CHILDREN (SCOTLAND) BILL – ORAL EVIDENCE SESSION TO JUSTICE COMMITTEE

Thank you for giving me the opportunity to give evidence to the Justice Committee on 25 February. I hope the Committee found it a useful session.

In the Justice Committee evidence session, Liam McArthur MSP asked me to address the issue of where the threshold for exclusion from cross examination has been set in the provisions in the Bill on prohibition of personal conduct of a case. I responded that the exclusion would not apply in relation to allegations of domestic abuse, but only relevant convictions for domestic abuse:


In terms of the provisions in the Bill, allegations of domestic abuse which are unsubstantiated will not result in a witness automatically being deemed to be a vulnerable witness nor will they result in the application of the presumption that the prohibition on personal conduct should be applied to the alleged perpetrator.

However a witness will be deemed to be vulnerable, and the presumption in favour of the ban on personal conduct will then apply to an alleged perpetrator, where there are allegations of domestic abuse (and other specified conduct) contained in the statement of grounds in relation to children’s hearing court proceedings, or where there are outstanding criminal proceedings for a relevant offence.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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A witness will be deemed to be vulnerable, and the presumption in favour of the ban on personal conduct will then apply in cases under section 11 of the Children (Scotland) Act 1995 if there is in force a non-harassment order, interdict or any similar order or remedy granted by a court prohibiting certain conduct towards the person by a party to the proceedings.

I hope this is helpful and I would be happy to answer any further questions the Justice Committee may have on the Bill.

ASH DENHAM