

DRAFT VICTIMS BILL
DELEGATED POWERS MEMORANDUM

Introduction

1. This memorandum has been prepared by the Ministry of Justice for the Delegated Powers and Regulatory Reform Committee, to assist with its scrutiny of the Draft Victims' Bill ('the Bill'). The memorandum identifies the provisions of the Bill which confer new powers to make delegated legislation. It explains in each case why the power has been taken and the nature of, and reason for, the procedure selected.

Background and purpose of the Bill

2. The Bill aims to improve victims' experiences so that victims feel better supported across the criminal justice process. These measures together will amplify victims' voices, strengthen transparency and accountability of criminal justice agencies, and improve support for victims. Where these provisions affect the criminal justice system only, they apply to England and Wales. Where they involve policy areas which are devolved to the Welsh Government (such as health and social care bodies) conversations are ongoing with the Welsh Government as to whether these provisions will be extended to Wales, and a legislative consent motion will be sought when the Bill is formally introduced in Parliament, as appropriate.

3. The Bill:

- a. Provides for the key principles that must be reflected in the Victims' Code; and provides for a power to make regulations to specify the key entitlements to be included in the Code;
- b. Provides for improved review and oversight of compliance with the Victims' Code by placing a duty on specified criminal justice bodies within a police area (police, Crown Prosecution Service (CPS), courts, probation and Youth Offending Teams) to keep under review their own compliance with the Code, and enhancing the role of the elected local policing bodies (Police and Crime Commissioners (PCCs)) by placing them under an overarching duty to keep under review the operation of the Victims' Code. The Bill also strengthens the mechanisms for reviewing compliance with the Code through improved data collection and sharing and creating a duty for the specified criminal justice bodies and PCCs to take into account victims' experiences;
- c. Provides for regular joint thematic inspections on victims' experiences and treatment to ensure a clearer and sharper focus on the quality of service provided to victims. We propose giving the Home Secretary, Justice Secretary and Attorney General a power to direct criminal justice inspectorates to undertake regular joint thematic inspections to assess the service provided to victims by police forces, CPS, HM Courts and Tribunals Service, prisons and probation. The regularity and focus of the inspections would be jointly directed by the Home Secretary, Justice Secretary, and Attorney General;

- d. Provides for changes to the role of the Victims' Commissioner (VC) including requirements in relation to the annual report produced by the VC. To improve the effectiveness of the VC the Bill will provide for the VC to lay their annual report in Parliament to raise the profile of their reports and of victims' issues and provide for relevant agencies to respond to the VC's annual report recommendations within 56 days, explaining how they will act upon the recommendation, or how they will do so in future, or provide reasons for why they will not act on the recommendation. The Bill will also remove the VC's oversight role for Victims' Code compliance which will be transferred to PCCs; the VC will continue to play a vital role in improving Code compliance at a national level through their other functions, for example in publishing reports and making recommendations, advising Ministers and through their role on the National Criminal Justice Board. The Victims' Commissioner will also retain the explicit power to 'make recommendations around changes to the Code', as set out in statute;
- e. Removes the need for a victim of crime to raise a complaint via an MP before it can be escalated to the Parliamentary and Health Services Ombudsman (PHSO). We propose to allow victims to make complaints directly to the PHSO when they have exhausted individual agencies' complaints systems. For those who may wish for assistance and support to escalate their complaints, we propose that this can be done via an authorised person which can include an MP. This would simplify the complaint escalation process for victims, which the PHSO's consultation found could be particularly onerous for victims who may not want to repeat their traumatic experiences at multiple stages;
- f. Introduces a duty for PCCs, local authorities and Integrated Care Boards to collaborate locally when commissioning victim support services, to facilitate more holistic and better coordinated victim support services; and
- g. Creates a duty for those who have functions relating to victims and/or the criminal justice system to take account of guidance relating to the role and functions of Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs).

