

Call for evidence on the Victims and Witnesses (Scotland) Bill

Response from Brake, the road safety charity

18 March 2013

About Brake

[Brake](#) is an independent charity working across the UK to make roads safer, prevent road death and injury, and care for victims. Brake carries out research into road users' attitudes and behaviour in relation to road safety, engages schools and communities to spread road safety education, disseminates international research, guidance and case studies to fleet and road safety professionals through its Fleet Safety Forum and Road Safety Forum, and supports communities campaigning for road safety. It is also a UK-wide, government-funded provider of specialist support for people bereaved and seriously injured in road crashes, running a national helpline and providing packs that are handed to bereaved families by police following every road death.

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A duty to set clear standards of service for victims and witnesses

1. Brake agrees that creating a duty on relevant public bodies to publish minimum standards of service for victims and witnesses is essential as it should help to improve information and standards of service for victims and witnesses, and enable public bodies to be better held to account in this respect. However, we recommend a strengthening of the wording of this duty, as set out below. We also recommend the government ideally goes one step further by enshrining in law the right of victims to support and information. (See below for further explanation on this point.)
2. These minimum standards should be clearly set out in a single document that victims can use to understand their entitlements in terms of support and information. Given the acute distress many victims will be experiencing, it is crucial this document is clear, accessible, empathetic and reassuring, following the same principles that Brake uses to produce its support literature for road crash victims¹. It must also be easily accessible for victims, and their relatives, carers and professionals working with them, for it to be a meaningful and useful document in improving the treatment of victims. These standards should be based around the general principles set out in the Bill (1.3).
3. Brake broadly agrees with the general principles outlined in section 1.3 of the Bill which the criminal justice system must have regard to when relating to victims or witnesses, and when publishing minimum standards of services. However, Brake recommends the Bill be strengthened by stipulating that these principles should form the basis of public bodies' minimum standards, not only that they pay them regard.

¹ See Brake's service standards: <http://www.brake.org.uk/services-for-victims/supportstandards.htm>

4. Brake would also recommend strengthening the wording of principle (c), so it instead states ‘that a victim or witness should have access to high quality comprehensive specialist support, proactively offered and appropriate to their needs, during and after the investigation and proceedings.’
5. Brake also recommends an additional and important principle is added: that victims should be treated with dignity, respect and empathy.

Rights about your case

6. Victim access to information about their case is vital for bereaved and seriously injured road crash victims and their families. Brake supports the proposed duty placed on COPFS, SCS and the police to provide certain information to victims and witnesses about their case. It supports plans to investigate the feasibility of creating an online information hub to allow victims and witnesses direct access to information about their case.
7. However, it is vital that bereaved or seriously injured victims of road crashes also have access to speak to appropriate persons to get further questions answered or seek explanation of the information available to them, and to seek emotional support and other help alongside accessing this information. For example, it is likely that in some cases only very limited information is available to a bereaved or injured victim at a particular time, and this lack of information may be distressing and confusing. They may need and benefit from someone explaining why limited information is available, and the likelihood of further information becoming available in future. This sort of support is best delivered by someone with specialist experience of supporting victims in these particular situations, and who can potentially liaise with local professionals to establish the situation; this is a role that Brake’s helpline commonly performs (see further detail below). It should also be noted that some victims will not have access to the internet in a suitably private place, or will not have the skills to access an online portal, so this should not be the sole means for families to access information about their case. It is also important that relevant information, alongside appropriate support and explanation, is proactively offered to victims, rather than them being expected to hunt it out, given that they are likely to be suffering acute distress.

Further comments

8. Brake generally supports the proposals in the Victims and Witnesses (Scotland) Bill, which are a positive step towards better services and information for road crash victims. However, Brake also urges the Scottish government to work towards enshrining road crash victims’ right to support in law. This was a recommendation made by then Victims’ Commissioner Louise Casey in 2011 in relation to ensuring bereaved victims of culpable road death and homicide could access appropriate support and information², given that many of these victims (in England and Wales) do not receive the support they need despite the existence of a victims’ code.

² [Review into the needs of families bereaved through homicide](#), Victims Commissioner, July 2011

9. Road deaths and serious injuries cause horrendous suffering every day. These needless casualties are sudden, violent, man-made and often result from criminal behaviour. The bereaved and injured victims often experience long-term and acute emotional suffering and other serious implications such as debt, health problems and social isolation³⁴. These families desperately need support, guidance and information, but often they are unable to access a clear pathway of support as there is no comprehensive and integrated government-funded support service automatically offered following a serious crash.
10. Brake supports bereaved and seriously injured crash victims in Scotland through packs, funded by government, and a helpline, which receives no funding from the Scottish Government. Although these services provide a lifeline to many, they are not nearly as comprehensive or well-funded as those afforded to other victims bereaved or injured through criminal acts. Brake's packs remain the only government-funded support automatically provided to bereaved road crash victims (as written into police protocols).
11. Given the general principle in the bill that it should be ensured victims can access appropriate support, Brake recommends the Scottish Government works alongside support providers such as Brake, to ensure comprehensive, specialist support for bereaved and seriously injured road crash victims in Scotland is readily available and properly resourced. As recommended above, it should also place a duty on public bodies to ensure victims are able to access high quality, comprehensive, specialist support, proactively offered and appropriate to their needs, during and after the investigation and proceedings.
12. In particular, Brake recommends the Scottish Government should ensure the availability of the Brake helpline to all bereaved and seriously injured road crash victims by funding the further development and expansion of this service. This would mean Brake could work with police in Scotland towards the helpline being proactively offered to all families bereaved and very seriously injured in road crashes, at the same time as providing Brake's packs in bereavement cases, promptly following the death or serious injury. This would mean all these families can easily access a wide range of specialist, professionally-delivered services, including over-the-phone emotional support, further explanation of practical procedures, including CJS processes, advocacy services, such as through the helpline liaising with officials on the victim's behalf to obtain information and overcome problems, and referrals and signposting on to locally-available face-to-face support and medical help and counselling.
13. As well as providing direct support, Brake's helpline often helps callers by also identifying and referring onto other locally available services where these are in place, such as counselling, or early-intervention face-to-face emotional support. At present, the availability of suitable face-to-face emotional support provided by professionals experienced in

³ "Psychological suffering by the victims [of road crashes] and their relatives is often extreme and long-lasting." Impact of road death and injury, FEVR (the European Federation of Road Traffic Victims), 1995

⁴ Brake also bears witness to these support needs through its handling of helpline calls.

supporting traumatically bereaved people (such as through hospital bereavement services) that the helpline can refer to is patchy. Brake would therefore also recommend that the Scottish Government review where increased funding might be needed to further develop locally available (more generalist) services like these, and how these can be developed alongside highly specialist support like that provided through Brake's helpline.

14. Brake recommends these services are available to all bereaved and very seriously injured victims of road crashes, not just victims whose cases result in a criminal prosecution. All bereaved road death victims and most of those very seriously injured come into contact with the criminal justice system since all fatal and most very serious injury crashes are followed by police investigation and the deployment of a police family liaison officer. In a large proportion of cases a criminal prosecution will follow, but many more road crashes may have involved criminal behaviour, yet this will never be recorded as a crime, nor will a criminal prosecution take place, due to the person who committed the crime being killed or very seriously injured themselves. In other cases, where no crime has occurred, it remains the case that the family will suffer terribly, as a result of man-made, preventable circumstances, and a failure by government. In all these cases the families need advice, information support and advocacy to navigate their sudden bereavement, and all bereaved victims will need advice to navigate through the criminal justice system.