



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

31st Meeting, 2018 (Session 5)

Tuesday 27 November 2018

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Daljeet Dagon, National Programme Manager for Child Sexual Exploitation, Barnardo's Scotland;

Mary Glasgow, Chief Executive, Children 1st;

Malcolm Schaffer, Head of Practice and Policy, Scottish Children's Reporter Administration;

and then from—

Ronnie Barnes, Trustee, Action on Elder Abuse Scotland;

Mhairi McGowan, Group Manager, ASSIST, Community Safety Glasgow;

Colin McKay, Chief Executive, Mental Welfare Commission for Scotland;

Kevin Kane, Parliamentary, Policy and Research Officer, Victim Support Scotland.

Stephen Imrie
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The papers for this meeting are as follows—

Agenda item 1

Paper by the clerk - Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill J/S5/18/31/1

Private paper - Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill J/S5/18/31/2 (P)

Justice Committee
31st Meeting, 2018 (Session 5), Tuesday 27 November 2018
Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill
Paper by the clerk

Introduction

1. The Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill is a Scottish Government Bill and was introduced in the Scottish Parliament on 12 June 2018. The Bill and accompanying documents can be found [here](#). A SPICe briefing on the Bill can be found [here](#).
2. The Bill sets out reforms relating to the use of special measures¹ in criminal cases. In particular, it seeks to improve the way in which the evidence of child and other vulnerable witnesses is dealt with by encouraging greater use of pre-recording evidence in advance of a criminal trial.
3. It is currently possible for a vulnerable witness to give evidence in advance of any criminal trial using the following special measures:
 - prior statement – allowing evidence to be given in the form of a written statement or recorded interview
 - evidence by commissioner – using a recording of evidence taken before a sheriff or High Court judge (questioning of the witness is still carried out by prosecution and defence lawyers).
4. The Bill introduces a “new rule”, applying to child witnesses in the most serious cases,² which would generally require all of the child’s evidence to be given using a prior statement and/or evidence by commissioner. This rule would not, however, apply to child accused.
5. The Scottish Government would have the power to extend the application of the rule in the future, for example, to other offences or to adult deemed vulnerable witnesses (i.e. witnesses who are the complainers in cases involving a sexual offence, human trafficking, domestic abuse or stalking).
6. The Bill makes various other changes to the current process for the pre-recording of evidence. For example, the Bill introduces a new procedural hearing, to be known as a “ground rules hearing”, which will be used to prepare for the taking of evidence by a commissioner (e.g. by deciding on the form of questions to be asked).

¹ Special measures are intended to assist vulnerable witnesses in giving evidence in criminal cases.

² Such as murder, human trafficking, rape and other certain sexual offences.

7. The Bill also seeks to streamline the process for arranging the use of standard special measures.³

Justice Committee consideration

8. The Bill was referred to the Justice Committee for Stage 1 scrutiny and the Committee issued a [call for evidence](#) on 4 July 2018. 30 responses were received and can be accessed [here](#).
9. At its meeting on 20 November the Committee took evidence from the Scottish Government Bill Team – the officials responsible for assisting the Cabinet Secretary for justice in formulating the policy and drafting of the Bill.
10. At its meeting on 27 November the Committee will take evidence from two panels of witnesses. The first panel will comprise representatives from Barnardo's Scotland, Children 1st and the Scottish Children's Reporter Administration. The second panel will comprise representatives from Action on Elder Abuse, ASSIST, the Mental Welfare Commission for Scotland and Victim Support Scotland.
11. At future meetings in December and January the Committee plans to take evidence from the legal profession, police and social work, the judiciary and courts service, as well as the Cabinet Secretary for Justice.

³ Children and adult deemed vulnerable witnesses (i.e. witnesses who are complainers in cases involving a sexual offence, human trafficking, domestic abuse or stalking) are automatically entitled to standard special measures: a screen to stop the witness from seeing the accused; giving evidence using a live television video link; and a supporter who can sit with the witness when giving evidence.