enhanced with a much more powerful oversight capability,
- Victims' rights should not be developed at the expense of defendants' rights. Defendants' rights have developed for good reasons and a fair criminal justice service should protect and respect the rights of all whose interests are at stake.
- The criminal justice *system* should be transformed into a criminal justice *service* fit for all, including victims.

Accordingly we make the following recommendations for inclusion in a Victims' Law:

- A statutory framework to provide for **adequate and quality assured victims' services in every police force area, underpinned by an annual Area Victims' Plan**, which must be evaluated by the Victim Commissioner with an assessment of each plan and recommendations set out in a report laid before Parliament by the Victims' Commissioner on an annual basis.
- A clear **mandatory duty on those working with children within a 'regulated activity' to report suspected child abuse**, backed up by criminal sanctions for failure to do so. But with an equally clear defence where proper safeguarding procedures have been followed. It is time to take an unequivocal stand against the deliberate non-reporting of child sexual abuse that occurs in organisations or in institutions exercising care, supervision or authority over children.
- A new **Code of Practice requiring the police to record victims' allegations when made** and providing a victims' right of appeal when this duty is not fulfilled.
- An **annual assessment by the Victims' Commissioner of steps taken to dispel myths and stereotypes about victims**, underpinned by a statutory requirement on the Victims' Commissioner to publish findings and recommendations in the annual report to Parliament.
- A legally entrenched **victims' right to have a decision taken by police or prosecutors not to bring criminal charges or to discontinue a case reviewed**.

- A revised **Victims' Code underpinned by statute setting out victim entitlements, including the right for victims' to be kept updated on their cases by agencies, backed up by an effective and accessible enforcement body** with power to: award compensation; to refer those who breach the Victims' Code to the relevant professional body; and to recommend an inspection by the relevant inspectorate.
- A statutory requirement on **the Victims' Commissioner to collate and publish all findings of a breach of the Victims' Code** in the annual report to Parliament.
- An **annual evaluation by the Victims' Commissioner of steps taken to improve the way victims and witnesses are treated in court**, underpinned by a statutory requirement on the Victims' Commissioner to publish findings and recommendations in the annual report to Parliament.
- A **statutory duty for Judges to hold 'ground rules' hearings** before a trial starts to control the way vulnerable victims and witnesses are treated in court.
- A statutory duty for police and prosecutors to draw up **national standards for the periodic review of homicide cases**, which must be approved by the Victims' Commissioner, where no one has been brought to justice or where there has been an acquittal.

We hope and trust that these recommendations will be accepted and acted upon.

We would like formally to record our thanks to Katie O'Byrne, who has provided tremendous support for the Taskforce and great assistance in drafting this Report. Her help has been invaluable.

We would also like to tanks Eleanor Laws QC and Richard Scorer for their expert advice and assistance.

Doreen Lawrence  
Peter Neyroud  
Keir Starmer

## I. INTRODUCTION AND OVERVIEW

1. On 27 December 2013, the Labour Party announced the establishment of a Victims' Taskforce comprising Baroness Doreen Lawrence, Peter Neyroud CBE QPM and Sir Keir Starmer, KCB, QC with the following terms of reference:
  - (a) To make recommendations on the content of a Victims' Law, including protection of victims' rights, redress for breach and the role of the Victims' Commissioner;
  - (b) To make recommendations on transforming the criminal justice *system* into a criminal justice *service* fit for victims;
  - (c) To engage widely with victims and witnesses, representative groups and bodies, and expert or interested parties, including those delivering criminal justice;
  - (d) To report to the Leader of the Labour Party, Ed Miliband, and to the Shadow Secretary of State for Justice, Sadiq Khan.<sup>1</sup>
2. This Report sets out the recommendations of the Taskforce and summarises the principles and thinking behind them. The Report is not intended to provide an exhaustive theoretical exposition, but rather a concise, accessible and practical record of our process of consultation, reflection and analysis.
3. In order to fulfil our mandate and inform our work, we received and considered written evidence and submissions from organisations, individual victims and their families, practitioners, judges, academics and members of the public. We also held a series of structured roundtable discussions with interested, experienced and respected individuals and bodies with practical knowledge of victims' issues. We have also held smaller side meetings with a wide range of individuals, groups, agencies and experts. In effect, we have walked through the criminal justice journey from the victim's perspective, assessing where and how a Victims' Law could improve recognition, protection and service delivery for victims.<sup>2</sup>
4. Our recommendations cover the following topics, proceeding from 'end to end' of the criminal justice process:
  - (a) Safe ways to report crime;
  - (b) Adequate and effective support for victims who come forward;
  - (c) Mandatory reporting of suspected child sexual abuse;
  - (d) Recording allegations of crime;
  - (e) Dispelling myths and stereotypes;
  - (f) Victims' right of review;
  - (g) The Victims' Code;
  - (h) The courtroom experience;
  - (i) Periodic review of homicide cases; and
  - (j) Wider recommendations.

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<sup>1</sup> See Appendix 2 for the full Terms of Reference.

<sup>2</sup> See Appendix 3 for further details of the Taskforce's consultation process.

5. This Report is structured as follows:

- **Introduction and Overview;**
- **Background** on victims of crime, the current regime, assumptions and terminology;
- **Review and Reform**, setting out concerns raised and the reasoning behind our recommendations;
- **Summary of Recommendations;**
- **Appendices** setting out profiles of Taskforce members, Terms of Reference and further details on the consultation process.

## II. BACKGROUND

### Victims of crime in England and Wales

6. There is a growing consensus that our criminal justice system does not serve victims well. The problems are obvious. Many victims, particularly victims of personal or sexual violence, lack the confidence to come forward to report crime, lack adequate support if they do so and face an unacceptable ordeal in the court room if their case gets that far. All involved in the delivery of criminal justice, including the police, prosecutors and judiciary agree that the situation needs to improve. The question is how?
7. There have been plenty of codes, charters and guidance. These have moved things on, but painfully slowly and, with no real legal teeth, the effectiveness of the piecemeal changes so far will always be patchy. Likewise, at a time of tight financial pressure on the criminal justice system, there is a real danger that services for victims will come a poor second to other operational priorities. The conclusion that victims' rights will only be taken seriously if they are enshrined in law is now inescapable.
8. The scale of the problem is clear: in the year ending March 2014, police recorded 3.7 million victim-based crimes, accounting for 84% of all crime.<sup>3</sup> The Office for National Statistics also estimates that there are more than 3.5 million offences of fraud, most of which are now internet based and few of which are being converted to recorded crimes. There is evidence that risk of victimisation is higher for some groups including young people, lone parents,<sup>4</sup> and those with a disability or mental health problems.<sup>5</sup>

### The current regime

9. Current arrangements for victims' rights in the criminal justice system are in need of improvement. Existing discrete legal protections such as restraining orders, special measures or witness anonymity provide essential safeguarding for victims at risk of violence or intimidation. However, there is no legal regime promoting and protecting victims' rights from the beginning of their engagement with the criminal justice system until the end.
10. The Code of Practice for Victims of Crime (more generally known as the Victims' Code)<sup>6</sup> was a significant and positive development when it was first published in 2005. But while its provisions remain important, they are not legally enforceable and require clarification in places. Similarly, the role of Victims' Commissioner has great potential, but the role has insufficient powers, has been unfilled for considerable periods in recent years and is under-resourced.
11. In addition the Code does not fully meet a central problem, namely that many victims do not have the confidence to report what has happened to them to anyone in authority. Unless this central issue is addressed, the Code will never achieve its full potential.

