



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

Welcoming Note

Welcome to the October issue of the Mole Valley Conservative Association's Newsletter.

To unsubscribe to this newsletter, please enter your email on the homepage and select 'unsubscribe'.

Our aim is to provide you with a monthly update on the work of the Conservative Association and your elected representatives. We would value your feedback or comments.

We hope you enjoy reading the October issue.

News from the House of Commons

Positive Response to Private Member's Bill



On Friday, 21 October, Sir Paul Beresford's Private Member's Bill was read for the Third time in the House of Commons. It received unequivocal support from both sides of the House and Sir Paul hopes that its passage through the Lords will be just as smooth. Below, you can read the abridged Hansard report.

Domestic Violence, Crime and Victims (Amendment) Bill

Sir Paul Beresford (Mole Valley) (Con): I beg to move, That the Bill be now read the Third time. This is a little Bill, although it is considerably larger than it was on Second Reading, but it is now fit for purpose, as the Minister might put it. I thank individuals on both sides of the House, including Opposition Front-Bench Members and the Under-Secretary of State for Justice, my hon. Friend the hon. Member for Reigate (Mr Blunt), and his team I also thank the National Society for the Prevention of Cruelty to Children for quiet support. Sometimes quiet support is best. Finally, and most important, I thank the recently retired Met police officer, Detective Chief Inspector Dave Marshall. He has worked with me on a successful run of legislative changes to enhance the protection of children: six down, one to go—or one and a half to go.

The Bill will assist the prosecution of people who hurt children or vulnerable adults and those who stand by and allow such acts. It means that when a child is seriously physically harmed, or when the actual cause of death is not specifically identified, those who carried out the abuse or stood by can be prosecuted. The defence of passing the blame will go. If I have had one regret during what I hope will be the speedy passage of the Bill, it is that the maximum sentence is only 10 years, but I accept that it is appropriate when other sentences are available and can be considered.

Assuming that this is the last hurdle, I hope that the Bill's progress through the other place is speedy.



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

Mr Wayne David (Caerphilly) (Lab): In 2004, the previous Government introduced the Domestic Violence, Crime and Victims Act. Section 5 was written to address a particular situation: a gap in the law dealing with cases when a child had died at the hands of one or other of its parents, or other members of the household, and no one would admit to what had been done. To be guilty of the offence, the household member must have either caused the death or failed to take reasonable steps to protect the victim.

The NSPCC had campaigned on the issue, and the Law Commission did a great deal of work on it. While the 2004 Act was under consideration, there was a debate about whether the legislation should include serious harm cases and the point was made, both in this and the other place, that the term “serious harm” would need careful definition. Importantly, the then Government left the door open for the issue to be addressed again in the future. As the Minister at the time, my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins), said:

“I do not rule out extending the offence at some time in the future. It is important, first, to put in place the new offence. Let us get that right first and see how the provision operates. If appropriate, we may return to the problem at a later date.”—[*Official Report*, 27 October 2004; Vol. 425, c. 1473.] Since the passage of the 2004 Act, between 2005 and 2008 alone the offence of causing or allowing the death of a child or vulnerable adult was used successfully to prosecute 17 people, notably baby P’s mother, boyfriend and lodger. It was clear that one of them caused Peter’s death, but the police could not prove which of them was directly responsible. As a result, they were all found guilty of causing or allowing his death.

Crown Prosecution Service data suggest that there is now a need to extend the law to cover cases of serious injury. In 2010, CPS prosecutors in six areas identified 20 potential cases involving children and three involving vulnerable adults that could not be prosecuted under existing legislation, but which they believe could have been prosecuted under the proposed new offence.

It is clearly time to return to the issue. That is why the Opposition support the Bill introduced by the hon. Member for Mole Valley (Sir Paul Beresford). We congratulate him on all his assiduous work. The Government suggested two amendments, which were accepted by the hon. Gentleman. The amendments will strengthen the Bill and now, with cross-party support, I hope that this important measure will soon be on the statute book and be implemented quickly.

