

## JUSTICE COMMITTEE

### VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) BILL

#### SUBMISSION FROM ASSIST, COMMUNITY SAFETY GLASGOW

**1. Do you agree with introduction of the “new rule” that child witnesses in the most serious cases must give all their evidence in advance of a criminal trial? Do you have any views on how this new rule should be implemented?**

Yes – we believe that it is vital that child witnesses should give their evidence in advance of a criminal trial and agree there should be a staged approach. However, it is important that there is a timetable set for the extension of this provision away from just the ‘most serious’ cases. The real issue is – how do we secure best evidence in the interests of justice? Whenever children are being asked to give evidence, their evidence should be taken in advance and as near to the ‘incident’ as possible.

With the advent of the new Domestic Abuse Bill, we expect more children will be cited to give evidence. Giving evidence against a family member can be very distressing and it is not appropriate that children are left waiting for trial dates and worrying about the impact of giving evidence. A wait for the trial also allows the perpetrator to interfere with witnesses on a very subtle basis, which could affect the quality of the evidence. A timetable for extension is therefore crucial.

We welcome the proposal to extend this to children who are 17 on the date of the incident, but an extension to domestic abuse would protect more young people and ensure they recover from very damaging experiences quickly.

In general, there is a tendency to underestimate the harm resulting from domestic abuse, yet children, young people and adults can all testify to the length of time it takes to recover from the depth of its impact.

**2. The Bill would allow in the future for this new rule to be extended to other vulnerable witnesses, including adult “deemed vulnerable witnesses”. Do you agree with this approach and, if so, to whom would you extend the provisions?**

Yes – an extension to adult victims is essential, again for the sake of best evidence. All victims who are deemed vulnerable witnesses, including victims of domestic abuse, human trafficking and stalking, should have the opportunity, due to the nature of these crimes, to give their evidence in advance of the trial and it is important that there is a timetable attached to such an extension, whichever court the case is being heard in. Again a staged approach would be helpful, perhaps starting with High Court cases, but that must be extended to all cases involving vulnerable witnesses as soon as possible.

There is a real danger that the provisions contained in this bill will be introduced for the 'most serious' crimes and then not developed further. That has been our experience in the past, for example with the introduction of MAPPA where all cases involving the most violent members of our society were supposed to be considered, yet it is rare for domestic abuse cases to be considered, despite the real dangers posed by a number of violent serial offenders. It is crucial therefore, that the provisions contained in this bill are implemented for all vulnerable witnesses.

**3. Do you have any views on the changes proposed to the procedure for taking evidence by commissioner, such as the introduction of a ground rules hearing?**

Yes – agree with any measures taken to make the process easier. It is currently not easy at all to give evidence by commission and the process could be strengthened meantime. Witnesses are not aware that giving evidence by commission can be done.

**4. Do you agree with the introduction of a simplified notification procedure for standard special measures?**

Yes – victims of domestic abuse sometimes want to 'face their abuser in court', but as the date draws nearer realise that if they are to give their best evidence, they require standard special measures, but it can be extremely difficult to get these in place. Some sheriffs misunderstand why these provisions are being asked for late in the day, so close to the trial and more court rooms should have the facility for special measures. It is not unusual for trials to be adjourned because a court room that can provide screens for example, is not available.

However, remote video links for children while their adult carer is required to give evidence within the court building is not helpful. It just results in the child refusing the remote site to be with their (usually) mother and the refusal to go to a remote site can be misunderstood.

**5. The Scottish Government considers that the proposals in the Bill will have significant implications for the criminal justice system. Do you have any views on the practical, financial or other impacts of the Bill, including the proposed phased roll-out of the provisions in this Bill?**

As above, agree with a staged approach, but there is an urgency to ensure that we have a justice system for the 21<sup>st</sup> century. This is not a cheap option, but the cost is absolutely worth it to ensure that vulnerable witnesses get the support they deserve. By allowing the giving of evidence in this way should also mean that recovery work including for example counselling could begin earlier, which could have a beneficial impact on other costs further down the line, such as the provision of medication.