

Victims' Commissioner Consultation Workshop

Summary of Event

Description of event

The Scottish Government Victims and Witnesses team held an online Teams workshop to gather stakeholders together to look in detail at chapter 1 of the [improving victims' experiences of the justice system consultation](#) on proposals for a Victims' Commissioner for Scotland.

The purpose of the event was to promote the consultation and to seek views on the day from attendees. The event was also intended to help attendees complete the consultation document (open until 5 August 2022, and later extended to 19 August 2022).

The event was held on 14 July 2022 from 10:00 – 13:00 on Microsoft Teams. Attendees signed up for the event via Eventbrite.

Roughly 60-70 attendees from across the justice sector were invited to attend. This included victim support organisations, people with lived experience of crime, COSLA, and the Law Society of Scotland. Over 40 individuals attended on the day.

The event was chaired by Zak Tuck (Victims and Witnesses team) and additional colleagues from across Scottish Government provided facilitating and scribing support throughout. The event consisted of plenary sessions and breakout rooms to consider the questions in the Victims' Commissioner chapter in the consultation.

Main findings

- A range of views were provided by attendees, perhaps reflecting the variety of backgrounds and organisations which were represented at the event.
- Generally, participants were in favour of establishing a Victims' Commissioner for Scotland. The exception to this was Scottish Women's Aid, who do not support the creation of a Victims' Commissioner due to concerns about funding and implications for existing victim support organisations.
- Attendees were generally in favour of the Victims' Commissioner being independent of Scottish Government and statutory.
- Attendees were also generally in favour of the Victims' Commissioner having a duty to engage with victims and victim support organisations, and there was some discussion on how such engagement should and could take place.
- Similarly, there was general support for the Victims' Commissioner being required to submit reports to the Scottish Parliament, with discussion on the format this should take.
- There was some disagreement about the proposal that the Victims' Commissioner should not intervene in or champion individual cases. Most attendees appeared to agree with this proposal due to the cost and resource pressure this would create for the role. Generally, it was supported that the Victims' Commissioner would utilise individual cases to inform their view of wider issues in the criminal justice system.

Feedback from sessions

Dame Vera Baird KC – Victims’ Commissioner for England & Wales Speech / Q&A

Dame Vera opened the event by providing an overview of her role as Victims’ Commissioner for England and Wales. This covered a range of matters including the powers and limitations of the role, as well as its functions, particularly in relation to making connections with senior decision-makers and conducting research. Dame Vera highlighted that she has no legislative powers to compel agencies to act on her recommendations. She advised that the Victims’ Commissioner for Scotland should, if possible, have powers similar to the UK Domestic Abuse Commissioner, who has the power to make recommendations to relevant individuals and organisations, as well as to require them to respond to those recommendations within a specified timescale. She also advised of potential limitations if the role were to intervene in individual cases, rather than focus on systemic change, which she estimated would require double her current resource.

Breakout session 1 - Independence of Role and Accountability / Functions and Remit

Following the opening session from Dame Vera, Scottish Government officials provided a background of the consultation as a whole, before focussing on the following sections in the consultation: Independence of Role and Accountability, and; Functions and Remit. Attendees were then allocated to randomised breakout rooms for the first of two sessions. The following paragraphs contain a high-level summary of issues discussed in the first breakout sessions.

Independence and Accountability

There was general support across the board for the role of Victims’ Commissioner to be independent, with appropriate powers and a statutory backing which puts the Commissioner in a position to hold Scottish Government and criminal justice agencies to account in order to achieve real change without requiring Scottish Government sign-off. Those who support the establishment of a Victims’ Commissioner feel that, without a statutory backing, there might be little power to effect change, and this might have a negative effect on the perceived value or authority of the role.

Many attendees agreed that the Victims’ Commissioner should be accountable to Parliament, which is both transparent and a consistent approach shared by other commissioners (e.g. the Children and Young Person’s Commissioner for Scotland). Some attendees highlighted that accountability to victims needs to be considered as this bridges the gap between victims and change. This accountability should be linked to evidence of change, and annual reporting to the Scottish Parliament was favoured as a reporting method as it keeps momentum behind continuous improvement.

It was noted that some attendees do not support the introduction of a Victims' Commissioner at all, reasoning that it will take away resource from victim support organisations and duplicate the work of the Victims Taskforce. Some also favoured a strengthening of the Victims Code, Ombudsman, and complaints processes, rather than establishing a new office.

Functions and Remit

There was general support for the Victims' Commissioner to promote best practice and compel agencies to engage in best practice, including sharing statistics where this would aid research, and for the Victims' Commissioner to conduct their own research. Suggested topics for research included sentencing outcomes for domestic abuse/non harassment orders and examining the reasons why some victims are reluctant to report crimes to the police or other agencies. Most attendees supported the notion that the remit for Victims' Commissioner should be as broad as possible, extending to victims' experiences of the criminal justice system, the civil justice system, and children's hearings, and should take account of those who live in Scotland and have been victims of crimes in other countries, in particular deaths abroad.

It was noted that, in some cases, the criminal and civil justice systems will be interlinked for victims, for example in domestic abuse cases where victims of crime may also be involved in civil matters related to the criminality, such as non-harassment orders. There was agreement by attendees who support the creation of the role that all powers listed in the consultation would be helpful in identifying recurring issues with the systems that affect victims. Further suggestions about the remit that were made at the event included:

- support for victims could be added as a function of the role;
- facilitating partnership working;
- the work of the Victims' Commissioner should not be duplicated elsewhere; and
- the role could be established as part of a 'you said, we did' model.

