

Criminal Justice Committee
Wednesday 22 January 2025
3rd Meeting, 2025 (Session 6)

Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill

Note by the Clerk

Introduction

1. The [Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews \(Scotland\) Bill](#) was introduced in September 2024.
2. Part 1 makes changes in relation to criminal cases. The Bill makes the following permanent for criminal cases:
 - using electronic signatures on court documents
 - sending court documents electronically
 - attending criminal court hearings virtually
 - increasing fixed penalty limits that may be offered by a procurator fiscal ('fiscal fines') as an alternative to prosecution through the courts
 - a national jurisdiction for first callings from custody, allowing the initial stage of some criminal cases to be taken in any sheriff court in Scotland
3. Part 1 of the Bill also makes some new changes to procedures in criminal courts. These are:
 - treating pictures of physical evidence in the same way as the original physical evidence in criminal cases
 - establishing a process for electronic copies of documents to be trusted
4. Part 2 of the Bill creates a process for reviewing deaths which relate to abusive behaviour within relationships. These reviews would look at what lessons can be learnt in relation to a death to try to stop similar things happening again. The Bill also creates an oversight committee and case review panels to undertake and manage the reviews.

Today's evidence on the Bill

5. At today's meeting, the Committee will begin taking evidence on the Bill. The Committee will take evidence from the following witnesses.

Panel 1

- **Simon Brown**, President, Scottish Solicitors Bar Association
- **Stuart Munro**, Convener of the Criminal Law Committee, Law Society of Scotland

- **Paul Smith**, President, Edinburgh Bar Association

Panel 2

- **Kate Wallace**, Chief Executive, Victim Support Scotland
- **Adam Stachura**, Associate Director of Policy, Communications and External Affairs, Age Scotland

6. The following submissions have been provided to the Committee, which are reproduced at the Annex—

- Scottish Solicitors Bar Association
- Law Society of Scotland
- Edinburgh Bar Association
- Victim Support Scotland
- Age Scotland – **response to follow**

Further reading

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

Clerks to the Committee
January 2025

Annex: submissions received

Scottish Solicitors Bar Association

The SSBA provides the undernoted response to the Criminal Justice Committee of the Scottish Parliament in relation to discussion of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill. Our comments are primarily restricted to part 1 of the Bill and to its practical real-world applications in the criminal courts. It is unlikely we will comment in any great length on part 2 of the Bill.

Part 1 Criminal Justice Modernisation.

Section 1 Electronic Signatures and Alternative Methods of Sending Documents.

The SSBA can find nothing in particular to fault with this. It seems a practical use of modern technology and should be implemented. There are obviously questions regarding security and confirmation of identity of senders. We would imagine this would likely be covered by more use of the CJSM email system.

Section 2 Virtual Attendance at Court.

We note that the default position here is that parties should attend court unless directed otherwise. We would submit that this is the appropriate view to take. We can accept that procedural hearings, and the example given of warrants being granted is a good one, could be dealt with in the absence of a physical attendance but in general terms the courts will always run more efficiently if parties are required to physically attend.

We note comments in relation to wasted attendances by police officers. We would submit that this is perhaps largely in terms of giving evidence at trials which plead on the day of trial and the summary case management scheme being rolled out over Scotland should impact on this.

Procedural hearings such as intermediate diets should be able to dealt with in the absence of the accused provided solicitors are suitably instructed. Likewise given that preliminary hearings in the High Court are now routinely dealt with by Webex in the absence of the accused there seems little need to continue to insist on the physical attendance of accused at 1st Diets in Sheriff and Jury matters if the case is not going to resolve.

Section 3 National Jurisdiction for Custody Cases in Sheriff Courts and JP Courts

The SSBA has very significant concerns in relation to the creation of a national jurisdiction for custody cases. Such a national court can only proceed on the basis of virtual attendances by video link to court, and experience has shown in the various pilot schemes tried throughout Scotland that this has been a singular failure.

