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Criminal Justice Committee

Stage 1 report - Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill



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Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



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Introduction

1. The Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill (the Bill) was introduced on 24 September 2024.
2. The Criminal Justice Committee was designated as the lead committee on the Bill.
3. Part 1 of the Bill makes changes in relation to criminal cases. The Bill proposes to make the following, which are currently temporary provisions, permanent for criminal cases:
 1. using electronic signatures on court documents
 2. sending court documents electronically
 3. attending criminal court hearings virtually
 4. increasing fixed penalty limits that may be offered by a procurator fiscal ('fiscal fines') as an alternative to prosecution through the courts
 5. a national jurisdiction for first callings from custody, allowing the initial stage of some criminal cases to be taken in any sheriff court in Scotland
4. Part 1 of the Bill also makes some new changes to procedures in criminal courts. These are:
 1. treating pictures of physical evidence in the same way as the original physical evidence in criminal cases
 2. establishing a process for electronic copies of documents to be trusted
5. Part 2 of the Bill creates a process for reviewing deaths which relate to abusive behaviour within relationships. These reviews would look at what lessons can be learnt in relation to a death to try to stop similar things happening again. The Bill also creates an oversight committee and case review panels to undertake and manage the reviews.
6. The Policy Memorandum accompanying the Bill states that its policy objectives are as follows—

“Both parts of the Bill support one of the Scottish Government’s priorities, namely the delivery of effective and sustainable public services. The first part of the Bill aims to do this by providing a basis for the ongoing and future resilience, effectiveness and efficiency of the criminal justice sector through modernisation, in particular through greater use of digital processes. The second part of the Bill ensures that change and improvements are delivered through effective learning from a robust review process so that individuals and communities are better supported by public services, and deaths can be prevented.”¹
7. The Scottish Parliament's Information Centre (SPICe) prepares impartial research and analysis to assist MSPs in their examination of Bills and other parliamentary

business. SPICe has published [a research briefing on the provisions of the Bill](#).

8. The Committee issued a call for written views on the Bill and held oral evidence sessions on the Bill. This evidence can be found on the Scottish Parliament's website on [a page dedicated to the Bill](#).
9. We are very grateful to all those who took their time to contribute their views as they have assisted our understanding of the Bill and helped shape the conclusions and recommendations in this report.

Delegated Powers and Law Reform Committee

10. On 13 January 2025, the Delegated Powers and Law Reform (DPLR) Committee [reported on the Bill](#). The report noted that the Bill confers eight powers to make subordinate legislation on the Scottish Ministers.
11. The DPLR Committee agreed to write to the Scottish Government to query the choice of procedure applicable to two of the powers in the Bill. The DPLR Committee was content with all of the other delegated powers in the Bill.
12. The two points raised with the Scottish Government related to whether the negative procedure (as opposed to the affirmative procedure) was appropriate for two powers relating to—
 1. the membership of the oversight committee created under Part 2 of the Bill to oversee the carrying out of reviews into domestic homicides or suicides, and
 2. the varying of the named public authorities required to co-operate in relation to consideration of a death under a review under Part 2 of the Bill.
13. In both cases, in light of [the Scottish Government's response](#), the Committee was content with this power in principle and with the choice of the negative procedure.

Finance and Public Administration Committee

14. The Finance and Public Administration Committee issued a call for views on the Bill's Financial Memorandum.
15. Responses were received from the Scottish Courts and Tribunals Service, the Crown Office and Procurator Fiscal Service and Police Scotland, [which can be found online](#).
16. The Finance and Public Administration Committee [wrote to the Cabinet Secretary for Justice and Home Affairs](#) in connection with this scrutiny. A response was subsequently received from the Scottish Government. This correspondence can be found online.
17. We welcome the Finance and Public Administration Committee's scrutiny of the Bill's Financial Memorandum. Many of the areas highlighted in its correspondence with the Scottish Government were also raised with this Committee. We will discuss these in the relevant sections of our report.

