

JUSTICE COMMITTEE

VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) BILL

SUBMISSION FROM RAPE CRISIS SCOTLAND

Rape Crisis Scotland welcomes the opportunity to provide evidence on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill.

1. Rape Crisis Scotland strongly supports the introduction of a presumption that the evidence of children and young people should be pre recorded in advance of a trial. We consider that this will improve the evidence of children and young people, by allowing evidence to be taken closer to the incident/s and in a less intimidating and formal setting. It will also improve their evidence of the Scottish criminal justice process and reduce the potential for additional trauma to be created by the justice process.
2. We consider, however, that the Bill represents a missed opportunity to introduce concrete provisions for adult vulnerable witnesses, specifically sexual offence complainers. We appreciate the need for a staggered approach to be taken to significant change within the criminal justice system, to ensure effective implementation which is manageable. We do not consider that the approach taken in the Bill, of enabling the Scottish Government to extend the provisions to deemed vulnerable witnesses by secondary legislation, is sufficient.
3. The current approach to taking evidence from rape complainers causes significant additional distress and trauma. There are frequently significant delays in cases coming to trial, with cases often taking two years or longer from the police report to trial. Complainers build themselves up to give what can be very difficult evidence only to get a call the night before to say the trial isn't going ahead. This can happen many times. This causes considerable distress, and does not assist in complainers being able to give their best evidence. The more certainty we can provide to complainers about what is happening, the more likely it is that they will feel prepared for the evidence they are going to give.
4. The ordeal experienced by rape complainers in giving evidence in court, particularly during cross examination, is well documented. In a recent Inspectorate of Prosecution's review of the investigation and prosecution of sexual offences, complainers described their experience in court as "absolutely horrendous", "the most degrading and terrifying thing", and "worse than being raped". One woman interviewed said that despite the case resulting in a guilty verdict, she would never go through it again. Overwhelmingly, complainers feel that the cost of trying to obtain justice following rape is too high.
5. Currently, cross examination can focus heavily on any perceived inconsistencies between someone's statement to the police and the evidence they give in court.

Given the length of time which passes between the incident/s and the evidence giving, some inconsistencies are to be expected, however this can be used to significantly undermine a complainer's testimony. Moving to a process which obtains evidence as close as possible to the incident would assist the justice process in focusing more on establishing the truth, rather than how good someone's memory is in very stressful circumstances.

6. Complainers tell us that they find giving such personal and intimate evidence in the very formal and intimidating setting of a court room extremely difficult. We supported one woman recently who was still breastfeeding her baby at the time of giving evidence. She found the experience so traumatic that her milk stopped immediately after. We do not consider that a system which causes such trauma to vulnerable witnesses is acceptable. In addition, fear of the justice process acts as a direct deterrent to people who have experienced sexual crime in reporting what has happened to them to the police.

7. Due to all the concerns outlined above, we consider that the Bill should be amended to extend its provisions to include adult deemed vulnerable witnesses. The amended Bill could specify a delay in the implementation of the provisions relating to adult vulnerable witnesses.