Justice Committee

7th Report, 2013 (Session 4)

Stage 1 Report on the Victims and Witnesses (Scotland) Bill

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Justice Committee

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Justice Committee

Remit and membership

Remit:

To consider and report on:

a) the administration of criminal and civil justice, community safety and other matters falling within the responsibility of the Cabinet Secretary for Justice; and

b) the functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

Membership:

Roderick Campbell
John Finnie
Christine Grahame (Convener)
Colin Keir
Jenny Marra (Deputy Convener)
Alison McInnes
David McLetchie
Graeme Pearson
Sandra White

Committee Clerking Team:

Irene Fleming
Joanne Clinton
Ned Sharratt
Christine Lambourne
SUMMARY OF RECOMMENDATIONS

1. The Committee has sympathy for the Faculty of Advocates’ view (as set out in paragraph 41) and is concerned at any suggestion that the presumption of innocence of the accused may be compromised by the Bill’s use of the term ‘victim’ when referring to cases where guilt has not yet been proven or admitted. There is also the point that the word ‘complainer’ is used in the Criminal Procedure (Scotland) Act 1995 and, as some of the provisions in this Bill are to be incorporated into that Act, issues of clarity and consistency need to be addressed. However, the Committee acknowledges that the word ‘complainer’ may not strike the right tone for a Bill aimed at improving support for victims. We would therefore welcome the Cabinet Secretary’s views on this matter and would refer him to our recommendation on the definition of victim.

2. The Committee recommends that the Scottish Government gives full consideration to including a definition of ‘victim’ on the face of the Bill. This would assist in providing some clarity for individuals, in what may be extremely traumatic circumstances, as to what rights they have under the Bill. We also believe that a clear definition would in some way alleviate concerns raised that use of the term ‘victim’ in the Bill to refer to cases prior to and during a trial may give rise to an assumption that the accused is guilty. The Committee suggests that, as a starting point, the Scottish Government considers those definitions included in the Victims of Crime Assistance Act 2009 of Queensland, Australia, (as suggested by the Law Society of Scotland) and in the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime.

3. The Committee has concerns regarding the level of confusion amongst organisations within the criminal justice system surrounding the meaning of section 1(3)(d) which would allow victims and witnesses, as far as would be appropriate to do so, to participate effectively in investigations and proceedings. We also consider that the lack of clarity on this provision could raise the expectations of victims that they will have a more active role to play in criminal proceedings than can realistically be met, or that, in the attempts to
comply with this principle, access to justice for the accused may be compromised. We therefore urge the Scottish Government to consider either clarifying the meaning of section 1(3)(d) in guidance or removing the provision from the Bill.

4. The Committee asks the Scottish Government to consider placing the actual standards of service to be complied with by prescribed organisations and individuals, along with details of a reporting mechanism on how the standards are working in practice, within guidance for approval by the Parliament in order to improve the experiences of victims and witnesses.

5. The Committee supports the proposal to create an online hub to give victims access to information about their individual case, but cautions against this tool completely replacing human interaction and support for victims, which we believe is vital.

6. On balance, the Committee does not believe that a compelling case has been made in support of the introduction of case companions or for the establishment of a Victim’s Commissioner at this time. However, we acknowledge that some victims and witnesses asked for continuity in the support provided across the system.

7. The Committee believes that it is vital that communication with victims and witnesses is improved and therefore supports the duty in the Bill to disclose to them case-specific information. We believe that criminal justice bodies must also take better care to ensure that the written information they provide to victims and witnesses is in plain English.

8. The Committee notes concerns regarding the capacity of organisations to comply with the duty to provide information and calls on the Scottish Government to ensure that the necessary finances, training and support is available to those criminal justice bodies to ensure that expectations of victims and witnesses can be met. We also urge the Scottish Government to provide further guidance in relation to those circumstances in which it would be ‘inappropriate’ for an organisation to disclose case-specific information to victims under section 3 of the Bill.

9. The Committee notes the view of some witnesses that a right to request a review of decisions not to prosecute, as provided for under the EU Directive, could assist in ensuring that decisions are transparent and accountable. We therefore await with interest the conclusions from research commissioned by the Crown Agent on whether to introduce a system of formal review.

10. The Committee welcomes the Cabinet Secretary’s indication that he would be happy to engage with the Crown Office and Procurator Fiscal Service to ensure that the appropriate level of information is given to families of road death victims wherever possible and we would welcome an update on these discussions. Nevertheless, we believe that a statutory requirement may give a greater level of certainty to victims that they would be entitled to receive the information they request at the end of criminal proceedings.
11. The Committee notes the concerns raised regarding the practical difficulties for the police in complying with the requirement to allow victims to specify the gender of their interviewer and urges the Scottish Government to work in helping the police to improve its capacity to meet the rights under the Bill. The Committee suggests that consideration be given to specifying that, in those circumstances where it is not possible to comply with a request, a full explanation is provided to the individual concerned and is included in the report to the Procurator Fiscal.

12. The Committee welcomes the Cabinet Secretary's commitment to look into the suggestion that the right under section 5 be extended so that a victim can also specify the gender of their forensic examiner and looks forward to receiving details of his conclusions on this matter.

13. The Committee welcomes the Cabinet Secretary for Justice's commitment to consider fully the provisions in the Bill relating to access for vulnerable witnesses to special measures and the right to object to such measures and, in doing so, we would urge him to make every effort to strike the appropriate balance between the rights of victims and the accused. More generally, the Committee seeks clarification as to where responsibility lies in relation to establishing the vulnerability of victims and witnesses and confirmation that those organisations involved in identifying vulnerability will be examining their procedures in light of these provisions in the Bill.

14. The Committee asks the Scottish Government to make every effort to ensure that removal of the presumption that child witnesses under the age of 12 will give evidence away from the court building does not lead to the unintended consequence of children giving evidence in court against their will.

15. The Committee has concerns regarding the apparent lack of regard given to victim statements by the courts given that, in writing them, victims are likely to have spent some time and experienced distress reliving the crime, in the belief that their statement will have some impact. The Committee asks the Cabinet Secretary to respond to these concerns.

16. The Committee recognises how distressing it would be for victims of some offences to receive money from their offender. We therefore welcome the Cabinet Secretary's assurances that appropriate guidance will be prepared to ensure that victims' views on whether or not the appropriateness of a compensation order being imposed are taken into account.

17. The Committee accepts that police officers and staff are at disproportionate risk of being assaulted while at work; however, we believe that introducing restitution orders only for police officers and staff and not for other occupations could prove divisive. We also appreciate that extending restitution orders may increase administration costs. On balance, we would ask the Scottish Government to give further consideration to the merits of this proposal.

18. The Committee welcomes the Scottish Government's commitment to consult those bodies affected by section 22 of the Bill in relation to the victim
surcharge, before laying draft regulations before the Parliament. The Committee would welcome sight of these regulations as soon as possible to assist its scrutiny of the Bill.

19. The process of assessing whether a life prisoner should be released is likely to be an extremely traumatic experience for a victim and it is therefore essential that they are not given false expectations as to the level of influence that their representations can have on the Parole Board of Scotland’s decision. The Committee therefore believes that guidance is required to ensure that victims are fully aware of the Parole Board’s role in assessing the risk of the offender if they are released on licence. This guidance should include, for the benefit of the victim, those factors that they may comment on and should also make clear that the victim’s views are shared with the offender.

20. The Committee supports the general principles of the Bill. We consider that the Bill provides much-needed support and protection for victims and witnesses and we hope that it will help improve their experiences of the criminal justice system in the future. However, we believe that improvements are required to certain provisions in the Bill, in particular to ensure that the rights of both the accused and those of victims and witnesses are balanced appropriately. Our recommendations on these issues are set out in the main body of this report.

BACKGROUND

Parliamentary scrutiny

21. The Victims and Witnesses (Scotland) Bill\(^1\) was introduced in the Scottish Parliament on 6 February 2013 by the Cabinet Secretary for Justice, Kenny MacAskill MSP. The Parliament designated the Justice Committee as lead committee in consideration of the Bill at Stage 1, and the Health and Sport Committee as secondary committee. The Justice Committee examined sections 1 to 25 of the Bill relating to victims and witnesses, as these sections fall clearly within the remit of this Committee. The Health and Sport Committee focused on sections 26 and 27 on the establishment of a National Confidential Forum (NCF). The Health and Sport Committee has the main interest in these provisions as the key focus of the NCF is to “improve the health and wellbeing of survivors of abuse in childhood”, it is to be hosted by the Mental Welfare Commission, and is within the Minister for Public Health’s portfolio.\(^2\)

22. The Health and Sport Committee’s conclusions on the Bill have informed the Justice Committee’s recommendation to the Parliament on the general principles of the Bill. However, this report does not reproduce any of the detailed findings of the Health and Sport Committee in relation to the proposals to create the NCF as, these

\(^1\) Victims and Witnesses (Scotland) Bill, as introduced (SP Bill 23, Session 4 (2013)). Available at: http://www.scottish.parliament.uk/S4_Bills/Victims%20and%20Witnesses%20(Scotland)%20Bill/b23s4-introd.pdf.

provisions, unusually, have no bearing on the rest of the Bill. The Health and Sport Committee has therefore published a separate report on sections 26 and 27 of the Bill.  

23. The Justice Committee’s call for written evidence on the Bill issued on 19 February received 33 written submissions. The Committee took evidence on the Bill over four meetings between 16 April and 14 May, hearing from a range of criminal justice bodies, victims’ groups, legal and human rights experts and children’s organisations, as well as the Cabinet Secretary for Justice.