Policy Memorandum

18. Under Standing Orders Rule 9.6.1, the lead committee scrutinising a Government Bill is required to consider and report on its Policy Memorandum.
19. The Committee does not have any specific points to raise on the contents of the Policy Memorandum. We do, however, comment on the policy objectives of the Bill in the relevant sections of the report.

Part 1 - Criminal Justice Modernisation

Electronic signing and sending of documents

20. Section 1 of the Bill would make permanent one of the temporary justice measures set out in the Coronavirus (Recovery and Reform) (Scotland) Act 2022.
21. This measure provides for the electronic signing and sending of documents in criminal cases. Prior to the temporary changes made in response to COVID-19, hard copy legal documents were signed and physically delivered.
22. According to the Policy Memorandum, the use of electronic signing and delivery of documents has become “firmly embedded in Scotland’s justice system” and has made many justice processes more efficient, and has reduced costs.
23. The written submission from the Scottish Courts and Tribunals Service highlighted some of the types of documents which are transmitted electronically, including all indictments in the High Court, vulnerable witness and procedural applications lodged by prosecutors, and search warrants. The submission stated—
 - ” Any potential reversal of the progress made to date would be contrary to the direction of travel in the wider digital reforms within the justice sector in Scotland. ²
24. Many organisations in the justice sector expressed support for these provisions to be made permanent, citing the improved efficiency and convenience of the new arrangements.
25. The written submission from the Senators of the College of Justice stated that—
 - ” The ability electronically to sign and transmit documents form a key element of a modern justice system and has increased the efficiency and ease with which documents can be lodged with, and generated by, the courts.
26. Other organisations which expressed support included the Crown Office and Procurator Fiscal Service, the Faculty of Advocates, the Scottish Solicitors Bar Association, Victim Support Scotland, the British Transport Police, the Sheriffs and Summary Sheriffs Association, the Sheriffs Principal, Police Scotland, the City of Edinburgh Council’s adult justice services, and the Society of Solicitor Advocates.
27. Some organisations, while supportive of the use of the proposals, made the point that the option of hard copy documents should remain, particularly for individuals who might not feel comfortable using digital technology. A written submission from Age Scotland stated that more than a third of older people who have access to the internet lack the basic digital skills to use it effectively and safely.
28. Adam Stachura of Age Scotland told us that in these circumstances it was important that these individuals could provide a ‘wet signature’ in hard copy which could be digitised later.
29. Kate Wallace of Victim Scotland noted that there is now a witness gateway portal where witness statements can be accessed online. However, she commented

that—

” ...it is important that that is not the only way in which people can access their witness statement, and that if they want to be able to see and read the paper copy, they can do so.³

30. The Policy Memorandum explains that, in respect of the availability of hard copy documents, the provisions in the Bill—

“...retain the Lord Justice General’s power to direct that the provisions do not apply to specified documents, either generally or in particular proceedings. While these powers have never been used, they have been retained to provide flexibility.”

31. The Cabinet Secretary for Justice and Home Affairs commented in evidence that the Scottish Courts and Tribunals Service and other justice partners were “acutely aware” of the risks of digital exclusion. She told the Committee that—

” The bill does not remove the scope to communicate in the traditional way, if that is required; in fact, it simply makes permanent the temporary measures that are currently in force. It also retains the Lord Justice General’s power to give a direction that the provisions should not apply to specific documents. That power has never been used, but the flexibility is available, should it be required.

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Conclusions and recommendations

32. The provisions in the Bill to permit the use of electronic signing and sending of documents were broadly supported by many organisations. The Bill proposes to make permanent the current temporary arrangements.

33. We support these provisions on the basis that the current temporary arrangements have demonstrated that such changes can contribute to the efficient operation of the justice system. Moreover, if the provisions are not made permanent, as proposed in the Bill, then the justice system would need to revert to a requirement for physically signed documents, which would clearly be a backward step.

34. However, in offering our support, we wish to highlight one point. This relates to the risk of digital exclusion for individuals who are not comfortable using digital technology. In our view, these individuals must not feel left behind in the shift towards digitisation in the justice system.

