Justice Committee
Victims and Witnesses (Scotland) Bill
Written submission from ASSIST

Introduction

Thank you for the opportunity to contribute to this consultation. This Bill is a very welcome development and has many positive features; however, there are still a number of areas that I believe require adjustment.

ASSIST is a specialist Domestic Abuse Advocacy and Support Project operating across the former Strathclyde Police Force area. Clients, both female and male, are referred immediately following a police incident and ASSIST establishes contact with the victim within 24 hours. The risks to clients, both adults and children are assessed and an Individualised Safety and Support Plan is enacted. Information is sent to COPFS to inform court proceedings and safety plans are adjusted depending on the court outcome.

High risk clients receive an enhanced service and ASSIST convenes three MARACs (Multi Agency Risk Assessment Conferences) in the Greater Glasgow Division of Police Scotland. ASSIST is a core partner of the perpetrator focussed MATAC (Multi Agency Tasking and Coordinating) process convened by Police Scotland in the former Strathclyde police force area.

Access to case specific information

This is a welcome development; however, it is the view of ASSIST that a limited amount of organisations should also be able to access this information. As the Bill stands, only the victim will be able to access case specific information, therefore setting an additional hurdle that victims will require to negotiate to obtain the information they need.

Due to the trauma that domestic abuse causes, ASSIST has serious concerns that our clients will be unable to access the information they require when they require it. It is extremely difficult when clients are in the midst of a criminal process to negotiate the processes and procedures of the myriad of agencies who become involved in the situation. ASSIST acts as a hub where actions and decisions by all other agencies can be discussed and the client’s Safety Plan adjusted as necessary. ASSIST then advocates on the client’s behalf to ensure all appropriate information is held in the right place. This institutional function that is an integral part of ASSIST’s service – and the safety of clients - will not be possible under the Bill as currently enacted. Holistic discussions and the resultant impact on safety planning will be affected as we will be reliant on the victim obtaining information from a website. Clients will not understand why this information is not available if all the agencies are supposed to be working in partnership. This apparent lack of connectivity could affect victims reporting incidents in the future.
This development will also disadvantage clients who do not have access to a computer. Victims don’t always know what information to request, or when information becomes available or at what stage. If a vital piece of information is not accessed, such as the date the accused will be released, victim safety will be compromised.

**Victim Notification Scheme**

ASSIST supports any proposed extension of the eligible sentence period covered by the Victim Notification Scheme. However, most domestic abuse cases will not be covered by this extension as sentences are usually less than 12 months. It is arguable that due to the nature of the relationship between the victim and the accused where there is or has been domestic abuse, it becomes even more important that this type of information is made available. It obviously becomes more difficult as sentences get shorter to provide this information, however, we would suggest the time limit is set at 3 months.

Information on release being made available to support organisations such as ASSIST (as per the previous points) is crucial in terms of the updating of safety plans, in order that the relevant safety procedures are in place prior to the release date.

**Vulnerable witnesses**

ASSIST welcomes the extension of the vulnerable witness category to victims of domestic abuse. This is a recognition of the additional difficulties faced by this category of victim, which is also important in relation to the points made above.

Although this Bill is intended to apply to criminal proceedings only, victims of domestic abuse can be involved in both civil and criminal proceedings at the same time. Neither process happens in a vacuum and there are a number of important elements that have been missed.

The current time gap from domestic abuse incident to trial in Glasgow is 28 weeks, 39 weeks if an adjournment is agreed. It is therefore very possible that civil proceedings, for example on child contact, will run alongside a criminal trial. Under the welcome extension of the category of vulnerability, special measures will be automatically granted in the criminal proceedings, yet this is not the case in civil proceedings where the victim is usually in a closed court with greater informality and the perpetrator in close proximity. It is our experience that victims do not understand this dichotomy.

Although it is technically the case that special measures can be applied for in the civil courts, these are not often granted. It appears that there is a generally accepted view that as both parties have equal standing in a civil court, the granting of special measures to one party is viewed as prejudicial.

ASSIST would therefore support the extension of special measures to civil cases as well as criminal cases, especially where the criminal case is running at the same time.
Special measures – screens

There should be a default position where screens can be made available on the day of a trial to vulnerable witnesses. Many victims take the view before the trial that ‘facing their abuser’ is something they want to do and based on that view, may refuse special measures. However, when the reality of that decision sinks in and the day dawns, some victims find themselves unable to proceed. The facility for screens to be available on the day would ensure better evidence and less chance of an adjournment – the granting of a warrant for a witness to appear.

Special measures – accused’s ability to object

ASSIST has serious concerns about the proviso in the Bill that the accused would have the ability to object to special measures. This is particularly important in situations of domestic abuse. The very nature of domestic abuse is about the perpetrator exercising power and control over the victim and such a provision will offer the accused a state sanctioned ability to do this in the court room. It will result in a detrimental effect on the victim’s quality of evidence as well as illustrating collusion with the perpetrator of abuse. We would therefore argue that an exemption should be sought due to the particular nature of domestic abuse and the relationship between the perpetrator and the victim.

Children giving evidence from a remote site

ASSIST has noticed that the take up rate of children accessing a remote site is not what would be expected. It is our belief form speaking to families that this is due to practical difficulties experienced by both the child and the adult victim.

When children are cited as witnesses, the adult victim is usually also a witness. Currently the child is offered the ability to give evidence from a remote site and the adult witness, usually the mother, is expected to attend the court building. Giving evidence is a difficult process for anyone, but especially a child and the additional pressure of being away from their mother is such that they would rather forego the safer option of the remote site. This is hardly surprising given the particular nature of domestic abuse and the effect on the attachment system of children.

If the extension of vulnerability to domestic abuse victims, as envisaged by this Bill is enacted, we would ask that a strong message is given to sheriffs to ensure that both the adult and the child are able to give their evidence from the same place. Guidance should be drawn up to ensure that there isn’t a situation where children give evidence at a remote site, whilst the parent has a screen in the court.

Victim surcharge

ASSIST supports the introduction of a Victim Surcharge Scheme and the proposal that it should be available for all victims to apply to for help. However, it is crucial that the Sheriff when giving a judgement in court ensures that it is abundantly clear that any surcharge is for the victim surcharge fund and not the victim per se.
Self representation of accused being able to question victims

Although not part of the current Bill, this is an important issue. Anecdotally, ASSIST is aware that self-representation is increasing including in domestic abuse cases. The accused being able to question the victim in domestic abuse cases in particular is of great concern, particularly due to the dynamics and the coercive control that is such a feature of the situation. This practice is disallowed in rape cases and it is important that this facility is introduced in cases of domestic abuse and stalking.

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