24. In addition to taking formal evidence on the Bill, the Committee was keen to hear from victims of crime about their individual experiences of the criminal justice system. The Committee therefore arranged an informal round-table discussion with victims from across Scotland, who were nominated to participate by Victim Support Scotland and individual MSPs, which took place on 26 March. This was held in private to allow individuals to share their personal accounts in a relatively informal setting, out of the glare of the media. The Committee appreciates how difficult it was for those who participated to speak about their experiences as victims within the criminal justice system and wishes to thank those individuals for giving Members a valuable insight into what is actually happening in practice. Key themes arising from this discussion have been reflected by the Committee during its formal scrutiny of the Bill and in this report.

25. The Finance Committee also issued a call for written evidence on the financial memorandum on the Bill, receiving eight responses, which did not raise any substantive issues. The Finance Committee therefore decided not to undertake any further scrutiny of the financial memorandum or to report to the Justice Committee or Health and Sport Committee on the costs associated with the Bill.


Background to the Bill

Policy: victims

27. In recent years, there have been a number of policy developments aimed at improving support for victims as they move through the criminal justice system, against the backdrop of a growing public perception that the balance of rights is tipping in favour of the accused.

28. In 2001, the Scottish Government published its Scottish Strategy for Victims, setting out an action plan based on the core principles that victims should receive

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4 Note of information discussion with victims and witnesses, 26 March 2013. Available at: http://www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/Summary_of_informal_discussion_VW_Bill.pdf


generic and case-specific information, appropriate support and have their voices heard. This Strategy was followed in 2005 by publication of National Standards for Victims of Crime\(^7\), which outlined the minimum standards of service that victims of crime should receive from all criminal justice agencies and the children’s hearing system.

29. A number of developments since publication of the national standards in 2005 are highlighted in the policy memorandum\(^8\) on the Bill, including—

- extending coverage of the Victim Notification Scheme\(^9\) (VNS) to custodial sentences of 18 months or more (from four years of more);
- introducing a national victim statement scheme\(^10\) in solemn cases from 2009;
- the launch of *Our Commitment to Victims and Witnesses* by the Crown Office and Procurator Fiscal Service (COPFS) and amendments to the police Standard Prosecution Report to improve identification of witness vulnerability; and
- agreement of a joint protocol between the Association of Chief Police Officers in Scotland and COPFS to challenge domestic abuse.\(^11\)

*Policy: witnesses*

30. Recent policy on witnesses has concentrated on introducing a variety of measures aimed at enabling vulnerable witnesses to give their best evidence. The Vulnerable Witnesses (Scotland) Act 2004 makes provision for improved identification of the vulnerability of witnesses, and for the use of special measures, such as a screen or CCTV links.

31. The policy memorandum on the Bill also sets out other developments in recent years, such as—

- measures in the Criminal Justice and Licensing (Scotland) Act 2010 allowing witnesses to see their statements again before giving evidence, introducing a statutory scheme of witness anonymity orders, and raising the age of automatic entitlement to standard special measures up to the age of 18 in human trafficking cases;
- provisions in the Children’s Hearings (Scotland) Act 2011 to widen application of restrictions on evidence or questioning about character and sexual behaviour in hearings in front of a sheriff, and allow use of prior statements;


\(^8\) Policy Memorandum, paragraph 9.

\(^9\) In certain criminal cases, victims have a right (under the Criminal Justice (Scotland) Act 2003) to receive information about the release of an offender and some other relevant details.

\(^10\) This scheme allows victims (or relatives of victims) of serious crimes to make a written statement that tells the court how the crime affected them.

\(^11\) Policy Memorandum, paragraph 9.
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- updating guidance on joint investigative interviewing of child witnesses in 2011 and rolling out visual recording equipment; and
- introducing the ‘Getting people to court’ project, as part of the Scottish Government’s Making Justice Work (MJW) programme, to improve witness attendance at court.\(^\text{12}\)

Other reforms
32. The policy memorandum also suggests that other reforms, such as high court reform, aimed at allowing cases to be settled at an earlier stage, and summary justice reform, which introduced measures to make procedures “quicker, simpler, fair and effective”, have made the justice system “more responsive to the needs of victims and witnesses”.\(^\text{13}\)

33. In 2010, the Scottish Government created the Making Justice Work (MJW) Programme, with the aim that “the Scottish justice system will be fair and accessible, cost-effective and efficient, and make proportionate use of resources”, and that “disputes and prosecutions will be resolved quickly and secure just outcomes”\(^\text{14}\). MJW is composed of five projects aimed at (1) delivering efficient and effective court structures; (2) improving procedures and case management; (3) enabling access to justice; (4) co-ordinating IT and management information, and (5) establishing a Scottish Tribunals Service.\(^\text{15}\)

The need for further reform
34. The Scottish Government, in the policy memorandum, recognises that, despite significant progress in improving the experience of victims and witnesses within the justice system in recent years\(^\text{16}\), the justice system needs to do more to support victims and witnesses of crime\(^\text{17}\).

35. In May 2012, the Scottish Government launched a consultation on Making Justice Work for Victims and Witnesses\(^\text{18}\), outlining its proposals for improving services for victims and witnesses, which received 77 responses. Key themes emerging from responses have shaped the proposals contained in the Victims and Witnesses (Scotland) Bill, including—

- the need for access to information that is consistent, clear and accessible to all victims and witnesses;
- support for information sharing between agencies, but also concerns over sharing information and the need to take into account data protection issues;

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\(^\text{12}\) Policy Memorandum, paragraph 14.
\(^\text{13}\) Policy Memorandum, paragraph 15.
\(^\text{14}\) Policy Memorandum, paragraph 16.
\(^\text{15}\) Policy Memorandum, paragraph 19.
\(^\text{16}\) Policy Memorandum, paragraph 27.
\(^\text{17}\) Policy Memorandum, paragraph 6.
• the need to ensure that all relevant agencies have access to adequate training, support and resources;

• the need to ensure that victims’ and witnesses’ expectations are managed and that they understand that information they provide is only one element of the process; and

• the need to ensure that offenders’ rights are recognised and that a balance between reparation and rehabilitation is managed effectively.  

36. In October 2012, Directive 2012/29/EU of the European Parliament and of the Council, establishing minimum standards on the rights, support and protection of victims of crime was finalised. Its objectives are to ensure that all victims of crime receive appropriate protection and support, are able to participate in criminal proceedings and are recognised and treated respectfully, sensitively and professionally without discrimination from any public authority. The Directive relates exclusively to criminal proceedings and is intended to ensure that, in all EU countries—

• victims are treated with respect, and police, prosecutors and judges are trained to properly deal with them;

• victims receive information on their rights and their case in a way they understand;

• victim support exists;

• victims can participate in proceedings if they wish to and are helped to attend the trial;

• vulnerable victims are identified and properly protected; and

• victims are protected during the police investigation and court proceedings.

37. In the policy memorandum on the Bill, the Scottish Government explains that, while Scotland already complies with much of this Directive, some legislative and non-legislative changes to the justice system will be required.

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21 Policy Memorandum, paragraph 10.

22 Policy Memorandum, paragraph 11.
Overview of the Bill

Key proposals
38. One of the two main purposes of the Victims and Witnesses (Scotland) Bill is to reform the justice system to improve the experience of victims and witnesses. The Bill aims to put victims’ interests at the heart of ongoing improvements to the justice system and to ensure that witnesses are able to fulfil their public duty effectively. The Bill also implements a number of measures in EU Directive 2012/29/EU.

39. Key proposals in the Bill relating to victims and witnesses include—

- giving victims and witnesses a right to certain information about their case;
- creating a duty on organisations within the justice system to set clear standards of service for victims and witnesses;
- creating a presumption that certain categories of victim are vulnerable, and giving such victims the right to utilise certain special measures when giving evidence;
- requiring the court to consider compensation to victims in relevant cases;
- introducing a victim surcharge so that offenders contribute to the cost of supporting victims; and
- introducing restitution orders, allowing the court to require that offenders who assault police officers pay to support the specialist non-NHS services which assist in their recovery.

Definition of victim
40. There is no clear definition of ‘victim’ in the Bill. It further does not make any distinction between individuals who are victims of alleged crimes and those crimes that have been proven by the courts. The EU Directive on establishing minimum standards on the rights, support and protection of victims of crime, which is implemented in part by this Bill, does however contain the following definition of ‘victim’:

“A person should be considered a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them. It is possible that family members of victims are also harmed as a result of the crime. In particular, family members of a person whose death has been directly caused by a criminal offence could be harmed as a result of the crime. Such family members, who are indirect victims of the crime, should therefore also benefit from protection under the Directive.”

41. The Committee heard concerns from some witnesses regarding use of the word ‘victim’ in the Bill to refer, not just to individuals involved in cases where guilt of an

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23 The second purpose is to establish a National Confidential Forum (NCF), which was considered by the Health and Sport Committee.
24 SPICe briefing 13/21, page 4.
offender has been proven, but also to cases before and during the court process. The Faculty of Advocates argued that this approach may give rise to an implicit assumption that the victim’s allegations are true, thereby undermining the presumption of innocence of the accused. The Faculty suggested using the word ‘complainer’ when referring to cases prior to and during a trial and limiting the term ‘victim’ to cases in which guilt has been proved.  

42. The Cabinet Secretary told the Committee that he was not in favour of using the term ‘complainer’ in the Bill. He argued that it was “in the best interests” of those going through the criminal justice system that the language used was understandable and that “for the victim to be told they are not the victim but the complainer might cause some consternation”.  