35. The Cabinet Secretary told us that the Scottish Courts and Tribunals Service and other justice partners are “acutely aware” of digital exclusion.⁵ We ask that the Scottish Government provides further information on what measures are currently

in place to allow users of the justice system to access hard copies of documents which would otherwise only be available electronically.

Virtual attendance at a criminal court

Provisions in the bill

36. During the COVID-19 pandemic, temporary provisions were put in place that enabled any participant in criminal proceedings to take part in some proceedings by way of live visual (television) or audio (telephone) link.
37. Section 2 of the Bill seeks to make these provisions permanent. The default position is still that people attend court in person, subject to certain exceptions discussed below. However, courts would have the power to allow virtual attendance in individual cases.
38. Courts would be able to exercise this power where satisfied that virtual attendance would not prejudice the fairness of proceedings, or otherwise be contrary to the interests of justice.
39. The Policy Memorandum explains that—

“The decision is ultimately for the court, although the Bill makes provision to allow the parties to make representations to it.”
40. The default position of in-person attendance where giving evidence, would also be subject to—
 1. an exception applying to proceedings where the only party is a public official (e.g. where the police or prosecution are seeking a warrant or court order) – though the court can overturn this default on a case-by-case basis and require physical attendance
 2. separate rules allowing for virtual attendance in particular circumstances (e.g. where special measures apply to vulnerable witnesses).
41. One potential use of this power of the courts could, through a series of court decisions in individual cases, be to allow the operation of a pilot virtual court for a particular type of case (e.g. to deal with all stages of some domestic abuse cases). The provisions of the Bill would not allow this to be run as a blanket policy. Each case would have to be considered for inclusion on its own merits.
42. The Policy Memorandum notes that the current temporary provisions have been used to allow police officers to give evidence remotely and to facilitate the use of virtual custody courts.
43. According to the Policy Memorandum, giving evidence remotely reduces the logistical challenges of displacement and travel, enabling police officers to remain on duty until their evidence is required, thereby enhancing overall operational efficiency and productivity within the force.

44. On virtual custody courts, the Policy Memorandum noted that they “reduce the unnecessary movement of custodies around the country, improving efficiencies, reducing costs and most importantly improving the experience for the accused by eliminating displacement and reducing the potential for trauma”.
45. The Policy Memorandum commented that justice partners are “working collaboratively to develop a sustainable model for virtual custody courts”. A platform is being developed which will guarantee minimum standards for video and sound and will have a built-in facility for solicitors and social workers to have a private discussion with their clients, before and after hearings.

Determinations by the Lord Justice General

46. The Bill provides that the Lord Justice General (Scotland's most senior criminal judge) would have the power to issue determinations to change the default position to virtual attendance for particular categories of case.
47. There is an exception to this power. The Lord Justice General would not have the power to issue a determination that proceedings involving the giving of evidence, such as trials (or particular categories of trials), should be held virtually by default. Allowing virtual attendance at a trial could only be done by the court dealing with the particular case, on a case-by-case basis.
48. The Lord Justice General may make a determination disapplying a requirement for physical attendance only if he or she is satisfied that it would not prejudice the fairness of proceedings, or otherwise be contrary to the interests of justice. The Bill does not elaborate further on what criteria should be used by the Lord Justice General in making a determination.
49. In evidence to the Committee, a solicitor from the Scottish Government Legal Directorate clarified that “the determination is at a more general level. There is still an ability for an individual court in an individual case to go back to requiring physical appearance instead”.⁶
50. The Policy Memorandum explains that the availability of the determination-making power—

“provides flexibility for the default approaches for different types of case and different circumstances to be tailored to reflect the latest operational practice.”
51. The above powers are currently held by the Lord Justice General on a temporary basis. The Bill proposes that they are made permanent.
52. The Policy Memorandum explains that the Lord Justice General [exercised these powers in 2022](#) to disapply a requirement to attend court physically in a number of scenarios including: those participating in a Preliminary Hearing, Continued Preliminary Hearing or procedural hearing relating to appeal proceedings in the High Court; detained persons participating in appeal hearings in the High Court; and where the court was satisfied that a person was suffering from COVID-19 or required to remain in self-isolation.

