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Knowledge Exchange Seminar Series (KESS)

...is a forum that encourages debate on a wide range of research findings, with the overall aim of promoting evidence-informed policy and law-making within Northern Ireland

Improving Access to Justice for Victims of Crime in Northern Ireland: The Role of a Commissioner for Victims and Witnesses

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Presentation Aims

- A Commissioner for Victims of Crime already exists in designate form, but is not on a statutory footing. The forthcoming **Victims and Witnesses Bill** will place the office on a legislative basis and expand its remit.
- This presentation focuses on the design of the proposed Commissioner, rather than the case for its creation.
- Drawing on analysis of the literature and comparative experience, it:
 - identifies the key design choices within the proposals, and
 - considers how those choices will shape the role in practice.



What does a Commissioner do?

Typically, a Commissioner:

- monitors how the system treats victims (and in some models, witnesses)
- collects evidence of experience across the system
- identifies patterns of failure (e.g. delay, communication, inconsistency)
- makes recommendations to government and agencies
- reports publicly on performance and compliance measured against a set of standards e.g. a Victims' Charter.

Usually:

- Not a complaints body
- Does not determine individual cases

Found in:

England and Wales | Scotland (legislation passed) | Australian states



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Are Commissioners a Voice for Victims?

- The proposed office covers victims and witnesses, including witnesses for both prosecution and defence. Does this dilute the Commissioner as a voice for victims? Or focus the Commissioner on wider systemic issues?
- This title and remit do not, in themselves, determine how the office will operate.
- What matters is the statutory functions, the terms of reference, and how the Commissioner applies them in practice.
- Experience elsewhere shows roles with a broad remit may still operate in a predominantly victim-focused way e.g. England and Wales.

Key issue: whether the office develops as a form of victim advocacy, or a broader mechanism for scrutinising system performance, or a hybrid of the two.



Commissioner Designate's Core Values

COMMISSIONER FOR VICTIMS OF CRIME **STRATEGY 2022-2025**

OUR VALUES

Our values inform our decision making and engagement with victims of crime and all other stakeholders.

- V** **Victim-centred:** we listen with empathy and without judgement to the needs and experiences of victims using this engagement to inform our work and decision-making.
- O** **Openness & transparency:** we act with honesty and integrity in the course of our work, sharing information responsibly and publishing information on our own performance.
- I** **Independent:** we value and protect our ability to identify and set our own goals without undue influence from others.
- C** **Collaborative:** we work constructively with victims and stakeholders to help develop innovative solutions to meet the needs of victims of crime.
- E** **Empowerment:** we promote the involvement of victims in all decisions affecting them and work to ensure that victims have access to the information and support they need.

The Banner on the website of the Victims Commissioner for England and Wales



Claire Waxman OBE: an independent voice for victims and witnesses

The Victims' Commissioner for England and Wales is dedicated to promoting the interests of victims and witnesses.

Aims of the Victims' Commissioner for England and Wales

Be the voice of victims

Promote best practice in victims' services

Review the Victims' Code and advocate for change



Systemic Oversight or Individual Complaints

- The proposals point towards systemic oversight (monitoring performance, identifying patterns, making recommendations)
- Individual cases: used as evidence of system issues, not resolved
- Reflects the approach in Scotland, England and Wales
- The Commissioner Designate does provide a facility for them to be copied into complaint correspondence as part of the monitoring process – will this continue?
- Some Australian Commissioners do intervene in individual cases
- In practice: expectations of accessibility and responsiveness.

Key issue: where the line is drawn between evidence and intervention

Independence of the Commissioner

Independence from the Executive

- The role is intended to be independent in function, but remains linked to the Department of Justice (appointment, funding, reporting)
- In Scotland, the Commissioner will be appointed by a vote in Parliament and report to Parliament, not the government

Independence from other agencies in the Criminal Justice System

- Should the Commissioner sit on policy development bodies e.g. LCJ Sentencing Group?
- Balancing the ability to influence with the risk of institutional proximity

Key issue: whether the Commissioner can act independently, and be seen to do so

The Duty to Co-operate: Which Agencies?

- Initial focus is on criminal justice organisations e.g. police, prosecution, courts.
- Wider relevant public bodies are not included at the outset
 - housing
 - health and social care
 - local government
- Yet these bodies often shape victims' experience in practice.

Key issue: whether the Commissioner has the authority to ensure co-operation with all relevant agencies



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The Duty to Co-operate: Extent of the Duty

- The DOJ proposes a duty which includes specific obligations
- These create a degree of structure and visibility
- But bodies must respond, not implement, no clear mechanism to enforce follow-through
- The model relies on transparency and engagement.

Key issue: whether the proposed duty delivers engagement or accountability



Monitoring versus Investigation

- In Northern Ireland, proposals focus on data gathering and monitoring, including compliance with the Victims and Witnesses Charters
- The Commissioner may collect information, identify patterns, and make recommendations.
- This provides structured scrutiny, but not a formal investigation power
- In Scotland, the power to initiate investigations and require evidence and documents
- Within Northern Ireland stronger models exist (e.g. Older People Commissioner) with formal investigation and evidence powers.
- ***Key issue: information-led scrutiny vs investigation with compulsion***

The Voice of the Commissioner in Criminal Justice Policy Debates

- The Commissioner is likely to engage in sentencing, criminal justice reform and wider policy debates
- The proposals recognise a role in reviewing law, policy and practice
- But do not clearly define how far this extends into contested reform debates
- This raises a question of position within the system:
 - One stakeholder among many?
 - or a more distinct institutional voice?
- Much may depend on the personality and worldview of the Commissioner
- In England & Wales, Commissioners have tended to be members of the House of Lords, providing a platform.

Key issue: whether the Commissioner's role in reviewing law, policy and practice extends to wider debates on criminal justice reform



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