Justice Committee

Victims and Witnesses (Scotland) Bill

Written submission from the Scottish Court Service

Introduction

The Scottish Court Service (SCS) is a non-ministerial public body, established by the Judiciary and Courts (Scotland) Act 2008 on 1 April 2010.

Its function is to provide administrative support to the Scottish courts and judiciary and to the Office of the Public Guardian (OPG). We deliver operational support to the High Court of Justiciary and the Court of Session and to sheriff courts and justice of the peace courts in over 60 locations across Scotland. The Office of the Public Guardian provides guidance and undertakes investigations to protect the interests of vulnerable people under the terms of the Adults with Incapacity (Scotland) Act 2000. The Public Guardian is also the Accountant of Court.

By way of background the following table shows the volume of new criminal cases registered in the year 2012.

<table>
<thead>
<tr>
<th>Court Type</th>
<th>Case Type</th>
<th>Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Court</td>
<td>Indictments</td>
<td>760</td>
</tr>
<tr>
<td>Sheriff Court</td>
<td>Indictments</td>
<td>6,000</td>
</tr>
<tr>
<td></td>
<td>Summary complaints</td>
<td>70,000</td>
</tr>
<tr>
<td>JP Court*</td>
<td>Summary complaints</td>
<td>55,000</td>
</tr>
</tbody>
</table>

*Special measures provided for in the Victims and Witnesses (Scotland) Act 2004 apply only to criminal business conducted in the sheriff court and High Court.

The Scottish Court Service has a duty of care towards all court users including victims, witnesses and jurors who are required to attend at court. In conjunction with other justice partners commitments to witnesses and victims have been published, most recently in the joint protocol with the Crown Office and Procurator Fiscal Service (COPFS) and Victim Support Scotland (Witness Service) titled Working together for Victims and Witnesses. A copy of the relevant annex is attached hereto. The commitments include the provision of suitable accommodation and updates on available information during attendance at court. SCS also has a primary role in the provision of accommodation and technology to support the statutory provisions relating to special measures for vulnerable witnesses.

SCS has responsibility for the recovery and enforcement of court imposed fines and compensation, fiscal fines applied by COPFS and outstanding fixed penalties issued by the police. The process involves implementing immediate and tough sanctions against those that will not pay, whilst supporting those who engage because they genuinely cannot pay.

Commentary on the Bill

The Bill is part of the wider Making Justice Work programme, and is focused on making changes which require primary legislation. The aim of the Bill is to improve
the experience of victims and witnesses, and to make provision to implement the
recent EU Directive on victims' rights.

Joint collaborative working between justice organisations is an essential feature in
promoting public confidence in the justice system. SCS was closely involved with
Scottish Government policy leads and COPFS colleagues in the development of the
Bill proposals sharing well established insight into policy intentions and objectives
and operational, technology and financial impacts.

SCS submitted a response to the initial “Making Justice Work for Victims and
Witnesses” paper identifying where the proposed changes would have resource
implications for the SCS and provided input during the development of the Financial
Memorandum.

Elements of the Bill

The following provisions are those seen as having the greatest bearing upon the
operations of SCS.

• **General principles and standards of service** (sections 1, 2): As detailed above
  SCS is committed to certain principles surrounding standards of service for
  victims and witnesses and these have been published. These will inform further
developmental discussion with Scottish Government and other justice agencies.

• **Access to case specific information** (s3): On request SCS will generally
  provide information to interested parties, such as the time and place of the trial
  and the current stage of proceedings or the disposal, as would have been
  available to those members of the public personally present within the courtroom.
  Discussions have commenced with Scottish Government and other justice
  partners on scoping the potential for on-line access to certain case relative
  information to be available to victims.

• **Vulnerable witnesses giving evidence** (s6-9, 11-18): The key changes
  proposed in the Bill include raising the age of child witnesses to 18; introducing
  an individual assessment of vulnerability for all witnesses; and creating a
  presumption that certain categories of alleged victim are vulnerable and giving
  such individuals the right to utilise certain special measures when giving
  evidence.

