

JUSTICE COMMITTEE

VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) BILL

SUBMISSION FROM THE SCOTTISH GOVERNMENT

As you are aware, I will be giving evidence at the Justice Committee on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill on 8 January 2019. I am aware from previous evidence sessions on the Bill, stakeholders, and indeed members of the Committee, have asked about the Scottish Government's plans with regards implementation of the various provisions in the Bill. I therefore thought it would be helpful if I set out in writing what these plans are ahead of my oral evidence session.

It is crucial that commencement and roll out of provisions in the Bill is undertaken in a managed and effective way to ensure that the intended benefits are delivered to the individuals involved in these most serious cases. The draft implementation plan therefore only has dates for the first three phases at this stage because we must ensure that there is a suitable period of evaluation and monitoring before moving to commence the next stage of implementation. The timetable also only relates to the provisions that are related to the new pre-recording rule as this is the most substantial reform proposed in the Bill.

As was stressed by my officials during their evidence session on 20 November 2018, it is important that the system is responding well to the increase in volumes and that the quality of commissions is high, before we roll out further. The danger in rolling out too quickly is that it overwhelms the system, commissions do not operate as they should, which in turn means that the aims of the Bill to improve the position for the most vulnerable witnesses will not be met.

The experience from England and Wales shows that a phased flexible timetable, with reasonable periods for monitoring and evaluation before moving to the next phase, is vital for the effective and smooth implementation of the reforms.

As indicated in the draft implementation plan, the main focus is to commence provisions for children in High Court cases first. We do, however, intend to extend the new rule to adult deemed vulnerable witnesses in the future.

This draft implementation plan is based on the Bill being passed by Parliament as it stands currently. This is of course now for consideration by both your Committee and the wider Scottish Parliament. Any substantive amendments to the Bill would require the Scottish Government to reconsider the draft implementation plan.

DRAFT IMPLEMENTATION TIMETABLE

Phase	From	High Court	Sheriff Court (Solemn cases only)
1	January 2020	Child witnesses (both complainers and witnesses) aged under 18 in High Court cases that involve all charges specified on the list of offences within the Bill.	
2	<i>January 2021 –June 2021</i>	<i>6 month period of evaluation of operation of provisions in the High Court.</i>	
3	July 2021¹		Child complainers aged under 16 in Sheriff & Jury cases that involve a charge(s) specified in the list of offences in the Bill.
4	<i>July 2022-December 2022</i>		<i>6 month period of evaluation of provisions for above.</i>
5	TBC (Date dependent on evaluation of provisions that have been commenced)		Child complainers and witnesses under 16 in Sheriff and Jury cases that involve a charge(s) specified in the list of offences in the Bill
5	TBC (Date will be dependent on evaluation of provisions that have been commenced)		Child witnesses aged 16 & 17 in Sheriff & Jury cases that involve a charge(s) specified on the list of offences in the Bill

¹ *Subject to satisfactory evaluation and confidence that the system will be able to handle this phase at Phase 2.*

6	TBC (Date will be dependent on ongoing evaluation of provisions that have been commenced)	Deemed vulnerable adult witnesses in High Court sexual offence cases (i.e. complainers in offences listed in paragraphs 36 to 59ZL of Schedule 3 to the Sexual Offences Act 2003)	
7	TBC (Date will be dependent on ongoing evaluation of provisions that have been commenced)	All remaining deemed vulnerable adult witnesses in High Court cases (i.e. complainers in human trafficking, stalking and domestically aggravated offences)	