The Parliamentary Under-Secretary of State for Justice (Mr Crispin Blunt): ... I congratulate him on the crisp way in which he presented Her Majesty’s Opposition’s support for the Bill, following through on the support that his hon. Friend the Member for Hammersmith (Mr Slaughter) gave it in Committee.

I join other hon. Members in congratulating my hon. Friend the Member for Mole Valley (Sir Paul Beresford) on steering the Bill through the House to this stage. This very worthwhile measure would provide increased protection for children and vulnerable adults who are at risk of serious physical



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

harm from members of their own household, and it is a prime example of my hon. Friend's unstinting efforts to protect vulnerable people, especially children, from harm.

I echo the comments of my hon. Friend the Member for Truro and Falmouth (Sarah Newton) about what makes an effective parliamentarian. My hon. Friend the Member for Mole Valley, who is my parliamentary neighbour, has had an outstanding wider political career, first as leader of a London local authority, for which he was properly recognised by Her Majesty, then in this place, starting on the Back Benches and then as a Minister with responsibility for local government, and after that, both in opposition and now, as an absolutely unstinting champion of children at risk. Mr Speaker, I know that you, along with the rest of us, have a special place for my hon. Friend for the work that he has done. You will recognise, as we all do, that when Members take up a cause and drive forward on a narrow agenda, it is remarkable how much progress they can make and how much influence they can bring to bear...

... My hon. Friend the Member for Mole Valley is also my parliamentary neighbour, so I hope you will be kind enough to allow me the enthusiasm with which I am able to present the Government's support for the measure, and allow me to record my appreciation and that of the Government for the work that he has done in this regard.

... Perhaps this is the moment to put on record my appreciation of the support that I have received from staff in the Ministry of Justice, who have helped my preparation and advised on the amendments that were tabled to the Bill at an early stage and which my hon. Friend accepted in Committee, which improved the Bill and allowed it to enjoy Government support.

As we have heard, the Bill's purpose is twofold. It extends the offence in section 5 of the Domestic Violence, Crime and Victims Act 2004 to include cases of causing or allowing serious physical harm to a child or vulnerable adult, and it applies evidential and procedural provisions similar to those in section 6 of that Act to the extended offence. Extending the law in this way was contemplated when the original legislation was passed, and has continued to be urged since. The section 5 offence of causing or allowing the death of a child or vulnerable adult broke new ground, and the associated evidential and procedural provisions were controversial so a staged approach made good sense, but the existing provisions have worked as intended and we agree that the time is now right to extend them. Cases in which it is clear that serious harm suffered by a child or a vulnerable adult must have been sustained at the hands of one of a limited number of members of a household should not founder because there is insufficient evidence to point to the particular person responsible.

The crucial aspect of the section 5 offence is that the prosecution need not prove whether the defendant is responsible for causing or allowing the victim's death, so the defendant will be convicted of the same offence whether he was personally responsible for the unlawful act that killed the victim or if he was a member of the household that failed to take steps to protect the victim when he knew, or ought to have known, about the risk of harm that existed in that household. This means that it is much harder for those co-accused of the death of a child or vulnerable adult to evade justice



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

by virtue simply of remaining silent or of blaming each other. The section 5 offence has been used successfully in a number of cases, including the profoundly shocking one of baby Peter Connelly.

The section 5 offence is a serious stand-alone offence that carries a high maximum penalty—14 years' imprisonment—but the aim was, and remains, that the person who caused the victim's death should be identified and convicted of murder or manslaughter, if appropriate. Those offences, of course, carry life sentences. Accordingly, section 6 of the 2004 Act modified certain evidential and procedural provisions in relation to alternative charges in trials involving the section 5 offence. The modified procedures apply when a defendant is charged with the section 5 offence and with murder or manslaughter in the same proceedings relating to the same death. The procedures are intended to encourage defendants to give evidence, and to ensure that the more serious charge remains available if, during the trial, evidence emerges of who was responsible for the death. The Government consider the extension of those principles in the way proposed in the Bill appropriate and proportionate to the harm being addressed.