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<sup>3</sup> Office for National Statistics, *Crime in England and Wales, Year Ending March 2014*, [http://www.ons.gov.uk/ons/dcp171778\\_371127.pdf](http://www.ons.gov.uk/ons/dcp171778_371127.pdf), p. 4.

<sup>4</sup> Sian Nicholas, Chris Kershaw and Alison Walker (eds), *Crime in England and Wales 2006/-07: Findings from the British Crime Survey* (2007).

<sup>5</sup> Victim Support and Mind, *At Risk, Yet Dismissed: The criminal victimisation of people with mental health problems* (2013), <https://www.victimsupport.org.uk/sites/default/files/At%20risk%20full.pdf>.

<sup>6</sup> Available at <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>.

## Our approach and terminology

12. Having considered the written evidence and submissions presented to us and having reflected on our various structured roundtable discussions and other meetings, we have approached our task with the following principles firmly in mind:
  - (a) There needs to be a cultural shift in thinking on victims' rights which goes far beyond restoring some of the services recently reduced as a result of austerity measures. This has to be a defining moment for victims' rights.
  - (b) Further piecemeal change to recognise victims in the criminal justice system will no longer suffice. We need a step change in the criminal justice response to victims.
  - (c) The focus should be on 'access to justice' (i.e. how do we increase victims' confidence in coming forward and support them when they do) rather than on 'sanctions' (length of sentence). The start of the victims' journey through the criminal justice process is often the hardest part.
  - (d) Developing victims' rights at the expense of defendants' rights would be a mistake. Defendants' rights have developed for good reasons and a fair criminal justice service should protect and respect the rights of all whose interests are at stake.
  - (e) The role of the Victims' Commissioner has the potential to act as a catalyst for change but is currently underutilised. It needs to be radically transformed.
  - (f) All recommendations must have a realistic prospect of being implemented in practice. To increase the likelihood that improvements for victims can be integrated smoothly into our criminal justice system, proposals should build on, rather than cut across, the good work that is already being done. For the same reason, potential fiscal implications must be kept at a manageable level.
  - (g) This Report represents a beginning rather than an end point. The Taskforce is firmly agreed on the advantages of a progressive approach to review, reform and culture change for victims.
13. We include a short note on terminology. Several of those we consulted raised the issue of the appropriate definition of a 'victim' in a Victims' Law. Advocates for road victims were particularly concerned about this question. We are of the view that a broad working definition should be adopted, encompassing any person harmed, injured, or killed as a result of a crime and also affording recognition to the immediate family of a person who has died as a result of crime.<sup>7</sup> Harm in this context should include physical, mental or emotional harm. Moreover, victims should be recognised as such even if they choose not to engage with the criminal justice system. In this Report, we refer to 'victims' in order to recognise the impact of the harm they have suffered, and do not intend to diminish their agency by doing so.
14. Some victims, particularly road victims and their families, consider the definition of a victim too narrow and others have identified shortcomings in proceedings such as Coroners' Inquests. Although not within the remit of this review, we understand and have sympathy with their concerns and support their view that meaningful rights need to be developed for *all* victims and their families whether or not criminal proceedings are contemplated, and for *all* legal processes, including Coroners' Inquests.

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<sup>7</sup> We note the terms of relevant international instruments, including the *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime*, OJ L 315, 14.11.2012, pp. 57-73, Art 2(1)(a).



### III. REVIEW AND REFORM

#### Safe ways to report crime

15. One of the stand-out features of our criminal justice system is that most victims of personal or sexual violence are unlikely to report their allegations to the police. Some never report to anyone. Where they do report, many victims go to bodies or agencies such as Sexual Assault Referral Clinics, Refuge, Rape Crisis, Women's Aid and others for specialist support, counselling and advocacy services, but may not report directly to police. Many do not 'bridge in' to the criminal justice system.
16. Some of the difficulties for victims in these types of cases are obvious. The idea of telling many strangers, many times, about an experience of sexual degradation and abuse causes many victims to feel intense and understandable distress. It takes real courage to come forward. And the response of those charged with delivering criminal justice to those who do dictates the likelihood that victims will report.
17. Despite the good work that has gone into improving the way victims of personal and sexual violence are dealt with, the reality is that many victims still do not have sufficient confidence in our criminal justice system even to report what has happened to them. Witness the fact that none of the 450 victims of 214 recordable offences by Jimmy Savile who spoke to the Operation Yewtree police team in the autumn of 2012 came forward during Savile's lifetime.<sup>8</sup>
18. The annual figures showing the under-reporting of violence against women and girls,<sup>9</sup> particularly when it comes to domestic violence, tell the same story: from 2007-2012, an estimated 85% of the most serious sexual offences were not reported to police.<sup>10</sup> The problem is compounded by the fact that even when crime is reported to police, it is often under-recorded, primarily due to the police not complying with the national standard of victim-focussed crime recording.<sup>11</sup>
19. The reasons for not reporting are varied, but those we consulted, including #SAFE, cited fear of reprisals from the perpetrator, fear of not being believed, or a feeling that the criminal justice system would be ineffective in prosecuting the offender. Rape Crisis noted that many women victims prefer independent confidential services because they do not trust the criminal justice system.
20. However, reporting rates for sexual and personal violence have gone up recently. Those we consulted, including the NSPCC, noted a rise in reporting of sexual offences due to the so-called 'Yewtree effect'.<sup>12</sup> In our view, this only increases the need for safe ways to report.
21. Against that background, we have concluded that a complete shift in thinking about the way in which crime is reported is needed.
22. While a police station may be an appropriate place to report most crimes, even with specially trained officers it can often be an intimidating and therefore unlikely place for victims of personal and sexual violence to report. We have to confront this reality and

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<sup>8</sup> David Gray and Peter Watt, 'Giving Victims a Voice', Joint report into sexual allegations made against Jimmy Savile (January 2013), <http://www.nspcc.org.uk/globalassets/documents/research-reports/yewtree-report-giving-victims-voice-jimmy-savile.pdf>, p. 4.

<sup>9</sup> See e.g. Ministry of Justice, Home Office and the Office for National Statistics, *An Overview of Sexual Offending in England and Wales* (January 2013), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214970/sexual-offending-overview-jan-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214970/sexual-offending-overview-jan-2013.pdf)

<sup>10</sup> Ibid, p. 17.

<sup>11</sup> House of Commons Public Administration Select Committee, *Caught red-handed: Why we can't count on Police Recorded Crime statistics*, Thirteenth Report of Session 2013-14 (April 2014), <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpubadm/760/760.pdf>.

<sup>12</sup> See further Office for National Statistics, *Crime in England and Wales, Year Ending March 2014*, [http://www.ons.gov.uk/ons/dcp171778\\_371127.pdf](http://www.ons.gov.uk/ons/dcp171778_371127.pdf), p. 44.

provide a framework that supports safe ways to report crime other than simply attending a police station in each police force area.

