

# **Victims of Crime (Rights, Entitlements, and Notification of Child Sexual Abuse) Bill [HL]**

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**B I L L**

TO

Make provision for specifying new statutory rights and entitlements for victims of crime under the victims' code of practice; to require elected local policing bodies to assess victims' services; to increase the duties of the Commissioner for Victims and Witnesses; to grant victims the right to request a review of a decision not to prosecute; to establish reviews into homicides where no criminal charge has been made; to create an obligation on professions to notify cases of possible victims of child sexual abuse; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Overview**

- (1) This Act establishes a framework of rights and entitlements for victims of crime.
- (2) The entitlements and rights under this Act apply to “victims” within the meaning of section 2. 5

**2 “Victims”**

- (1) A victim is—
  - (a) a person who has suffered harm which was directly caused by a criminal offence, or
  - (b) a close relative of—
    - (i) a person whose death was directly caused by a criminal offence, or
    - (ii) an incapacitated victim. 10
- (2) It is immaterial for the purposes of subsection (1) that—
  - (a) no complaint has been made about the offence, or 15
  - (b) no person has been charged with or convicted of the offence.

- (3) A person (R) is a close relative of another person (V) if R is any of the following—
- (a) V’s spouse or civil partner;
  - (b) V’s partner;
  - (c) a relative of V in direct line (as either V’s child, parent or grandparent); 5
  - (d) a sibling of V; or
  - (e) a dependant of V.
- (4) An incapacitated victim is a person who—
- (a) lacks capacity to enforce any right under this Act in relation to the offence; and 10
  - (b) lost that capacity as a direct result of the offence.
- (5) In this section—
- “harm” includes—
    - (a) physical, mental or emotional harm, and
    - (b) economic loss; 15
  - “economic loss” means loss of earnings or potential earnings or other costs as a result of an offence committed, or subject to criminal proceedings, in England and Wales;
  - “lacks capacity” means lacks capacity within the meaning of the Mental Capacity Act 2005. 20

### **3 Victims’ code of practice**

- (1) The victims’ code of practice, issued under section 32 of the Domestic Violence, Crime and Victims Act 2004 (code of practice for victims), must include, but is not restricted to, the following.
- (2) Victims are entitled to receive— 25
- (a) accurate and timely information relating to the relevant crime from all the agencies of the criminal justice system concerned with the detection and prosecution of the relevant crime and the relevant agencies providing support to victims of crime;
  - (b) adequate notice of all relevant court and other legal proceedings; 30
  - (c) information about decisions by, and discussions between, agencies in the criminal justice system relating to any person convicted of the crime concerned (“the perpetrator”), including information about—
    - (i) any prison sentence previously served by the perpetrator;
    - (ii) relevant changes to the perpetrator’s circumstances whilst on parole or in custody; or 35
    - (iii) any crimes committed by the perpetrator outside the UK where the victim was a British national;
  - (d) access, where required, to adequate interpretation and translation services; and 40
  - (e) the direct contact details of the criminal justice agencies and individuals involved in the court or other legal proceedings concerned.
- (3) During criminal justice proceedings, HM Courts and Tribunal Service must ensure that victims— 45
- (a) are not subjected to unnecessary delay by any other party to the proceedings;
  - (b) are treated with dignity and respect by all parties involved; and