There are significant difficulties in time tabling such courts. For a national custody court to work it would have to start at the beginning of the working day at 10 am, causing an already over stretched criminal bar significant difficulties in staffing. Hearings would require to be time tabled throughout the day and it seems very unlikely that this could be done in a way that would not interfere with the normal function of remand, intermediate and trial courts. Court time tables have evolved over the years so that custody courts regularly take place at 12 pm or 2 pm. This is to accommodate solicitors dealing with other business in the morning and to allow the crown to properly frame complaints. A national custody court would not be able to be compliant with this time table and as things currently stand with the criminal bar there would be significant difficulties in properly staffing it. In addition, the Crown marking hub already experiences considerable difficulties in marking fresh cases timeously, and we see nothing proposed that would change this other than yet more investment in prosecution to the detriment of the defence bar.

In the pilot schemes already run testing virtual custody courts there were significant difficulties in properly discussing cases with clients prior to the case being heard in court. As stated above, there is no evidence to suggest that the current delays in the crown putting papers before the court would be any better in a virtual court. There are issues with the facilities in police stations for secure video links to take place and the number of available suites for such consultations. The scheme would require defence solicitors to invest in suitable electronic hardware to conduct said hearings. There are questions over whether current SCTS wi-fi would be sufficient to allow such proceedings to easily and ordinarily take place. For example, at present it blocks both Facebook messenger communications and WhatsApp voice calls, both of which are frequently used methods of communication with clients and their families. In short given our previous experience with pilot schemes for virtual courts we can see no way that this scheme could work in practice.

Over and above this there seems to be a loss of what the justice system is about. It is appropriate that accused persons appear in court so that they can be properly advised by solicitors who are in full possession of the facts of the case and make an informed decision. It is also appropriate that when a person's liberty is at stake that they are physically present in the room when such decisions are being taken. Unfortunately, this seems to be a continuation of a trend in Scottish justice towards cheaper and faster rather than better.

Section 4 Increase in Limits for Fiscal Fines.

In general, we have no issue with this, given it seems to merely mirror inflationary rises in costs elsewhere. Recognition will however have to be given to the fact that there is an increased period in custody now available for the non-payment of such fixed penalties, and given that the default position is that non reply equals acceptance then there will inevitably be incidents where people face a custodial sentence of up to 28 days for a fine that they never knew they had.

In relation to Section 2 of the proposals, the domestic homicide or suicide review provisions, the SSBA does not have any particular view on this part of the Act.

The Law Society of Scotland

Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Criminal Law Committee welcomes the opportunity to consider and respond to the call for views held by the Scottish Parliament's Criminal Justice Committee on the Criminal Justice Modernisation and Abusive Behaviour Reviews (Scotland) Bill ("the Bill").¹ We have the following comments to put forward for consideration.

Call for views questions

Part 1 of the Bill

Question 1: Electronic signing and sending of documents

Section 1 of the Bill proposes to make permanent the temporary changes in the Coronavirus (Recovery and Reform) (Scotland) Act 2022 allowing for the electronic signing and sending of documents in criminal cases.

What are your views on this proposal?

Section 1 makes permanent provisions contained in the Chapter 1, Part 1 of the Schedule of the Coronavirus (Recovery and Reform) (Scotland) Act 2022. Section 1 provisions provide that electronic signatures and electronic transmission of certain documents fulfil any requirement. The provisions will apply to documents produced by a criminal court, or related to criminal proceedings.

Provisions of Section 1 also provide to the Lord Justice General the power to exclude certain types of documents in all or some the criminal proceedings. We welcome that provisions related to electronic signing and transmission of documents will become permanent. As indicated in our previous [consultation response](#), the implementation of the temporary provisions under the 2022 Act produced noteworthy improvements in the criminal justice system, facilitating access to justice.

¹ [Criminal Justice Modernisation and Abusive Behaviour Reviews \(Scotland\) Bill – Sharing your views – Scottish Parliament – Citizen Space](#).

We note that, at the consultation stage, relevant organisations reported that the electronic signing and transmission of documents improves the efficiency and effectiveness of the criminal justice system. The proposed measures are also expected to impact positively on carbon reduction, prepare the system for any future disruption, and to support home and hybrid working.²

Question 2: Virtual attendance at a criminal court

Section 2 of the Bill proposes to make permanent the temporary changes in the Coronavirus (Recovery and Reform) (Scotland) Act 2022 enabling any participant in criminal proceedings to take part in some proceedings by way of live visual (television) or audio (telephone) link, from any location.