43. The Committee has sympathy for the Faculty of Advocates’ view (as set out in paragraph 41) and is concerned at any suggestion that the presumption of innocence of the accused may be compromised by the Bill’s use of the term ‘victim’ when referring to cases where guilt has not yet been proven or admitted. There is also the point that the word ‘complainer’ is used in the Criminal Procedure (Scotland) Act 1995 and, as some of the provisions in this Bill are to be incorporated into that Act, issues of clarity and consistency need to be addressed. However, the Committee acknowledges that the word ‘complainer’ may not strike the right tone for a Bill aimed at improving support for victims. We would therefore welcome the Cabinet Secretary’s views on this matter and would refer him to our recommendation on the definition of victim (at paragraph 27 of this report).

44. The Committee heard from some witnesses that a definition of victim should be included on the face of the Bill. For example, the Law Society of Scotland argued for a clear, unambiguous definition of victim to provide clarity to individuals, including victims’ families, as to whether they do or do not have rights under the Bill. The Law Society suggested using the definition of ‘victim’ contained in the Victims of Crime Assistance Act 2009 of Queensland, Australia, which specifies that—

“(1) A victim is a person who has suffered harm—

(a) because a crime is committed against the person; or

(b) because the person is a family member or dependant of a person who has died or suffered harm because a crime is committed against that person;

(c) as a direct result of intervening to help a person who has died or suffered harm because a crime is committed against that person.

26 Faculty of Advocates. Written submission, 11 April 2013.
28 Law Society of Scotland. Written submission, 18 April 2013.
(2) A person who commits a crime against a person as mentioned in subsection 1(a) is not a victim of the crime under subsection (1)(b) or (c).\textsuperscript{29}

45. Victim Support Scotland supported the Law Society’s view that a definition of ‘victim’ including both victims and their family members should be included in the Bill to “ensure that all victims of crime have routine access to the rights and supports to which they are entitled”.\textsuperscript{30}

46. The Cabinet Secretary for Justice said that he was happy to reflect on the suggestion that a definition of ‘victim’ should be added to the Bill.\textsuperscript{31}

47. The Committee recommends that the Scottish Government gives full consideration to including a definition of ‘victim’ on the face of the Bill. This would assist in providing some clarity for individuals, in what may be extremely traumatic circumstances, as to what rights they have under the Bill. We also believe that a clear definition would in some way alleviate concerns raised that use of the term ‘victim’ in the Bill to refer to cases prior to and during a trial may give rise to an assumption that the accused is guilty. The Committee suggests that, as a starting point, the Scottish Government considers those definitions included in the Victims of Crime Assistance Act 2009 of Queensland, Australia, (as suggested by the Law Society of Scotland) and in the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime.

48. The main body of this report sets out the Committee’s detailed scrutiny of the general principles of the Bill. In doing so, the Committee, for consistency, follows the Bill’s approach in using the term ‘victim’ to refer to individuals in cases before, during and after a criminal trial.

PROVISIONS IN THE BILL

Statement of general principles

49. Section 1 of the Bill sets out a list of general principles which the Lord Advocate, Scottish Ministers, Chief Constable, Scottish Court Service, and Parole Board of Scotland, must have regard to in carrying out their functions relating to “a person who appears to be a victim or witness in relation to a criminal investigation or proceedings”. The list of general principles is as follows—

- that a victim or witness should be able to obtain information about what is happening in the investigation or proceedings;

- that the safety of a victim or witness should be ensured during and after the investigation and proceedings;

- that a victim or witness should have access to appropriate support during and after the investigation and proceedings; and

\textsuperscript{29} Law Society of Scotland. Supplementary written submission, 29 April 2013.

\textsuperscript{30} Victim Support Scotland. Written submission, 9 April 2013.

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- that, in so far as it would be appropriate to do so, a victim or witness should be able to participate effectively in the investigation and proceedings.\(^{32}\)

50. Although the Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Prison Service (SPS) are not named in the list of bodies to which these duties apply, they will be expected to follow the general principles set out in the Bill. However, as COPFS is a Ministerial Department, the actual duty will be placed on the Lord Advocate in relation to his functions of investigating and prosecuting crime. Similarly, as the SPS is an Executive Agency, the duty will be placed on the Scottish Ministers in respect of their functions relating to prisons and young offenders’ institutions and to detainees within them.\(^\text{33}\)

51. While there was broad support for the statement of general principles set out in the Bill, some concerns were raised regarding the meaning behind the general principle in section 1(3)(d): “that, in so far as it would be appropriate to do so, a victim or witness should be able to participate effectively in the investigation and proceedings”. For example, Murdo Macleod QC of the Faculty of Advocates said that he could “only imagine that it means that people can effectively participate in terms of giving evidence”, but “beyond that, I have no idea what the provision means”.\(^\text{34}\) Superintendent Grahame Clarke of Police Scotland said that he thought it was perhaps “a statement of empowerment for victims”, but concluded that “the fact that there is confusion may be worthy of reflection, especially if not everyone understands what it is intended to mean”.\(^\text{35}\) David McKenna of Victim Support Scotland went further to argue that the provision was so unclear that it should be “struck from the Bill”.\(^\text{36}\)

52. The Cabinet Secretary told the Committee that this principle is a “high-level provision” which relates to the EU Directive.\(^\text{37}\)

53. The Committee has concerns regarding the level of confusion amongst organisations within the criminal justice system surrounding the meaning of section 1(3)(d) which would allow victims and witnesses, as far as would be appropriate to do so, to participate effectively in investigations and proceedings. We also consider that the lack of clarity on this provision could raise the expectations of victims that they will have a more active role to play in criminal proceedings than can realistically be met, or that, in the attempts to comply with this principle, access to justice for the accused may be compromised. We therefore urge the Scottish Government to consider either clarifying the meaning of section 1(3)(d) in guidance or removing the provision from the Bill.

**Duty on justice organisations to set out standards of service**

54. The prescribed bodies and individuals listed in section 1 (and above) are also required, under section 2 of the Bill, to set and publish standards in relation to a

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\(^{32}\) Victims and Witnesses (Scotland) Bill, section 1.

\(^{33}\) SPICe Briefing 13/21, page 7.


criminal investigation or criminal proceedings. Furthermore, they must each set out a procedure for making and resolving complaints about the way in which they carry out their functions in respect of victims and witnesses.\(^{38}\)

55. The Bill does not set out the actual standards of service to be applied; it allows the prescribed organisations to develop their own standards. While there was no apparent desire amongst witnesses for the actual standards to be added to the Bill\(^{39}\), a number of witnesses highlighted the need to set them out in regulations\(^{40}\), and to include a reporting requirement to the Parliament to ensure evaluation, monitoring and accountability\(^{41}\). Scottish Women’s Aid went further in suggesting that the standards should include a duty to consult victims of crime and support organisations to inform regular reporting to the Parliament on how the standards are being complied with in practice.\(^{42}\)

56. The Committee asks the Scottish Government to consider placing the actual standards of service to be complied with by prescribed organisations and individuals, along with details of a reporting mechanism on how the standards are working in practice, within guidance for approval by the Parliament in order to improve the experiences of victims and witnesses.

Disclosure of information about criminal proceedings

57. Article 6 of the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime requires that certain information be made available to victims.

58. The Scottish Government indicates in the policy memorandum on the Bill that, although much of this information is already available, there is no right for individuals to access this as a matter of course. Section 3 of the Bill therefore places a duty on the Chief Constable, the Scottish Court Service, and prosecutors to provide the following information to victims and witnesses about their case—

- a decision not to proceed with a criminal investigation and any reasons for it;
- a decision to end a criminal investigation and any reasons for it;
- a decision not to institute criminal proceedings against a person and any reasons for it;
- the place in which a trial is to be held;
- the date on which and time at which a trial is to be held;

\(^{38}\) Victims and Witnesses (Scotland) Bill, section 2.

\(^{39}\) David McKenna of Victim Support Scotland and Superintendent Grahame Clarke of Police Scotland told the Committee that it was not necessary for standards to be included in the Bill.

\(^{40}\) Louise Johnson of Scottish Women’s Aid, David McKenna of Victim Support Scotland and Action Scotland Against Stalking stated that it would be helpful if standards were included in Regulations.

\(^{41}\) David McKenna of Victim Support Scotland, Louise Johnson of Scottish Women’s Aid and Scotland’s Commissioner for Children and Young People said they were in favour of monitoring and reporting arrangements in relation to standards of service.

• the nature of charges libelled against a person;
• the stage that criminal proceedings have reached; and
• the final disposal in criminal proceedings and any reasons for it.43

59. While there was general support amongst witnesses for placing duties on certain organisations to provide case-specific information to victims and witnesses, a number of concerns arose in evidence regarding this section of the Bill. Firstly, some respondents, such as the Faculty of Advocates, argued that this duty must be based around “the flow of information, rather than on allowing complainers and others to become active participants”, as “to do otherwise would be to threaten the independence of the prosecution service”.44 The Scottish Human Rights Commission also warned against this duty being interpreted to the detriment of the accused in impairing their right to a fair trial and fair hearing.45

60. Others had concerns regarding the prescribed organisations’ ability to deliver on this duty. For example, David Ross of the Scottish Police Federation, said that his personal view was that, while the police service “absolutely want to disclose the relevant information”, it was “probably not prepared for delivering that”.46 He suggested that issues with the IT systems currently in operation would in particular need to be addressed if the requirements to provide information as set out in the Bill were to be carried out properly.47 Peter Lockhart of the Law Society of Scotland said he suspected that “there will be funding issues” more generally which would need to be “considered carefully”.48 He further commented that “it would be unfortunate if victims and witnesses had expectations that could not be fulfilled due to current financial constraints” and that was a danger.49

61. A number of other witnesses suggested that further information was required in relation to the circumstances in which section 3(4) of the Bill would apply. Section 3(4) specifies that the prescribed organisations need not comply with a request to disclose the information where they consider that it would be “inappropriate” to do so. The Law Society of Scotland argued that clear guidance was required to clarify what was meant by the term “inappropriate”, including details of those factors that must be taken into account when deciding whether or not to comply with the request.50 Scotland’s Commissioner for Children and Young People agreed that an explanation of when and why disclosure would be inappropriate was required.51

62. More generally, victims and witnesses told the Committee that communication from criminal justice bodies must be improved. Indeed, David Ross of the Scottish Police Federation agreed that “all partners in the criminal justice system would accept that we have been poor at keeping victims and witnesses informed as to the

43 Victims and Witnesses (Scotland) Bill, section 3.
44 Faculty of Advocates. Written submission, 11 April 2013.
50 Law Society of Scotland. Written submission, 18 April 2013.
51 Scotland’s Commissioner for Children and Young People. Written submission, 23 April 2013.
progress of cases in which they are involved‖.  
Victims also said that correspondence was often complex and difficult to understand, particularly when they may already be confused and distressed in the aftermath of the crime.

