Dear Mr Neill

STATEMENT TO JUSTICE SELECT COMMITTEE - 7 FEBRUARY 2018

Thank you for my invitation to attend the hearing of the Justice Select Committee on 7 February, which will consider the wider issues arising from the John Worboys case.

Understandably, the decision to release John Worboys and the handling of his victims has prompted significant political and public concern. My first thoughts are with the victims of his terrible crimes. Our criminal justice system all too often can give the impression of focusing exclusively on the management of offenders at the point of release. As this case clearly demonstrates, release can invoke real fear and anxiety for many victims. It is a painful stage in their criminal justice journey. The Government’s first priority must ensure that all Worboy’s victims receive emotional and practical support during this difficult time.

The case brings into sharp focus a number of issues, including transparency of the parole process, scope to involve victims in the process and operation of the victim contact scheme. I welcome the Government’s commitment as set
out in the Justice Secretary’s statement of 19 January, to undertake a review of all these issues. I trust the review will include the widest possible consultation with victims that such a narrow time frame can allow.

I believe it was right that the Secretary of State sought legal advice on whether there were grounds on which to challenge the lawfulness of the Parole Board’s decision. The Secretary of State is a party to the proceedings and privy to all the available evidence. If he has concerns about a decision to release, he has a duty to the public and victims to explore whether to challenge the decision through judicial review. This duty applies to any case and not just to those that are high profile.

Like many others, I was disappointed that the legal advice that came back was that such a review would be highly unlikely to succeed. I share the frustrations of Worboy’s victims that the decision to release him is unlikely to be subject to independent review. For many victims, it will only reinforce the sense that justice has not been served in this case.

**Summary**

This letter sets out the points I wish to raise with the Committee. In summary, they are:

- There needs to be much greater transparency in Parole Board decision-making, whilst recognising that transparency must be constrained by the need to protect victim anonymity and to prevent them from being re-traumatised.
- Victims who opt to present their Victim Personal Statement to Parole Board panels need more practical and emotional support.
- Victims should be offered the re-assurance of being told how the offender will be managed in the community, particularly those victims who express fear and anxiety at the prospect of release;
- In cases where Parole Board panels reject or amend victims’ requests for licence conditions, the Board should write to victims to explain the reasons for the decision. Victims should be given a right of review in these instances.
- Any mechanism to seek a re-consideration of Parole Board decisions should be accessible to victims.
- Such a mechanism must be robust and independent if it is to be credible.
- The likelihood is that the mechanism will be widely used by offenders unhappy with their parole decision. In practical terms, this will mean that for many victims, the uncertainty of the parole process will be extended. A speedy review mechanism is therefore essential.
- Staff involved in supporting victims as part of the Victim Contact Scheme (VCS) should be accredited and receive continuous professional development.
- The National Probation Service (NPS) and Police and Crime Commissioners (PCCs) should seek closer integration of their victim
services with the aim of providing victims with a seamless package of support.

- Longer term, the Government should consider whether to devolve the statutory responsibilities to PCCs.
- The NPS should widen the criteria for discretionary access to the VCS.
- Any development of victim access to the parole process should be applicable to victims whose offenders are detained under the Mental Health Act.

**Parole Process – transparency**

Over the past year, I have called publicly for greater transparency in Parole Board decision-making; I also raised the issue directly with the Chair of the Parole Board, Professor Nick Hardwick when we last met to discuss victim involvement with parole. We live in a world that rightly values transparent decision-making; for example, public access to government decision-making has been greatly enhanced by the Freedom of Information Act. Yet victims are not permitted to know anything about how the Parole Board reaches its decisions, despite the fact that controversial cases draw significant public interest.

Open decision-making increases public confidence and makes our public bodies more accountable. This is particularly relevant with parole decisions, where sharing information about the decision can give victims a sense of being treated with fairness and respect. I recognise many victims feel frustrated that while they have a right to make a personal statement to the Parole Board and representations in respect of licence conditions, they’re not allowed to know how the Board’s decision was reached. Nor the extent to which their evidence has been taken into account. Victims have raised this time and time again with me, and tell me that they feel as if they cannot be trusted.