Views on proposals for virtual attendance

53. There were two broad strands to the evidence we received on virtual attendance.
54. First, there was evidence about the principle of allowing virtual attendance and whether the framework for permitting virtual attendance in the Bill was appropriate.
55. In this respect, we note that the Bill sets out the circumstances in which a court can issue a direction as to whether a physical or virtual attendance should take place. The Bill sets out the framework within which courts take such a decision, rather than being prescriptive as to how virtual proceedings should be run. These provisions have been in place, on a temporary basis, since 2020. This bill seeks to make these provisions permanent.
56. The second strand of evidence was about the practicalities of implementing virtual attendance. This discussion focused on what could be the practical impact of the courts deciding to use the enabling powers in the Bill to provide for virtual attendance in particular circumstances (for example, virtual custody courts or fully virtual domestic abuse courts).
57. The principle of permitting remote attendance was welcomed by many organisations.
58. The written submission from the Crown Office and Procurator Fiscal Service stated that—
 - ” Remote attendance is consistent with our desire to be people centred and reduce inconvenience, distress and expense to those involved in the criminal justice process, particularly for victims and witnesses.
59. The written submission from the Scottish Courts and Tribunals Service indicated that it “fully supports this proposal which provides flexibility in how courts can conduct business written submission”.
60. The written submission from Victim Support Scotland noted the potential benefits for victims and witnesses, stating—
 - ” It can minimise stress for victims and create an environment in which victims can give their best evidence.
61. In a written submission, the Scottish Women’s Convention stated that the proposals in the Bill will be particularly valuable for women who have experienced sexual violence and/or domestic abuse, arguing that “through virtual attendance, some comfort can be provided for those in greatest need”.
62. Other organisations expressing support for virtual attendance included the Senators of the College of Justice, the Law Society of Scotland, British Transport Police, the Sheriffs Principal, Victim Support Scotland, SafeLives, the Society of Solicitor Advocates, and the Faculty of Advocates.
63. However, some organisations felt that more progress should be made using the powers for virtual attendance in relation to domestic abuse cases. The written submission from SafeLives stated that—

” SafeLives would support this proposed section being extended in line with a proposal from the Virtual Trials National Project Board’s report to the Lord Justice General in 2022, which suggested a model of dedicated virtual domestic abuse trial courts in each sheriffdom.

64. The written submission from Scottish Women’s Aid argued that the Bill should provide that where an offence is alleged to have been committed against the person in proceedings for an offence the commission of which involves domestic abuse, there should be a presumption that attendance of complainers and non-public official witnesses will be virtual and not in person.
65. Some other organisations offered caveats to their support for the use of virtual attendance or raised points about the practical implementation of the technology. We discuss these points below.

Reliability of technology

66. Some organisations noted that the success of virtual attendance would depend on the availability of reliable and effective video connections. The written submission from the Sheriffs Principal stated—

” We would observe that virtual hearings are heavily dependent on the adequate resourcing of technology and infrastructure.

67. The written submission from the Faculty of Advocates was supportive of the provisions on the Bill on virtual attendance and noted that “use of Webex to conduct preliminary hearings in the High Court of Justiciary works extremely well”. However, it noted that—

” “These undoubted and important benefits do come at a cost to the justice system. Valuable court time is regularly lost due to delays in establishing remote links and re-establishing failed remote links.”

Practical issues - virtual custody courts

68. One particular area of concern raised by legal representatives and some others was about the use of virtual attendance to allow for virtual custody courts. As we discuss in another section of this report, these concerns are also relevant to the separate proposal in the Bill for a national jurisdiction for custody cases since this may rely on the use virtual attendance.
69. The written submission from the Edinburgh Bar Association stated that it was opposed to custody appearances being done by virtual attendance. A key area of concern was that virtual attendance would limit the amount of in-person contact between solicitors and their clients, meaning that the preparation of clients for such attendances could be diminished.
70. Paul Smith of the Edinburgh Bar Association commented that—

” ...for clients who have not been through the system before and do not know a solicitor, and for whom this is their first point of contact, virtual custody makes it much more difficult for the solicitor to form an impression and, in effect, a personal bond with the client.⁷