63. As the flow of information from criminal justice organisations was not as effective or co-ordinated as it should be, victims and their families often found themselves having to explain very traumatic events to several different organisations on a number of separate occasions. In fact, David McKenna of Victim Support Scotland confirmed that victims probably had to tell their story around 16 times. He went on to say that “there is a widespread sense that the justice system does not provide recognition of the individual’s experience and does not demonstrate respect or treat the individual with dignity”. Mr McKenna and Peter Morris stressed the need for all individuals who work in the criminal justice system dealing with victims and witnesses to be properly trained to show sensitivity and respect in communications with them.

64. A lack of compassion and human touch was a concern raised in relation to the Scottish Government’s intention, as set out in the policy memorandum, to carry out a feasibility study on creating an online hub to gather data from various organisations within the criminal justice system and allow direct access to this information for victims and witnesses. There was however general support for the proposal as a way of obtaining information quickly and efficiently. The Committee supports the proposal to create an online hub to give victims access to information about their individual case, but cautions against this tool completely replacing human interaction and support for victims, which we believe is vital.

65. Some witnesses supported the idea of having a single point of contact or ‘case companion’ to help individuals navigate their way through the criminal justice system. Diane Greenaway, a former precognition officer, said that she “could not stress enough the need for dedicated and informed support persons (case companions) who have essential experience of criminal justice processes”. However, others, such as Chief Superintendent Craig Suttie of the Association of Scottish Police Superintendents told the Committee that he was “not so comfortable with case companions, given issues about how they would be serviced and how they would get information”. There was also a mix of views from witnesses in relation to the creation of a Victim’s Commissioner. Some suggested that a Victim’s Commissioner could have a role in monitoring and reporting on whether the

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54 Note of informal discussion with victims and witnesses, 26 March 2013.
59 Note of informal discussion with victims and witnesses, 26 March 2013.
60 Crown Office and Procurator Fiscal Service and Faculty of Advocates.
61 Peter Morris. Written submission, 21 February 2013.
62 Diane Greenaway. Written submission, 16 April 2013.
measures in the Bill are being met\textsuperscript{64}, while others argued that creating another layer in the system would only compound difficulties for support organisations in engaging with relevant criminal justice bodies.\textsuperscript{65} On balance, the Committee does not believe that a compelling case has been made in support of the introduction of case companions or for the establishment of a Victim’s Commissioner at this time. However, we acknowledge that some victims and witnesses asked for continuity in the support provided across the system.

66. The Committee believes that it is vital that communication with victims and witnesses is improved and therefore supports the duty in the Bill to disclose to them case-specific information. We believe that criminal justice bodies must also take better care to ensure that the written information they provide to victims and witnesses is in plain English.

67. The Committee notes concerns regarding the capacity of organisations to comply with the duty to provide information and calls on the Scottish Government to ensure that the necessary finances, training and support is available to those criminal justice bodies to ensure that expectations of victims and witnesses can be met. We also urge the Scottish Government to provide further guidance in relation to those circumstances in which it would be ‘inappropriate’ for an organisation to disclose case-specific information to victims under section 3 of the Bill.

Right to review a decision not to prosecute

68. Article 11 of the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime specifies that “member states shall ensure that victims, in accordance with their role in the relevant criminal justice system, have the right to a review of a decision not to prosecute”.\textsuperscript{66} This right applies to decisions taken by prosecutors and the police, but excludes decisions taken by the courts or decisions of a prosecutor which result in an out-of-court settlement.

69. The Bill does not contain a specific right to review a decision not to prosecute. Victim Support Scotland\textsuperscript{67} and Scottish Women’s Aid\textsuperscript{68} argued that this right should be included in the Bill. In addition, Sandy Brindley of Rape Crisis Scotland explained that an explicit right to request a review of decisions not to prosecute could be “very helpful” in providing “a certain level of accountability for those decisions”.\textsuperscript{69}

70. David Harvie of the Crown Office and Procurator Fiscal Service (COPFS) told the Committee that COPFS’ view was that the current arrangements available to victims and witnesses to challenge decisions already comply with the Directive.\textsuperscript{70} However, he said that the Crown Agent had commissioned further research “to

\textsuperscript{64} Note of informal discussion with victims and witnesses, 26 March 2013.
\textsuperscript{66} Directive 2012/29/EU, Article 11.
\textsuperscript{67} Victim Support Scotland. Written submission, 9 April 2013.
\textsuperscript{68} Scottish Women’s Aid. Written submission, 8 April 2013.
establish whether further improvements can be made and whether a system of formal review would enhance the current position.\(^71\).

71. **The Committee notes the view of some witnesses that a right to request a review of decisions not to prosecute, as provided for under the EU Directive, could assist in ensuring that decisions are transparent and accountable. We therefore await with interest the conclusions from research commissioned by the Crown Agent on whether to introduce a system of formal review.**

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**Fatal road accidents**

72. During an evidence session on fatal road collisions, the Committee heard from some witnesses that the families of road death victims should, on request, have a statutory right to receive investigation documents at the conclusion of criminal proceedings (or at the end of relevant investigations where there are no criminal proceedings).\(^72\) Witnesses from COPFS told the Committee that current guidance to staff provides that this information should already be released to families in such circumstances and that family members should be made aware of this. However, the Scottish Campaign Against Irresponsible Drivers argued that this did not always happen in practice.\(^73\) COPFS indicated that it would seek to learn lessons from any past failures and would investigate the merits of providing the families of all road death victims with a short document setting out what material may be requested and how to submit such a request.\(^74\)

73. **The Committee welcomes the Cabinet Secretary's indication that he would be happy to engage with the Crown Office and Procurator Fiscal Service to ensure that the appropriate level of information is given to families of road death victims wherever possible and we would welcome an update on these discussions. Nevertheless, we believe that a statutory requirement may give a greater level of certainty to victims that they would be entitled to receive the information they request at the end of criminal proceedings.**

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**Interviews**

*Interviews with children: guidance*

74. Joint Investigative Interviews (JIIs) with children are planned interviews undertaken with a child by a trained police officer and social worker to establish the facts regarding a potential crime or offence against the child.\(^75\) Revised Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland published on 19 December 2011 aims to promote best practice for police and social workers undertaking JIIs with children and makes clear that such interviews should only be undertaken by trained and competent practitioners.\(^76\) Currently, this guidance has no statutory basis. The Scottish Government states in the policy memorandum that, although the guidance is being used, it should be placed on a statutory basis to ensure its effectiveness and to better reflect requirements in the EU Directive, such as allowing interviews to be audio-Visually recorded and that such recorded


\(^75\) Policy Memorandum, paragraph 99.

\(^76\) Policy Memorandum, paragraph 100.
interviews may be used in evidence. Section 4 of the Bill therefore places a requirement on the police and social workers to have regard to the guidance.

75. The Committee considers that the proposal to put this guidance on a statutory footing is a positive move.

Certain sexual offences: victim’s right to specify the gender of interviewer

76. In compliance with the EU Directive, section 5 of the Bill introduces a right for victims of sexual offences, domestic abuse, human trafficking, and stalking, to choose the gender of any person who has reason to interview them. It also places a requirement on the police or any other person within criminal proceedings who is to interview a victim of these crimes to explain that they have a right to choose the gender of the person who will interview them. The Bill contains an exception for cases in which complying with a request for a particular gender of interviewer would be likely to prejudice an investigation.

77. Scottish Women’s Aid welcomed this right being placed in the Bill and argued that it should be extended to cover forensic examinations. Rape Crisis Scotland explained that “one of the most common complaints we hear from survivors is about how distressing it can be to be examined by a male doctor immediately following an experience of sexual violence”.

78. However, a number of witnesses representing the police highlighted that there may be practical difficulties in ensuring that this right to specify the gender of interviewer can be met. David Ross of the Scottish Police Federation said he was not confident that there would be enough appropriately trained police officers to carry out interviews in all areas of the country. Superintendent Craig Suttie of the Association of Scottish Police Superintendents agreed with this position, but suggested that it may be less of an issue since the introduction of a single police force.

79. David Ross accepted in principle Rape Crisis’ proposal to extend the right of victims of sexual offences to specify the gender of their forensic examiner, but argued that it could compound existing difficulties, as victims of sexual offences already frequently have to wait a significant length of time for the examination to take place irrespective of the gender of the examiner.

80. The Cabinet Secretary for Justice told the Committee that “there is a consciousness that it is not just desirable but, quite often, necessary for a victim to be able to specify the gender of an interviewer”. He did however accept that “there may be instances when that is not possible, but I think they will be few and far

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77 The EU Directive also specifies that a special representative must be appointed for child victims during interviews where the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest, or where the child victim is unaccompanied or separated from the family. It further requires that, where a child victim is entitled to a lawyer, that they also receive legal advice and representation.

