I am writing in response to the Committee’s Call for Evidence on the Crown Office Procurator Fiscal Service, and specifically in relation to the experiences of child victims and witnesses.

As you may be aware, my office is currently involved in the work taking forward the findings of the Evidence and Procedure Review Next Steps report. This work seeks to reduce the trauma experienced by child victims and witnesses involved in the criminal justice system. I would respectfully suggest that the Committee’s Inquiry could complement that work, by exploring how children and young people themselves experience current processes.

The Committee’s scrutiny would be particularly useful in the following areas:

General Approach

It would be helpful for the Committee to explore the level of direct interaction COPFS staff have with children and young people. Are COPFS staff comfortable and confident in speaking to this client group? Are staff fully aware of potential barriers to children and young people participating in such interactions? Is there any tendency to rely on others to advocate on children and young people’s behalf (e.g. parents)?

The Child’s Views

I would be interested to know the extent to which children and young people themselves are involved in decision-making processes. For example, the Victims and Witnesses (Scotland) Act 2014 clearly specifies where a child’s views should be taken into account. One example would be in relation to the provision of certain special measures. However, what is unclear is the extent to which children’s views are pro-actively sought by COPFS and what choice a child might have in the method in which that communication takes place. If, for example, COPFS sends a letter to a child or makes a phone call regarding special measures and the child does not respond, would that be regarded as sufficient?

Where children do not provide a view, is this perceived as a ‘failure to engage’ on the child’s part or is there a recognition that processes may need to be adapted to allow the child to meaningfully participate?

2 S1A(2)(d), Victims and Witnesses (Scotland) Act, 2014 (http://www.legislation.gov.uk/asp/2014/1/contents)
It would also be helpful to explore how COPFS ensures that a child is able to make an informed choice about what their requirements for special measures might be. Is sufficient time built into the process to allow the child to make a considered decision?

**Particular Groups of Children and Young People**

I am keen for the Committee to explore how COPFS interacts with different groups of children and young people, including younger children, disabled children, LGBTI young people, children experiencing domestic abuse and children with communication difficulties. What understanding does COPFS have of the barriers that may deter these children and young people from engaging with them fully? Are assumptions made about particular groups of children and their ability to contribute, and what impact might such assumptions have on child victims and witnesses themselves?

What consideration is there of the additional support that may be required to allow a child/young person to meaningfully engage? Who has responsibility for providing that support and are there sufficient resources for that support to be provided?

**Provision of Information**

The Committee could also helpfully look at how COPFS provides information to child victims and witnesses. This could include any contact COPFS has with children in relation to a particular case, as well as any information materials provided to children and young people more generally. How age appropriate are these materials (i.e. are they written in language that children can readily understand)? Are they available in a range of formats?

Where there are difficulties with a case (e.g. a delay), what efforts are made to ensure that children have a good understanding of the reasons for this?

It would be helpful to explore children and young people’s own views of how well informed they feel as a case progresses, as well as where any gaps in feedback may exist.

**Training Requirements**

It would be helpful for the Committee to explore whether COPFS has carried out any training needs analysis in relation to their work with children and young people, and whether children and young people themselves have been able to provide an input to this.

**Conclusion**

There are many organisations currently working with children and young people to support them through the court process. These include, but are not restricted to, Victim Support Scotland, Scottish Women’s Aid and Children 1st. These organisations could provide real insight into the experiences of child victims and witnesses. I would be particularly keen for the Committee to hear directly from children and young people themselves, where this could be facilitated sensitively.
In raising these issues, I am conscious that COPFS have been, and currently are, involved in a wide range of positive work in relation to children and young people. It is clear that within COPFS there is a desire to ensure that systems and processes work better for children and young people. I offer these comments and potential questions in the spirit of assisting in that process.

Tam Baillie
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