Under the proposals, it would remain the default position that people attend court in person, but the court can overrule this default and direct someone to attend court by virtual means – subject to what is in the interests of justice, and taking account of any representations received. The exception is for a public official (in practice, police officers or prosecutors seeking warrants or court orders, where the proceedings have not been intimated to anyone else) where the default is virtual attendance.

What are your views on this proposal?

We welcome the provisions contained in Section 2. At [consultation stage](#), we indicated that, in some circumstances, allowing the virtual attendance of certain types of witnesses could impact positively on the efficiency of the system. That is the case for professional and police witnesses in summary trials.

We endorse the provisions outlined in Section 2, which offer flexibility to the system by granting the courts the discretion to waive the requirement for physical attendance when a person is required to give evidence. The court will be able to determine on a case-by-case basis whether in-person or virtual evidence is most appropriate to ensure a fair trial. We anticipate that this flexibility will impact positively in the vulnerable witnesses' experiences in court, reducing traumatisation.

Section 303K of the Criminal Procedure (Scotland) Act 1995 -inserted by Section 2 of the Bill- indicates that the court must issue directions for appearing by electronic means. We consider it essential that those directions contain measures that ensure that witnesses are not susceptible to any undue influence and the effective participation of the accused is guaranteed. For achieving this, an appropriate connection network and suitable electronic devices are critical.

We noted that the Policy Memorandum indicates that provisions contained in Section 2 will support the development of virtual custody courts.³ We welcome that the model that is being developed by justice partners will guarantee private discussions

² [Criminal Justice Modernisation and Abusive Behaviour Reviews \(Scotland\) Bill – Policy Memorandum.](#)

³ [Criminal Justice Modernisation and Abusive Behaviour Reviews \(Scotland\) Bill – Policy Memorandum.](#) Paragraph 43.

between the accused person and their solicitor and assure video and audio quality standards.

Question 3: Digital productions

Section 4 of the Bill aims to change the law in order to allow an image (such as a scan, photograph or video) of a physical item (such as a knife) to be received in evidence in lieu of the item, without objection on the basis that the original item has not been produced to the court. The image should be treated as the equivalent of the actual production itself.

What are your views on this proposal?

We welcome the provisions contained in Section 4 with some reservations. We agree, as indicated in the Policy Memorandum, that currently, more evidence than ever is captured in digital formats.⁴

We appreciate that new Section 279B of the Criminal Procedure (Scotland) Act 1995, inserted by Section 4 of the Bill, allows the court to direct that a digital production should not be used in place of physical evidence in specific cases. This provision provides flexibility, addressing some of our concerns expressed at [consultation stage](#). However, we are of the view that the defence should have the right to preserve and request the physical evidence when it considers that appropriate.

In terms of the quality of the digital production, we agree with the Policy Memorandum when it states: “The accuracy and the quality of the digital image is of the utmost importance and may be something the court considers if asked to make a direction that the image is not to take the place of the physical evidence. For instance, if the significance of a physical production was its colour, then this would have to be accurately presented in any image”.⁵

Finally, we would welcome guidance on the potential privacy implications involved in digitalising forensic evidence, for instance, when blood samples are kept in open banks.

⁴ [Criminal Justice Modernisation and Abusive Behaviour Reviews \(Scotland\) Bill – Policy Memorandum](#). Paragraph 62.

⁵ Ibidem. Paragraph 71.

Question 4: Modernisation of law on copy documents

Section 5 of the Bill aims to update existing requirements which govern how copy documents should be authenticated. It recognises that these rules must accommodate the wide definition of ‘document’ (which can include media or devices on which sound or other data are recorded).

What are your views on this proposal?

We welcome the provisions of Section 5. We support the flexibility provided by new paragraph 1(1A) of Schedule 8 of the Criminal Procedure (Scotland) Act 1995 that allows to the court to direct that a digital copy should not be treated as the original document itself. This provision addresses our concern expressed at [consultation stage](#) when we indicated that for some cases, the access to the original document is critical.

Question 5: Fiscal fines

Section 6 of the Bill seeks to make permanent the nine point scale of fiscal fines ranging from £50 to £500 currently in place through the operation of the Coronavirus (Recovery and Reform) (Scotland) Act 2022.