- (c) do not experience discriminatory behaviour from any other party to the proceedings.
- (4) Witnesses who are children and vulnerable adults must be able to give evidence to a court from a location away from that court or from behind a protective screen. 5
- (5) The investigating police force concerned must ensure the safety and protection of victims during proceedings, including but not restricted to –
- (a) a presumption that victims may remain domiciled at their home with adequate police protection if required, and
- (b) ensuring that the victim and those accompanying them are provided with access to discrete waiting areas during the relevant court proceedings. 10
- (6) All victims are to have access to an appropriate person to liaise with relevant agencies on their behalf and to inform them about, and explain the progress and outcome of, their case. 15
- (7) Witnesses under the age of 18 are to have access to a trained communications expert, to be known as a Registered Intermediary, to help them understand as necessary what is happening in the criminal proceedings.
- (8) Victims are to have access to transcripts of any relevant legal proceedings at no cost to themselves. 20
- (9) Victims have the right to attend and to make representations to a pre-court hearing to determine the nature of the court proceedings.
- (10) The Secretary of State must take steps to ensure that victims –
- (a) have access to financial compensation from public funds for any economic harm arising from the criminal case concerned; 25
- (b) are given the right to approve or refuse the payment of any compensation order made by a court against a person convicted of a crime against them;
- (c) have reimbursed to them, from public funds, any expenses incurred by them in attending in court and in any related legal process, whether in the UK or overseas; 30
- (d) have available to them legal advice where considered necessary by a judge in court proceedings; and
- (e) are not required to disclose personal data in legal proceedings which puts their safety at risk unless specifically ordered to do so by a judge. 35
- (11) In this section “vulnerable adult” has the same meaning as in section 5(6) of the Domestic Violence, Crime and Victims Act 2004 (the offence).

#### **4 Enforcement of the victims’ code of practice**

- (1) The Parliamentary Commissioner Act 1967 is amended as follows.
- (2) In section 5(1B) omit paragraph (a) together with the final “or”. 40
- (3) After section 5(1B) insert –
- “(1BA) Subsection (1C) applies if a written complaint is made to the Commissioner by a member of the public who claims that another

person has failed to perform a Code duty owed by him to the member of the public.

- (1BB) For the purposes of subsection (1BA), a Code duty is a duty imposed by a code of practice issued under section 32 of the Domestic Violence, Crime and Victims Act 2004 (code of practice for victims).” 5
- (4) In section 5(4A), after “(1A)” insert “or (1BA)”.
- (5) In section 6(3), at the beginning insert “Except as provided in subsection (3A)”.
- (6) After section 6(3) insert –
- “(3A) Subsection (3) shall apply in relation to a complaint under section 5(1BA) as if for “a member of the House of Commons” there were substituted “the Commissioner”.” 10
- (7) In section 7(1A), after “5(1A)” insert “or 5(1BA)”.
- (8) In section 8(1A), after “5(1A)” insert “or 5(1BA)”.
- (9) After section 10(2A) insert –
- “(2B) In any case where the Commissioner conducts an investigation pursuant to a complaint under section 5(1BA) of this Act, he shall send a report of the results of the investigation to – 15
- (a) the person to whom the complaint relates;
- (b) the principal officer of the department or authority concerned and to any other person who is alleged in the relevant complaint to have taken or authorised the action complained of; and 20
- (c) the Commissioner for Victims and Witnesses appointed under section 48 of the Domestic Violence, Crime and Victims Act 2004 (commissioner for victims and witnesses).”
- (10) After section 10(3B) insert – 25
- “(3C) If, after conducting an investigation pursuant to a complaint under section 5(1BA) of this Act, it appears to the Commissioner that –
- (a) the person to whom the complaint relates has failed to perform a Code duty owed by him to the person aggrieved, and
- (b) the failure has not been, or will not be, remedied, 30
- the Commissioner shall lay before each House of Parliament a special report upon the case and may also send a copy of the report to any person as the Commissioner thinks appropriate.
- (3D) For the purposes of subsection (3C), “Code duty” has the meaning given by section 5(1BB) of this Act.” 35
- (11) In section 10(5)(d), for “or (2A)” substitute “, (2A) or (2B)”.
- (12) In section 12(1), after paragraph (b), insert –
- “(c) in relation to a complaint under section 5(1BA) of this Act, means the person to whom the duty referred to in section 5(1BA) of this Act is or is alleged to be owed;” 40