23. There are good examples to draw on. In some areas, Sexual Assault Referral Centres provide a responsive service to victims, including medical examination and storing of samples while victims decide whether they wish to report to police. Other organisations provide legal advice and support with reporting to police, but do not provide an independent reporting service. Our attention was drawn to international best-practice examples such as the Centre for Rape Victims in Denmark, where medical examination, counselling and police interviews are available in the one location in order to avoid the need for the victim to repeat their account to multiple agencies.<sup>13</sup>
24. We think it would be a mistake (and costly) to cut across the support bodies and agencies already in place, which have the trust of the public and their clients. But there needs to be effective governance and planning to support safe ways to report. In our view, there is a clear need for a statutory framework which sets out a clear statutory duty to ensure that there are adequate and effective safe ways to report crime in each police force area. That requires mapping need against existing services and matching the two.
25. Clearly this critical function should be carried out by those charged with delivering criminal justice and victims' services, but it also needs independent oversight.
26. **Recommendation 1.** We propose that, as a first step towards an *Area Victims' Plan* for each police force area (see Recommendation 2 below), those under a statutory duty to deliver criminal justice and victims' services should:
  - (a) Be under a duty to work together and with others providing criminal justice and victims' services to map the safe ways to report crime in each police force area;
  - (b) Assess the adequacy and effectiveness of the available ways to report crime in each police force area;
  - (c) Submit a report on an annual basis to the Victims' Commissioner setting out the findings in relation to each police force area with such recommendations as are considered necessary and appropriate.
27. We welcome the development of online reporting portals by forces and the expansion of the TrackmyCrime technology which allows victims to register and receive updates about the progress of their crime. However, we are concerned by the way that recent announcements of new pilots of online reporting were linked to savings of time for police rather than an opportunity for better services to victims.
28. We turn then to the wider concept of *Area Victim Plans*, which should set the framework for the delivery of practical and effective victims' services.

### **Adequate and effective support for victims who come forward**

29. Most services provided to a section of the public are regulated, quality assured and monitored. Not so victims' services. There is simply no framework around the provision of these services. Embrace CVOC pointed to the fact that there is not a single or coordinated state response to assist victims in the UK. Rape Crisis submitted

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<sup>13</sup> See <http://www.voldtaegt.dk/>; see further Rikke Holm Bramsen, Ask Elklit and Louise Hjort Nielsen, "A Danish Model for Treating Victims of Rape and Sexual Assault: The Multidisciplinary Public Approach" (2009) 18 *Journal of Aggression, Maltreatment and Trauma* 886.

that the Victims' Commissioner ought to have enforcement powers to ensure that minimum standards are adhered to.

30. As a result of the lack of overall coordination, the services provided are fragmented and of varying quality. Victim Support also raised concerns about over-servicing: some victims are dealing with up to 14 agencies and other organisations in the course of a criminal investigation.
31. A further issue is the lack of quality standards and training in the provision of victims' services. Training is usually voluntary and carried out in the absence of any national criteria. For example, a number of those we consulted raised concerns that there is no standard accreditation or training for those providing support, counselling and information to victims about the court process, including Independent Domestic Violence Advisors ("IDVAs") and Independent Sexual Violence Advisors ("ISVAs"). IDVAs and ISVAs are used by many agencies to provide critical support services to victims. Those consulted were generally of the view that proper accreditation and standards would be valuable in delivering a reliable service to victims. We do not doubt the quality of the training currently provided by CAADA and others, but a training and quality framework is needed across the board.
32. As with safe places to report, there needs to be a fundamental shift of position in relation to the provision of victims' services.
33. **Recommendation 2.** We therefore propose that those under a statutory duty to deliver criminal justice and victims' services in each police force area should:
  - (a) Be under a duty to work together and with others delivering criminal justice and victims' services to map victim needs in each police force area;
  - (b) Assess the adequacy and effectiveness of the available victims' services in that area;
  - (c) Draw up, consult on and publish an *Area Victims' Plan* for the area which clearly sets out how the identified victim needs will be met by the available victims' services;
  - (d) Submit the *Area Victims' Plan* to the Victims' Commissioner on an annual basis.

Although the duty to draw up an *Area Victims' Plan* will be imposed only on those under a statutory duty to deliver criminal justice and victims' services in each police force area, others delivering criminal justice and victims' services should be involved in the assessment exercise which will inevitably involve an assessment of the services provided by other bodies and organisations, including voluntary bodies and organisations.

34. **Recommendation 3.** It should then be the statutory duty of the Victims' Commissioner to:
  - (a) Assess the adequacy of each *Area Victims' Plan* on an annual basis.
  - (b) Make such recommendations to those charged with delivering criminal justice and victims' services in each police force area as the Commissioner considers necessary and appropriate.
  - (c) After a consultation exercise, draw up and publish clear quality standards for the provision of victims' services which should then be reviewed, again after a consultation exercise, on a periodic basis (the period between reviews should not exceed five years).
  - (d) Submit a report to be laid before Parliament on an annual basis recording the Commissioner's assessment of each *Area Victim Plan*, setting out all recommendations made to those charged with delivering criminal justice and

victims' services in each police force area and setting out the quality standards for the provision of victims' services draw up by the Commissioner.

35. Again, we do not want to cut across the support bodies and agencies already in place, but rather ensure there is some proper governance in place, with the aim of formulating national standards for victims' services, coordinating service delivery, and requiring training and accreditation where appropriate.

### **Mandatory reporting of suspected child sexual abuse**

36. In the last few years, clear and very substantial evidence has emerged of suspected child abuse in schools, hospitals, care homes and beyond, which was not reported to the relevant authorities.<sup>14</sup> The reasons for non-reporting vary. Insufficiently clear reporting obligations and policies, inadequate training and lack of awareness all play their part. But we have concluded that in some instances suspected (or even known) child abuse was not reported because those in a position to report to the relevant authorities perceived there to be a conflict of interest between reporting and some other interest (for example, the reputation of the institution or of individuals accused of abuse).
37. Undoubtedly matters have improved in recent years and there are many examples of good safeguarding policies. And we would accept that the culture in many institutions and organisations has begun to change, but recent examples of a failure to report suspected child abuse are evidence that the change in culture is not complete. As Professor Andrew Rowland has recently reported,<sup>15</sup> child protective systems in the UK are partially broken and are not functioning adequately in all cases.
38. We have taken careful note of similar developments in this area in other jurisdictions, including the passage of the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 in Ireland and research commissioned by the Australian Royal Commission into Institutional Responses to Child Sexual Abuse.<sup>16</sup>
39. We do not consider that the threat of criminal sanctions is in general an appropriate way to enforce best practice; clear guidance, good training and enhanced awareness are preferable options. However, we have concluded that there is a need for mandatory reporting of suspected child abuse in cases of a perceived conflict of interest between reporting and protecting a child. It is time to take an unequivocal stand against the deliberate non-reporting of child sexual abuse that occurs in organisations or in institutions exercising care, supervision or authority over children. The law needs to change in order to address this.