What are your views on this proposal?

We welcome provisions contained in Section 6 of the Bill. As indicated in the Policy Memorandum, “The previous seven point scale and pre-pandemic maximum level of £300 had not been revisited since they were introduced in 2008. According to the GDP deflator measure of inflation, £300 in 2008 would be the equivalent of £428.90 today”.⁶ We are of the view that the measures, introduced on a temporary basis in the Coronavirus (Recovery and Reform) (Scotland) Act 2022, appear to be working effectively.

⁶ Ibidem. Paragraph 56.

Question 6: National jurisdiction for callings from custody

Section 7 seeks to make permanent the temporary measures in the Coronavirus (Recovery and Reform) (Scotland) Act 2022 that where a person appears in court for the first time from police custody in criminal proceedings, the calling of the case may be taken in any sheriff court in Scotland, no matter where the alleged offence took place.

They also allow a sheriff court that has taken on the initial calling of a case to continue dealing with it up until a not guilty plea is tendered (or until full committal in more serious cases, known as solemn proceedings).

What are your views on this proposal?

We consider that provisions contained in Section 7 may have a positive impact in disruptive situations such as traffic obstructions, severe weather or large public events. In our response at consultation stage in [May 2024](#), we indicated the measures proposed in this section were working well in custody courts, providing a positive experience for accused persons.

However, we are of the view that local justice should be chosen over other options when possible. Local justice can ensure that sheriffs and justices of the peace have more knowledge about the accused person and their personal circumstances. In addition, local social workers are able to provide valuable information that can be considered in the sentencing process.

Part 2 of the Bill

Question 7: Domestic homicide and suicide reviews

What are your views on the proposal in the Bill to create a model for domestic homicide and suicide reviews?

For example:

Do you have any comments on the proposed circumstances set out in the Bill in which a review could be carried out?

Do you have any comments on the proposed arrangements for undertaking domestic homicide and suicide reviews?

Do you have any other comments you wish to make on the proposals?

Question 8: Other views

Do you have any other comments on the Bill which you have not already covered elsewhere?

Question 9

Are there any other proposals which have not been included in the Bill which you think should be? These should be proposals which are on the same general subject matter of the proposals currently in the Bill.

We do not have any views or comments to make in response to questions 7 to 9.

Edinburgh Bar Association

The Edinburgh Bar Association is an organisation that represents the interests of solicitors who regularly practice at Edinburgh Sheriff Court.

PART ONE

CRIMINAL JUSTICE MODERNISATION

1. Electronic signatures and service

To be welcomed. Modernisation of the criminal process. During COVID most court introduced policies allowing for electronic signing and service of documents and solicitors have embraced the new procedure. No one wants to go back to the old system of having to lodge a physical document with the court.

2. Virtual Attendance at Court

At present at Edinburgh Sheriff Court very few cases are conducted virtually. Whilst provisions allow for an accused or witnesses to appear virtually at certain hearings, this is rare. If a witness is abroad or otherwise unable to attend court, the provisions are used.

They are generally not used with the accused. This is a policy decision by SCTS in Edinburgh. Prior to that it was common for First Diets and Full Committals were done by video link.

Whilst there have been experiments about doing custody appearances (where a person has been arrested by the police and held in custody to appear before the court) it has never been routine.

The EBA is opposed to custody appearances being done by virtual attendance. Often, the person held may have no, or limited, experience of the Criminal Justice System. They may have no previous convictions and have not instructed a solicitor before. If they were not interviewed by the police, they may not have met or even spoken to a solicitor.

Their first engagement of a solicitor is when they are in the cells. The solicitor may not have met the accused before. The accused may be vulnerable, by age or other reason. If the consultation is remote, the solicitor is less able to communicate with the accused or make an assessment as to their ability to understand the charges.

A solicitor has an obligation to satisfy themselves that the accused understands the charge and is able to tender a plea. The solicitor is less able to do this where the meeting with the client is virtual.

In a virtual hearing, the accused would presumably be released from the police station. Whilst they would have been told the name of the solicitor representing them but there would be no opportunity for them to be given a business card. They are therefore trusted to remember the name of the person who has just represented them. Experience advises that clients have limited ability to take in information in a custody situation.