## 5 Area victims’ plan

- (1) An elected local policing body must assess –

- (a) the needs of victims in each elected local policing body’s police area, and
- (b) the adequacy and effectiveness of the available victims’ services in that area,
- in an area victims’ plan (the “plan”). 5
- (2) In preparing the plan, an elected local policing body must –
- (a) consult the public in its police area;
- (b) take account of responses to its consultation and any quality standard;
- (c) publish its plan, setting out how the identified victims’ needs will be met by the available victims’ services; and 10
- (d) submit its plan to the Commissioner for Victims and Witnesses on an annual basis.
- (3) In this section –
- “elected local policing body” and “police area” have the same meaning as in Part 1 of the Police Reform and Social Responsibility Act 2011 (police reform); 15
- “quality standard” means the standard published under section 49(1)(f) of the Domestic Violence, Crime and Victims Act 2004 (general functions of the Commissioner).
- 6 Duties of the Commissioner for Victims and Witnesses 20**
- (1) Section 49 of the Domestic Violence, Crime and Victims Act 2004 (general functions of Commissioner) is amended as follows.
- (2) In subsection (1), after paragraph (c) insert –
- “(d) assess the adequacy of all area victims’ plans submitted to the Commissioner under section 5 of the Victims of Crime (Rights, Entitlements and Notification of Child Sexual Abuse) Act 2017 (area victims’ plan); 25
- (e) make recommendations to elected local policing bodies regarding submitted area victims’ plans such as the Commissioner considers necessary and appropriate; 30
- (f) prepare a statement of standards (a “quality standard”) in relation to the provision of victims’ services;
- (g) publish the quality standard in such manner as the Commissioner considers appropriate;
- (h) review the quality standard at intervals of not more than five years; 35
- (i) in preparing or reviewing a quality standard, consult the public, and for that purpose may publish drafts of the standard;
- (j) assess the steps taken to support victims and witnesses in giving evidence and make recommendations in relation to that assessment such as the Commissioner considers necessary and appropriate; and 40
- (k) issue guidance and standards for the establishment and conduct of homicide reviews under section 8, of the Victims of Crime (Rights, Entitlements and Notification of Child Sexual Abuse) Act 2017 (homicide reviews).” 45

- (3) After subsection (4) insert –
- “(4A) The report under subsection (4) must include –
- (a) the Commissioner’s assessment of each area victims’ plan received during year;
  - (b) the Commissioner’s assessment of the steps taken during the year to support victims and witnesses in giving evidence; 5
  - (c) all recommendations made by the Commissioner under paragraphs (e) and (j) of subsection (1) during the year;
  - (d) any quality standard, or revision of the standard, published during the year; and 10
  - (e) all findings of breach of the victims’ code published by the Parliamentary and Health Service Ombudsman during the year.”
- (4) After subsection (5) insert –
- “(5A) The Secretary of State for Justice shall lay before Parliament any report received by him or her pursuant to subsection (5).” 15
- (5) After subsection (7) insert –
- “(8) In this section –
- “area victims’ plan” has the same meaning as in section 5 of the Victims of Crime (Rights, Entitlements and Notification of Child Sexual Abuse) Act 2017 (area victims’ plans); 20
  - “elected local policing bodies” has the same meaning as in Part 1 of the Police Reform and Social Responsibility Act 2011 (police reform).”
- 7 Right to review decision not to prosecute 25**
- (1) The Secretary of State must by regulations made by statutory instrument provide victims with the right to request a review of a decision by a prosecutor not to prosecute a relevant offence.
- (2) The regulations set out in subsection (1) must specify the rules surrounding requests to review the decision not to prosecute by – 30
- (a) specifying the decisions to which they apply;
  - (b) providing that the review must be conducted by an individual other than the individual who made the decision under review;
  - (c) requiring a prosecutor to notify a victim, so far as is practicable, of – 35
    - (i) a decision to which those rules apply;
    - (ii) the victim’s right to request a review under those rules; and
    - (iii) the manner in which, and time by which, any request must be made.
- (3) The regulations may provide for the rights conferred on a victim to be exercisable by a representative. 40
- (4) The regulations must apply to a decision by a prosecutor –
- (a) not to charge a suspect with any relevant offence;
  - (b) not to refer a decision whether to charge a suspect with any relevant offence to the prosecutor with authority to charge; or
  - (c) in relation to proceedings in respect of any relevant offence – 45