78 Victims and Witnesses (Scotland) Bill, section 5.


80 Rape Crisis Scotland. Written submission, 5 April 2013.


between”.\(^{85}\) He also stated that he was happy to look into the suggestion that victims should also be able to specify the gender of their forensic examiner.\(^{86}\)

81. The Committee notes the concerns raised regarding the practical difficulties for the police in complying with the requirement to allow victims to specify the gender of their interviewer and urges the Scottish Government to work in helping the police to improve its capacity to meet the rights under the Bill. The Committee suggests that consideration be given to specifying that, in those circumstances where it is not possible to comply with a request, a full explanation is provided to the individual concerned and is included in the report to the Procurator Fiscal.

82. The Committee welcomes the Cabinet Secretary’s commitment to look into the suggestion that the right under section 5 be extended so that a victim can also specify the gender of their forensic examiner and looks forward to receiving details of his conclusions on this matter.

**Vulnerable witnesses**

**Special measures**

83. The Vulnerable Witnesses (Scotland) Act 2004 sets out special measures available to vulnerable witnesses and the procedures to be followed in criminal proceedings to enable the use of these measures. It defines a ‘vulnerable witness’ as being either a (a) child (a person who is under the age of 16 at the time of the complaint or indictment is served on the accused), or (b) an adult witness, the quality of whose evidence may be diminished either as a result of a mental disorder or due to fear or distress associated with giving evidence.\(^{87}\)

84. Special measures under the 2004 Act include:

- taking evidence by a commissioner;
- use of a live television link;
- use of a screen;
- use of a supporter;
- giving evidence in chief in the form of a prior statement; and
- such other measures as the Scottish Ministers may, by order made by statutory instrument, prescribe.\(^{88}\)

85. The Bill contains a number of measures aimed at “ensuring that vulnerability is identified and to widen access to special measures for vulnerable witnesses so that


\(^{87}\) Vulnerable Witnesses (Scotland) Act 2004, section 1.

\(^{88}\) SPICe briefing, pages 11-12.
they can give their best evidence, while, at the same time, ensuring that the justice process is fair to the accused\footnote{Policy Memorandum, paragraph 61.}, including:

- amending the definition of a ‘child witness’ so that all those under the age of 18 will \textbf{automatically} be entitled to use special measures, known as ‘standard special measures’\footnote{Policy Memorandum, paragraph 63.} to assist them in giving evidence.\footnote{Policy Memorandum, paragraph 69.}

- amending the current definition of vulnerable witness in criminal proceedings to include victims of sexual offences, domestic abuse, human trafficking, and stalking. These victims will also be \textbf{automatically} entitled to use standard special measures when giving evidence.\footnote{Policy Memorandum, paragraph 70.}

- allowing any witness to be considered vulnerable following an individual assessment, which takes account of their personal characteristics, type or nature and circumstances of the crime. The party citing the witness (which in most cases will be the Crown Office and Procurator Fiscal Service) will be obliged to carry out individual assessments of each of their intended witnesses to establish whether that witness is vulnerable and, if they are, to submit an application, specifying which special measures would be appropriate to assist them. The court will then determine if they are indeed vulnerable and if the special measures sought are appropriate. ‘Special measures’ comprise a live television link; a screen; a supporter; giving evidence in the form of a prior statement, taking evidence by commissioner, and a closed court.\footnote{Policy Memorandum, paragraph 76.}

- allowing objections to the use of both automatic standard special measures and special measures to be lodged by either party if they consider that such a request is inappropriate in the circumstances. The policy memorandum states that there is currently limited opportunity to do this.\footnote{Policy Memorandum, paragraphs 80-82.}

- adding a closed court to the list of special measures as a possible option for vulnerable witnesses. The policy memorandum makes clear that this option, along with the use of a screen, will not be available to any accused persons that are identified as vulnerable.\footnote{Scottish Parliament Justice Committee, \textit{Official Report, 23 April 2013}. Col 2643.}

86. Murdo Macleod QC of the Faculty of Advocates told the Committee that it is expected that around 18,000 additional witnesses will be deemed vulnerable under the proposals in the Bill.\footnote{Scottish Parliament Justice Committee, \textit{Official Report, 23 April 2013}. Col 2643.}

87. There was broad support amongst witnesses for these provisions and a recognition that improved access to special measures would allow more vulnerable
witnesses to give their best evidence. A number of witnesses further argued that improved access to special measures should similarly be provided in civil cases.

88. Sandy Brindley of Rape Crisis Scotland suggested that the ability to give greater certainty to victims that they will automatically be entitled to access special measures was very welcome. However, the Committee also heard that the introduction of a right for parties to object to the use of automatic standard special measures removed this certainty for some victims. For example, Victim Support Scotland stated in its written evidence that this provision was, of all of the Bill’s provisions, its “greatest concern” and called for its removal from the Bill. It went on to state that “this provision will have extremely negative consequences for witnesses; most notably it will increase witnesses’ anxieties around attending court and giving evidence, as well as slowing down the trial process and negatively impacting on the quality of evidence provided by witnesses.”

89. COPFS suggested that the automatic entitlement to standard special measures should not be open to challenge and argued that this appeared to undermine the purpose of creating two categories of special measures – standard and non-standard. It went on to state that “it should not be possible to argue that a victim of a sexual offence is not vulnerable – in the same way that it is not currently possible to argue that a 15 year old is not a child witness.”

90. Murdo Macleod QC of the Faculty of Advocates told the Committee that the automatic entitlement to standard special measures may raise the expectations of vulnerable witnesses, when in fact objections to that entitlement may come at any stage of the process. He further argued that “the Government has perhaps got itself into a bit of a pickle … because, if the measures are mandatory, why should there be a right to object?” He went on to confirm that his solution would be to remove the automatic entitlement to standard special measures. The Law Society of Scotland welcomed “very much” the right to challenge applications for special measures.

91. There was particular concern that the Bill would allow objections to child witnesses accessing automatic standard special measures and some witnesses therefore called for child witnesses to be exempt from objections under section 9 of the Bill. Scotland’s Commissioner for Children and Young People, for example, questioned how an objection could be raised on the basis of age “because someone is either a child or an adult – it is quite simple.”

92. The Cabinet Secretary for Justice confirmed that the right to object to special measures was introduced as a result of the EU Directive, but noted that the issues

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97 Victim Support Scotland, Scottish Women’s Aid and Rape Crisis Scotland.
98 Scottish Women’s Aid and Action Scotland Against Stalking.
100 Victim Support Scotland. Written submission, 9 April 2013.
raised in evidence regarding special measures had caused the Scottish Government some concern. He agreed to discuss the matter further with the Crown Office and Procurator Fiscal Service and Victim Support Scotland.¹⁰⁷

93. The Committee welcomes the Cabinet Secretary for Justice’s commitment to consider fully the provisions in the Bill relating to access for vulnerable witnesses to special measures and the right to object to such measures and, in doing so, we would urge him to make every effort to strike the appropriate balance between the rights of victims and the accused. More generally, the Committee seeks clarification as to where responsibility lies in relation to establishing the vulnerability of victims and witnesses and confirmation that those organisations involved in identifying vulnerability will be examining their procedures in light of these provisions in the Bill.

Removal of presumption that child witnesses under the age of 12 will give evidence away from the court building

94. The Vulnerable Witnesses (Scotland) Act 2004 included a presumption that child witnesses under the age of 12 should give evidence away from the court building in trials concerning specific offences, including murder, culpable homicide, and abduction.¹⁰⁸ The court is therefore currently unable to make an order to allow the child witness to be present in court or be within the court building unless the child has expressed a wish to be present, or where the risk of prejudice to the fairness of the trial and to the interests of justice outweigh the risks to the interests of the child.

95. The Scottish Government states in the policy memorandum on the Bill that the current presumption is being applied too rigidly by the courts and so, in some cases children have been required to give evidence remotely, separately from their parents who are giving evidence in court, causing additional stress to both the child and parents.¹⁰⁹ Section 10 of the Bill therefore seeks to place greater weight on the wishes of the child and creates a presumption that a child witness will give evidence in the court room where they have expressed a wish to do so.

96. Some witnesses, including Children ¹ˢᵗ, argued that current legislation adequately protects children and expressed concern that the proposals may have the unintended consequence of other people deciding that the child should be in court.¹¹⁰

97. However, the Cabinet Secretary for Justice suggested that the provisions in the Bill were “based on the best evidence” and would in fact “place greater weight on the child’s views”.¹¹¹

98. The Committee asks the Scottish Government to make every effort to ensure that removal of the presumption that child witnesses under the age of 12 will give evidence away from the court building does not lead to the unintended consequence of children giving evidence in court against their will.

¹⁰⁸ Vulnerable Witnesses (Scotland) Act 2004, section 1.
¹⁰⁹ Policy Memorandum, paragraph 96.
Victim statements

99. Victim statements were introduced in 2009 to allow victims of serious crimes (and in some cases their relatives) to provide a written account of the emotional, physical or financial impact of the crime. A prosecutor must lay any victim statement before the court when moving for sentence in solemn proceedings or, in summary proceedings, when a guilty plea is tendered.\(^{112}\) The policy memorandum suggests that, on occasion, the victim statement has not been available at the required time due, for example, to a very early guilty plea.\(^{113}\) Section 19 of the Bill would allow a victim statement to be submitted to the court at any time after the prosecutor moves for sentence (or the accused pleads guilty or is found guilty), but before sentence is passed. This approach aims to ensure that the victim is not prejudicially affected if their statement is not available at the time of a guilty plea.\(^{114}\)

100. Currently, children under 14 are entitled to have a victim statement made on their behalf by a carer if they are the direct victim of the crime. This entitlement does not extend to situations where the child under 14 is a son, daughter or sibling of a victim who has died, however, relatives aged 14 and over can make a statement in these cases. The Bill seeks to resolve this anomaly so that a child under 14, who is not a direct victim of the crime, can have a victim statement made on their behalf by a carer.\(^{115}\)

101. During an informal round-table discussion with victims, the Committee heard that victim statements were not always read out in court and that, in some cases, there was doubt that they were considered at all by the court before sentencing.\(^{116}\)

102. The Committee has concerns regarding the apparent lack of regard given to victim statements by the courts given that, in writing them, victims are likely to have spent some time and experienced distress reliving the crime, in the belief that their statement will have some impact. The Committee asks the Cabinet Secretary to respond to these concerns.

