Domestic Violence, Crime and Victims Act 2004

2004 CHAPTER 28

PART 3

VICTIMS ETC

CHAPTER 3

OTHER MATTERS RELATING TO VICTIMS ETC

Commissioner for Victims and Witnesses

48 Commissioner for Victims and Witnesses

(1) The Secretary of State [F1 for Justice] must appoint a Commissioner for Victims and Witnesses (referred to in this Part as the Commissioner).

(2) Before appointing the Commissioner the Secretary of State [F1 for Justice] must consult the Attorney General and the [F2 Secretary of State for the Home Department] as to the person to be appointed.

(3) [F3]

(4) [F3]

(5) [F3]

[F4(6) The Secretary of State may pay to, or in respect of, the Commissioner amounts—
(a) by way of remuneration, pensions, allowances or gratuities, or
(b) by way of provision for any such benefits.

(7) The Secretary of State may pay sums in respect of the expenses of the Commissioner.]
49 General functions of Commissioner

(1) The Commissioner must—
   (a) promote the interests of victims and witnesses;
   (b) take such steps as he considers appropriate with a view to encouraging good practice in the treatment of victims and witnesses;
   (c) keep under review the operation of the code of practice issued under section 32.

(2) The Commissioner may, for any purpose connected with the performance of his duties under subsection (1)—
   (a) make proposals to the Secretary of State [F5 for Justice] for amending the code (at the request of the Secretary of State [F5 for Justice] or on his own initiative);
   (b) make a report to the Secretary of State [F5 for Justice];
   (c) make recommendations to an authority within his remit;
   (d) .................................................................
   (e) consult any person he thinks appropriate.

(3) If the Commissioner makes a report to the Secretary of State [F5 for Justice] under subsection (2)(b)—
   (a) the Commissioner must send a copy of the report to the Attorney General and the [F7 Secretary of State for the Home Department];

(4) The Commissioner must prepare in respect of each calendar year a report on the carrying out of the functions of the Commissioner during the year.

(5) The Commissioner must send a copy of each report prepared under subsection (4) to—
   (a) the Secretary of State for Justice,
   (b) the Attorney General, and
   (c) the Secretary of State for the Home Department.

(6) Reports under subsection (2)(b) or (4) must be published by the Commissioner.
(7) If section 48 comes into force after the beginning of a calendar year, the first report under subsection (4) may relate to a period beginning with the day on which that section comes into force and ending with the end of the next calendar year.

Textual Amendments

<table>
<thead>
<tr>
<th>Amendments</th>
<th>Details</th>
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<tbody>
<tr>
<td><strong>F5</strong></td>
<td>Words in s. 49 inserted (22.8.2007) by The Secretary of State for Justice Order 2007 (S.I. 2007/2128), arts. 1(2), 8, Sch. para. 10(2)</td>
</tr>
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<td><strong>F6</strong></td>
<td>S. 49(2)(d) repealed (immediately before 1.2.2010) by Coroners and Justice Act 2009 (c. 25), ss. 142(3)(a), 178, 182(5), Sch. 23 Pt. 5 (with s. 180); S.I. 2010/145, art. 2(1)</td>
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<td><strong>F7</strong></td>
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<td><strong>F8</strong></td>
<td>S. 49(3)(b) repealed (immediately before 1.2.2010) by Coroners and Justice Act 2009 (c. 25), ss. 142(3)(b), 178, 182(5), Sch. 23 Pt. 5 (with s. 180); S.I. 2010/145, art. 2(1)</td>
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<tr>
<td><strong>F9</strong></td>
<td>S. 49(4)-(7) added (immediately before 1.2.2010) by Coroners and Justice Act 2009 (c. 25), ss. 142(3)(c), 182(5) (with s. 180); S.I. 2010/145, art. 2(1)(a)</td>
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50 Advice

(1) If he is required to do so by a Minister of the Crown, the Commissioner must give advice to the Minister of the Crown in connection with any matter which—
   (a) is specified by the Minister, and
   (b) relates to victims or witnesses.

(2) ............

(3) In this section “Minister of the Crown” includes the Treasury.

