

Criminal Justice Committee

30th Meeting, 2023 (Session 6), Wednesday 15
November 2023

Victims, Witnesses, and Justice Reform (Scotland) Bill

Note by the clerk

Background

1. The Committee is taking evidence on the [Victims, Witnesses, and Justice Reform \(Scotland\) Bill](#) at [Stage 1 of the Parliament's legislative process](#).
2. The Bill proposes changes to the law to try to improve the experience of victims and witnesses in the justice system. The Bill also proposes changes to the criminal justice system to try to improve the fairness, clarity and transparency of the framework within which decisions in criminal cases are made.
3. The Committee is adopting [a phased approach](#) to its consideration of the Bill, to divide the Bill into more manageable segments for the purposes of Stage 1

Topics to be covered

4. At today's meeting, the Committee will be taking evidence as part of the first phase of its scrutiny. This will cover the following provisions in the Bill (namely Parts 1 to 3)—

Part 1

**Establishment of a
Victims and Witnesses
Commissioner for Scotland**

Establishes an independent Commissioner for Scotland who is independent from the Scottish Government, and accountable to the Scottish Parliament.

Commissioner's functions and powers:

- Promote and support the rights and interests of victims and witnesses
- Must take steps to raise awareness and promote the interests of victims and witnesses
- Must monitoring compliance with the Standards of Service and the Victims' Code for Scotland
- Must promote best practice and a trauma-informed approach by criminal justice agencies and those who provide support services to victims
- Investigate whether criminal justice agencies have had regard to the interests of victims and witnesses in carrying out their functions, but not intervene in individual cases

Part 2

Trauma-informed practice

Creates a new legal requirement for criminal justice agencies to have regard to trauma-informed practice. The Victims and Witnesses (Scotland) Act 2014 already sets out range of general principles to which criminal justice agencies must have regard to. Part 2 adds trauma-informed approach to that list in the 2014 Act.

Creates a requirement for justice agencies to have regard to trauma-informed practice, and for Standards of Service they produce to cover trauma-informed practice

Empowers the courts to set rules and procedures on trauma-informed practice in relation to both criminal and civil business.

A requirement for the judiciary to take trauma-informed practice into account when scheduling both criminal and civil court business.

Part 3

Special measures in civil cases

Special measures are practical steps a court can take to help vulnerable litigants and witnesses to be in a courtroom setting with as little fear and distress as possible.

Currently under the law, no adult in a civil case is automatically treated as vulnerable or entitled to special measures. Special measures are also only available where evidence is being taken and witnesses are being cross-examined on it.

Part 3 of the Bill broadly split into the following areas:

It would extend a new approach to special measures found in the Children (Scotland) Act 2020 for certain family cases to civil cases more generally.

It would treat certain categories of witness as automatically vulnerable and would also allow special measures to help litigants in hearings where evidence is not being taken.

It would allow a court to prohibit a litigant from personally conducting their own case and cross-examining witnesses in civil cases.

5. Future meetings from late November onwards will cover later Parts of the Bill. Further details of the Committee's phased approach [can be found online](#).
6. The Committee anticipates that it will begin Phase 2 of its scrutiny, covering Part 4 of the Bill, at its meeting on 29 November.

Today's meeting

7. At today's meeting, the Committee will take evidence from the Cabinet Secretary for Justice and Home Affairs and accompanying officials.

Further reading

8. A SPICe briefing on the Bill [can be found online](#).
9. The responses to the Committee's call for views on the Bill [can be found online](#).

10. A SPICe analysis of the call for views, covering Parts 1 to 3, [can be found online](#).

Previous evidence sessions

11. At previous meetings the Committee has taken evidence from—

27 September

- Cabinet Secretary for Justice and Home Affairs (to set the scene on the Bill).

4 October

- Ann Marie Coccozza, Co-Founder, FAMS (Families and Friends Affected by Murder and Suicide)
- Dr Marsha Scott, Chief Executive Officer, Scottish Women's Aid
- Sandy Brindley, Chief Executive, Rape Crisis Scotland
- Kate Wallace, Chief Executive, Victim Support Scotland
- Dr Louise Hill, Head of Policy, Evidence and Impact, Children 1st
- Bill Scott, Senior Policy Advisor, Inclusion Scotland
- Graham O'Neill, Policy Manager, Scottish Refugee Council

25 October

- James Foulis, Balfour Mason, member of the Family Law Association
- Stuart Munro, Convener of the Criminal Law Committee, Law Society of Scotland
- Jonathan Campbell, President, Edinburgh Bar Association

1 November

- Caroline Bruce, Head of Programme, Transforming Psychological Trauma, NHS Education for Scotland
- Professor Thanos Karatzias, Professor of Mental Health at Edinburgh Napier University and Clinical & Health Psychologist, Rivers Centre for Traumatic Stress
- Laura Buchan, Procurator Fiscal Policy and Engagement, Crown Office and Procurator Fiscal Service
- Sue Brookes, Interim Director of Strategy & Stakeholder Engagement, Scottish Prison Service
- Chief Superintendent Derek Frew, Police Scotland
- John Watt, Chairperson, Parole Board for Scotland
- David Fraser, Executive Director Court Operations, Scottish Courts and Tribunals Service

12. The Official Reports of these meetings [can be found online](#).

**Clerks to the Committee
November 2023**