I know that Professor Hardwick supports greater openness and has looked to other jurisdictions to see how this might be done. It appears that both the Government and the leadership of the Parole Board are on the same page. The only question is how it might be delivered. Once this review is complete, I will be looking to the Government to move quickly to make such change.

I also want to offer a word of caution. Although some victims want to know how a parole decision is made, others may find detail and material on which the decision is based to be deeply distressing, so much so in some cases it might undermine their recovery and exacerbate trauma. Even victims keen to see complete transparency may find that they’re adversely affected.

While I am calling for greater transparency, I’ve stopped short of calling for all material to be disclosed. The policy of disclosure should be constrained by our duty of care to victims who have suffered so much already and whose long-term recovery may be greatly undermined if graphic, distressing material is sent to them or splashed across the media.
Furthermore, great care must be taken to ensure that decision letters don’t inadvertently disclose the identity of victims, particularly victims of sexual crimes.

**Victim Involvement in the Parole Process**

I welcome the fact that the Government Review is proposing to look at how victims can engage in the parole process. Over the past 15 years we have made great strides, which is to the credit of the Parole Board and HMPPS. Victims can submit victim personal statements, be consulted on licence conditions and attend Parole Board oral hearings to read out their statements. However, I believe that there is scope to go even further.

The number of victims opting to attend a Parole Board hearing and read their statement is rising. The decision to attend must be a personal decision and victims will each have their own reasons. The process is a difficult one and more care needs to be given to how victims are supported.

Prisons, where hearings are held, are inhospitable institutions in remote places. We need to give victims a menu of options for presenting their victim personal statement, including pre-recorded presentations and video-links. Victorian prisons were never built with parole hearings in mind, but new prisons should be, ensuring that hearing rooms are accessible and that the facilities make the hearing more comfortable, not only for victims, but other attendees.

We also need to recognise that by re-telling their stories can be traumatising for victims and yet there is no follow up contact to make sure that they are alright or whether they need to be signposted to appropriate support services. This needs to be addressed.

Another issue that causes victims frustration and anxiety is that fact that parole hearings are often delayed and can be deferred or adjourned on the day of the hearing. I recognise that there are many reasons for this, but we need to recognise the impact this has on victims, many of whom are highly anxious about attending. Again, appropriate support needs to be made available.

As well as logistical arrangements, there are other areas where there is scope to improve victim engagement.

**Parole Process – Licence Conditions**

For victims, the prospect of their offender being released can be distressing and traumatic. In fact, many victims feel aggrieved as if the offender’s sentence and suffering is over while theirs continues with no end in sight.

Many victims feel frightened by the prospect, because they fear a reprisal attack or because they are terrified they will walk down the street and bump into him.
Victims are told very little about the offender’s licence conditions and release arrangements and such secrecy only serves to exacerbate their fear. One woman who recently approached my office was a victim of a sexual assault. It was agreed her county would be made an exclusion zone as a condition of licence. The family lived close to the county boundary and she was terrified that she would bump into him when she crossed the border. When we explored further, we established the offender would be released to an address at the other end of the country. Had she been informed, she’d have had immediate peace of mind.

In other cases, victims are often unaware the offender has been released into a hostel, with 24-hour staffing and a curfew. Nor that there are licence conditions such as requiring the offender to report relationships; that they cannot work with children and will be subject to drug tests. I believe this information may provide victims with some reassurance and ought to be shared in all cases.

Victims are offered the opportunity to request licence conditions that might offer them and their family some peace of mind. Invariably the most requested conditions are a “no contact” condition or an “exclusion zone”.

There will always be a tension between victims who often want large exclusion zones to ease their fears, and the Parole Board can only agree to a zone if it deems it to be “reasonable and proportionate”.

