

JUSTICE COMMITTEE

VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) BILL

SUBMISSION FROM SCOTTISH INDEPENDENT ADVOCACY ALLIANCE

The Scottish Independent Advocacy Alliance (SIAA) welcomes the opportunity to respond to this consultation on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill. SIAA is a membership organisation that has the overall aim of ensuring that Independent Advocacy is available to any vulnerable person in Scotland. Independent Advocacy safeguards people who are vulnerable and discriminated against or whom services find difficult to serve, empowering people who need a stronger voice by enabling them to express their own needs and make their own decisions.

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 support the presumption that child and vulnerable witnesses have all their evidence taken in advance of the criminal trial.

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, we support the presumption that child and vulnerable witnesses have all their evidence taken in advance of the criminal trial.

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?

We support the use of ground rules hearings in all cases involving child or vulnerable witnesses, including where a child’s evidence is to be pre-recorded. We believe that these ground rule hearings will be a good step towards protecting children from inappropriate, misleading and confusing questions. We would agree with Victim Support Scotland’s (VSS) view that ground rule hearings should be held as soon as possible in the process.

We also agree with VSS’s view that the commissioner should be the ultimate decision maker on the appropriateness of questions to be asked during a pre-recorded examination and that the questioning should consider the well-being of the witness and wider vulnerabilities such as learning disabilities, mental health issues, language barriers for people who don’t have English as their first language.

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

Yes we agree.

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?

We don't. We believe the proposals in the Bill will have a positive impact on child and vulnerable adult witnesses.

Additionally, we believe that children and vulnerable adults should have immediate access to an independent advocate who can ensure that they understand the process, know what their rights are and the options available to them. Independent advocacy organisations need to be appropriately funded in order to provide this service.