Delegated powers

- 4. The Bill includes six delegated powers in relation to the measures above as well as two regulation-making powers to make transitional or saving provision, and relating to commencement:
 - a. A power for the Secretary of State ('SoS') to make regulations to set out further specifications about the services to be provided to victims in the Code of Practice for Victims of Crime ("Victims' Code") (including about the persons by whom service are to be provided) (clause 2(2)(b)) (together with a re-statement of the power to issue the Victims' Code itself in clause 2(1));
 - b. A duty on the SoS, after consulting such persons as the SoS considers appropriate, to issue guidance to relevant authorities about how they are to comply with their duties relating to collaborating when commissioning victim support services (clause 6(8));
 - c. A duty on the SoS to issue guidance relating to IDVAs and ISVAs (clause 9(1));

- d. A duty on the SoS to issue guidance to PCCs, which for the purpose of this clause means elected local policing bodies, and local criminal justice bodies, about the exercise of their functions relating to keeping under review compliance with the Victims' Code (clause 5(6));
- e. A power for the SoS to make regulations specifying the information which should be collected and shared by local criminal justice bodies for the purpose of effectively discharging duties in clause 5();
- f. A power for the SoS, Lord Chancellor and Attorney General, acting jointly, to require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the **experiences and treatment of victims** (clause 12);
- g. A power to commence certain provisions of the Bill by regulations (clause 17(3));
- h. A power to make transitional, transitory or savings provision in connection with the coming into force of the Bill (clause 17(5)).

Clause 2(2)(b): A power for the SoS to make further provision about the services for which provision must be made by the Victims' Code (including about the persons by whom service are to be provided)

Power conferred on: Secretary of State

Power exercisable by: Regulations made by Statutory Instrument

Parliamentary Procedure: Negative Resolution

Context and purpose

5. The Bill repeals the provisions in Part 3, Chapter 1, of The Domestic Violence, Crime and Victims Act 2004 (the 2004 Act) which relate to the issuing of a code of practice as to the services to be provided to a victim of criminal conduct. It re-states and builds upon these provisions by setting out key principles that the Code must reflect when making provision for those services, subject to the permissible restrictions currently set out in section 32 of the 2004 Act (and re-stated as clause 2(3) of the Bill). The Bill also creates a power for the Secretary of State to make further provision by way of regulations about services to be provided to victims of criminal conduct under the Code. The current Code, which came into force on 1 April, is structured around 12 overarching services which eligible victims are entitled to receive and are referred to as 'rights' in the Code itself. It is intended that the Regulations will include a list of overarching entitlements for victims (and that these will include those found in the current version of the Victims' Code) and stipulate that the Code must include provision for services in respect of them. The Code itself will set out the extent and application of those entitlements. In this way, the regulations and the key principles set out in the Bill will specify matters for which the Code must make provision, thus creating a more robust legislative framework to underpin its content
6. The regulations will be supplemented by a new Victims' Code, which will be laid after the consultation process in current Section 33 of the 2004 Act (clause 3 of the draft Bill) has

been followed. The Code will reflect the key principles set out in primary legislation and the further matters specified in the regulations. Any future revisions to the Code will always need to reflect the key principles and any further matters specified in regulations in force at the relevant time.

Justification for taking the power

7. The Victims' Code is an established and recognised document setting out the services to be provided to a victim of criminal conduct. It is a victim-facing document and, in addition to setting out the services and minimum standards that victims can expect to receive, it also contains explanations about the wider justice system and information about accessing services which the Code itself does not provide for. Examples of this are; information about where to access support for families bereaved by murder or manslaughter abroad and about coroners, which are civil courts. Given the level and nature of detail necessary to make this document meaningful for victims, it would not be suitable to transpose the Code in its entirety into primary or secondary legislation. Therefore, we want to maintain the Code in its current form and increase awareness of it, while also legislating to give greater certainty on the content of the Code and improve parliamentary oversight.
8. In order to do that, we are legislating for the key principles which we want to ensure are adhered to in any future version of the Code; together with a statutory requirement that the services provided for in the Code must reflect those key principles.
9. To supplement those key principles and provide further parliamentary oversight of the content of the Code, we are taking a power to specify in regulations further matters that the Code must cover, which may add to, but not detract from, these key principles. This would enable further key principles to be added in the future, if appropriate, and can be used to specify further detail of how the key principles must be given effect.
10. We intend to use this power to set out, by regulation, key entitlements that the Code must make provision for and, by so doing, provide a framework for the Code and its contents. This will also ensure greater parliamentary scrutiny of the content of the Code.
11. Unlike the key principles, which will be set out in primary legislation, the regulations are more likely to need to be amended to reflect future development of the provision of victim services. The power would also enable a further key principle to be added in the future, if considered appropriate.
12. Together with the primary provisions, the power to specify in regulations further matters that the Code must cover is designed to improve the overall parliamentary accountability of the Victims' Code, consistent with enhancing its status.