A solicitor will have taken contact details from the client at the meeting. However, it is common for clients not to know their own mobile phone number, or full postal address, or to incorrectly state them to their solicitor. Should that be the case, when the client leaves the police station, they will have no way of contacting the solicitor, and the solicitor will have no way of contacting them.

Should all custody appearances be virtual, this will significantly add to the time the custody court takes, unless there is significant further investment. At Edinburgh Sheriff Court there are 6 interview booths allowing 6 clients to be seen at any given time.

It is not known what facilities there are at St Leonards. Each time virtual custodies have piloted at Edinburgh Sheriff Court there has been one interview booth. There has recently been a major refit of the Cells at St Leonards. It is not known if any additional facilities have been added to deal with Virtual custodies.

The EBA believes that more use could be made of virtual appearances at First Diets, Intermediate Diets and Full Committals, and witnesses giving evidence.

3. Digital Productions

In Principle, this is a modernisation process in allowing more productions to be digital and trials conducted on that basis. It is entirely sensible that documents can be produced in court on a screen rather than a court room being stacked full of hundreds of thousands of pages of printed documents.

Such a modernisation is welcome.

However, it must not come at the cost of original productions. To use the example of a weapon paragraph 69 of the explanatory notes. This allows for a photo of a weapon to be used, rather than the weapon itself.

This may lead to the weapon not being a production, not being available to the defence to inspect or analyse, or not being seized by the police. If the police know that a photograph of an item is acceptable evidence, this may lead to them only taking a photo of the item, and not seizing the item, thereby losing it forever and depriving the defence the opportunity to analyse the original item.

This provision is not without its risks to the administration of justice.

4. Electronic copy documents

A welcome modernisation

5. Increased fixed penalties

No issue

6. National Jurisdiction in custody courts

A Practice note in September 2023 from all 6 Sheriffs Principal allowed changes to the custody procedure. Prior to this, an accused appearing from custody with multiple complaints from multiple courts would require be taken to each court to answer the complaints individually. The practice note allowed the accused to answer all of the complaints at the first court they appeared in.

Such a change was welcome. However, this was restricted to the first calling of the case. Complaints would then have to call in the court of origin.

The Bill allows complaints to remain in the court of first appearance and extends the operation to the JP court which is again welcome.

Regarding the operation of proceedings on petition, some clarity could be provided. Where an accused is Fully Committed for trial, the case goes back to the court of origin. Not all accused are Fully Committed. Where an accused is Committed for Further Examination only, it is not clear if the case remains at the Court of first appearance or reverts to the court of origin.

PART TWO

DOMESTIC HOMICIDE AND SUICIDE REVIEWS

The Bill seeks to bring Scotland in line with other jurisdictions and in particular the rest of the UK in allowing for reviews to learn lessons from certain deaths.

The EBA has no particular comments to make on the proposals within the bill.

Paul Smith
President
Edinburgh Bar Association
15th January 2025

Victim Support Scotland

Victim Support Scotland is the leading charity dedicated to helping people affected by crime across Scotland. We support victims of crime, witnesses and their family members, regardless of who they are and their circumstances. Our service is independent, free, non-judgemental and confidential. We offer bespoke support, personalised to the needs of each individual.

Q1: Electronic signing and sending of documents.

What are your views on this proposal?

Victim Support Scotland are supportive of this proposal.

People impacted by crime, who have been supported by Victim Support Scotland, have fed back that delays in the criminal justice system can negatively impact their wellbeing and mental health. While we understand that there will be natural procedural delays, we are supportive of measures which help to alleviate the strain on the system, make processes more streamlined, and ultimately helps people to access justice more easily and smoothly.

‘The case has been adjourned five times... I will need to mentally prepare myself each time... Asking, will I see him [the perpetrator]?’ (Feedback to Victim Support Scotland from person affected by crime)

1.1 Why we support this

Reduces administrative burdens on all parties involved.

Facilitates timely communication, which is particularly beneficial for victims and witnesses awaiting updates on the progression of their case.

Negates the need for in-person signing and associated travel time and costs.

1.2 Other points to note

Electronic signing and sending of documents should be made available as well as the option for hard copies of documents, thereby offering choice to people affected by crime.