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<sup>14</sup> To name a few prominent examples, the revelations of widespread sexual exploitation of children at Rotherham (see Alexis Jay OBE, *Independent Inquiry into Child Sexual Exploitation in Rotherham 1997-2013* (August 2014), ([http://www.rotherham.gov.uk/downloads/file/1407/independent\\_inquiry\\_cse\\_in\\_rotherham](http://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham))); similar cases in Rochdale, Derby and Oxford; evidence of child abuse by Jimmy Savile and others investigated as part of Operation Yewtree; and the allegations of child abuse currently the subject of investigation by Operation Fernbridge, a review led by Peter Wanless of an internal Home Office investigation into the handling of the missing 'Dickens dossier' and other documents, and the broader inquiry into child abuse being established by the Home Secretary. For relevant general findings, see National Crime Agency, *CEOP Thematic Assessment – The Foundations of Abuse: A thematic assessment of the risk of child sexual abuse by adults in institutions* (October 2013), <http://www.nationalcrimeagency.gov.uk/publications/49-ceop-institutions-thematic-assessment/file>.

<sup>15</sup> Professor Andrew Rowland, *Living on a Railway Line: Turning the tide of child abuse and exploitation in the UK and overseas* (2014), available at <http://www.wcmt.org.uk/fellows/reports/living-railway-line-turning-tide-child-abuse-exploitation-uk-overseas>.

<sup>16</sup> Dr Ben Mathews, *Mandatory reporting laws for child sexual abuse in Australia: A legislative history* (2013), available at <http://www.childabuseroyalcommission.gov.au/documents/royal-commission-report-ben-mathews-for-rc-publica>.

40. We therefore propose that the Victims' Law should include a clear obligation to report suspected child sexual abuse in specified circumstances, backed up by a criminal sanction for failure to do so. There was widespread support for this proposal amongst most of the individuals and bodies we talked to.
41. Although any mandatory reporting scheme will have strengths and weaknesses, in our view the most principled and appropriate model is that put forward by Slater and Gordon: that the criminal offence of failing to report suspected child abuse should apply to those working with children within a 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006, Schedule 4, Pt I. That definition includes the NHS, schools, children's homes, churches and faith organisations and national sports bodies. It would also include professionals such as social workers, teachers (including senior teaching staff), school personnel who have direct and regular contact with children, physicians, nurses and other healthcare workers, counsellors, therapists and other mental health professionals, childcare providers and police officers. Anyone working *in loco parentis* should also be covered as they have regular contact with young people and could be required to supervise overnight activities (for example, Scouts and Guides leaders). People volunteering on charity help-lines would not be mandated, in order to guard against fears that this would stop children contacting them for advice and help.
42. We recognise that some victims have called for a wider group to be covered by the criminal provisions on mandatory reporting, and we recognise the strength of that argument. At this stage, however, we think it is better to start with a more limited scheme and to assess the results before considering a possible expansion of the category of individuals covered.
43. It is important that any mandatory reporting regime does not cut across or undermine good safeguarding policies and practice. It is also important to preserve a safe space for children to disclose to adults without immediately triggering a police response. Therefore we consider that mandatory reporting should focus on the situations that call for it, namely conflict of interest situations.
44. **Recommendation 4.** We therefore propose a straightforward criminal sanction for failure to report suspected child abuse by those working with children within a regulated activity. The sanction should have a clear exemption or defence, namely that the individual in question had complied with the safeguarding policy relevant to him/her.
45. The purpose of the clear exemption or defence would be to promote compliance with existing safeguarding policies, reduce the likely volume of mandatory reports and to give clarity and comfort to those working with children, for example all those working in schools, that so long as they follow the relevant safeguarding policies they have nothing to fear from a mandatory reporting scheme.
46. The anticipated result of including such a provision will be culture shift. First, it will be incumbent on all organisations and individuals providing regulated activities to ensure that they have in place safeguarding policies that are fit for purpose and up to date. Second, the need for active compliance with safeguarding policies will be publicised and prioritised.

#### **A right to have an allegation recorded**

47. Having a crime recorded by the police is an important aspect of victims' rights in the criminal justice system. Until a record is made, no investigation, no charges, no prosecution and no sentence can follow. Moreover the *EU Directive on Victims' Rights*

makes provision for incident reporting which requires the acknowledgement of criminal complaints and the allocation of a file number<sup>17</sup>.

48. More than a decade ago the police, supported by the Home Office, made significant changes to the recording standards<sup>18</sup> so that crimes should be recorded as and when the victim makes their first report. However, recent Inspectorate reports on crime recording have shown that there is still substantial slippage and this is particularly the case with allegations of sexual assault and domestic violence. There is a persistent culture in many forces in favour of a pre-investigation to see whether a crime has been committed rather than acceptance of the victim's report.
49. Having listened to victims and reviewed the reports on crime recording, we think that the time has come for a victim's 'right to record' an allegation of crime, supported by an ability to appeal a refusal by the police to accept the report.
50. **Recommendation 5.** We recommend that the next government consults as soon as possible about a new, enforceable, Code of Practice, for crime reporting and recording which would:
  - (a) Require the police to record a victim's allegation when made;
  - (b) Ensure that the victim had access to the online record of their crime and the progress of the investigation;
  - (c) Provide the victim with a right of appeal where their allegation was not recorded or where the record did not match their allegation; and
  - (d) Make a breach of the Code of Practice potentially a misconduct issue.

### Dispelling myths and stereotypes

51. Having put more some governance around victims' services, the next issue is how victims are treated when they come forward. There is clear evidence that, in some cases, even if a victim does pluck up the courage to come forward, they are met with a number of assumptions about how 'real' victims behave. The task of the police and prosecutors in assessing the likelihood that a victim will be believed in court is not easy. But until relatively recently, based on their experience of what actually happens in courtrooms across the country every day, police and prosecutors adopted crude tests such as whether the victim reported the crime swiftly to the police, whether the victim was able to give a coherent and full account first time, whether the victim had returned to the perpetrator, and whether the victim was affected by drink or drugs.
52. This tick-box exercise may characterise the 'model' victim, but it does so at the expense of other victims who are often vulnerable to crime precisely because they are unable to trust those in authority, they use alcohol, they return to the perpetrators of the offences against them and, not infrequently, they self-harm or have other mental health issues. If the criteria for testing their credibility match the characteristics that make them vulnerable in the first place, we have a fundamental flaw in our approach.
53. There are other problems. Organisations we consulted, including Refuge, noted that clients are experiencing continuing problems with the response of police officers and other professionals within the criminal justice system in not responding to calls for help with the seriousness and urgency deserved. This has been confirmed by HMIC's

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<sup>17</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, OJ L 315, 14.11.2012,

<sup>18</sup> The National Crime Recording Standard was introduced nationally on 1 April 2002 as part of the Home Office Counting Rules for Recorded Crime, following Home Office, *Review of Police Forces' Crime Recording Practices*, HORS 204 (2000) and HMIC, *On the Record* (2000).

recent report into the national police response to domestic violence,<sup>19</sup> which found that the overall police response to domestic abuse was insufficient. A contributing factor was that officers lack the skills and knowledge to engage confidently and competently with victims of domestic abuse.<sup>20</sup>

54. In October 2013, the CPS issued new guidelines for prosecutors in child sexual abuse cases.<sup>21</sup> These guidelines made clear that police and prosecutors must focus on the overall credibility of an allegation rather than the perceived weaknesses of the person making it. A number of common myths and stereotypes which do not withstand scrutiny were listed, including:
- The victim invited sex by the way they dressed or acted;
  - The victim used alcohol or drugs and was therefore sexually available;
  - The victim didn't scream, fight or protest so they must have been consenting;
  - The victim didn't complain immediately, so it can't have been a sexual assault;
  - The victim is in a relationship with the alleged offender and is therefore a willing sexual partner;
  - A victim should remember events consistently;
  - Children can consent to their own sexual exploitation;
  - Child sexual exploitation is only a problem in certain ethnic/cultural communities;
  - Only girls and young women are victims of child sexual abuse;
  - Children from black and minority ethnic backgrounds are not abused;
  - There will be physical evidence of abuse.
55. It was always envisaged that these guidelines would mark the first step of a fundamental shift in thinking in relation to all victims of personal and sexual violence. The time has now come to ensure that those steps are taken and to give them a degree of statutory underpinning.
56. **Recommendation 6.** Therefore we recommend that all bodies and agencies charged with delivering criminal justice or victims' services should agree a timetable for completing the steps necessary to reflect and entrench the shift in approach to myths and stereotypes set out in the CPS 2013 guidelines. This should include, but not be limited to, guidelines, training and monitoring.
57. Moreover the Victims' Commissioner should include in a report to be laid before Parliament on an annual basis an assessment of the steps taken with such recommendations as the Commissioner considers necessary and appropriate.