Restricting the extended section 5 offence to serious physical harm is consistent with the need to show a pre-existing risk of "serious physical harm" in subsection 5(1)(c) of the 2004 Act. The extended section 5 offence does not criminalise behaviour more broadly than is necessary. A broad offence that covered psychiatric harm, for example, could deter people from caring for vulnerable adults because they fear being prosecuted for failing to foresee a psychiatric injury. Similarly, restricting the modified procedures in clause 2 of the Bill to the more serious offences that are likely to be tried with the extended section 5 offence is appropriate, given the extraordinary nature of the provisions. A maximum penalty of 10 years' imprisonment for causing or allowing serious physical harm is proportionate when we consider the maximum penalties for causing or allowing death and for other offences of grievous bodily harm.

Concerns have been expressed about potentially criminalising those who are themselves vulnerable, such as victims of domestic violence; indeed, those concerns were raised during the passage of the 2004 Act, too. However, it is important to bear in mind the high threshold that must be met for an offence under section 5 to be made out. To prove the existing offence, it is necessary to show that the defendant either caused the death of the victim or allowed it by failing to take reasonable steps to protect the victim from a foreseeable risk of serious physical harm. What constitutes "reasonable steps" will vary, depending on the circumstances of the person and his or her relationship to the victim. The court will take all the circumstances into account.

If one of the defendants has been the victim of, or a witness to, domestic violence, the steps that the defendant could reasonably have been expected to take may be more limited than the steps that someone not suffering or witnessing that violence could reasonably have been expected to take. Depending on the facts of the case, the court may find that it was not reasonable for the defendant to take some of the steps that might otherwise have been available to them. The same principles will apply to the extended offence. In other words, the offence will be sensitive to the circumstances in each case.



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

As is the case with the existing offence, the extended offence will not apply when the serious harm resulted from an accident. Nor will it apply when there was one specific known risk within a household, such as a violent or abusive person, but the child or vulnerable person suffered harm from a different cause. The offence does not criminalise members of the household for allowing the serious harm if it was the result of an event that they could not have anticipated or avoided. The extended offence and procedures are intended, like the existing ones, to be a fair and proportionate package of measures.

As hon. Members know, the Government are committed to preventing the creation of unnecessary criminal offences. However, we consider the extension of the criminal law in the relatively limited way proposed in the Bill to be justified and appropriate. In reaching that conclusion, we have had regard to the possibility that those responsible for very serious injury may escape conviction; the vulnerability of both child and adult victims; and the special responsibility that members of the same household bear for the vulnerable with whom they live.

We have considered the evidence that is available on the harm that we are attempting to address by supporting this Bill. In 2010, chief Crown prosecutors in six Crown Prosecution Service areas identified 20 potential cases involving children, and three involving vulnerable adults, that could not be prosecuted under existing legislation, and that they believe could have been prosecuted under an extended section 5 offence, subject to the case meeting the two-stage test in the code for Crown prosecutors.

The Government have examined the Bill's financial consequences for the Ministry of Justice, using two sets of data. The first set, to which I have referred, was provided by the Crown Prosecution Service and was about the potential number of cases. Our estimate, based on the CPS evidence, is that the annual cost to the Ministry of Justice of extending the section 5 offence will be in the order of £20 million a year. That is not an insignificant sum, but the measure will provide increased protection for some of the most vulnerable members of society. That is why the Government have decided to support my hon. Friend's Bill.