Justification for the procedure

13. The regulations will be subject to the negative resolution procedure. We consider this to be an appropriate level of scrutiny as the regulations cannot amend or depart from the key principles which will be set out in primary legislation. Further, once the Code is re-issued, the statutory requirements in relation to the Code itself are such that the SoS cannot make changes that would result in a reduction in the quality or extent of the

services provided under the Code, or a significant restriction in the description of persons to whom services are to be provided under the Code (clause 3(9)). Furthermore, the regulations can only be used to specify matters that must be included in the Code. The power cannot be used to restrict what is included in the Code, as removal of any provision from the regulations could not result in any change to the Code that would be in breach of this statutory duty (justifying the use of the negative procedure).

14. Further, if the SoS wished to introduce amendments via the regulations aimed at introducing additional key entitlements, to the extent that these would require changes to the Code, how to effect such changes would be subject to public consultation (clause 3(10)). The regulations themselves would therefore operate to add yet a further level of scrutiny, at the parliamentary level, thus enhancing overall accountability. In light of this it is considered that the negative resolution procedure is the appropriate level.
15. A draft of the revised Code and regulations will be prepared to inform parliamentary passage of the Bill.

Clause 6(8): Duty on the SoS to issue guidance, after consulting such persons as the SoS considers appropriate, to relevant authorities about how they are to comply with their duties under this section (clause 6(8))

Power conferred on: Secretary of State

Power exercisable by: Guidance

Parliamentary procedure: None

Context and purpose

16. As set out above, the Bill confers a duty on specified authorities to collaborate when commissioning support services for victims of domestic abuse, sexual violence and serious violence, and to prepare, publish and implement a joint local strategy to set out the aims and approach for commissioning relevant services from each agency. The specified authorities are: local policing bodies (meaning Police and Crime Commissioners, the Mayor's Office for Policing and Crime in relation to the Metropolitan police district and the Common Council in relation to the City of London Police area; and created by the Police Reform and Social Responsibility Act 2011); Integrated Care Boards (as created by the Health and Care Act 2022); and tier 1 local authorities (as defined in the Domestic Abuse Act 2021 and meaning the county council or the district council where there is no county council, and the Greater London Authority rather than individual London boroughs). It also requires these bodies to explain how the general collaboration duty, as well as the particular requirements imposed in relation to preparation of the strategy (on consultation and key matters to which they should have regard) have been met.
17. The new duty is intended to ensure collaboration in the exercise of existing commissioning functions to facilitate more holistic and better coordinated local area

services; to increase the voice of victims within the commissioning process so that their needs are better reflected; and to improve accessibility and tailoring of services to particular needs, such as the needs of victims with protected characteristics. There is no intention to create a new duty to arrange or provide services.

18. We recognise that the authorities subject to the duty may benefit from support through guidance on how best to meet the duty requirements, and that there is a balance to strike between providing relevant authorities with flexibility to undertake activity in a way that works locally, and to seek consistent approaches across England.
19. Clause 6(8) therefore makes provision for the Secretary of State to issue guidance to specified authorities. These bodies must have regard to the guidance when complying with the duties imposed under the remainder of Clause 6.
20. Clause 6(8) includes a requirement for the Secretary of State to consult such persons as they consider appropriate before issuing guidance.