- (i) to discontinue or withdraw charges in respect of all relevant offences in those proceedings;
  - (ii) in relation to all relevant offences in those proceedings, to offer no evidence; or
  - (iii) to seek an order for the charge to lie on the file. 5
- (5) The regulations must not apply to a decision taken –
  - (a) at the request of the applicant, or
  - (b) as a result of the applicant withdrawing support for the prosecution.
- (6) A statutory instrument containing rules under this section may not be made unless a draft of the instrument has been laid before, and approved by, each House of Parliament. 10
- (7) In this section –
  - “applicant” means a person applying for a review under the rules;
  - “police force” has the same meaning as in section 3 of the Prosecution of Offences Act 1985 (functions of the director); 15
  - “prosecutor” means –
    - “(a) a police force; or
    - (b) the Crown Prosecution Service; or
    - (c) a person to whom section 5(2) of the Prosecution of Offences Act 1985 applies (conduct of prosecutions on behalf of the service); 20
  - “relevant offence” means any criminal offence by virtue of which the victim is a person within section 1(1);
  - “suspect” means a person interviewed in relation to a relevant offence.
- 8 Homicide reviews 25**
  - (1) The Secretary of State must establish homicide reviews (“a review”) to review the circumstances of selected cases where a person aged 16 or over has, or appears to have, died as a result of a homicide and –
    - (a) no one has been charged with the homicide; or
    - (b) the person or persons charged has or have been acquitted, 30
 in order to establish why there was not a conviction for the homicide.
  - (2) The Secretary of State may in a selected case direct the following specified persons or bodies to establish, or participate in, a review –
    - (a) chief officers of police for police areas in England and Wales;
    - (b) local authorities; 35
    - (c) the National Health Service Commissioning Board;
    - (d) clinical commissioning groups established under section 14D of the National Health Service Act 2006 (effect of grant application);
    - (e) providers of probation services;
    - (f) local health boards, established under section 11 of the National Health Service (Wales) Act 2006 (local health boards); 40
    - (g) NHS trusts, established under section 25 of the National Health Service Act 2006 (NHS trusts) or section 18 of the National Health Service (Wales) Act 2006 (NHS trusts); and
    - (h) such other bodies as the Secretary of State deems appropriate. 45

- (3) It is the duty of any person or body within subsection (2) to have regard to guidance and standards as to the establishment and conduct of a review to be issued by the Commissioner for Victims and Witnesses.
- (4) In this section, “local authority” means –
- (a) in relation to England, the council of a district, county or London borough, the Common Council of the City of London and the Council of the Isles of Scilly; 5
  - (b) in relation to Wales, the council of a county or county borough.
- 9 Treatment of victims: training**
- (1) The Secretary of State must by regulations made by statutory instrument provide that those involved in criminal cases involving sexual and domestic violence undertake specialist training on how to work with victims of these crimes and the relevant agencies. 10
- (2) The Secretary of State must publish and implement a strategy for providing the training referred to in subsection (1) for persons in the following positions, professions and organisations – 15
- (a) judges;
  - (b) barristers;
  - (c) solicitors;
  - (d) the Crown Prosecution Service; 20
  - (e) victim support services;
  - (f) probation services;
  - (g) the Foreign and Commonwealth Office;
  - (h) health and social services;
  - (i) maintained and independent schools and colleges of further education; 25
  - (j) such other positions, professions and bodies as the Secretary of State deems appropriate.
- (3) Regulations under this section must include a timetable for the delivery and completion of the training set out in subsection (1).
- (4) Regulations under this section must be proposed by the end of the period of 6 months, beginning with the day on which this Act comes into force. 30
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- 10 Ground rules hearings**
- (1) In Crown Court proceedings, the court must hold a ground rules hearing if, at the relevant time, any of the parties proposes to call to give oral evidence a person eligible for assistance by virtue of section 16 (grounds of age or incapacity) or section 17 of the Youth Justice and Criminal Evidence Act 1999 (grounds of fear or distress about testifying). 35
- (2) The relevant time is the earlier of – 40
- (a) any time prescribed for this purpose in criminal procedure rules; or
  - (b) the time when the jury are sworn, or would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003 (trials on indictment without a jury).

- (3) At a ground rules hearing, the court must consider and make a decision in relation to all ground rules matters.
- (4) Ground rules matters are those so prescribed in criminal procedure rules.
- (5) This section does not prevent the court from additionally considering or making a decision in relation to a ground rules matter other than at a ground rules hearing. 5
- (6) In this section “criminal procedure rules” means rules made under section 69 of the Courts Act 2003 (criminal procedure rules).