Sentencing

Duty to consider making compensation orders

103. Under Section 249 of the Criminal Procedure (Scotland) Act 1995, compensation orders may be imposed by the court in respect of personal injury, loss or damage caused directly or indirectly to the victim or any alarm or distress caused directly to the victim.\(^{117}\) For the purposes of the 1995 Act a ‘victim’ is defined as a person against whom or a person against whose property the acts constituting the offence was directed. It is not competent for the court to make a compensation order—

- where the court makes an order discharging the person absolutely (because the court considers it to be inexpedient to inflict punishment);

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112 SPICe briefing 13/21, page 16.
113 Policy Memorandum, paragraph 119.
114 Policy Memorandum, paragraph 120.
115 Policy Memorandum, paragraph 120.
116 Note of informal discussion with victims and witnesses, 26 March 2013.
117 Criminal Procedure (Scotland) Act 1995, section 249.
- where the court imposes a community payback order;
- at the same time as it defers sentence.\(^\text{118}\)

104. The EU Directive requires that victims of crime should be entitled to a decision on receiving compensation from the offender within a reasonable time and seeks to encourage member states to promote measures to ensure offenders provide compensation.\(^\text{119}\) Currently there is no obligation on the court to consider imposing a compensation order.\(^\text{120}\) Section 20 of the Bill places a duty on the courts to consider making a compensation order "in any case where it would be competent for the court" to do so.

105. Some witnesses supported the proposal to require courts to consider imposing a compensation order. South Lanarkshire Council, for example, argued in its written submission that this would "reinforce the link between an offence being committed and a victim being acknowledged and compensated".\(^\text{121}\) The Scottish Human Rights Commission highlighted that "compensation is one of the principal forms of reparation and often an essential part of a victim's remedy".\(^\text{122}\)

106. Others expressed concern about the appropriateness of applying compensation orders in sexual offence and domestic abuse cases where victims would not wish to receive money from, or have any form of contact with, those individuals who have been convicted. Scottish Women’s Aid\(^\text{123}\) and Rape Crisis Scotland\(^\text{124}\) therefore emphasised the need for victims’ views to be taken into account on whether they wish a compensation order to be considered before any decision is made by the court.

107. The Cabinet Secretary for Justice confirmed that “if someone did not want a compensation order because it might rub salt in the wound, it should not be granted” and said that the Scottish Government would “ensure that appropriate guidance is given and action taken” on this matter.\(^\text{125}\)

108. The Committee recognises how distressing it would be for victims of some offences to receive money from their offender. We therefore welcome the Cabinet Secretary’s assurances that appropriate guidance will be prepared to ensure that victims’ views on whether or not the appropriateness of a compensation order being imposed are taken into account.

\textit{Restitution Orders}

109. Section 21 of the Bill seeks to introduce restitution orders for those who are convicted of the statutory offence of assaulting a police officer or member of police staff, as set out in the Police and Fire Reform (Scotland) Act 2012. The policy

\(^{118}\) Criminal Procedure (Scotland) Act 1995, section 249.  
\(^{119}\) Policy Memorandum, paragraph 123.  
\(^{120}\) Policy Memorandum, paragraph 123.  
\(^{121}\) South Lanarkshire Council. Written submission, 9 April 2013.  
\(^{122}\) Scottish Human Rights Commission. Written submission, 8 April 2013.  
\(^{124}\) Rape Crisis Scotland. Written submission, 5 April 2013.  
memorandum on the Bill explains that, in comparison to other forms of employment, police officers and police staff are at disproportionate risk of being assaulted while carrying out their job and that this is reflected in current arrangements to support those police officers and staff who are assaulted and need particular care after these incidents. This support is provided through the Police Benevolent Fund and Police Treatment Centres and is largely paid for by police officers themselves.

110. The Scottish Court Service would be responsible for the collection of the restitution order (as with fines), and funds raised would be placed in a fund initially administered by the Scottish Government to be used to support or promote the physical and/or mental health and wellbeing of police officers and staff. The policy memorandum explains that restitution orders would not replace compensation orders for criminal injuries to individual police officers or staff and would not prevent such individuals from seeking redress and compensation through the civil courts. Restitution orders would however replace the victim surcharge.

111. An offender convicted of an offence of assaulting a police officer or member of police staff under the 2012 Act could have a sentence imposed which included three financial penalties: a restitution order, a compensation order, and a fine. Where a person does not have sufficient means to pay all three penalties, the Bill provides that the court should move to impose a compensation order, then a restitution order, and finally a fine. In such cases, any payment made is applied first to any compensation order, until it is fully paid, then to any restitution order, until that has been fully paid, and then to any fine.

112. There were concerns regarding the ability to collect the payments where a restitution order has been imposed, with Professor Alan Miller of the Scottish Human Rights Commission suggesting this would be like “getting blood out of a stone”.

113. Peter Lockhart of the Law Society of Scotland questioned whether ‘the man on the street’ would understand the difference between a compensation order, restitution order and a victim surcharge and therefore whether the link between the crime and the payment imposed would be as clear as was intended.

114. Murdo Macleod QC questioned why restitution orders would only apply to police officers and suggested that they should be extended to also cover other occupations at risk. South Lanarkshire Council took a similar view, suggesting that the scope of restitution orders should be expanded to include “any worker undertaking duties in the course of public service as defined by the Emergency Workers (Scotland) Act

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126 Policy Memorandum, paragraph 138.  
127 Policy Memorandum, paragraph 138.  
128 Policy Memorandum, paragraph 139.  
129 The Bill provides for the introduction of a victim surcharge in sentences where a fine is imposed. Funds raised through the surcharge will go to a central Victim Surcharge Fund to provide practical assistance and support to victims with “immediate unmet needs”, such as funeral or cleaning costs.  
130 SPICe briefing 13/21, page 18.  
131 SPICe briefing 13/21, page 18.  
2005”. David Ross of the Scottish Police Federation confirmed that there was no resistance from the police to extending the provision beyond the police service.\textsuperscript{137}

115. Witnesses were asked whether they thought there could be a conflict of interest in respect of restitution orders, given that police officers may be prosecution witnesses in a court case where the outcome may result in a restitution order. Superintendent Grahame Clarke responded that “unless such orders operate in a manner that establishes a firewall between the court proceedings and how the restitution is made, they may leave police officers open to the accusation of a conflict of interest”.\textsuperscript{138} Others, such as Murdo Macleod QC\textsuperscript{139} and Chief Superintendent David O’Connor\textsuperscript{140}, said they had faith that police officers would give evidence truthfully without being influenced by the prospect of a restitution order being imposed. On balance, the Committee is persuaded that a conflict of interest is unlikely to arise.

116. The Cabinet Secretary for Justice told the Committee that the Scottish Government had not ruled out the suggestion that restitution orders be extended to include others in the emergency services. However, he did not want to “create a system in which the administrative costs and burden of running it outweigh any benefit”.\textsuperscript{141}

117. The Committee accepts that police officers and staff are at disproportionate risk of being assaulted while at work; however, we believe that introducing restitution orders only for police officers and staff and not for other occupations could prove divisive. We also appreciate that extending restitution orders may increase administration costs. On balance, we would ask the Scottish Government to give further consideration to the merits of this proposal.

Victim surcharge

118. The policy memorandum states that “the Scottish Government considers that, regardless of whether or not the court imposes a direct compensation order, offenders should be made more accountable for the harm or damage caused by their actions and should contribute to supporting the needs of victims of crime generally”.\textsuperscript{142} Section 22 of the Bill requires the court to impose a victim surcharge on offenders in certain circumstances, to be set out in secondary legislation. Scottish Ministers also intend to set out the amount of the victim surcharge by regulations. In the first instance, the surcharge will only be imposed in cases resulting in a court fine, but the Scottish Government will be able to extend the surcharge to apply to other types of sentence if application to fines proves to be successful.\textsuperscript{143}

\textsuperscript{136} South Lanarkshire Council. Written submission, 9 April 2013.
\textsuperscript{142} Policy Memorandum, paragraph 126.
\textsuperscript{143} Policy Memorandum, paragraphs 128-129.
119. The funds raised through the surcharge will go to a central Victim Surcharge Fund to provide practical assistance and support to victims with “immediate unmet needs”, for example:

- basic life essentials;
- removal costs (for personal safety);
- funeral costs;
- cleaning (for example, following a violent incident in a victim’s home).  

120. The policy memorandum states that, while no decisions have yet been taken in respect of how the amount of surcharge will be calculated, the Scottish Government has developed a model which may be used. Under this model, the amount of surcharge would be linked to the amount of the court fine, by way of a scale set out in secondary legislation. It goes on to state that, based on previous years, a reasonable estimated collection rate is likely to be around 66 per cent after one year, and around 90 per cent after three years.

121. A victim surcharge scheme operates in England and Wales, and in Northern Ireland, and the funds gathered are used to support projects and services for victims and witnesses. The Scottish Government states in the policy memorandum that it did consider adopting a similar approach, but decided that responding to the immediate needs in the aftermath of a crime would “best serve victims.”