My hon. Friend produced for us another set of data, supplied by a former member of the London Metropolitan police. Those data covered only children, rather than children and vulnerable adults, caught by the Bill. They suggested that the cost impact of the extended offence would, in a steady state of affairs, be £10 million a year. Having examined both sets of data, our view is that the cost is likely to be further towards £20 million a year, as we believe that the CPS study is rather wider and more comprehensive. There will inevitably be uncertainties about the case load and the likely sentence length that will arise from the new, extended offence, but I have set out the basis of our assumption.

The CPS data suggest that we are looking at around 150 cases a year, subject to the uncertainty to which I alluded. That forecast is based on the idea that the number of cases in 2010 will be representative of the number of cases going forward. The survey was undertaken by chief Crown prosecutors in Sussex, Northumbria, Merseyside, Norfolk, Hertfordshire and Thames Valley. They



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

were asked to identify the number of cases in 2010 in which they had been unable to prosecute for grievous bodily harm or cruelty to a child, or grievous bodily harm to a vulnerable adult, because there was insufficient evidence on which of the members of a household who were in frequent contact with the victim was responsible for the injury. Those prosecutors identified a total of 20 cases involving children, and three involving vulnerable adults, that could not be prosecuted under any existing legislation, and which they believe could be prosecuted under an extended section 5 offence, subject to the case meeting the two-stage test in the code for Crown prosecutors.

Those areas collectively account for 15% of national Crown Prosecution Service business. If we extrapolate from those data, we get to a national figure of potentially 133 cases involving children, and 20 cases involving vulnerable adults. That is 153 cases in total, each of which, of course, will necessarily involve a minimum of two defendants. That is a broad estimate that makes assumptions about the volume of cases in the CPS areas that did not supply data, so the actual number of cases across the country could be larger or smaller. Of course, statistically, the size of the sample, as any statistician would make clear, brings its own level of unreliability to the data. The data supplied to my hon. Friend indicate that over a three-year period from 2005-06 to 2007-08 there were 179 cases in which children suffered grievous bodily harm. Sixty-nine cases involved more than one suspect in a “Which of you did it?” scenario, and did not result in prosecution. According to the police, further scrutiny of those 69 cases identified at least 39 in which prosecution would have been probable had the section 5 offence been extended to include serious harm. That implies that there were about 13 cases a year over the past three years in London alone that would have been prosecuted under the extended section 5 offence.

We have been unable to verify the data—indeed, the police have acknowledged that they were partly supposition—which did not cover vulnerable adults. The CPS has looked at the papers provided by the police, but they contain insufficient information either to form a view on whether any of the cases could have been successfully prosecuted under an extended section 5 offence or in getting them to the CPS case papers. However, the financial implications are not insignificant if the Government are to accept the measure in the current financial climate. The fact that we are prepared to do so gives a sense of the importance that we attach to the measure and of our enthusiastic support for the Bill introduced by my hon. Friend. Members on both sides of the House have agreed to plug that particular gap.... I wish to conclude by congratulating my hon. Friend the Member for Mole Valley again, even at the risk of upsetting you, Mr Speaker, and by renewing my thanks to my officials in the Ministry of Justice who have assisted me in preparing the Government's response to the debate. I am delighted to commend the Bill to the House, and I hope that its passage through another place will be equally successful.

Question put and agreed to.

Bill accordingly read the Third time and passed.

Sir Paul Beresford
Member of Parliament for Mole Valley



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

Feature Article

Campaigners call for NICE re-think

On 14 October 2011 the National Institute for Health and Clinical Excellence (NICE) issued a statement which is a devastating blow to patients with advanced melanoma.



In the statement it said that the use of the drug Yervoy (Ipilimumab) for patients in England and Wales, has been denied. Yervoy is the first drug licensed since the 1970s for the treatment for advanced melanoma. It works in a new way by stimulating the body's own immune system to fight cancer, known as immunotherapy.

Patients with this aggressive disease are expected to have a median overall survival of 6-9 months, but in trials 46% of patients taking Yervoy were still alive after a year and in some cases, some patients live even longer.