## 11 Duty to notify police of possible victims of child sexual abuse

- (1) A person who works in a regulated profession or works with children in a regulated activity must make a notification under this section (a “child sexual abuse notification”) if, in the course of his or her work, they discover that a child appears to have been subject to an act of sexual abuse in order for that child to be considered a victim under section 2 of this Act. 10
- (2) For the purposes of this section – 15
- (a) a person works in a “regulated profession” if the person is –
- (i) a healthcare professional;
- (ii) a teacher; or
- (iii) a social care worker, and
- (b) a “regulated activity” has the same meaning as in Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (regulated activity). 20
- (3) A person A “discovers” that a child B appears to have been subject to an act of sexual abuse if –
- (a) B informs A that B has been subject to an act of sexual abuse (however described); or 25
- (b) A reasonably suspects that B has been subject to an act of sexual abuse.
- (4) A child sexual abuse notification –
- (a) is to be made to the chief officer of police for the area in which the child resides;
- (b) must identify the child and explain why the notification is being made; 30
- (c) must be made before the end of the period of 28 days beginning with the day on which the person making the notification discovers that the child appears to have been subject to an act of sexual abuse; and
- (d) may be made orally or in writing.
- (5) The duty outlined in this section does not apply – 35
- (a) if the person making the notification has reason to believe that another person in a regulated profession has previously made a child sexual abuse notification in connection with the same act of sexual abuse, or
- (b) so long as, in relation to the discovered act of sexual abuse, that person complies with a safeguarding policy prescribed for the purposes of this section in regulations made by the Secretary of State. 40
- (6) A disclosure made in a child abuse notification does not breach –
- (a) any obligation of confidence owed by the person making the disclosure, or
- (b) any other restriction on the disclosure of information. 45

- (7) The Secretary of State may by regulations made by statutory instrument amend this section to add, remove, or otherwise alter the descriptions of persons regarded as working in a “regulated profession” or working with children in a “regulated activity”, and for the purposes of making consequential, transitional, transitory or saving provisions. 5
- (8) A statutory instrument containing regulations under this section is not to be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (9) In this section –
- “child” means a person under the age of sixteen; 10
  - “healthcare professional” means a person registered with any of the regulatory bodies referred to in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (the professional standards authority for health and social care);
  - “social care worker” means a person registered with the Health and Care Professions Council in England or with the Care Council for Wales; 15
  - “teacher” means –
    - (a) a person within section 141A of the Education Act 2002 (teachers to whom sections 141B to 141E apply); or
    - (b) a person within the table in paragraph 1 of Schedule 2 to the Education (Wales) Act 2014 (categories of registration), or any person employed or engaged as a teacher in Wales within the meaning of the Education Act 1996. 20
- (10) For the purposes of the definition of “healthcare professional”, subsection (3)(g) and subsection (3A) of section 25 of the National Health Service Reform and Health Care Professions Act 2002 are to be ignored. 25

## 12 Interpretation

In this Act –

- “victim” or “victims” has the meaning given in section 1;
- “witness” or “witnesses” has the meaning given in section 52 of the Domestic Violence, Crime and Victims Act 2004 (“victims” and “witnesses”). 30

## 13 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
- (2) This Act comes into force at the end of the period of 2 months, beginning with the day on which it is passed. 35
- (3) This section comes into force on the day on which this Act is passed.
- (4) This Act may be cited as the Victims of Crime (Rights, Entitlements, and Notification of Child Sexual Abuse) Act 2017.



# Victims of Crime (Rights, Entitlements, and Notification of Child Sexual Abuse) Bill [HL]

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To make provision for specifying new statutory rights and entitlements for victims of crime under the victims' code of practice; to require elected local policing bodies to assess victims' services; to increase the duties of the Commissioner for Victims and Witnesses; to grant victims the right to request a review of a decision not to prosecute; to establish reviews into homicides where no criminal charge has been made; to create an obligation on professions to notify cases of possible victims of child sexual abuse; and for connected purposes.

*Baroness Brinton*

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