I have met victims who were dissatisfied with the final decision. A recurring theme is frustration that they simply don’t know why their requests were either amended or turned down. Their Victim Liaison Officers (VLO) often struggle to explain the decision on the Parole Board’s behalf. One victim recently told me that all she knew about the Board’s decision to reject her exclusion zone request was that it had something to do with the “Craven Judgment”. I am not sure she was familiar with the judgment (and why would she) and so the explanation did little to help her understand why her request had been refused.

This is an area where transparency is important. I have asked the Board to make it standard practice that when its panels amend or reject a request for a licence condition submitted on behalf of a victim, the panel chair writes to the victim and sets out in clear terms the reasons why. At least this letter might help the victim to understand. It may also frame expectations when future requests are made.

Importantly, such a letter would mean that for the first time, the victim will hear directly from the decision maker, as opposed to their VLO acting as the messenger.

I would also want to see victims being given a right of review when their requests are amended or rejected. This right is provided by other agencies including the police and CPS and applies when decisions are taken on the
handling of the case that the victim does not agree with. It has been well received by victims and should be replicated in parole.

**Reviewing Parole Board decisions**

In his statement of 19 January, the Secretary of State confirmed that part of his review into the work of the parole Board included whether there should be a mechanism to allow parole decisions to be reconsidered.

However, it is not clear whether this mechanism would apply to any Parole Board decision or be restricted only to release decisions. If it is the latter, I would support this as being a useful safeguard.

It is also important that any such mechanism is perceived by the public and victims as being real and robust. Given the public backlash over the Worboys case, anything less will be seen as window dressing.

If this mechanism is put in place, I want to be sure that victims have the right to trigger it. Whatever form the review mechanism is, it should not be necessary for victims to have deep pockets or crowdfund raise in order to mount a challenge to a decision.

If the mechanism is applied to all Parole Board decisions, the expectation must be that it will be widely used by offenders to appeal their parole outcome. The unintended consequence of this mechanism will be to extend for victims the uncertainty created by the parole process as they await the outcome of the reconsideration mechanism. Therefore, for many victims, this may not be received as a welcome development. Therefore, those who are devising such a mechanism must focus on one that delivers a speedy outcome.

**Victim Contact Scheme**

The statutory Victims’ Contact scheme is open to victims of violent and sexual offences, who are serving sentences of 12 months and over. The scheme is designed to ensure that victims are informed of release and other major stages in the sentence.

Many people I meet are under the impression that victim support is focussed solely upon the period leading up to trial. I know from my own personal experience that victims of serious sexual and violent offences need a significant amount of support after trial. Sadly, most victims are completely unaware of the scale of what awaits them following a conviction.

In many cases, there are appeals against sentence and conviction. If these don’t succeed, some offenders apply to the Criminal Cases Review Commission. If the offender is under 18 at the time of conviction, there may be a tariff review. There will be transfer to open conditions and parole hearings to consider suitability for release. If the offender is subsequently recalled, the parole process starts all over again.
Any of these stages can leave victims feeling anxious and uncertain, wondering if their criminal justice nightmare is ever truly over.

The statutory Victim Contact Scheme (VCS) is a national scheme managed by the National Probation Service (NPS). My meetings with managers within the NPS leave me in doubt that they are committed to delivering a first-class service.

It is important that the VCS is not simply viewed as being a transactional service, a conduit of information, whose only focus is meeting a series of deadlines. Instead, it must be seen as playing an important part in helping victims to cope and recover. Its staff must be alive to the sensitivity of the information they are providing and its impact upon the recipient. Those who work in the service must have the inter-personal skills and emotional intelligence to provide victims with the support that they will need.

In my experience, many staff do have these skills. However, I believe that a professional service requires staff who are accredited to undertake this important work and who receive continuous professional development and supervision. I know that the Director of the NPS agrees with me on these points and is planning to introduce accreditation. This must be rolled out quickly across the country.

The first time the victim will hear from the VCS is when they receive a letter through the post 12 weeks after conviction. Based on my own personal experience, victims can feel drained from the trial and passed from pillar to post as you’re referred from one agency to the next. Out of the blue you receive a letter from a stranger you’ve never heard of and you think “Here we go again.” There’s also a sense of why do I want to talk to someone about release when the offender has only just been convicted? It’s as if we have divided victim services into two distinct parts, pre-trial and post-trial, with many victims disappearing into the gap that separates them.