The decision by the NICE Appraisal Committee is extremely disappointing to those campaigning for the drug as it will deny many patients across England and Wales to the long-awaited arrival of a new and effective treatment option. It means that patients will continue to have limited treatment options beyond the current standard of care, a chemotherapy that was first licensed in the 1970s. Skin cancer charities, such as Skin Cancer UK, Factor 50 and Skcin are asking supporters to assist in telling the NICE Committee it needs to review its decision. They hope that, in the near future, Yervoy will be available on the NHS to all those patients across England and Wales who require it.

Sir Paul Beresford MP chairs the All Party Parliamentary Group on Skin which aims to raise awareness of skin conditions, improve treatment for skin cancer, improve efficiency in service commissioning and increase the number of dermatologists within the NHS. Therefore, he met with the Founder of Skcin recently to discuss the campaign and will be tabling some written Parliamentary Questions on the subject. All-Party Groups are informal cross-party groups that are run by and for Members of the Commons and Lords, although many groups involve individuals and organisations from outside Parliament in their administration and activities.



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

National news in brief

Cameron calls for action to bring down bills

The Prime Minister has promised that the Government will work 'harder and faster' to bring down energy bills as he calls the energy companies, the energy regulator Ofgem, and consumer groups to Downing Street for a summit on energy bills.

In a joint article with the Energy Secretary for moneysavingexpert.com, the Prime Minister explained: "We can't control volatile world energy prices. But we can still help people get their bills down. So today we are bringing together the industry, consumer groups and Ofgem for an energy summit that will focus on getting people the help they need to reduce their bills in time for this winter."

The Government is already taking to help consumers:

- Working with Ofgem to reform the energy market, for example by encouraging customers to switch suppliers and by ensuring transparency over the cheapest tariffs.
- Giving the most vulnerable households free or heavily subsidised insulation immediately, delivered by the energy companies.
- Paying a £120 rebate to more than 600,000 of our most vulnerable pensioners.
- Maintaining the winter fuel payment and cold weather payments.
- Introducing the Green Deal, which will offer improved insulation for everyone at no cost from next year.

The Prime Minister ended by emphasising the Government's determination to get bills down: "Our intention is for today's summit to be the start of a much more active engagement with consumers, with us all working harder and faster to deliver an energy market that is trusted, simple and transparent. A market that puts the consumer first and gets these energy bills down as much as possible.

"We are determined that everything that can be done will be done to help people bring their energy bills down."

Mouth Cancer Action Month

On 25 October, Sir Paul helped the British Dental Health Foundation launch Mouth Cancer Action Month which will highlight the disease throughout the month of November.

Sadly, due to lack of awareness by the public and many health professionals, oral cancer is usually only detected in its later stages with 50% of those diagnosed dying within 5 years. With a better detection rate, it is hoped that 90% could survive for at least 5 years. Unlike many other cancers, mouth cancer has seen a 45% rise in the last decade and there has been no improvement in survival rates.

The main culprits of causing mouth cancer are heavy smoking, alcohol abuse, poor diet and Human Papillomavirus (HPV). HPV is particularly prevalent amongst young people and concurrently this group is also seeing a rise in oral cancer rates.

Please visit www.mouthcancer.org for further information. IF IN DOUBT, GET CHECKED OUT.



Mole Valley Conservative Association's Newsletter

Issue 53; October 2011

Local news in brief

Sir Paul discusses A24 speed camera with Dorking Advertiser

The speed camera on the A24 at Mickleham appears to be proving effective at reducing the number of speeding drivers. Figures show that only 459 were issued fines last year in comparison to almost 3000 in 2006.

However, many drivers are still breaking the limit just yards from the camera.

Sir Paul told the Advertiser, "It does worry me that there are people doing it, but we are aware that people come round those bends and slow down and then speed up again. We have always had trouble with speeding on the A24. The limit has been set at 50mph for a reason.

"The fact remains, the numbers of bad accidents on these bends has dropped dramatically over the last few years."