

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2185](#): Introduce stronger safeguards around the use of digital material in court proceedings, lodged by Christopher Simpson

Introduction

The [petition](#) calls on the Scottish Parliament to urge the Scottish Government to amend the Criminal Procedure (Scotland) Act 1995 to:

“ensure that any digital material presented in court, such as photos or screenshots, is verifiably sourced, time-stamped, and able to be independently authenticated before being considered admissible, unless both parties agree otherwise”.

The background information in the petition states that:

“The motivation behind this proposal is not only my own experience, but related to wider concerns about how easily digital material can be manipulated and misused in the justice system, especially as such material becomes increasingly common in both prosecution and defence submissions.”

Digital evidence covers any digitally stored or transmitted information (e.g. video footage, photographs, texts, emails, social media posts, computer browser history and GPS data).

Digital evidence may be used in both civil and criminal proceedings. However, given the terms of the petition, this briefing focuses on criminal cases.

Safeguards in relation to evidence

The [Crown Office & Procurator Fiscal Service](#) (COPFS) have, in correspondence with SPICe, sought to explain how court procedures currently deal with the authenticity and accuracy of evidence (including but not just digital evidence). They noted that:

“before any item attains evidential status its provenance must be established; an item is meaningless unless its source is in some way proved”.

COPFS explained that this can be done through agreement between the prosecution and defence. But where it is not agreed, the side presenting something as evidence must provide a witness to speak to the item. In such situations the other side in the case can challenge the witness and may have their own witness to help rebut what is said.

In the context of digital evidence, the COPFS provided the following illustrative example in relation to a screenshot of text messages:

“Evidence will have to be led, or the provenance agreed, that this is an image of a text conversation between A and B occurring on X date. If it is agreed, then it will go into a joint minute of agreement and read to the jury / handed up to the sheriff. If it is in dispute, then a witness who can speak to its source, usually one of the parties to the conversation, or the police officer who recovered the messages from a phone handset during forensic interrogation of the device, will be required to give evidence.”

“The defence will be entitled to challenge the evidence and lead their own rebuttal evidence. Perhaps, in the context of screenprints of a text conversation, if the defence position is that these have been altered, or taken out of context, the defence can produce their side of the conversation showing the complete conversation.”

Criminal justice modernisation

The Scottish Government is supporting the development and roll-out of a system for sharing digital evidence in criminal cases. A news release in August 2024 ([National roll-out of digital evidence sharing technology](#)) stated that:

“A world-leading £33 million Scottish Government initiative for sharing digital evidence from crime scene to court room is being rolled out across Scotland.

Digital Evidence Sharing Capability (DESC) allows police officers, prosecutors, defence lawyers, court staff and judges to access a secure, unified system to collect, store, process and manage evidence digitally.”

The DESC was highlighted in the [Policy Memorandum](#) published along with the [Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews \(Scotland\) Bill](#) (passed on 7 October 2025). It noted that:

“Through DESC, digital evidence, such as photographs or video footage, can be shared by members of the public at the point of reporting a crime to the police. This evidence is then shared with the prosecution and the defence agent for the accused in order to allow early consideration and possible resolution of cases. The use of digital evidence through DESC has the potential to improve the experience of victims, witnesses, and the accused in terms of providing swifter justice.” (para 64)

The DESC is designed with features intended to preserve the integrity of evidence once it is entered into the system. The above Policy Memorandum stated that:

“assurance can be provided through its automatic audit function which shows every activity on the uploaded file from its receipt to the conclusion of the case”. (para 72)

However, these features are not aimed at checking the reliability of digital evidence prior to it being entered into the system.

The Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill contains several provisions relevant to the use of digital evidence. For example, section 5A of the [Bill as passed](#) provides that where the prosecution uses police body-worn video footage as evidence, any details of time and location recorded on the footage are sufficient evidence of those matters. This would be subject to the right of the defence to serve notice that it disputes the accuracy of the time and/or location.

UK Ministry of Justice

In relation to England and Wales, in January 2025 the Ministry of Justice issued a call for evidence on the [use of evidence generated by software in criminal proceedings](#). It noted that:

“Our aim in publishing this Call for Evidence is to increase our evidence base and understanding of the ways in which evidence produced by software is handled in criminal proceedings. This includes how this evidence is treated in other jurisdictions, and any challenges or issues with the current position in this country.

Our overarching objective is to ensure fairness and justice for all those involved in prosecutions.”

The call for evidence highlighted concerns arising from the Post Office Horizon scandal, and a legal presumption in England and Wales that computers are operating correctly when producing evidence. An [article](#) on the website of the Law Society (of England and Wales) provides some additional background on the call for evidence.

The Post Office’s Horizon IT system was piloted from 1996 and rolled out in 2000. Errors in the system wrongly indicated shortfalls in sub-postmasters’ accounts. This led to demands for the repayment of sums not actually owed and prosecutions. It affected people in Scotland as well as other parts of the UK. In relation to Scotland, the [Post Office \(Horizon System\) Offences \(Scotland\) Act 2024](#) was enacted in response to resulting miscarriages of justice, with relevant convictions being quashed. Similar legislation relating to miscarriages of justice in other parts of the UK was taken forward in the UK Parliament.

In relation to the above-mentioned legal presumption in England and Wales, the COPFS have advised SPICe that:

“There is no legal presumption in Scotland that computer systems are operating correctly when producing evidence. Instead, Scots law, as indicated above, relies upon evidence as to the provenance of the item of evidence before it is in any way evidentially meaningful.”

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Senior Researcher
5 November 2025

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot.

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