This is essential to ensure maximum accessibility, particularly for people with limited digital literacy, internet access, or access to printing facilities.

Q2: Virtual attendance at a criminal court.

What are your views on this proposal?

Victim Support Scotland are supportive of this proposal.

Providing an option for virtual attendance is important as this has been proven to be less traumatising for witnesses. At Victim Support Scotland we have seen the positive benefits of this. It can minimise stress for victims and create an environment in which victims can give their best evidence.

It is important to note, that vulnerable witnesses can already provide their evidence remotely as part of special measures contained within the Vulnerable Witnesses (Scotland) Act 2004 and other legislation. We seek assurances that this bill does not seek to diminish existing provision for victims of crime.

The Victims, Witnesses, and Justice Reform (Scotland) Bill sets out the Scottish Government's aims of embedding trauma informed practice in the legal system. Victim Support Scotland would be in favour of the measures as set out in Part 1 Section 2 of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill as it seeks to further enshrine these vital considerations that we know are welcomed by people who are victims of crime. We would welcome these measures being more widely established so that more people can benefit.

Why we support this

We have seen positive outcomes for people affected by crime who are afforded the opportunity to give evidence remotely under the Vulnerable Witnesses (Scotland) Act 2004. We believe this to be a truly vital aspect of a modern and trauma informed criminal justice system.

Points to note

In order to be truly informed victims and witnesses must be given choice around remote attendance as this may be the most suitable method to ensure they give their best evidence. Equally there may be reasons for this not being suitable.

2.1 Supports Victims of crime to feel empowered by the justice system & Supports trauma-informed practices

For victims and witnesses of crime, virtual attendance can minimise the stress and potential intimidation associated with being physically present in court.

It allows for people to give evidence in a variety of locations outwith the court estate including for example in their own home or in specially designed, trauma-informed, and approved virtual evidence facilities which are safe and comfortable can aid in the delivery of reliable and accurate witness statements.

People impacted by crime can be afforded empowerment and agency often lost in the crime itself and in the process of seeking justice.

In some instances, there may be a legitimate threat to the safety of victims when appearing in court at the same time as the accused in their case.

Q3: Digital productions.

What are your views on this proposal?

Victim Support Scotland are supportive of this proposal.

It seeks to reduce harms on victims and witness that can be caused through delays. Additionally, we hope that it may limit the time that victims are required to spend in court, reducing associated stresses.

Why we support this

3.1 Improves victims' experiences

Witnesses will be able to verify evidence online prior to trial which will mean less time spent in court, ultimately improving the experience of the criminal justice system for people affected by crime.

For victims of crime wherein evidence comprises of personal effects or clothing, the option of digital disclosure can reduce the possibility of re-traumatisation triggered by seeing these items in person.

This is pertinent in sexual assault cases when often clothing is submitted as evidence. The trauma and potential discomfort associated with having these garments passed around a court room does not support trauma-informed practice.

3.2 Increases quantity of admissible evidence

Mitigates the possibility that vital evidence is no longer available due to being accidentally destroyed or lost or no longer in existence for whichever reason.

This in turn increases the possibility of a legitimate conviction.

Potentially raises the quality of evidence in cases, increasing the likelihood of legitimate convictions and improving victims' and witnesses' experience of the criminal justice system.

3.3 Supports the continued modernisation of court processes

Receiving an image in lieu of a physical item already takes place via the Digital Evidence Sharing Capability service (DESC) which allows police officers, prosecutors, defence lawyers, court staff and judges to access a secure, unified system to collect, store, process and manage evidence digitally.

There are many benefits to DESC including fewer victims and witnesses having to

attend court, fewer cases coming to court, and cases concluding more quickly and therefore time being saved.

3.4 Points to note

Victim Support Scotland call for assurance that adequate safeguards will be put in place to ensure that images are not tampered with through AI or photoshop or otherwise.

Victim Support Scotland call for assurance that there will be adequate security to protect the sensitive data stored on DESC with proactive steps taken to prevent security breaches.

Q4: Modernisation of law on copy documents.

What are your views on this proposal?

Victim Support Scotland are supportive of this proposal.

4.1 Increases quantity of admissible evidence

Expanding the definition of 'document' allows for the legitimate inclusion of potentially evidence which may otherwise have been lost.