### Victims' right of review

58. When a decision is taken not to bring criminal charges or to discontinue a criminal case, that is a 'final' decision for a victim. At the moment, the only legal recourse a victim has to challenge such a decision is to bring legal proceedings for judicial review.

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<sup>19</sup> Her Majesty's Inspectorate of Constabulary, *Everyone's Business: Improving the Police Response to Domestic Abuse* (2014), available at <https://www.justiceinspectorates.gov.uk/hmic/wp-content/uploads/2014/04/improving-the-police-response-to-domestic-abuse.pdf>.

<sup>20</sup> Ibid, pp. 6-7.

<sup>21</sup> CPS, *Guidelines on Prosecuting Cases of Child Sexual Abuse* (October 2013), [http://www.cps.gov.uk/legal/a\\_to\\_c/child\\_sexual\\_abuse/](http://www.cps.gov.uk/legal/a_to_c/child_sexual_abuse/).



Such proceedings are time consuming and costly for the victim and for the challenged authority (police or prosecutors).

59. For many years, it was rare for police and prosecutors to reverse their decisions, even when they were wrong. It was considered important that decisions, even when later shown to be questionable, were final and could be relied on. That approach was intended to inspire confidence in the criminal justice system, but in reality it had the opposite effect. Refusing to admit mistakes seriously undermines public trust in the criminal justice system. Moreover, the EU Directive on victims' rights now requires member states to put in place a right of review of decisions not to prosecute,<sup>22</sup> and the Court of Appeal has given guidance on the issue.<sup>23</sup>
60. In 2012, the CPS introduced the *Victims' Right of Review* scheme<sup>24</sup> allowing any victim of crime, which includes bereaved family members, to seek a review of any decision to charge, to discontinue or to offer no evidence in a case. This is a voluntary scheme and has worked well in practice, but it now needs to be entrenched in law and developed.
61. **Recommendation 7.** Two changes to the right to review regime should be made:
  - (a) The scheme needs to be extended to the police so that any decision not to bring criminal charges or to discontinue a criminal case can be reviewed whether taken by the police or a prosecutor; and
  - (b) The scheme needs to be underpinned by statute so that it is uniform, accessible and effective for victims in all police force areas.

We have not spelt out the precise mechanism for putting a *Victims Right of Review* scheme on a statutory footing because it will be necessary to consult with the relevant agencies and with the Parliamentary and Health Service Ombudsman before doing so. But we are clear that the scheme should be underpinned in law.

## The Victims' Code

62. The latest version of the Code of Practice for Victims was published by the Ministry of Justice in October 2013. It is an improvement on what came before and covers victims' 'entitlements' to information, consultation, support, victim personal statements, compensation and complaints. However, it is not legally enforceable.
63. This has two results. First, victims do not consider that they have 'rights' as such. Second, the relevant service providers do not give the Victims' Code the priority it deserves. For example, many of those we consulted referred to the importance of timely provision of information to victims during the criminal justice process. The Code provides timeframes for the communication of information about hearings, bail decisions and decisions not to prosecute, but we heard a good deal of evidence that these timeframes are not being complied with. The Code also provides for needs assessment of victims, but again we heard a good deal of evidence about shortcomings in this regard.
64. These findings are consistent with those set out by the Victims' Commissioner in a recent report which found that compliance with the Victims' Code is inadequate and that "victims are often left feeling confused, ignored and dismissed", as well as being

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<sup>22</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, OJ L 315, 14.11.2012, pp. 57-73, Art 11.

<sup>23</sup> *R v Christopher Killick* [2011] EWCA Crim 1608.

<sup>24</sup> See CPS, Victims' Right to Review Scheme [http://www.cps.gov.uk/victims\\_witnesses/victims\\_right\\_to\\_review/](http://www.cps.gov.uk/victims_witnesses/victims_right_to_review/).



unaware of their entitlements under the Victims' Code.<sup>25</sup> The Victims' Commissioner found there to be "a gap between what the criminal agencies describe and what victims experience"<sup>26</sup>

65. Since the Victims' Code is already in existence and all service providers have already signed up to provide the 'entitlements' in the Code, we think it would be a retrograde step to abandon it. Instead we propose giving it legal teeth. This idea received strong support from many of those we consulted.
66. **Recommendation 8.** Accordingly we propose that the Victims' Code should be clarified and, where necessary, broadened. Periodic review of the contents of the Code by the Victims' Commissioner should continue to ensure that the rights set out in the Code are developed and strengthened over time.
67. Further, there should be clear and strong legal enforcement of the Victims' Code which is underpinned by statute.
68. Since 3 April 2006 the Parliamentary and Health Service Ombudsman has had statutory responsibility to consider complaints, referred by MPs, from those who complain that their rights under the Victims' Code have not been met. Although there are examples of strong findings and not insignificant compensation awards having been made, the number of cases reaching the Ombudsman is very low and the requirement not only to exhaust the internal complaints mechanisms of the agency in question and to then refer a complaint via an MP render the scheme far too slow and cumbersome from a victim perspective. Something much more practical and effective is needed.
69. The options are therefore to reinforce and expand the role and powers of the Parliamentary and Health Service Ombudsman, stripping away the slow and cumbersome features or to create a separate enforcement regime. Clearly this needs careful thought and consultation and, for that reason, we are not wedded to a specific enforcement body.
70. However we are very clear that whatever enforcement regime is decided upon, it must be underpinned by statute and the essential features of any scheme must include direct access by victims, a clear power to investigate whether the Code had been breached, a hands on practical approach to problem solving and ultimately a clear power to impose sanctions which should include:
  - (a) Publishing a finding of breach of the Victims' Code;
  - (b) Awarding compensation payments;
  - (c) A power to refer individuals who breach the Victims' Code to their relevant professional body where appropriate; and
  - (d) A power to recommend an inspection by the Inspectorate relevant to the organisation liable for the breach of the Victims' Code where appropriate (for example, in a case of repeated breaches).

Moreover, all findings of the enforcement body should be collated and published on an annual basis and be included in the Victims' Commissioners' annual report to Parliament.

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<sup>25</sup> Victims' Commissioner, *A Review of Complaints and Resolution for Victims of Crime* (January 2015), [http://victimscommissioner.org.uk/wp-content/uploads/2015/01/A-Review-of-Complaints-and-Resolution-for-Victims-of-Crime\\_January20151.pdf](http://victimscommissioner.org.uk/wp-content/uploads/2015/01/A-Review-of-Complaints-and-Resolution-for-Victims-of-Crime_January20151.pdf).