71. There were also concerns raised about the practical difficulties associated with virtual custody courts. Simon Brown of the Scottish Solicitors Bar Association told us that he had participated in a pilot scheme for a virtual custody court in Kilmarnock sheriff court which he called “a singular failure”. He noted that—

” Courts took four or five times as long, regularly running until 8 o’clock in the evening, and the communication with clients was very poor.⁸

72. According to Simon Brown, the difficulties included insufficient rooms being available in police stations, limited time with clients, and the inability of solicitors to obtain follow-up meetings with clients due to a lack of availability time slots to hold meetings online. Paul Smith from the Edinburgh Bar Association also pointed to the lack of facilities in Edinburgh for virtual custodies which had caused delays.

73. Stuart Munro from the Law Society of Scotland commented that “...the trouble is that the virtual systems that we have had so far have tended to be pretty inflexible”. He noted that “that is not really something for the bill, but it must inform the decisions that are made around the bill”.⁹

74. Malcolm Graham from the Scottish Courts and Tribunals Service acknowledged the concerns arising from some of the pilots involving virtual attendance. He told us—

” I welcome the question and understand the legitimate concerns about the operation of some of the pilots. However, the purpose of a pilot is to test things and learn, recognising that they will not always work but then moving forward with something that acknowledges the feedback that you receive. That is why, as I explained, we will take a slightly different approach going forward.¹⁰

75. He indicated that “we will do a wholesale evaluation of all the lessons learned before moving forward” and “we were taking on board all the views of the different court users”. He commented that—

” To make progress in that area, it will be essential to do in-depth work with all court users, professional bodies, the legal profession and justice agencies to ensure that any steps that we take work for everybody.¹¹

Security of virtual attendance

76. The written submission from the Law Society of Scotland argued that court directions on appearing by virtual means should include measures to ensure that witnesses are not susceptible to any undue influence.

77. Stuart Munro of the Law Society of Scotland gave the example of a witness giving evidence remotely from their kitchen. He wondered whether this would reflect the importance of proceedings or raise concern that the witness could be prompted off

camera by third parties.

78. The written submission from the Law Society of Scotland noted that—

” Section 303K of the Criminal Procedure (Scotland) Act 1995 -inserted by Section 2 of the Bill- indicates that the court must issue directions for appearing by electronic means. We consider it essential that those directions contain measures that ensure that witnesses are not susceptible to any undue influence and the effective participation of the accused is guaranteed.

79. In response to a question about the security of virtual attendance, Laura Buchan from the Crown Office and Procurator Fiscal Service told us—

” Ultimately, that is a matter for the court. That is why the Lord Justice General’s permission is required. However, from a prosecution perspective, our expectation would be that evidence would be given from one of those court suites or from one of the approved places.¹²

Users of the criminal justice system

80. We also heard views from representative of the users of the justice system that any arrangements for virtual attendance should take account of their particular needs.

81. Adam Stachura from Age Scotland highlighted the importance of avoiding digital exclusion in relation to the proposals in the Bill. He made the point that—

” Just because you are online, that does not mean that you are very good at using the internet.¹³

82. Kate Wallace from Victim Support Scotland noted that it was important that victims and complainers should be given a choice as to how they give evidence, either virtually or in person in court.

83. The written submission from the Equality and Human Rights Commission commented that “relevant adjustments for disabled people must be considered when implementing any modernisation provisions”.

Resources

84. Several organisations raised the question about the availability of resources to support virtual attendance.

85. Superintendent Richard Thomas indicated that Police Scotland welcomed the Bill and the provisions on virtual attendance as streamlining processes and reducing the impact on front-line policing, but he stated—

” ...there are real questions about the feasibility of implementation on day 1. That is particularly true of virtual courts, as the bill suggests that the court could direct, or may well expect, virtual attendance to be available at every opportunity, which is simply not deliverable under the current operating model.¹⁴

86. The written submission from Police Scotland stated that it could not support any increase in the current use of virtual attendance for police custodies or witnesses, “without compromising service delivery elsewhere”. Superintendent Richard Thomas noted that the recruitment required to facilitate virtual courts would cost anything between £1.7 million and £4.5 million and capital investment to improve virtual courtroom infrastructure would vary from £12,000 to £44,000, depending on how many rooms were needed across the estate.

