



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

33rd Meeting, 2015 (Session 4)

Tuesday 24 November 2015

The Committee will meet at 10.45 am in the Robert Burns Room (CR1).

1. **Decisions on taking business in private:** The Committee will decide whether to take items 3 and 4 in private.

2. **Abusive Behaviour and Sexual Harm (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Nick Smithers, National Development Officer, Abused Men in Scotland;

Sandy Brindley, National Co-ordinator, Rape Crisis Scotland;

Louise Johnson, National Worker - Legal Issues, Scottish Women's Aid;

Nicola Merrin, Policy Officer, Victim Support Scotland;

and then from—

Tam Baillie, Children and Young People's Commissioner Scotland;

Eleanor Deeming, Legal Officer, Scottish Human Rights Commission.

3. **Abusive Behaviour and Sexual Harm (Scotland) Bill:** The Committee will further consider its approach to the scrutiny of the Bill at Stage 1.

4. **Criminal Verdicts (Scotland) Bill:** The Committee will consider its approach to the scrutiny of the Bill at Stage 1.

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The papers for this meeting are as follows—

Agenda item 2

Paper by the clerk	J/S4/15/33/1
Private paper	J/S4/15/33/2 (P)

[Abusive Behaviour and Sexual Harm \(Scotland\) Bill, accompanying documents and SPICe briefing](#)

[Written submissions received on the Bill](#)

Agenda item 3

Private paper	J/S4/15/33/3 (P)
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Agenda item 4

Private paper	J/S4/15/33/4 (P)
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[Criminal Verdicts \(Scotland\) Bill, accompanying documents and SPICe briefing](#)

Justice Committee

33rd Meeting, 2015 (Session 4), Tuesday 24 November 2015

Abusive Behaviour and Sexual Harm (Scotland) Bill

Note by the Clerk

Purpose

1. This paper provides some background information in advance of the Committee's second evidence session on the Abusive Behaviour and Sexual Harm Bill to be held on 24 November. The Committee will hear from third sector organisations and commissioners, as outlined on the agenda.

Background to the Bill

2. Following the publication of *Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls* in June 2014, the Scottish Government undertook a consultation exercise in March of this year, aimed at reforming the law to address domestic abuse and sexual harm offences (Equally Safe – Reforming the criminal law to address domestic abuse and sexual offences).
3. The consultation sought views on the proposal to create specific criminal offences for domestic abuse and for the non-consensual sharing or distribution of private images. In addition, the consultation also sought views on three additional reforms intended to improve how the justice system addresses crimes of domestic abuse and sexual offending, including:
 - Introducing statutory jury directions for sexual offence cases
 - Allowing cases of sexual offences against children committed elsewhere in the UK to be prosecuted in Scotland, and
 - Expanding the disposals available to the court to protect victims from harassment.

The Bill

4. The [Abusive Behaviour and Sexual Harm \(Scotland\) Bill](#) was, along with [accompanying documents](#), introduced in the Parliament on 8 October 2015 by the Cabinet Secretary for Justice, Michael Matheson. According to the Scottish Government, the Bill's overarching objective is to improve how the justice system responds to abusive behaviour, including domestic abuse and sexual harm, which will help to improve public safety by ensuring that perpetrators are appropriately held to account for their conduct.
5. The Bill deals with a number of distinct areas:
 - **Section 1** enables offences involving the abuse of a partner, or ex-partner to be treated as aggravated offences, meaning that the convicted person may be liable to a tougher sentence;

- **Section 2** creates a new offence of disclosing, or threatening to disclose, an intimate photograph or film. The Committee would be particularly interested in hearing views on whether there is a gap in the law that justifies the creation of a new offence and, if so, whether the definition of the offence in section 2 is sufficiently robust;
- **Section 5** amends current law to allow non-harassment orders, in some circumstances, be granted against individuals who have not been convicted of misconduct towards another person;
- **Section 6** would require a judge to give particular directions to the jury in sexual offence cases about whether to draw inferences from particular evidence being led or not led;
- **Sections 7 and 8** would enable the Scottish courts to prosecute sexual offences against children or young people committed elsewhere in the UK;
- **Chapters 3 and 4 of Part 2** would reform the system of civil orders available to protect individuals and communities from individuals considered to be at risk of causing sexual harm.

Stage 1 scrutiny

6. The committee issued its [call for written evidence](#) on 13 October 2015, with a closing date of noon on 17 November 2015.
7. Scrutiny at stage 1 involves consideration of the Bill's general principles. In the case of this Bill, this involves hearing views on whether the provisions contained within the Bill would strengthen the law to protect victims of abusive behaviour and sexual harm. The Committee has agreed the following schedule for oral evidence:
 - 17 November - Legal professionals, Police Scotland and academics
 - 24 November – Children's Commissioner, Scottish Human Rights Commission and third sector organisations
 - 8 December - additional evidence session (witnesses to be confirmed)
 - 15 December – Scottish Government
8. At the meeting on 17 November, the Committee took evidence on all aspects of the Bill from a panel of professionals involved in criminal justice, (comprising representatives from the Crown Office and Procurator Fiscal Service, the Faculty of Advocates, the Law Society and Police Scotland), followed by a panel of legal academics (James Chalmers, Regius Professor of Law, University of Glasgow, Gerard Maher, Professor of Criminal Law, University of Edinburgh, Clare McGlynn, Professor of Law, Durham University, and Vanessa Munro, Professor of Law and Society, University of Leicester).
9. Following consideration of oral and written evidence the Committee will publish its Stage 1 report early in the New Year.