

JUSTICE COMMITTEE**VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) BILL****SUBMISSION FROM CENTRE FOR YOUTH AND CRIMINAL JUSTICE (CYCJ)**

CYCJ wholly agree with the objective of the Bill, this being to improve how children, in the first instance, and vulnerable witnesses participate in our criminal justice system by enabling the much greater use of pre-recording their evidence in advance of a criminal trial. We agree with the introduction of the “new rule” that child witnesses in the most serious cases must give all their evidence in advance of a criminal trial through pre-recording (with limited exceptions) and that in the future this new rule should be extended to other vulnerable witnesses, including adult “deemed vulnerable witnesses”. As detailed more fully in our previous consultation response, we support these proposals for various reasons including reducing the adverse impacts of court attendance, to support the achievement of justice and in improving the quality of evidence and efficiency of the system. Moreover, we deem this new rule to be necessary as although a range of existing provisions and special measures are available, we are aware that the usage of such measures are limited, their practical implementation can vary and we believe that more can and should be done to support child and other vulnerable witnesses, whilst protecting the interests of people accused of crimes.

We assume that the definition of adult “deemed vulnerable witnesses” would not be limited to those deemed vulnerable due to the nature of the offence but also as a result of circumstances and need, for example mental disorder, physical impairment, speech, language and communication needs and fear or distress in connection with giving evidence. We understand the rationale behind the adoption of a phased approach to the implementation of this new rule but believe that different ages, court forums, and the roll out to vulnerable adults may all raise different issues and challenges and it may be a phased approach based on specific offence type could be more beneficial. In time, we would like to see the use of pre-recording evidence used much more regularly in the Scottish criminal justice system, including beyond the most serious cases being dealt with under solemn proceedings.

As detailed in our previous consultation response, we would advocate that child accused should also be able to benefit from the provisions of the Bill, given their status and rights as a child, the evidenced vulnerability and needs of accused children, the need for adapted processes to ensure justice is done and the recognised difficulties in understanding and engaging with the court process and the impact giving evidence in court is likely to have upon them. However, we recognise there are a range of complexities that require further exploration and welcome that further consideration will be given to this matter. We have already agreed to support this by facilitating a roundtable discussion with key stakeholders in September 2018

on the place of child accused in respect of pre-recorded evidence but also in exploring what supports could be afforded to such children more widely.

We are agreeable with and have no significant comment on the other changes proposed in the Bill. We would highlight that financial and practical support must be made available alongside any such legislative change to support implementation e.g. in securing high quality audio-recording, recording facilities and training. We recognise the Bill is only one step in measures to improve the experience of victims and witnesses in the justice system, as detailed in the policy memorandum, and towards the vision that child and vulnerable witnesses should not have to give evidence during a criminal trial. It remains important that where the wider justice system serves as a barrier to such improvement and proposed changes that these issues are addressed, for example delays in the court process, facilities, and ensuring witnesses continue to be informed about their case and how this is progressing.