<sup>26</sup> P.5

## The courtroom experience

71. We considered evidence and submissions regarding victims' experiences in the courtroom. We heard positive reports about services provided by the Witness Care Unit and Family Liaison Officers. However, victims who had been witnesses in court generally reported that giving evidence was a traumatic and intimidating experience in which uncertainty played a large part. We heard that prosecutors are often under the misapprehension that witnesses cannot be informed about potential areas of questioning or warned that the case may be put to them that they are not telling the truth.
72. Support provided to victims who are witnesses is variable, particularly in relation to special measures, which are sometimes refused or not requested. MIND submitted evidence that people with mental health problems can find attending court acutely distressing. Special measures and pre-trial visits made a positive difference to the overall experience, but not all victims had been offered them. MIND noted that the Serious Case Review of the Francis Andrade case, led by Professor Hilary Brown,<sup>27</sup> found that Mrs Andrade was offered special measures but had refused them because she felt they would reveal her mental health problems, which may have undermined her credibility in court.<sup>28</sup>
73. Particular concerns were raised by NSPCC and Lexicon Limited about ensuring that safeguarding policies are integrated into court practice in cases where children are giving evidence. In this regard we took note of forthcoming research by Laura Hoyano examining reform proposals and making recommendations for obtaining best evidence from children and vulnerable witnesses.<sup>29</sup> Those we consulted were also concerned that there are currently no reliable processes in place for the collection of data and feedback in relation to court support processes.
74. We note the piloting of video recording of cross examination under section 28 of the Youth Justice and Criminal Evidence Act 1999, which allows for the pre-recording of the cross-examination of vulnerable or intimidated witnesses before the trial. We support this initiative and look forward to its evaluation in due course. We also note and support the steps taken recently by the Bar Council and others to improve training for advocates dealing with vulnerable witnesses and again look forward to their evaluation in due course.
75. Rather than enshrine these important developments in law, which could risk inhibiting their further progress, we recommend that they be subject to monitoring and evaluation by the Victim Commissioner on an ongoing basis.
76. **Recommendation 9:** Accordingly we propose that the Victims' Commissioner should include in a report to be laid before Parliament on an annual basis an assessment of the steps taken to support victims and witnesses in giving their best evidence along with such recommendations as the Victims' Commissioner considers necessary and appropriate.
77. There is growing evidence of the unacceptability of the conduct of some lawyers in court and some evidence of the failure of some Judges properly to control proceedings (for example, in allowing repeated and highly aggressive cross-examination in cases of sexual violence). Although we accept that this is by no means the norm, this needs to be tackled effectively.
78. In the course of our work, several groups and individuals called into question the impact on victims of the adversarial nature of our criminal justice system. We share

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<sup>27</sup> Professor Hilary Brown, *Surrey County Council: Safeguarding Adults Board – The death of Mrs A: A Serious Case Review* (April 2014), [http://www.surreycc.gov.uk/\\_data/assets/pdf\\_file/0011/815384/FINAL-Mrs-A-full-report-26.03.14.pdf](http://www.surreycc.gov.uk/_data/assets/pdf_file/0011/815384/FINAL-Mrs-A-full-report-26.03.14.pdf).

<sup>28</sup> Ibid, 20.

<sup>29</sup> Laura Hoyano, 'Reforming the Adversarial Trial for Vulnerable Witnesses' (*Criminal Law Review*, forthcoming 2015).

some of their concerns. However, we have concluded that any discussion about the nature of our criminal justice procedures should take place outside the confines of a Victims' Law. If some change is needed, that requires a full constitutional debate, clear evidence and, above all, consensus. We have therefore concentrated our efforts on improving the way victims are dealt with in court within our existing adversarial model.

79. We were struck by evidence that some judges make good use of 'ground rules' hearings, pursuant to the power set out in Criminal Practice Direction General Matters 3E,<sup>30</sup> which set out in advance how a trial is to be conducted, give scope for control of questioning and allow victims to know in advance how certain matters will be dealt with. We consider that this model should be developed and entrenched. In particular, the *power* to hold a 'ground rules' hearing should be turned into a *duty* to do so in some cases.
80. **Recommendation 10.** We therefore propose that in Crown Court cases where oral evidence is required to be given by a child, via an intermediary, by a complainant in a sexual offence case, or by a vulnerable witness, the Judge should be under a statutory duty to hold a ground rules hearing. The ground rules hearing should be at an early stage, including at the preliminary hearing or Plea and Case Management Hearing in a criminal case.
81. Once the statutory duty to hold ground rules hearings has been established in law, it should be for the Criminal Procedure Rules Committee to set out what a Judge should consider and, where appropriate, make provision for. But, in our view, at least the following should be included:
  - (a) Special measures;
  - (b) Form of questions;
  - (c) Factual matters for cross-examination;
  - (d) Impermissible lines of questioning;
  - (e) Restrictions on advocates putting their case;
  - (f) Comment on evidential inconsistencies;
  - (g) Visual aids and exhibits;
  - (h) Timetabling of witness evidence;
  - (i) Length of cross-examination;
  - (j) Breaks for witnesses;
  - (k) Provisions for multiple witnesses; and
  - (l) Specific rules of judicial intervention.
82. An appeal should lie in relation to a decision to hold a ground rules hearing, a decision to class a witness as vulnerable or not to class a witness as vulnerable, a decision as to content or scope of ground rules, and procedural unfairness.
83. The intended outcome of ground rules hearings would be to ensure that witnesses and defendants give best evidence and to ensure fairness at the trial for all parties. A Victims' Law could in this way transform best practice into consistent legal reality.
84. On this topic we have benefited from expert submissions and advice, particularly from Eleanor Laws QC.

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<sup>30</sup> Lord Chief Justice of England and Wales, Consolidated Criminal Practice Directions, 3 March 2013, <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Practice+Directions/Consolidated-criminal-practice-directions-2013.pdf>.

### Periodic review of homicide cases

85. Bereaved families and those we consulted from AADFA and Justice After Acquittal are very concerned that where a family member has been killed and no one has been brought to justice or there has been an acquittal, there is no framework governing whether and when the case will be reviewed by police and prosecutors. It is left to the discretion of officers in each police force area. This is unsatisfactory.
86. We consider that it ought to be possible for police and prosecutors to agree and adopt national standards for the periodic review of these cases. The issue was thoroughly reviewed by Victims' Commissioner Louise Casey in 2011,<sup>31</sup> and the CPS has published relevant guidance.<sup>32</sup> Draft standards were drawn up in 2012 and agreement between ACPO and the CPS was nearly reached. We consider that it is now time to close this gap.
87. **Recommendation 11.** We therefore propose that the Victims' Law should make provision for the agreement and adoption of national standards for periodic review of homicide cases where no one has been brought to justice or there has been an acquittal. We do not consider that it is sensible to set the standards in legislation, but instead propose imposing a statutory duty on the police and the CPS set out in a Victims' Law to agree and adopt standards, which should then be approved by the Victims' Commissioner.
88. We are conscious that a strong case can be made for extending these standards to other cases. However, at this stage, our preferred approach is to limit the minimum standards to homicide cases and recommend that the extension of the scheme be considered once it is in use and has been monitored.