87. Malcolm Graham from the Scottish Courts and Tribunals Service noted that—

” ...it is safe to say that some of the changes that the bill would facilitate and some things that we do not do at the moment are likely to have significant implications for the built estate and for information and communications technology. However, that is not a reason not to have the bill, which is what will allow us to move forward.¹⁵

88. Malcolm Graham also made the point that the measures in the Bill “are meant to be enabling”. He told us that “the court is not compelling people to appear virtually; the measure can be facilitated where it is of mutual advantage”.¹⁶

Commencement

89. There was some discussion as to whether there should be a delay in the commencement of the Bill in order to put in place the necessary resources and practical arrangements to facilitate measures such as virtual attendance.

90. Superintendent Richard Thomas, Police Scotland commented that—

” Our concern, which is mentioned in our submission, is that we do not want another bill to be enacted that cannot be operationally supported until years later.¹⁷

91. On this subject, Malcolm Graham from the Scottish Courts and Tribunals Service noted that the Bill was an enabling one rather than specifying particular requirements for the roll-out of virtual attendance. He commented—

” Having those enabling provisions in place allows us to progressively realise where the benefits are, at the pace at which we can seek agreement, secure funding, rebuild the estate and do all the things that we have talked about already. My view is that the commencement arrangements are appropriate in that context and framework.¹⁸

92. Supplementary written evidence from the Law Society of Scotland stated that—

” ...our understanding is that the Bill does not provide for the implementation of virtual custody courts on the commencement date contained in Section 28. The proposed legislation allows its implementation when the appropriate model is completely developed.

93. Laura Buchan of the Crown Office and Procurator Fiscal Service also made the point that “the vast majority” of the provisions in the Bill are already in place and if commencement was delayed, then could lead to a period in which they would not apply. This would lead, in effect, to a return to pre-COVID processes in many areas. She told us—

” Although I accept Richard Thomas’s position that work will need to be done to get the full benefit of the provisions, as they are drafted, the vast majority of them are currently workable and working well.¹⁹

94. Superintendent Thomas acknowledged that—

” I think that it is not reasonable for us to go back, once the temporary provisions stop; we want to continue to have the enabling opportunities around the bill, and we totally agree that that is the way forward.²⁰

95. However, he explained that—

” The bill is written in a way that suggests that it is an enabling piece of legislation, but it also implies that the expectation is that this would be a default position. That is the bit that we are slightly concerned about. If that is the expectation on day 1, as things stand at the moment, we would really struggle to deliver that, and we would not want to disappoint anybody by being in that position.²¹

Position of the Scottish Government

96. On the question of resources, the Finance and Public Administration Committee invited the Scottish Government’s view on the preliminary cost estimates provided by Police Scotland for different implementation scenarios should use of virtual courts for first appearances from custody increase. The Finance and Public Administration Committee asked whether the Scottish Government had made a similar assessment of costs, how these compare to the ones provided by Police Scotland, and why they had not been included in the Financial Memorandum.

97. In a [letter to the Finance and Public Administration Committee dated 13 February 2025](#), the Cabinet Secretary for Justice and Home Affairs noted the intention that there should be a “wholesale evaluation” of the virtual custody model and stated—

” Against that backdrop of ongoing work, it would be premature at this stage to make any assessments of costs, particularly since they do not specifically arise as an outcome of the Bill.

98. The letter from the Cabinet Secretary went on to state that the Bill—

” ...does not in itself aim to compel narrow and specific reform but rather to provide a platform for ongoing and future innovation. The Financial Memorandum therefore does not set out specific levels of investment. If a decision is made to progress an initiative, like virtual custodies, a business case will be developed with partners, including infrastructure and resources.