Justification for the power

21. The purpose of any guidance under clause 6(8) is to support the relevant authorities in discharging their functions under that section. The legal framework contained within the Bill sets out the key features of the collaboration duty, and guidance would supplement this with practical advice and best practice examples so that areas may draw on them. For example, it will include explanatory material in relation to how local partnership structures may work for collaboration and how joint activity may be convened in practice (such as through a convening role by PCCs), alongside information to support strategy production, such as relevant needs assessments, consultation methods with victims and providers, and on data sharing mechanisms like memorandums of understanding. This aims to provide a framework for consistent approaches to delivering the duty while allowing for local discretion to tailor their approach as appropriate.
22. The duty on the relevant authorities to have regard to the guidance will ensure: (i) that the guidance is appropriately taken into account when the authorities are carrying out their functions; and (ii) that those who interact with the authorities are aware both of the guidance, and that the authorities are under a duty to have regard to it.
23. There is a range of guidance issued in relation to local commissioning of services, and it is important that guidance can be updated quickly to keep pace with good practice and the changing nature of crime and relevant support.

Justification for the procedure

24. Any guidance issued under clause 6(8) will not be subject to any parliamentary procedure on the grounds that it would provide practical advice on the discharge by the specified authorities about how they are to comply with their duties under this section. The guidance will not conflict with, or alter the scope of, the duty set out in the legislation.
25. Moreover, whilst the specified authorities will be required to have regard to the guidance when exercising those functions, the guidance will not be binding. The approach in clause 6(8) is consistent with other legislation providing for statutory guidance.

26. A draft of the guidance will be made available during the passage of the Bill to enable scrutiny, and the Secretary of State may choose to consult such persons as considered appropriate prior to issuing the guidance.

Clause 9(1): Duty on the SoS to issue guidance about IDVAs and ISVAs

Power conferred on: Secretary of State

Power exercisable by: Guidance

Parliamentary procedure: None

Context and purpose

27. Clause 9(1) makes provision for the Secretary of State to issue guidance about IDVAs and ISVAs. Any person who has functions relating to victims of criminal conduct, or any aspect of the criminal justice system, is required to have due regard to the guidance.

28. It is intended that there will be separate guidance for ISVAs and IDVAs respectively, and that guidance will include provision on, but not limited to, a) the role of the advisors; b) how the advisors, and other persons (as set out above) should work together to best support victims and c) recommended training and qualifications for such advisors.

29. Guidance will highlight and promote best practice amongst these roles, encouraging consistency and standardisation, while allowing flexibility and innovation. The Secretary of State will be under a duty to issue guidance, i.e. he/she must issue guidance in respect of both ISVAs and IDVAs.

Justification for taking the power

30. The MoJ are particularly invested in ISVA and IDVA roles, due to the positive impact these roles have been shown to have on victim experience, which is why we have also invested substantially in funding these roles. Funding also comes from other Government departments, local authorities and third parties. This mix of funding and commissioning has led to the sector and advisors operating with differing abilities, varied specialisms and training, and in some cases different job titles. The lack of an overarching framework setting out the scope and operation of these roles has led to inconsistencies in support available for victims, and varied understanding of what these roles can do, by victims and other agencies.

31. While non-statutory guidance already exists (Home Office 'Essential Elements of an ISVA' 2017) this has been somewhat ineffective in ensuring standards are consistent across the sector.

32. Our aim is to therefore improve consistency and help overcome some of the challenges ISVAs and IDVAs face around multi-agency working. We believe that guidance issued by reference to a statutory duty will have greater weight than the current guidance, and the

additional duty to have 'regard' to that guidance will ensure that all ISVAs, IDVAs and those who have functions which interact with them are working consistently; as well as ensuring that those who interact with those subject to the duty are aware of both the guidance and the duty to have regard to it.