I suspect this is why so many victims don’t respond to the initial VCS letter. In fact, when my own letter arrived, I too chose not to respond.

The challenge is how do we make the victim journey as seamless as possible. I have long argued for victims to be given an independent advocate who can steer them through their journey and take responsibility for putting a care package in place to help them. The advocate will support them both before and after trial, thereby offering a smooth transition for the victim. This model has the potential to offer victims a very different experience to what is currently on offer.

As an interim measure, I support calls made by the Director of the National Probation Service that victim services and the NPS should collaborate more closely to facilitate this difficult transition. There are some good examples of where this collaboration has been piloted at a local level. I want us to be more
ambitious and see this good practice being rolled out across the whole of England and Wales.

Looking ahead, I am not convinced that local collaboration in itself is sufficient. I feel the time has come for the Government to consider how we might best deliver a seamless end-to-end victim support service.

In 2015 the Government took the decision to devolve responsibility for many victim services to Police and Crime Commissioners (PCCs). This devolved arrangement is starting to work effectively, not least because it encourages co-working between local agencies, it recognises local need and it offers greater scope for innovation. I believe we should explore the advantages and drawbacks of the VCS statutory functions being incorporated into the victim services provided by PCCs. The obvious advantages are that it would enable the service to become fully integrated into other local victim services and give the scope to deliver the seamless journey that victims need. It would mean that the same organisation would be responsible for victim support throughout their whole journey, so that they don’t face the hurdle of establishing new relationships with yet another criminal justice agency.

The Secretary of State’s review presents an opportunity to explore how victim support might be done differently to enhance the victim experience and address some of the concerns arising from this case. It would be a shame not to use this opportunity to consider bold and radical changes.

**Discretionary access to the Victim Contact Scheme**

The Worboys case raises another very important question about how we support victims where there is no conviction. In cases of multiple offending, such as Worboys, police and prosecutors make pragmatic decisions in deciding which cases to pursue and which cases lie on file. Victims who fall into the latter category have no rights under the VCS. They’re not advised of release nor consulted on licence conditions. Too often they find out their offender has been released after reading it in a newspaper or on social media channels. Or, worse still, they bump into the offender in their local high street. This cannot be right!

These victims’ emotional needs are often just as great as those victims whose offenders have been convicted. We cannot justify what has become a two-tier system.

The VCS can provide *discretionary* support to victims who don’t have a conviction. However, as this case has highlighted, the current criteria for discretionary contact is too tight. This needs to be reviewed.

I am therefore calling on the government to look at the Victim Contact Scheme and how it should support victims who don’t have a conviction. All victims of sexual and violent crimes, irrespective of conviction, must have the opportunity to be a part of the Scheme should they choose to do so. Consideration would have to be given to how these victims can be supported. For example, I suspect they may not be able to submit a victim personal
statement to the Parole Board, but they should be offered high level contact and be kept updated on the offender’s progress through the sentence.

**Victims of Mentally Disordered Offenders**

Finally, the reviews announced by the Secretary of State refer only to victims whose cases are reviewed by the Parole Board. In the interests of fairness and equal treatment, it should also include victims of mentally disordered offenders who have been detained under the Mental Health Act. At present, these offenders don’t have the same entitlements as victims whose offenders are held in prison. Yet the trauma and distress experienced by victims of serious sexual and violent crime, including homicide, are the same irrespective of the status of their offender. As such, victims of all such crimes should all receive the same level of support and the same entitlements.

There is already a significant gap between the level of interaction between victims and the Parole Board compared to victims and Mental Health Review Tribunals. We must not allow the current reviews to exacerbate the inequalities of treatment that currently exist between these two groups of victims.

Yours sincerely,

Baroness Newlove of Warrington
Victims’ Commissioner for England and Wales