Mitigates the possibility that vital evidence is no longer available due to being accidentally destroyed or lost or no longer in existence for whichever reason.

This in turn increases the possibility of a legitimate conviction.

4.2 Supports modernisation of the criminal justice system

As we have outlined earlier in this consultation, delays can cause stress and negatively affect victims and witnesses. This proposed change can help to streamline processes and minimise delays caused by retrieving physical copies of evidence.

4.3 Points to note

Victim Support Scotland call for assurance that adequate safeguards will be put in place to ensure that documents are not tampered with through AI or photoshop or otherwise.

Victim Support Scotland call for assurance that there will be adequate security to protect the sensitive data stored, and authenticity and integrity of documents with proactive steps taken to prevent security breaches.

Q5: Fiscal fines.

What are your views on this proposal?

Victim Support Scotland are supportive of this proposal.

Victim Support Scotland seek assurance that communication for victims whose cases are settled with a fiscal fine will be a priority.

For example, a fiscal fine for anti-social behaviour does settle the matter but does not provide a criminal conviction. Explanation of what this means to potential victims of crime is important in providing closure for victims and increasing trust in the criminal justice system.

Q6: National jurisdiction for callings from custody.

What are your views on this proposal?

Victim Support Scotland are supportive of this proposal.

Victim Support Scotland support measures which seek to alleviate strains on the criminal justice sector while maintaining the integrity of the justice system. We are supportive of using the national resources available to reduce backlogs in busier courts.

Victim Support Scotland seek assurance that safeguards be put in place to ensure that court proceedings remain accessible to victims and witnesses either by being in a convenient sheriffdom or by virtual attendance. We hope that this can be a consideration when applying Part 1 Section 2 of the bill.

Q7: Domestic homicide and suicide reviews.

What are your views on the proposal in the Bill to create a model for domestic homicide and suicide reviews?

Victim Support Scotland are supportive of this proposal.

We have greatly appreciated the collaborative approach taken in developing Scotland's approach to this issue. We firmly believe that listening to and understanding the needs and experiences of victims is key. Victim Support Scotland have a unique role to play here as we deliver Scotland's national Supporting Families Bereaved by Crime service providing emotional and practical support to families bereaved by murder and culpable homicide across Scotland. This includes providing support to families where murder or culpable homicide has occurred in the context of domestic abuse. This service also supports families bereaved as a result of murder/ suicides in this context. Victim Support Scotland welcomed the opportunity to be involved in planning these new statutory reviews from the outset and ensure that our expertise and perspective from families with experience has informed the approach.

We look forward to continuing to be involved and representing the views of the people we work with.

Why we support this:

7.1 Broadening of the scope: Inclusion of child homicides or suicides

We would particularly like to highlight our support of the expansion of the scope of investigations to include consideration of reviews for connected children, who are not covered under subsection 2, who have died in connection with domestic abuse related homicide or attempted homicide, for example, a child visiting the home who is not a relation of the family.

Victim Support Scotland support the working definition of domestic abuse in Scotland as articulated in the Domestic Abuse (Scotland) Act 2018 and do not wish to advocate for changes to this. However, we do believe it pertinent to include reviews of homicide or suicide of children in all relevant circumstances as within scope of these reviews, as this helps to build a bigger picture of how domestic abuse manifests and the far-reaching consequences of this aspect of gender-based violence in Scotland.

The ability to scrutinise the circumstances of child homicides or suicides in the context of domestic abuse will be vital in developing safeguards for children and young people.

Victim Support Scotland is supportive of a multi-agency approach that will be taken in relation to the investigation of child homicides or suicides, building on the work already in place with child deaths in the context of child protection. We believe that this will ensure all relevant agencies can take comprehensive learnings.

7.2 Broadening of the scope of proposed circumstances

We support the broadening of scope to include cases of suspected domestic abuse and the inclusion of suicide cases where domestic abuse is suspected as part of the context.

This supports the more holistic view of the impact of domestic abuse including the profound psychological and emotional toll it takes on victims and their families.

We support the inclusion of male victims and same sex relationships, as domestic homicide can occur in any dynamic.

Victim Support Scotland firmly believe that all cases of domestic abuse should be treated with equal gravity regardless of the gender or sexual orientation of the victim or perpetrator.

