

## **Victims Taskforce – Victims Commissioner – Members’ views**

### Introduction

1. The last meeting of the Taskforce on 12<sup>th</sup> June agreed to move consideration of a Victims Commissioner to the next meeting on 11<sup>th</sup> September and suggested that the Secretariat contact members to seek their views to inform a paper.
2. A draft of this paper was circulated to members on 12 August and the paper has now been updated to take account of views received.

### Background

3. Part of the Taskforce’s workplan is to consider the case for a Victims Commissioner in Scotland. This issue has been raised a number of times since devolution, particularly in relation to victims focussed legislation going through the Scottish Parliament and in comparison to the equivalent post in England and Wales. Some further information on the Victims Commissioner in England and Wales and similar posts in other jurisdictions can be found at the Annex.
4. These roles as they are carried out elsewhere tend to rest on a statutory underpinning – legislation sets out the functions to be carried out by the postholder and often contains reporting obligations and governance structures and a requirement to consult with victims and survivors. However there are other examples where the appointment is more loosely defined (e.g. as a mayoral appointment in London, the Victims Champion role that preceded the statutory Victims Commissioner in England and Wales).
5. Typically the roles tend to be heavily focussed on engagement with victims and witnesses, their representative organisations, government and criminal justice agencies and the taking forward of reviews and reports on matters of interest (see Annex A for examples). The majority of roles are clearly focussed on identifying and addressing issues which are of general application and affect a number of victims and do not involve the Commissioner in providing support or advice in relation to individual cases. The roles tend to be advisory in effect and therefore do not cut across existing legislative or regulatory processes, or affect the handling of specific cases which are already underway.

### Previous consideration in Scotland

6. The concept of a Scottish Victim Commissioner has been raised several times since devolution. David Stewart MSP introduced a private members bill on this issue in 2010 and it has also been the subject of a number of Parliamentary Questions. There has also been a relatively recent petition posted online by a bereaved family.
7. Consideration of this issue previously has focussed on the benefits to victims of creating a specific role which would act as spokesperson for their concerns and provide a focal point for assessing the effectiveness of current provision, weighed against the risks of duplication in terms of work already being done by victim support organisations, government and the criminal justice agencies; the potential for

another layer of bureaucracy; and the benefits of maximising resources to frontline support services.

### Issues for consideration

8. We would welcome members' views at this stage on how the Taskforce should consider this issue. All views are welcome. Members may wish to consider the following issues in particular:

- Timing of consideration – the merits of earlier/later consideration in the lifespan of the Taskforce; whether the work of the Taskforce could pave the way for any future role for a Commissioner
- Interaction with other parts of the Taskforce's workplan/interests – e.g. much of the work being carried out by the Victim Centred Approach workstream will highlight issues which a commissioner may be expected to be interested in. The best way to engage with victims on the issue, through the reference groups and sounding boards being established should also be considered.
- Need/demand for such a role: Is there evidence of a need for the role? How does this differ from what is already/should be provided by existing organisations?
- The scope of the role: whether this would cover youth justice aspects for example; whether direct support of victims could be part of the role; consideration that ongoing work of the Taskforce might help refine the role e.g. as becomes clearer which issues are most significant/most intractable; whether/how a commissioner could hold agencies to account; is the scope limited to those involved as victims in the context of procedural criminal justice matters?
- Unique aspects of the Scottish context and how these are considered: e.g. the existence of the Taskforce itself; and the role of any commissioner relative to the role of the Taskforce; relative scale and accessibility of government; role of third sector organisations; legislative context.
- Costs/use of resources: The costs of appointing a commissioner would vary significantly depending on the status and scope of the role. A statutory role would obviously require legislation with associated time and resource implications. Depending on the scope of the role there may also be a need to cost support functions such as office staff, research, travel etc. The financial memorandum for the private members bill mentioned above estimated a start-up cost of £481,159 with a subsequent annual cost of £404,159. Salary costs for the England and Wales Commissioner are £108,000 per annum. Total costs for the England and Wales office were £475,000 in 2017/18.
- Methods of consideration – e.g. reviewing work done in other jurisdictions; merits of visiting existing commissioners; engaging victims in consideration; how members are involved directly.

- Further information required: roles and responsibilities in other jurisdictions and any evaluation of these; roles and responsibilities of potentially similar roles operating in Scotland (e.g. Children's Commissioner); the rationale for creating a commissioner role where this has been done; considering costs; victim engagement; whether a legislative basis required.

At this stage it would be useful to come to a collective view as to appropriate next steps and timing of these.

Taskforce Secretariat  
September 2019

## ANNEX

### Victims Commissioner for England and Wales (established 2010)

This is a role defined by statute. It is independent of Government but appointed by the Justice Secretary in consultation with the Attorney General and Home Secretary and must produce an annual report to them and give advice when required to do so. The legislation prescribes that the Commissioner must promote the interests of victims and witnesses; encourage good practice in their treatment; and keep under review the operation of the Victims Code. The Commissioner may also make proposals for amending the Victims Code; make a report to the Justice Secretary or make recommendations to an authority within their remit.

The role is full time and was recently advertised at a £108,000 salary. The wider office which supports the Commissioner means a total cost of around £475,000 per annum. Dame Vera Baird has just been appointed to become the third Victims Commissioner, following on from Baroness Newlove, the current incumbent, and Louise Casey. She will take up post in mid-June.