Textual Amendments

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<td><strong>F10</strong></td>
<td>S. 50(2) repealed (immediately before 1.2.2010) by Coroners and Justice Act 2009 (c. 25), ss. 142(4), 178, 182(5), Sch. 23 Pt. 5 (with s. 180); S.I. 2010/145, art. 2(1)</td>
</tr>
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51 Restrictions on exercise of functions

The Commissioner must not exercise any of his functions in relation to—
   (a) a particular victim or witness;
   (b) the bringing or conduct of particular proceedings;
   (c) anything done or omitted to be done by a person acting in a judicial capacity or on the instructions of or on behalf of such a person.

52 “Victims” and “witnesses”

(1) This section applies for the purposes of sections 48 to 51.

(2) “Victim” means—
(a) a victim of an offence, or
(b) a victim of anti-social behaviour.

(3) It is immaterial for the purposes of subsection (2)(a) that—
   (a) no complaint has been made about the offence;
   (b) no person has been charged with or convicted of the offence.

(4) “Witness” means a person (other than a defendant)—
   (a) who has witnessed conduct in relation to which he may be or has been called
to give evidence in relevant proceedings;
   (b) who is able to provide or has provided anything which might be used or has
been used as evidence in relevant proceedings; or
   (c) who is able to provide or has provided anything mentioned in subsection (5)
(whether or not admissible in evidence in relevant proceedings).

(5) The things referred to in subsection (4)(c) are—
   (a) anything which might tend to confirm, has tended to confirm or might have
tended to confirm evidence which may be, has been or could have been
admitted in relevant proceedings;
   (b) anything which might be, has been or might have been referred to in evidence
given in relevant proceedings by another person;
   (c) anything which might be, has been or might have been used as the basis for
any cross examination in the course of relevant proceedings.

(6) For the purposes of subsection (4)—
   (a) a person is a defendant in relation to any criminal proceedings if he might be,
has been or might have been charged with or convicted of an offence in the
proceedings;
   (b) a person is a defendant in relation to any other relevant proceedings if he
might be, has been or might have been the subject of an order made in those
proceedings.

(7) In subsections (4) to (6) “relevant proceedings” means—
   (a) criminal proceedings;
   (b) proceedings of any other kind in respect of anti-social behaviour.

(8) For the purposes of this section—
   (a) “anti-social behaviour” means behaviour by a person which causes or is likely
to cause harassment, alarm or distress to one or more persons not of the same
household as the person;
   (b) a person is a victim of anti-social behaviour if the behaviour has caused him
harassment, alarm or distress and he is not of the same household as the person
who engages in the behaviour.

53 Authorities within Commissioner’s remit

(1) For the purposes of this Part the authorities within the Commissioner’s remit are those
specified in Schedule 9.

(2) An authority specified in Schedule 9 that has functions in relation to an area outside
England and Wales is within the Commissioner’s remit only to the extent that it
discharges its functions in relation to England and Wales.
(3) Subsection (2) does not apply in relation to the Foreign and Commonwealth Office.

(4) The Secretary of State \[F11\text{for Justice}\] may by order amend Schedule 9 by—
   (a) adding an authority appearing to him to exercise functions of a public nature;
   (b) omitting an authority;
   (c) changing the description of an authority.

(5) In preparing a draft of an order under subsection (4) the Secretary of State \[F11\text{for Justice}\] must consult the Attorney General and the \[F12\text{Secretary of State for the Home Department}\].

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**Textual Amendments**

- **F11** Words in s. 53 inserted (22.8.2007) by The Secretary of State for Justice Order 2007 (S.I. 2007/2128), arts. 1(2), 8, Sch. para. 10(2)
- **F12** Words in s. 53 substituted (22.8.2007) by The Secretary of State for Justice Order 2007 (S.I. 2007/2128), arts. 1(2), 8, Sch. para. 10(3)

**Modifications etc. (not altering text)**

- **C3** S. 53: functions transferred (22.8.2007) by The Secretary of State for Justice Order 2007 (S.I. 2007/2128), arts. 1(2), 4(2)(a), 5(2)(a) (with art. 7)
Changes to legislation:
Domestic Violence, Crime and Victims Act 2004, Cross Heading: Commissioner for Victims and Witnesses is up to date with all changes known to be in force on or before 22 August 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
– Sch. 9 para. 26A inserted by 2015 c. 2 Sch. 3 para. 12