33. The guidance will provide information and recommendations which the advisors and those who have functions relating to victims and the criminal justice system must have regard to, ensuring standardisation and better collaborative working. Although relevant individuals are under a duty to have regard to the content of the guidance it will be advisory in nature rather than stipulating specific requirements, as we are conscious that over-regulating could have adverse consequences, destabilising the professions we are aiming to support and strengthen.
34. Whilst there is a duty for anyone who has a function which is related to victims of crime, or any aspect of the criminal justice system, to pay due regard to this guidance, the subject matter of the guidance (relating to the role of advisors and how they should work with other agencies), means that the duty will only apply in circumstances where someone is working alongside/with an IDVA/ISVA to support a victim. This means that it will not capture people unnecessarily but will be wide reaching to the large cohort of agencies and persons that could better understand the ISVA/IDVA role in order to improve how victims are supported.

Justification for the procedure

35. Any guidance issued under clause 9(1) will not be subject to any formal consultation procedure. We anticipate that there are likely to be regular amendments to the guidance due to the nature of the sector which would make a formal consultation procedure overly burdensome. However, clearer and more widely distributed guidance was a consistent theme of feedback from the Victims' Bill consultation and is expected to be welcomed by the sector. The guidance relating to both ISVAs and IDVAs will be drafted in consultation with interested stakeholders and practitioners who will provide scrutiny and challenge. Considering the advisory nature of the guidance, we believe this approach is proportionate.
36. We intend to make available a draft of the guidance during the passage of the Bill to enable further scrutiny.

Clause 5(12): Power for the SoS to specify in regulations how each local criminal justice body should collect and share data in respect of keeping under review their compliance with the Victims' Code under section 5(3)(b) and(c).

Power conferred on: Secretary of State

Power exercisable by: Regulations

Parliamentary procedure: Negative Procedure

Context and purpose

37. The Bill establishes duties on specified criminal justice bodies (police, CPS, HMCTS, HMPPS and Youth Offending Teams) and PCCs to keep under review compliance with the Victims' Code, and to take into account the experiences of victims in the local area. It also places a specific duty on local criminal justice bodies to collect and share data (with one another and with PCCs) about their compliance with the Code and creates a power for the Secretary of State to make regulations setting out what data should be collected and shared in order to fulfil this duty.

Justification for taking the power

38. The Bill itself creates duties for specified bodies to keep under review their compliance with the Victims' Code and for PCCs to have oversight of those bodies' compliance with the Code. To support these duties, there is a separate duty for criminal justice bodies to collect and share data in respect of Code compliance. Given that the bodies will be under a statutory duty to collect and share this data, it is necessary for the details of what data should be collected and shared to be set out in legislation so that the bodies are able to understand and comply with those duties.

39. Secondary legislation, i.e. regulations, is most appropriate for this purpose because the local criminal justice bodies will need to collect data against a set of detailed metrics. These metrics will be lengthy and detailed, and therefore not appropriate for primary legislation. The metrics may also need to be amended to reflect changes to the Victims' Code or the bodies operational procedures.

40. Likewise, a power to make regulations is required in respect of the statutory duty to share data where it is necessary for the details of what data should be shared to be set out in legislation so that the bodies are able to understand and comply with that duty. Regulations will set out what data the bodies should share, and the arrangements for sharing that data, which is too detailed to include in the Bill itself.

Justification for the procedure

41. The regulations will be subject to the negative resolution procedure. The regulations will centre around a set of metrics reflecting the services included in the Victims' Code, and will contain provision for how that information should be shared between the local criminal justice bodies and with PCCs. There is also a specific legislative duty placed on the SoS to consult such persons as they think appropriate before making regulations. It is intended that the criminal justice bodies and PCCs will be consulted on the content of the regulations. Therefore the negative procedure is considered to provide an appropriate level of parliamentary scrutiny given that the regulations will have been drafted in consultation with relevant bodies

42. A draft of the regulations will be prepared to inform parliamentary passage of the Bill.

Clause 5(5): Duty on the SoS to issue guidance to elected local policing bodies (PCCs) and criminal justice bodies about exercise of their functions under this section