7.3 Reflection and learning

DHSRs are already used in England and Wales and provide valuable insight into domestic homicide trends.

Victim Support Scotland have long been a supporter of domestic homicide reviews, as evidenced by our consultation response in 2023 and our representation on the DHSR Taskforce that has been developing the model.

From a Victim Support Scotland perspective we know there is significant demand and support for DHSRs from victims of domestic abuse, the families of victims of domestic homicide and victim support organisations.

DHSRs provide a valuable opportunity to learn lessons and prevent further domestic homicides. For example, this will provide relevant decision-makers the full context,

and potential risks associated with, the release of people with a history of domestic violence or domestic aggravation, whether to the home of a new partner or otherwise. This could prove to be a key consideration when conducting risk assessments in relation to parole or bail conditions.

The analysis and findings from the review process will also be invaluable to policy makers and influencers, including victim support organisations.

DHSRs allow for easier identification of systemic challenges allowing for the improvement of safeguarding practices and ultimately reducing the prevalence of domestic abuse-related deaths in Scotland.

7.4 Points to note

In the interests of the families affected by these crimes, we believe that it is pertinent to allow them to access the full copy of the report, not just a summary, if they wish.

Victim support organisations, such as Victim Support Scotland, should also be included in the approved organisations which receive the full reports. As an organisation that provides ongoing expert advice to families bereaved by crime, having access to the full picture of a crime allows us to best provide support and advice for families and to advocate for system change and improvement.

7.4.1 Safeguarding

We ask that appropriate measures are taken to protect the privacy and dignity of victims and their families. This includes safeguarding sensitive information and ensuring that reports are anonymised as a default, with the right to waive anonymity should the victim or family wish to do so.

7.4.2 Trauma-informed practice

We recommend that trauma-informed practice be embedded in the review process and all parties undergo trauma-informed training before participating in the review.

The rights and welfare of the victim and their family must be central to the DHSR with pro-active steps being taken to prevent further re-traumatisation.

We call for this to be adapted to the nature of the case.

When asked about flexibility in the system a respondent with lived experience said: “As family members bereaved by crime, we are encountering how important flexibility in systems is, having faced barriers to finding out information.”

7.4.3 Additional Comments

By centring the needs of victims and families, ensuring robust oversight, and committing to adequate resourcing, the proposed framework has the potential to transform Scotland’s response to domestic abuse and ensure lessons are learned from homicides and suicides that occur in this context. It is the hope that lives can be saved through the application of this learning. Victim Support Scotland look forward to working collaboratively to support the progression of this Bill through parliament and welcomes opportunity to contribute to the development of the approach going forward.

There is significant demand and support for DHSRs from victims of domestic abuse, the families of victims of domestic homicide and victim support organisations. The implementation of this Bill would signify a progressive step towards preventing domestic abuse-related deaths.

Other views

Q8 Do you have any other comments on the Bill which you have not already covered elsewhere?

Please see answer to question 9.

Victim Support Scotland note that the provisions outlined in Part 5 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022, which amended the Criminal Procedure (Scotland) Act 1995 to increase the timelines within which a preliminary hearing or a first diet must take place, and the timelines in which a trial must commence thereafter, are not included in this legislation.

The temporary extension of time-bar limits was an important step taken to ensure the backlog of cases as a result of the COVID-19 pandemic could be dealt with without cases being dropped. Whilst there has been significant progress with the court backlog, Scotland’s criminal justice system remains under immense strain and a significant backlog remains. The Criminal Justice Committee was recently informed there are around 2,000 cases involving serious crimes in the system that are currently at risk of breaching the November 2025 time bar.

We are therefore concerned that there is potential for significant numbers of cases to

be dropped, resulting in victims not receiving justice if there is no further extension given to time bars in relation to the COVID backlog cases.

We have significant concerns about the resources that will be required across criminal justice agencies as well as courts to process individual time-limit exemption requests for each individual case affected. The current extension to time-bars set via previous Coronavirus emergency legislation are set to end in November 2025.

As delays result in further harm victims and witnesses of crime, we therefore recommend that there is a further extension to the time bar provided on a temporary basis, specifically for the COVID backlog affected cases, whilst the situation is being addressed.