From 2015-2019 the Commissioner's office have published reviews and reports on: Restorative Justice; Provision of Registered Intermediaries; Children's Entitlements; Complaints and resolution processes; Victims of mentally disabled offenders; Criminal Injuries Compensation; anti-social behaviour; and a two part scoping review entitled 'Are Victims Satisfied?' Rapid evidence assessments of what works in supporting victims of crime and specifically on victims' advocates have been carried out. There has also been a particular focus on Victim Personal Statements with an annual report analysing offers and take up rates.

The Commissioner's strategic objectives for 2016-19 were:

- Work with all criminal justice agencies to ensure that victims of crime and witnesses are treated with humanity and decency at all times, so as to aid their ability to cope and recover from the impact of crime;
- Monitor and report on criminal justice agencies' compliance with the requirements of the Code of Practice for Victims of Crime and the Witness Charter; identifying areas that are deficient and making recommendations based on evidence of best practice;
- Review the provision of victim services on the basis of the four principles identified in "What Works", namely: communication, procedural justice, interagency cooperation and professionalisation, and make recommendations on how services should develop and improve;
- Through regular contact with victims and practitioners of victims' services, articulate a view of the criminal justice system from the perspective of victims; review and challenge decisions taken by policy makers and those responsible for developing practice.

- Through gaining first-hand knowledge and understanding of victims' services, identify and actively promote examples of best practice and excellence.

Website: <https://victimscommissioner.org.uk/victims-commissioner/>

### Victims Commissioner for London (established 2017)

This is a Mayoral appointment. The purpose of the role is to be an independent champion for victims and survivors of crime. This involves identifying and reporting on possible improvements to victims' experiences and ensuring the voice of victims are heard. The Commissioner is expected to produce an annual report, support the Deputy Mayor in providing oversight of the Met and provide challenge to the criminal justice agencies. The role is part-time (2.5 days a week) with an advertised salary of £45,000.

The Commissioner published a Review of Compliance with the Victims' Code of Practice in March 2019.

The Commissioner's current work programme is:

- A wide-ranging consultation with survivors of violence against women and girls, to inform the Mayor's Violence Against Women and Girls Strategy (VAWG).
- A full victims' needs assessment via an in-depth survey to gather the views and feedback of victims of crime in London to inform future service provision and ensure all victims can access the support they need.
- An extensive review into rape cases and justice outcomes in London, to identify why cases take so long to get to court, why so many victims disengage from the process before the case can be concluded; and a thorough investigation into disclosure practices.
- Establishing a Victims Board comprising of justice agencies which supports the delivery of the commitments set out in the Police and Crime Plan and provides the opportunity for the victims' voice to be at the centre of decision making.
- Forming a Victims Reference Group for ongoing engagement with stakeholders including victims of crime to inform her work and the work of the Victims Board.
- Commissioning a new online resource for victims to act as a virtual 'one front door' to ensure that victims' can easily access comprehensive information, advice and the pathways available to them when they need it.
- Convening London's Victims' Summit, bringing together senior leaders from all justice agencies, voluntary and community groups, local councils and victims of crime, to galvanise a partnership effort to improve victims' experiences of navigating the justice system and support options post incident.
- Working closely with the Metropolitan Police Service to address recent findings of the decline in victim satisfaction rates, delivering on a suite of recommendations including 14,000 frontline officers receiving specialist victims care training and improving police correspondence & communication to victims.
- Working closely with the Ministry of Justice to help shape their Victims' Strategy and continuing to work with partners to ensure the Government deliver their

recommendations outlined in strategy and fulfil their commitment in delivering a Victims' Law.

Website: <https://www.london.gov.uk/what-we-do/mayors-office-policing-and-crime-mopac/victims-commissioner>

#### Commissioner for Victims and Survivors – Northern Ireland

This is a statutory role tied to the legacy of the Troubles. The Commissioner's role is to promote an awareness of matters relating to the interests of victims and survivors and of the need to safeguard those interests and to keep under review the adequacy and effectiveness of law, practice and services. The Commissioner provides advice to the Secretary of State, the Executive Committee of the Assembly and service providers on request or as appropriate. The Commissioner is required to consult with victims and survivors and to arrange a forum for this purpose.

Website: <https://www.cvsni.org/>

#### Commissioner for Victims Rights – South Australia

This is a statutory position appointed by the Governor. The primary focus of the Commissioner is to help victims in their dealings with the state's criminal justice system, public officials and public agencies.

The Commissioner has the following main functions:

- to marshal available government resources so they can be applied for the benefit of victims in the most efficient and effective way;
- to assist victims in their dealings with prosecution authorities and other government agencies;
- to monitor and review the effect of the law and of court practices and procedures on victims;

In line with these functions, the Commissioner can provide information, advice and support to South Australians who are harmed and their families and friends to deal with the physical, emotional and financial impact of crime. The Commissioner can also participate in certain criminal proceedings and consult on victims' grievances.

Website: <http://www.voc.sa.gov.au/>

#### Victims of Crime Commissioner – Victoria, Australia (established 2016)

This is an independent statutory appointment, acting as a central point of contact for victims of violent crime who have experienced difficulties or confusion in their dealings

with the justice system. The Commissioner is responsible for advocating for the recognition, inclusion, participation and respect of victims by government and criminal justice agencies. They can inquire into issues that victims may experience with government, service providers or the justice system processes. They can report to the Attorney General on ongoing issues which apply to many victims of crime and advise on improvements required. The Commissioner cannot provide direct support or legal advice.

Website: <https://www.victimsofcrimecommissioner.vic.gov.au/about-us/the-victims-of-crime-commissioner>