122. In its report on the delegated powers memorandum on the Bill, the Subordinate Legislation Committee drew the Justice Committee’s attention to the powers in section 22 of the Bill, which it considered to be wide, as they enable the Scottish Ministers to prescribe in regulations any amount of victim surcharge to be ordered by the court, and in relation to any sentences prescribed. The Scottish Government acknowledged the points made by the Subordinate Legislation Committee and undertook to consult those bodies affected by the proposed regulations under section 22, before laying draft regulations in the Parliament.

123. While some witnesses were in favour of a victim surcharge, others had concerns surrounding its impact on the rights of the offender and potential difficulties in its collection. David McKenna of Victim Support Scotland supported introduction of the victim surcharge. He told the Committee he believes that it should be applied more widely so that everyone convicted of an offence in Scotland should be required to contribute to the fund to help victims.

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144 Policy Memorandum, paragraph 130.
145 Policy Memorandum, paragraph 131.
146 Policy Memorandum, paragraph 133.
147 Policy Memorandum, paragraph 136.
124. However, Murdo Macleod QC said he was concerned that the requirement under the Bill to impose a victim surcharge and setting payment at a prescribed amount was “regressive and potentially unfair”. He argued that current arrangements, whereby the judge or sheriff has discretion on whether or not to impose a fine and is statutorily obliged to take into account the means of the offender before setting the payment amount, were more acceptable.

125. As with restitution orders, others highlighted practical difficulties in collecting the surcharge. For example, Sacro suggested that, “given the number of offenders currently imprisoned for non-payment of fines, this proposal has the potential to increase the prison population unnecessarily”. However, Cliff Binning of the Scottish Court Service said that recovery of fines had improved in recent years and therefore he was confident in the SCS’ capacity to recover financial penalties. David McKenna suggested that international experience shows that, “when a penalty is introduced that involves returning something to the victim, recovery increases”.

126. There was also some concern that imposing the victim surcharge in those cases resulting in a court fine may disproportionately affect motorists in road traffic offences where there is not always a victim, and therefore this could be seen as generating income rather than imposing a punishment. Diane Greenaway suggested in written evidence that the victim surcharge should therefore be re-examined to place more emphasis on serious crime, and less on road traffic offences.

127. The Cabinet Secretary for Justice confirmed that he was content that the court service would “do an outstanding job in collecting the surcharge, as it seeks to do in collecting fines.”

128. The Committee welcomes the Scottish Government’s commitment to consult those bodies affected by section 22 of the Bill in relation to the victim surcharge, before laying draft regulations before the Parliament. The Committee would welcome sight of these regulations as soon as possible to assist its scrutiny of the Bill.

Release of offender: victim’s rights

129. Under the Criminal Justice (Scotland) Act 2003, victims have a right, in certain criminal cases, to apply to join the Victim Notification Scheme (VNS) to receive information about the release of an offender. As introduced, this scheme applied to victims of offenders with custodial sentences of four years or more and who have committed a particular offence set out in the Victim Notification (Prescribed Offences) (Scotland) Order 2004. The scheme was extended in 2008 to include victims of offenders with sentences of 18 months or more and who committed an offence listed

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153 Sacro. Written submission, 8 April 2013.
156 Diane Greenaway. Written submission, 16 April 2013.
158 SPICe briefing 13/21, page 9.
in the 2004 Order. The scheme is in two parts and victims can apply to join either or both parts.

130. Part 1 entitles victims to receive information about the offender’s:

- release;
- date of death, if they die before being released;
- date of transfer, if transferred to a place outwith Scotland;
- eligibility for temporary release (for example, for training and rehabilitation programmes or home leave in preparation for release);
- escape or absconding from prison;
- return to prison for any reason.\(^{159}\)

131. Part 2 of the scheme entitles victims to be informed if the offender is being considered either for parole or temporary release on Home Detention Curfew.\(^{160}\) The victim is given the opportunity to send written comments to the Parole Board when it is considering whether to grant an offender’s release on parole and to the Scottish Prison Service when it is considering a prisoner’s release on Home Detention Curfew. The Parole Board will inform the victim of its recommendations and, if the prisoner is released on licence, of any conditions attached to that licence which relate to the victim or their family. Similarly, the Scottish Prison Service will send a letter to the victim advising them of the date of the offender’s release.\(^{161}\)

132. The EU Directive requires that victims should be able to access information about the release and escape of prisoners and, while it does not specify a length of sentence at which a victim may receive this information, it does suggest that cases involving minor offences should be excluded.\(^{162}\) The Scottish Government considers that the VNS should be extended to better reflect the Directive.\(^{163}\) Section 23 of the Bill therefore seeks to amend the 2003 Act to make changes to the VNS, including to the list of prescribed offences set out in the 2004 Order.\(^{164}\)

133. Section 24 of the Bill will also allow certain victims who are registered on the Victim Notification Scheme to make oral representations to a member of the Parole Board for Scotland when a prisoner becomes eligible for release on licence and/or when licence conditions are being set, if they so wish.\(^{165}\) This will only apply to life sentence prisoners in the first instance, with an option to extend it to other categories of prisoner in the future. Written representations will continue to be offered. The Scottish Government states in the policy memorandum that the policy intention is that “victims should feel more involved in the criminal justice process and that they should

\(^{159}\) SPICe briefing 13/21, page 9.
\(^{160}\) SPICe briefing 13/21, page 9.
\(^{161}\) SPICe briefing 13/21, page 9.
\(^{162}\) Policy Memorandum, paragraph 50.
\(^{163}\) Policy Memorandum, paragraph 50.
\(^{164}\) Policy Memorandum, paragraph 51.
\(^{165}\) Policy Memorandum, paragraph 113.
have the option of making representations in person rather than in writing if they feel that this would better allow them to convey their views.”  

134. Section 25 of the Bill gives victims the right to make written representations to the Scottish Prison Service when prisoners are first eligible for temporary release, and to raise concerns about any conditions that are to be placed on the offender during temporary release.

135. The Scottish Government intends to lower the sentence threshold, using existing order-making powers, so that victims of offenders sentenced to 12 months or more (instead of 18 months or more) will be eligible to participate in the VNS.  

136. Main concerns raised in relation to extending victim’s rights regarding the release of an offender surrounded the proposal to allow victims to make oral representations before life prisoners are released on licence. Professor Alan Miller of the Scottish Human Rights Commission told the Committee that the prisoner should have the right to respond to any concerns raised by the victim to ensure that the Parole Board “is looking at the case independently”. Murdo Macleod QC agreed that “there is scope for an accused to be unfairly prejudiced by information being passed over to the Parole Board or another organisation without their having the opportunity to respond to or perhaps challenge that information”.

137. The Parole Board confirmed to the Committee that the prisoner was already able to challenge the detail of written representations made by victims and that this will continue under the measures proposed in the Bill. John Watt, Chair of the Parole Board explained that, “if a prisoner thinks that the information provided [by the victim] is inaccurate in some way, it is only fair that they can bring information before the tribunal to challenge that”. Graham Ackerman of the Criminal Law and Licensing Division at the Scottish Government clarified that the proposal is “not a massive departure from what happens at the moment”. The victim’s oral representations to a Parole Board member would be written into an agreed statement which would be made available to the prisoner and could be challenged at the tribunal.

138. The Parole Board itself had some concerns about this proposal. It confirmed that the main consideration of the Parole Board is to assess whether an offender is likely to be a risk to the community if they are released on licence. It therefore argued that “careful consideration will need to be given to ensure that this Bill does not raise false expectations on behalf of the victim that their representations will influence the Board’s decision on whether or not to release the offender if their only reasons for objecting to release relate to the offence and its subsequent impact on the victim”.

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166 Policy Memorandum, paragraph 112.
167 Policy Memorandum, paragraph 52.
173 Parole Board for Scotland. Written submission, 8 April 2013.
174 Parole Board for Scotland. Written submission, 8 April 2013.
139. The process of assessing whether a life prisoner should be released is likely to be an extremely traumatic experience for a victim and it is therefore essential that they are not given false expectations as to the level of influence that their representations can have on the Parole Board of Scotland's decision. The Committee therefore believes that guidance is required to ensure that victims are fully aware of the Parole Board's role in assessing the risk of the offender if they are released on licence. This guidance should include, for the benefit of the victim, those factors that they may comment on and should also make clear that the victim’s views are shared with the offender.

Policy and Financial Memorandums

140. The lead committee is required under Rule 9.6.3 of Standing Orders to report on the policy memorandum which accompanies the Bill. We consider that the memorandum provides adequate detail on the policy intention behind the provisions in the Bill and explains why alternative approaches considered were not favoured. The Committee was also content with the details of the Making Justice Work for Victims and Witnesses consultation conducted by the Scottish Government prior to introduction of the Bill.

141. The same rule also requires the lead committee to report on the financial memorandum. The Committee notes that the Finance Committee was satisfied that no substantive issues were raised in the written submissions it received in response to its call for evidence, and did not opt to undertake any further scrutiny or report to this Committee. We are therefore content with the level of detail provided in the financial memorandum.

GENERAL PRINCIPLES

142. Under Rule 9.6.1 of Standing Orders, the lead committee is required to report to the Parliament on the general principles of the Bill. In doing so, the Justice Committee has taken into consideration the recommendation of the Health and Sport Committee that the Bill, as it affects sections 26 and 27 on establishment of a National Confidential Forum, should proceed to Stage 2 consideration.

143. The Committee supports the general principles of the Bill. We consider that the Bill provides much-needed support and protection for victims and witnesses and we hope that it will help improve their experiences of the criminal justice system in the future. However, we believe that improvements are required to certain provisions in the Bill, in particular to ensure that the rights of both the accused and those of victims and witnesses are balanced appropriately. Our recommendations on these issues are set out in the main body of this report.