Power conferred on: Secretary of State

Power exercisable by: Guidance

Parliamentary procedure: None

Context and purpose

43. Clause 5(5) creates a duty on the Secretary of State to issue guidance to assist local criminal justice bodies and PCCs with exercising their functions to keep under review compliance with the Victims' Code.
44. The guidance will include recommendations on how the bodies might meet their overarching duties to keep under review compliance with the Victims' Code. In particular it will include guidance in respect of the steps that local criminal justice bodies may take to identify information about the experiences of victims, and how those bodies can take that information into account. It will also provide guidance on the ways in which the bodies could monitor Code compliance locally through meetings to be attended by all bodies, and chaired by PCCs.
45. The Secretary of State is under a duty, i.e. they must, issue guidance to PCCs and criminal justice bodies, who in turn will be placed under a duty to have regard to the guidance.

Justification for taking the power

46. The Bill itself creates duties for specified bodies to keep under review their compliance with the Victims' Code, and for PCCs to keep under review those bodies' compliance with the Code and for both to take into account information about the experiences of victims as far as it is possible to do so.
47. The purpose of guidance issued under clause 5(5) is to support the relevant bodies in discharging their functions under Clause 5 by giving them further guidance on how to monitor compliance with the Victims' Code. It will not make provision for how data should be collected or shared, as those duties are underpinned by regulations which will make provision specifically for those duties.
48. It is expected that the guidance will be an important tool in guiding criminal justice bodies and PCCs on how to monitor compliance with the Code, which will allow for local areas to tailor arrangements to best meet their particular arrangements. Guidance is required for this purpose, where the detail and flexibility could not be provided for in legislation. The guidance will advise bodies on how they might meet the duty to take into account information about the experiences of victims, as well as other matters such as how they might attend meetings to discuss and scrutinise the data.

49. It is important that guidance can be updated quickly to keep pace with changes to the collection of compliance data, future revisions of the Victims' Code, and the changing nature of these crime types and nuances in local areas. This will help provide consistency across England and Wales, building a national picture of delivery of the Victims' Code across the criminal justice system, whilst allowing for local variations on what may work best to meet the legislative requirements.
50. Relevant bodies will be required to have due regard to this guidance. However, the guidance itself will contain recommendations and best practice on how the bodies should discharge their functions under 5(1) and 5(3). It is advisory in nature and therefore does not create any obligations or duties in respect of these duties.
51. The guidance will also be used to set out instructions in respect of the duty to take into account information about the experiences of victims, such as setting out the **steps the bodies may take to identify relevant information and the way in which they take that information into account as part of reviewing their compliance with the Code**. In respect of this duty, and in keeping with public law principles and good administration we would expect that the bodies should follow the recommendations made in the guidance and only depart from it where they have justification for doing so. This will ensure proper understanding and consistent delivery of the requirements of the duties to keep under review Code compliance but will also allow for flexibility given that the guidance will cover all of the criminal justice bodies and PCCs who will be operating by local police area. This will also ensure that the guidance is given appropriate weight when the body is carrying out its functions and ensure that those who interact with bodies who are subject to the duty are aware of the guidance and its status. This duty only falls on the main bodies who are responsible for delivery of the services in the Victims' Code and PCCs.

Justification for the procedure

52. The guidance will provide practical direction on the discharge of the relevant bodies' functions and duties set out in primary legislation. The duties themselves are set out in legislation and will therefore be subject to parliamentary scrutiny. The guidance will aid delivery of those duties by setting out further explanation and practical guidance on them. There is also a legislative duty for the SoS to consult such persons as they consider appropriate before issuing guidance. This will ensure that the guidance is drafted in consultation with relevant bodies.
53. The guidance will be drafted for review alongside the passage of the Bill and will be published after engagement with bodies who are subject to the duties in this section. We consider that this is the appropriate level of scrutiny where criminal justice bodies and PCCs must have regard to the guidance, but where the duties upon which the guidance are based will have full parliamentary scrutiny.