Following the first breakout session, there was a break before resuming for the second session.

Breakout session 2 - Powers and Recourse / Engagement / What the Commissioner Can't Do

Scottish Government officials provided an overview of the remaining sections within the consultation, namely: Powers and Recourse; Engagement, and; What Commissioner Can't Do. Attendees were then assigned to the same breakout rooms as the first session. For the purposes of discussion, limitations of the Victims' Commissioner was discussed within the Powers section.

Powers and Limitations

It was agreed across the board that, whatever the functions of the role, the powers need to be strong enough and the role adequately resourced for the Victims'

Commissioner to properly carry out those functions. As many attendees felt that a key function of the role is holding criminal justice agencies and the Scottish Government to account, and therefore the role must have the requisite powers to do this. It was suggested that the Victims' Commissioner's powers should enable them to ask for a formal response from the Scottish Government and others to any recommendations which the Commissioner makes. It was also suggested that there should be a power enabling the Victims' Commissioner to set deadlines for any required responses to be issued, as well as the power to undertake reviews into complaints procedures and outcomes. Some attendees also felt that the Victims' Commissioner should have the power to implement changes in systems, for example they could implement feedback loops for victims to be kept informed around what has changed as a result of victims' feedback and investigations.

The most contentious point during discussions was in relation to the proposal that the Victims' Commissioner should not intervene in individual cases. Some attendees felt that there could be benefit in the Victims' Commissioner exploring matters in individual cases as this may help identify systemic issues, while others felt that the role could help individual victims who feel let down by the system and feel they have nowhere else to go for advice or support. Many of those who agreed with the proposal highlighted the benefit of a focus on systemic issues rather than individual cases and raised concerns about the resource implications of the role becoming involved in individual cases. There was general agreement that the Victims' Commissioner should be able to signpost individuals to appropriate support, even if they do not intervene in individual cases.

Engagement

There was wide support for the Victims' Commissioner to engage with other commissioners such as the Children and Young Person's Commissioner for Scotland. Attendees highlighted that engaging with individuals with lived experience is vital and that the establishment of a Victims' Commissioner's advisory board, along with matters such as reimbursement for people with lived experience who are involved in such a group, need to be considered in the role's design from the outset. Attendees also highlighted that there is a need to hear from groups as survivors with lived experience but also from individuals with learned experience, such as advocacy and support workers, and sector workers who can champion victims' voices. The discussions also emphasised the need for children's voices to be a necessary part of engagement. In all cases, engagement should be careful not to re-traumatise individuals.

Suggestions for others who should be consulted as part of the Victims' Commissioner's work included local groups and organisations, as well as Home Office, the Foreign, Commonwealth and Development Office, and travel industry, in the event that the Commissioner's functions were to extend to Scottish victims of crimes in other countries. There was some discussion around victims who feel let down by the system and how they may wish to engage with the Commissioner, as this may not be through the Scottish Government or an advisory board, but with criminal justice agencies and third sector organisations. The discussion also touched on the need for consideration to how the role of Victims' Commissioner represents the diversity of people who are victims of crime.

Next Steps

This workshop formed part of the Scottish Government's public consultation on improving victims' experiences of the justice system, specifically on proposals for introducing a Victims' Commissioner for Scotland.

The consultation closed on 19 August 2022 and responses from both the consultation and this workshop engagement event will be used to inform policy development relating to the creation of a Victims' Commissioner for Scotland.

List of organisations invited to event

Action Against Stalking
Angus Women's Aid
Argyll and Bute Women's Aid
Advocacy, Support, Safety, Information, Service Together (ASSIST)
Brake National Road Victim Service
Cairn Service/6VT Edinburgh City Youth Cafe
Coalition of Care and Support Providers in Scotland
Criminal Justice Voluntary Sector Forum
Children's Hearing Scotland
Convention of Scottish Local Authorities (COSLA)
Children and Young People's Centre for Justice
Death Abroad - You're Not Alone (D.A.Y.N.A)
Edinburgh Woman's Aid
Families Outside
Families and Friends Affected by Murder Suicide (FAMS)
Glasgow City Council
Glasgow Psychological Trauma Service
Inverness Women's Aid
Law Society Criminal Law Committee
Law Society of Scotland
Mental Welfare Commission for Scotland
Miscarriages of Justice (Scotland)
Moir Anderson Foundation
NHS
NHS Greater Glasgow and Clyde
People Experiencing Trauma and Loss (PETAL)
Police Scotland
Rape Crisis Scotland
Rutherford Sheridan Solicitors
Safe Lives
Scotland's Campaign against Irresponsible Drivers
Scottish Commission for People with Learning Disabilities
Scottish Community Safety Network
Scottish Courts and Tribunals Service
Scottish Government
Scottish Prison Service
Scottish Refugee Council
Scottish Sentencing Council
Scottish Women's Aid
Scottish Children's Reporter Administration (SCRA)
Shared Parenting Scotland
Scottish Human Rights Commission (SHRC)
Scottish Legal Aid Board (SLAB)
Social Work Scotland
Survivors of Human Trafficking in Scotland
The Manda Centre
Thriving Survivors

University of Edinburgh
University of Glasgow
Victim of crime and CJS
Victim Support Scotland
Virgil Crawford
Wellbeing Scotland
Women's Aid South Lanarkshire and East Renfrewshire
Women's Support Project



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