OTHER ISSUES ARISING DURING EVIDENCE

144. The report set out above focuses specifically on the provisions in the Bill aimed at supporting and protecting victims and witnesses. The Committee however considers that one particular concern raised by witnesses relating to current practice is also worth noting.
145. This concern relates to the lack of legal representation for victims in dealing with defence applications to access medical and other sensitive records and to introduce evidence relating to sexual history or character. Currently, the Crown has the right to oppose any application of this nature; however, the Faculty of Advocates told the Committee that this may give rise to a conflict of interest “between the prosecution position, representing the public interest, and the very personal position of the victim”. The Faculty argued that there should be a “presumption of entitlement” for victims to have independent representation at hearings where applications of the nature described above are made, and highlighted that legal representation at these hearings are “commonplace in other jurisdictions”.

146. Rape Crisis Scotland had particular concerns at the lack of legal representation when defence applications are being made to introduce evidence in sexual offence cases relating to the victim’s sexual history or to access medical information. It argued that the Crown, in considering whether or not to oppose any such defence applications, is not acting directly on behalf of the victim and so there may be situations where the Crown does not oppose an application that a victim would have wished to be challenged. Rape Crisis went on to state that “we believe that for complainers of sexual offences to have any real prospect of protecting their private and family life, as set out in Article 8 of the European Convention on Human Rights, they must have access to independent legal representation, funded by Legal Aid, for matters relating to sexual history and character evidence and access to medical records”.

147. Graham Ackerman of the Criminal Law and Licensing Division at the Scottish Government told the Committee that the Scottish Government was open to receiving further detail from the Faculty of Advocates and Rape Crisis Scotland on this proposal.

148. The Committee does not consider that it has heard sufficient evidence to fully support the views of the Faculty of Advocates and Rape Crisis Scotland on legal representation for victims during defence applications to access and admit sensitive information regarding a victim. However, we do consider this issue to be worthy of further consideration and we therefore ask the Scottish Government to examine this proposal further with the two organisations and others and to report back to the Committee in due course.

149. The Committee also wishes to highlight a number of other issues raised during evidence which do not directly relate to the Bill, but which we believe need to be addressed in order to better support victims and witnesses. The first is the need to ensure segregation of victims and the accused in court buildings, as many witnesses told us that this did not always happen in practice and that it was often intimidating and distressing. We would also like to clarify why child witnesses do not appear to be allowed access to prior statements that they have made before giving evidence,

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175 Faculty of Advocates. Written submission, 11 April 2013.
176 Faculty of Advocates. Written submission, 11 April 2013.
177 Rape Crisis Scotland. Written submission, 5 April 2013.
178 Rape Crisis Scotland. Written submission, 5 April 2013.
180 Note of information discussion with victims and witnesses, 26 March 2013.
whereas adults are able to benefit from this.\textsuperscript{181} We were also concerned to hear that the police do not conduct a formal assessment of the vulnerability of a victim or witness and therefore, that any initial information regarding significant risk to them or to the quality of their evidence is not necessarily being provided to the procurator fiscal.\textsuperscript{182} We consider that this may have serious consequences when considering whether to release the accused on bail. Finally, victims who may be at significant risk of harm are not always informed that the accused has been granted bail or told of any bail conditions attached that may affect them, such as conditions not to approach the victim or to enter a certain area.\textsuperscript{183} We would therefore welcome the Scottish Government’s views on these matters in due course.

\textsuperscript{182} Police Scotland. Supplementary written submission, 13 May 2013.
ANNEXE A: REPORTS FROM OTHER COMMITTEES

Health and Sport Committee consideration
The Health and Sport Committee’s report to the Justice Committee on the Victims and Witnesses (Scotland) Bill is available at:
http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/63829.aspx

Finance Committee consideration
The Finance Committee’s call for written evidence on the Financial Memorandum to the Victims and Witnesses (Scotland) Bill prompted eight responses, the majority of which made no substantive comments. The Finance Committee therefore agreed not to undertake any further scrutiny of the Financial Memorandum and did not produce a report to the Justice Committee (or to the Health and Sport Committee on the costs associated with the National Confidential Forum). The responses received are available at:

Subordinate Legislation Committee consideration
The Subordinate Legislation Committee’s report to the Justice Committee on the Victims and Witnesses (Scotland) Bill is available at:
http://scottish.parliament.uk/S4_SubordinateLegislationCommittee/Reports/sur-13-20w.pdf
ANNEXE B: EXTRACTS FROM THE MINUTES

5th Meeting, 2013 (Session 4) Tuesday 19 February 2013

Victims and Witnesses (Scotland) Bill (in private): The Committee considered its approach to the scrutiny of the Bill at Stage 1 and agreed: (a) to focus its scrutiny on the victims and witnesses provisions in the Bill; (b) the proposed timetable for scrutiny of the Bill; (c) to issue a call for written evidence; (d) not to appoint an adviser; and (e) to explore further at a future meeting suggested witnesses and proposals for potential fact-finding visits.

8th Meeting, 2013 (Session 4) Tuesday 12 March 2013

Victims and Witnesses (Scotland) Bill (in private): The Committee considered its approach to the scrutiny of the Bill at Stage 1 and agreed (a) potential witnesses; and (b) to undertake fact-finding visits.

9th Meeting, 2013 (Session 4) Tuesday 19 March 2013

Victims and Witnesses (Scotland) Bill - witness expenses: The Committee agreed to delegate to the Convener responsibility for arranging for the SPCB to pay, under Rule 12.4.3, any expenses of witnesses on the Bill.

11th Meeting, 2013 (Session 4) Tuesday 16 April 2013

Victims and Witnesses (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—
    David McKenna, Chief Executive, Victim Support Scotland;
    Cliff Binning, Executive Director Field Services, Scottish Court Service;
    David Harvie, Director of Serious Casework, Crown Office and Procurator Fiscal Service;
    Superintendent Grahame Clarke, Safer Communities, Police Scotland;
    Sandy Brindley, National Co-ordinator, Rape Crisis Scotland;
    Louise Johnson, National Worker - Legal Issues, Scottish Women's Aid;
    Peter Morris, petitioner and campaigner.

12th Meeting, 2013 (Session 4) Tuesday 23 April 2013

Victims and Witnesses (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—
    Peter Lockhart, Criminal Law Committee, Law Society of Scotland;
    Murdo Macleod QC, Faculty of Advocates;
    Professor Alan Miller, Chair, Scottish Human Rights Commission;
    Colin McConnell, Chief Executive, Scottish Prison Service;
    John Watt, Chairman, and Heather Baillie, Vice Chair, Parole Board for Scotland.

Roderick Campbell indicated that he is a member of the Faculty of Advocates.
13th Meeting, 2013 (Session 4) Tuesday 30 April 2013

Victims and Witnesses (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—
   Alison Todd, Children and Families Service Director, and Kate Higgins, Policy Manager, Children 1st;
   Tam Baillie, Commissioner, Scotland's Commissioner for Children and Young People;
   Chief Superintendent David O'Connor, President, and Chief Superintendent Craig Suttie, Association of Scottish Police Superintendents;
   David Ross, Vice Chairman, Scottish Police Federation.

15th Meeting, 2013 (Session 4) Tuesday 14 May 2013

Victims and Witnesses (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—
   Kenny MacAskill, Cabinet Secretary for Justice;
   Graham Ackerman, Criminal Law and Licensing Division, Scottish Government.

Roderick Campbell indicated that he is a member of the Faculty of Advocates.

17th Meeting, 2013 (Session 4) Tuesday 28 May 2013

Victims and Witnesses (Scotland) Bill (in private): The Committee considered a draft Stage 1 report. Various changes were agreed to and the Committee agreed its report to the Parliament.
ANNEXE C: INDEX OF ORAL EVIDENCE

11th Meeting, 2013 (Session 4) Tuesday 16 April 2013

David McKenna, Chief Executive, Victim Support Scotland
Cliff Binning, Executive Director Field Services, Scottish Court Service
David Harvie, Director of Serious Casework, Crown Office and Procurator Fiscal Service
Superintendent Grahame Clarke, Safer Communities, Police Scotland
Sandy Brindley, National Co-ordinator, Rape Crisis Scotland
Louise Johnson, National Worker - Legal Issues, Scottish Women's Aid
Peter Morris, petitioner and campaigner

12th Meeting, 2013 (Session 4) Tuesday 23 April 2013

Peter Lockhart, Criminal Law Committee, Law Society of Scotland
Murdo Macleod QC, Faculty of Advocates
Professor Alan Miller, Chair, Scottish Human Rights Commission
Colin McConnell, Chief Executive, Scottish Prison Service
John Watt, Chairman, and Heather Baillie, Vice Chair, Parole Board for Scotland

13th Meeting, 2013 (Session 4) Tuesday 30 April 2013

Alison Todd, Children and Families Service Director, and Kate Higgins, Policy Manager, Children 1st
Tam Baillie, Commissioner, Scotland's Commissioner for Children and Young People
Chief Superintendent David O'Connor, President, and Chief Superintendent Craig Suttie, Association of Scottish Police Superintendents
David Ross, Vice Chairman, Scottish Police Federation

14th Meeting, 2013 (Session 4) Tuesday 14 May 2013

Kenny MacAskill, Cabinet Secretary for Justice
Graham Ackerman, Criminal Law and Licensing Division, Scottish Government
### ANNEXE D: INDEX OF WRITTEN EVIDENCE

**Evidence received in alphabetical order**

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<td>Barnardo's Scotland</td>
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<td>Brake (road safety charity)</td>
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**Other written evidence**

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**Written submissions are also published (in the order received) on the Committee’s webpage at:**

http://www.scottish.parliament.uk/parliamentarybusiness/Currentcommittees/62082.aspx
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