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<sup>31</sup> Louise Casey CB, *Review into the Needs of Families Bereaved by Homicide* (July 2011),

<http://www.justice.gov.uk/downloads/news/press-releases/victims-com/review-needs-of-families-bereaved-by-homicide.pdf>.

<sup>32</sup> CPS, *Homicide Cases – Guidance on CPS service to bereaved families*,

[http://www.cps.gov.uk/legal/v\\_to\\_z/homicide\\_cases\\_-\\_guidance\\_on\\_cps\\_service\\_to\\_bereaved\\_families/](http://www.cps.gov.uk/legal/v_to_z/homicide_cases_-_guidance_on_cps_service_to_bereaved_families/).

#### IV. WIDER RECOMMENDATIONS

##### **Victim satisfaction.**

89. We are struck by the fact that, although the mantra that ‘victims are at the heart of the criminal justice system’ has been repeated for some years, there has never been any uniform and consistent way of measuring victim satisfaction with the service provided to them.

We recognise that partial measures have been put in place from time to time to record victim satisfaction, but consider that the time has come for a well-thought through scheme, monitored by the Victims’ Commissioner for measuring victim satisfaction consistently over time.

90. **Recommendation 12:** The Victims’ Commissioner should consult upon and devise a scheme for measuring victim satisfaction consistently over time.

##### **Restorative justice**

91. For some victims, the court process for dealing with crime can bring closure. But in many cases of less serious offending, out of court disposal and/or restorative justice can bring real benefits both to victims and offenders.

92. Recently there have been steps to bring consistency to the provision of out of court disposals and/or restorative justice and we support those steps.

93. Those steps should now be assessed and evaluated from a victims’ perspective. We note that in Operation Turning Point in the West Midlands, researchers conducted a randomised controlled trial comparing the experience of victims whose cases were diverted with those whose cases were prosecuted. Initial findings from the early stages of the trial suggested that victims had a mixed experience from both options. However once the police invested in better training and a more focused service the victims whose cases were diverted were generally satisfied and much more so than those whose cases went to court.

94. We would like to see the approaches developed in Operation Turning Point tested in other areas. They showed that where victims are convinced that the police are taking their crimes seriously and make credible efforts through diversion to reduce the likelihood that the offender will reoffend, victims are both satisfied and supportive.

95. **Recommendation 13:** Steps to bring consistency to the provision of out of court disposals and/or restorative justice should be assessed and evaluated from a victims’ perspective.

##### **Equality and discrimination.**

96. Almost everyone with any experience of our criminal justice system recognises the inequality of treatment that still bedevils our criminal justice system. Numerous studies have highlighted particular aspects of this discrimination and steps have been taken to improve the service and treatment provided. Transforming our criminal justice *system* to a criminal justice *service* will require a relentless focus on discrimination – both personal and institutional and both direct and indirect – and on the damage that it does to the effectiveness of our system in protecting victims.

97. No change to the way victims are treated would be complete without a clear commitment to meaningful, penetrating and overarching equality impact assessments conducted on a periodic basis. No such assessments have yet been devised for our criminal justice system and we consider that this gap now needs to be filled. We

therefore recommend that meaningful, penetrating and overarching equality impact assessments of the way victims are treated in our criminal justice system should be integrated into the changes we propose in this report. In the first instance, the Victims' Commissioner, after consultation, should draw up and publish proposals for the devising and carrying out of these impact assessments.

98. **Recommendation 14:** The Victims' Commissioner should, after consultation, draw up and publish proposals for the devising and carrying out of meaningful, penetrating and overarching equality impact assessments of the way victims are treated in our criminal justice system.

## V. SUMMARY OF RECOMMENDATIONS

**Recommendation 1.** As a first step towards an *Area Victims' Plan* for each police force area (see Recommendation 2 below), those under a statutory duty to deliver criminal justice and victims' services should:

- (a) Be under a duty to work together and with others providing criminal justice and victims' services to map the safe ways to report crime in each police force area;
- (b) Assess the adequacy and effectiveness of the available ways to report crime in each police force area;
- (c) Submit a report on an annual basis to the Victims' Commissioner setting out the findings in relation to each police force area with such recommendations as are considered necessary and appropriate.

**Recommendation 2.** We therefore propose that those under a statutory duty to deliver criminal justice and victims' services in each police force area should:

- (a) Be under a duty to work together and with others delivering criminal justice and victims' services to map victim needs in each police force area;
- (b) Assess the adequacy and effectiveness of the available victims' services in that area;
- (c) Draw up, consult on and publish an *Area Victims' Plan* for the area which clearly sets out how the identified victim needs will be met by the available victims' services;
- (d) Submit the *Area Victims' Plan* to the Victims' Commissioner on an annual basis.

**Recommendation 3.** It should be the statutory duty of the Victims' Commissioner to:

- (a) Asses the adequacy of each Area Victims' Plan.
- (b) Make such recommendations to those charged with delivering criminal justice and victims' services in each police force area as the Commissioner considers necessary and appropriate.
- (c) Draw up clear quality standards for the provision of victims' services.
- (d) Submit a report to be laid before Parliament on an annual basis recording the Commissioner's assessment of each Area Victim Plan, setting out all recommendations made to those charged with delivering criminal justice and victims' services in each police force area and setting out the quality standards for the provision of victims' services draw up by the Commissioner.

**Recommendation 4.** There should be a straightforward criminal sanction for failure to report suspected child abuse by those working with children within a regulated activity. The sanction should have a clear exemption or defence, namely that the individual in question had complied with the safeguarding policy relevant to him/her.

**Recommendation 5.** The next government should consult as soon as possible about a new enforceable Code of Practice for crime reporting and recording which would:

- (a) Require the police to record a victim's allegation immediately;
- (b) Ensure that the victim had access to the online record of their crime and the progress of the investigation;

- (c) Provide the victim with a right of appeal where their allegation was not recorded or where the record did not match their allegation; and
- (d) Make a breach of the Code of Practice a potential misconduct.

**Recommendation 6.** All bodies and agencies charged with delivering criminal justice or victims' services should agree a timetable for completing the steps necessary to reflect and entrench the shift in approach to myths and stereo types set out in the CPS 2013 guidelines. This should include, but not be limited to, guidelines, training and monitoring.

Moreover the Victims' Commissioner should include in a report to be laid before Parliament on an annual basis an assessment of the steps taken with such recommendations as the Commissioner considers necessary and appropriate.

**Recommendation 7.** Two changes to the *Victims' Right of Review* scheme should be made:

- (a) The scheme needs to be extended to the police so that any decision not to bring criminal charges or to discontinue a criminal case can be reviewed whether taken by the police or a prosecutor, and
- (b) The scheme needs to be underpinned by statute so that it is uniform, accessible and effective for victims in all police force areas.

**Recommendation 8.** The Victims' Code should be clarified and, where necessary, broadened. Periodic review of the contents of the Code by the Victims' Commissioner should continue to ensure that the rights set out in the Code are developed and strengthened over time.

Further, there should be clear and strong legal enforcement of the Victims' Code which is underpinned by statute.

**Recommendation 9.** The Victims' Commissioner should include in a report to be laid before Parliament on an annual basis an assessment of the steps taken to support victims and witnesses in giving their best evidence along with such recommendations as the Victims' Commissioner considers necessary and appropriate.