Clause 12: A power for the SoS, Lord Chancellor and Attorney General by a joint direction to require a joint inspection programme to include provision for the inspection, at specified times, of specified matters relating to the experiences and treatment of victims

Power conferred on: Secretary of State, acting jointly with the Lord Chancellor and Attorney General

Power exercisable by: Direction

Parliamentary procedure: None

Context and purpose

54. Clause 12 amends each of the existing inspection regimes in relation to their powers to act jointly with other inspectorates when discharging their functions. The existing legislative powers in respect of inspectorates include powers that provide for the SoS, Lord Chancellor and the Attorney General (acting jointly) to direct when a joint inspection framework is prepared and what form it should take. Clause 12 adds a further power to enable the SoS, Lord Chancellor and the Attorney General by a joint direction to require a joint inspection to take place at specified times in relation to specified matters relating to the experiences and treatment of victims. Any directions given on the timing of a joint victims' inspection will only be in respect of when that inspection takes place within a given joint inspection business plan cycle. As joint victims' inspections are to be carried out under the existing inspection regimes, they will benefit from any supplementary provisions attached to each regime i.e. powers to obtain information and access premises under s.54 of the Police Act.
55. The purpose behind this is to ensure that the criminal justice inspectorates regularly focus on the entire experience of victims throughout the criminal justice process, in order to identify issues and provide recommendations as to how to address them, therefore improving the quality of service provided to victims.

Justification for taking the power

We want to take the necessary power to ensure that the inspectorates regularly conduct joint thematic inspections on the treatment of victims. This power will enable the SoS, Lord Chancellor and Attorney General to specify when a joint victims' inspection should take place and what that inspection must consider in relation to the experiences and treatment of victims. A power to direct joint inspections of this nature is required to ensure inspections on victims' experiences of the criminal justice system are carried out when the SoS, Lord Chancellor and Attorney General deem it necessary, in order to better understand the quality of service provided to victims or specifically delve into a victims' issue that has arisen to understand why it is happening and how to address it.

Justification for the procedure

56. These directions require no parliamentary procedure. This is consistent with the existing powers of direction in the legislation in respect of joint inspections.

Clause 17(3): Commencement powers

Power conferred on: Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary procedure: None

Context and purpose

57. Clause 17(3) contains a standard power for the SoS to bring certain of the provisions of the Bill into force by commencement regulations (Clause 2 to 8 – Victims' Code; Review of compliance with the Victims' Code; and Duties to collaborate in the provision of victim support services); Clause 12 (Joint Inspections relating to victims) and Clause 13 (complaints to the Parliamentary Commissioner for Administration).

Justification for the power

58. Leaving provisions in the Bill to be brought into force by regulations will afford the necessary operational flexibility to commence the provisions of the Bill at the appropriate time, having regard to the need to make any necessary secondary legislation, issue guidance, undertake appropriate training and put the necessary systems and procedures in place, as the case may be.

Justification for the procedure

59. As is usual with commencement powers, regulations made under clause 17(3) are not subject to any parliamentary procedure. Parliament has approved the principle of the provisions to be commenced by enacting them; commencement by regulations enables the provisions to be brought into force at a convenient time.

Clause 17(5): Power to make transitional or saving provision on commencement

Power conferred on: Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary procedure: None

Context and purpose

60. Clause 17(5) confers on the SoS the power to make such transitional or saving provisions as they consider appropriate in connection with the coming into force of the provisions in the Bill.

Justification for the power

61. This standard power ensures that the SoS can provide a smooth commencement of new legislation and transition between existing legislation without creating any undue difficulty or unfairness in making these changes. There are numerous precedents for such a power, for example, section 183(9) of the Policing and Crime Act 2017.

Justification for the procedure

62. As indicated above, this power is only intended to ensure a smooth transition between existing law and the coming into force of the provisions of the Bill. Such powers are often included as part of the power to make commencement regulations and, as such, are not subject to any parliamentary procedure on the grounds that Parliament has already approved the principle of the provisions in the Bill by enacting them. Although drafted as a free-standing power on this occasion, the same principle applies and accordingly the power is not subject to any parliamentary procedure.

Ministry of Justice

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