Since the implementation of the 2004 Act SCS has invested in excess of £3m in
technology and facilities in order to support the special measures approved or
granted by the court. This includes the installation of courtroom technology, in-
court vulnerable witness rooms and equipment to enable links to be established
with a dedicated site in each sheriffdom, outwith court accommodation, to
facilitate the giving of evidence by live TV link principally by vulnerable child
witnesses. These sites are supplemented by a range of ad hoc facilities provided
by other agencies in more rural areas. Screens and monitor equipment has also
been provided to all courts to enable witnesses to give evidence in the courtroom
shielded from the view of the accused person.

The SCS is committed to defence and prosecution witnesses having separate
waiting facilities, which are wherever practicable, located in safe and secure
areas, ensuring they are free from intimidation. Generally the SCS Courthouse estate provides appropriate and comfortable accommodation for victims of crime. Similarly child witnesses and vulnerable person accommodation have separate facilities. However this is governed by the size of the courthouses and the level of need. In some courts it may be necessary for such groups to share accommodation with other groups who similarly require secure space.

COPFS have scoped figures in relation to the likely increase in numbers of witnesses likely to be deemed vulnerable, and of right entitled to standard special measures in terms of the new proposals. This estimate sits in the region of 18,000 additional witnesses per annum.

This estimate is useful in projecting the potential increase in notices and applications to be presented to court. The actual impact on the delivery of special measures will depend on a range of factors – the potential for the trial to proceed, the choice of measures available and the likelihood that a proportion of those witnesses may otherwise have qualified in terms of the existing legislation. There is currently spare capacity within the system to accommodate live TV links but SCS has nonetheless planned to extend the availability of courtroom technology and screens. Discussions are also ongoing with Scottish Government regarding the potential to extend the network of sites available outwith court buildings.

- **Victim surcharge and restitution orders (s 21, 22):**
  The Bill proposes two new sentences to be enforced in like fashion to court imposed fines:
  - Restitution orders to allow the court to make offenders pay towards the cost of supporting police officers who are victims of violence while carrying out duties
  - A Victim Surcharge to make offenders contribute to a victims fund – mandatory in all cases where the offender is fined (except where restitution order imposed)

Fines collection and enforcement operations are working very well with collection rates showing continuing improvement. As at 11 January 2013, 86% of the value of Sheriff Court fines imposed over the period 1 April 2009 to 31 March 2012 has either been paid or is on track to be paid through instalments. We have identified a number of opportunities for improvement and our operational plan for 2013-14 will see us keep up the pace of change required to deliver continuous improvement. The changes we have identified will free up judicial, police and administrative time as well as contributing to higher collection rates and maintaining the credibility of the fine as a suitable deterrent for crime.

Quarterly fines publications demonstrate that the collection rates for all fine types – Sheriff Court, Justice of the Peace Court, Fiscal Fines and Police fixed penalty notices – have improved each quarter since the SCS took over responsibility for fines collection in 2008. The 15th quarterly publication was issued on 28th February 2013, a copy of which can be found here.
Annexe

Scottish Court Service

Our Commitments to Victims and Witnesses

We will:

1. Ensure a clearly marked reception point for you at Court
2. Ensure that your attendance at court is recorded and that you are directed to the appropriate waiting room
3. Provide adequate, secure and comfortable accommodation with sufficient clean toilet facilities and, where possible, refreshment facilities
4. Treat you with courtesy and give a prompt response to enquiries, including requests for information about case progress and disposal
5. Treat you fairly and give consideration to your interests and needs
6. Co-operate in the provision of pre-trial visits to court, support and special measures for vulnerable witnesses
7. Ensure that while you are at court, where possible, information is conveyed to you on the progress of the case, at least once per hour
8. Ensure that while you are at court, information is conveyed to you as soon as possible where you are no longer required to give evidence.