**Recommendation 10.** In Crown Court cases where oral evidence is required to be given by a child, via an intermediary, by a complainant in a sexual offence case, or by a vulnerable witness, the Judge should be under a statutory duty to hold a ground rules hearing. The ground rules hearing should be at an early stage, including at the preliminary hearing or Plea and Case Management Hearing in a criminal case.

**Recommendation 11.** The Victims' Law should make provision for the agreement and adoption of national standards for periodic review of homicide cases where no one has been brought to justice as there has been an acquittal, which should then be approved by the Victims' Commissioner.

**Recommendation 12:** The Victims' Commissioner should consult upon and devise a scheme for measuring victim satisfaction consistently over time.



**Recommendation 13:** Steps to bring consistency to the provision of out of court disposals and/or restorative justice should be assessed and evaluated from a victims' perspective.

**Recommendation 14:** The Victims' Commissioner should, after consultation, draw up and publish proposals for the devising and carrying out of meaningful, penetrating and overarching equality impact assessments of the way victims are treated in our criminal justice system.

## **APPENDIX 1: THE TASKFORCE**

### ***Baroness Lawrence of Clarendon OBE***

Baroness Lawrence is a British Jamaican campaigner and the mother of Stephen Lawrence, a British teenager who was murdered in a racist attack in South East London in 1993. She promoted reforms of the police service, and founded the Stephen Lawrence Charitable Trust to promote a positive community legacy in her son's name. She was awarded the OBE for services to community relations in 2003. After years of campaigning, a wide-ranging judicial inquiry established by Jack Straw, then Home Secretary, and chaired by Sir William MacPherson, was published in 1999. The inquiry investigated the circumstances of Stephen's death, and concluded that the Metropolitan Police was "institutionally racist" and that this was one of the primary causes of their failure to solve the case.

### ***Peter Neyroud CBE QPM***

Peter Neyroud CBE QPM was police officer for 30 years. Amongst many roles, he was the Chief Executive Officer for the NPIA, and Chief Constable of Thames Valley Police. He carried out a Review of Police Leadership and Training for the Home Secretary in 2011, which led to the setting up of the National College of Policing. Since 2011 he has been a Resident Scholar at the Jerry Lee Centre for Experimental Criminology, at the Institute of Criminology, University of Cambridge, where he is doing research on crime harm and diversion.

### ***Sir Keir Starmer KCB QC***

Keir Starmer QC is a barrister and was the fourteenth Director of Public Prosecutions (DPP) and the sixth head of the Crown Prosecution Service (CPS) from 2008 to 2013. He was called to the Bar in 1987, became a Queen's Counsel in 2002, and was joint head of his chambers from 2005-8. He was a human rights advisor to the Northern Ireland Policing Board and the Association of Chief Police Officers. In 2007 he was named "QC of the Year".

## APPENDIX 2: TERMS OF REFERENCE

The Terms of Reference for the Taskforce are as follows:

1. To come forward with proposals for inclusion in a Victims' Law, including:
  - (a) Identifying which victims' rights (both children and adults) should be legally protected.
  - (b) What the form of legal protection for those victims' rights should be.
  - (c) What redress should be afforded for breach of the victims' rights enshrined in a Victims' Law.
  - (d) The role of the Victim and Witness Commissioner.
  
2. To make recommendations on transforming the criminal justice *system* into a criminal justice *service* fit for victims, including:
  - (a) How the 'end to end' criminal justice experience can be improved for victims and witnesses (both children and adults).
  - (b) What further provision should be made for victims and witnesses.
  - (c) How information should be made available to victims and witnesses, and when.
  - (d) How to bring about an attitude-shift in all those delivering criminal justice in England and Wales.
  
3. To engage as widely as practicable with victims and witnesses, representative groups and bodies, and expert or interested parties, including those delivering criminal justice in England and Wales.
  
4. To report the Leader of the Labour Party, Ed Miliband, and to the Shadow Secretary of State for Justice, Sadiq Khan, by November 2014.

## **APPENDIX 3: CONSULTATION PROCESS**

In accordance with the Terms of Reference, we have taken a broad and multi-faceted approach to consultation, reflecting the diversity of views, experience and interests of stakeholders in this area.

### **(a) Online access**

The Labour Party set up a website (<http://www.yourbritain.org.uk/agenda-2015/policy-review/victims-taskforce>) and email address ([victimstaskforce@labour.org.uk](mailto:victimstaskforce@labour.org.uk)) where people could read about the Taskforce, post comments and make submissions.

### **(b) Submissions**

Submissions were accepted in any form. We received over 50 submissions from non-government organisations, individual victims and their families, practitioners, judges, academics, other professionals and interested persons, including contributions by email and letter.

All submissions, including those submitted after the deadline of 13 June 2014, have been taken into account in formulating the content of this report. We are grateful to all stakeholders for taking the time to share their expertise and personal experiences in order to inform the work of the Taskforce.

### **(c) Roundtables and other meetings**

In order to ensure that we were fully apprised of all relevant issues, needs and implications of reform, we conducted a series of roundtable discussions with various stakeholders who have experience in the field.

Participants included representatives from victims' and children's rights organisations, police force areas and associations, Sexual Assault Referral Centres and women's rights organisations, as well as individual practitioners, judges, experts, victims and their families.

In London, we conducted four roundtables on the following themes:

- Access to the criminal justice system and "bridging victims in";
- Victims' right of review;
- Support before and at court, and court procedures;
- Post-court support and review.

We also held regional meetings, including a further roundtable discussion in Liverpool with organisations and individuals from the North-West.

We are grateful for the contributions of many organisations, including the following (in no particular order): NSPCC; Association of Police and Crime Commissioners; Association of Chief Police Officers; Children's Society; various Police forces and Commissioners; Barnardo's; CAADA; Children and Families Across Borders; Women's Aid; ECPAT UK; Standing Together; Suzy Lamplugh Trust; St Mary's SARC; Victim Support; Refuge; Rape Crisis England and Wales; MIND; Embrace CVOC; NAPAC; #SAFE and Eve's Law; Limeculture; AAFDA (Advocacy After Fatal Domestic Abuse); Justice After Acquittal; Road Peace; Why me? Victims for Restorative Justice; Lexicon Limited; Joanna Simpson Foundation; Victoria Climbié Foundation; Rape Crisis Sefton; Rape Crisis Merseyside; Rape and Sexual Abuse Centre; Families Fighting for Justice; SWACA (Sefton Women's and

Children's Aid); Wirral Change; Anthony Walker Foundation; National Probation Service; Liverpool Safer Stronger Communities; Wirral Family Safety Unit.

One-to-one consultation meetings were also held with various government agencies and office-holders.

The content and outcomes of all these discussions and events have been immensely beneficial in shaping our deliberations.

**(d) *Expert contributions***

We have engaged with experts in the field of criminology, victims' rights and service design and delivery. We have considered relevant reports and papers, as well as conducting comparative analysis of recent reform efforts in other common law jurisdictions.

We are grateful to a number of academics and practitioners who have given up their time to advise and assist us in drawing up our proposals.

**(e) *Volunteers***

We are grateful to all consultees and contributors for giving freely of their time. In addition, we acknowledge our appreciation to a number of individuals who volunteered to assist the Taskforce in running the consultation and producing this Report.