99. The Cabinet Secretary for Justice and Home Affairs reiterated this position when she gave evidence to the Committee—

” The powers and provisions in the bill are enabling; they do not compel or force justice agencies to go down a particular operational path. It is when people come forward with specific operational plans or a specific business case that we can have specific discussions around finance.²²

100. On the concerns which had been expressed about the virtual custody model, the Cabinet Secretary for Justice and Home Affairs argued that this was a practical rather than a legislative issue. She acknowledged the issues raised by Police Scotland and defence agents and commented that—

” For the record, I endorse the approach that the Scottish Courts and Tribunals Service is taking in stopping or pausing various pilots to evaluate the work and to explore how we can get system-wide learning. That is important because it will require collaboration, and it will enable further work to be done in developing a robust operational model, which will then lead to a robust business case.²³

101. On the question of whether the Bill should specify particular types of locations from where virtual attendance can take place, the Cabinet Secretary for Justice and Home Affairs commented that—

” ...the bill does not specify where evidence should be presented. If there are concerns, people’s legal representatives can raise issues such as fairness and integrity of proceedings, issues that are prejudicial to the process and safeguards.²⁴

102. The Committee also asked the Cabinet Secretary for Justice and Home Affairs about progress made on piloting the operation of a virtual trial court for domestic abuse cases. The Cabinet Secretary noted that she had met Sheriff Pyle who leads a working group on this subject and he had indicated that work was progressing and that collaborative working was taking place. She commented—

” Right now, we need to work on partnership; I am not persuaded that enforcement is the place to go. I want to see progress, and I very much support the work being led by Sheriff Pyle on trialling the holding of domestic abuse cases virtually. It is important that that approach is explored fully..²⁵

Conclusions and recommendations

103. The Committee has considered carefully the proposals in the Bill on virtual attendance at a criminal court. These attracted comment from many organisations.

104. Various organisations pointed to the advantages of allowing virtual attendance at court. They argued that virtual attendance can help create a justice system which is more efficient and focused on its users. For example, professional witnesses such as police officers can save time by giving evidence remotely. Virtual attendance can minimise the stress of a court appearance for victims and witnesses. Supporters of virtual attendance argued that these are benefits which are currently being realised through the current temporary provisions. They would wish them to be made permanent in the Bill.
105. On the other hand, we heard concerns about how virtual attendance has operated so far in practice. Some organisations raised concerns about the availability of resources required to support virtual attendance. Several witnesses highlighted significant problems which had arisen during the pilots for virtual custody courts. They appear to have been caused by a series of practical issues, including a lack of suitable accommodation and technical difficulties with audiovisual links. Concerns were raised about what venues witnesses should be able to virtually attend from, and if they should be able to do so only from stipulated places. We also heard criticism that virtual custody courts limit the scope for in-person contact between solicitors and their clients, affecting the quality of this relationship. As we will go on to discuss, some of these concerns were also raised in the context of the proposal for a national jurisdiction for custody cases, given that it is likely to rely on virtual attendance.
106. Another strand of views we heard focused on the specific wording of the provisions in the Bill and whether the Bill provides the right legal framework within which a court can issue a direction as to whether physical or virtual attendance can take place.
107. In this respect, many organisations were content that the provisions in the Bill to permit virtual attendance were framed appropriately. Others, however, cited some serious practical concerns.
108. We heard that the Bill gives the Lord Justice General a general power to issue determinations to change the default position to virtual categories of cases, albeit subject to certain restrictions (a determination cannot be issued in respect of proceedings involving giving evidence, for example). Another issue raised with us was about the security of virtual attendance. There were concerns that there appeared to be no restrictions on the face of the Bill on the locations from where virtual attendance could take place. We also heard concerns from Police Scotland about the prospect of a widespread expansion of virtual attendance immediately after the Bill is enacted. This would be possible under the terms of the Bill. Police Scotland expressed concern that they would not have the resources to support such a rapid expansion.
109. The provision to permit the permanent use of virtual attendance is a significant and important change to the courts system and therefore the legal framework must be clear when it applies and whom it applies to.
110. Our position is that, in principle, we are not against the concept of virtual attendance at court. For example, it has been seen to deliver improvements for

some users of the justice system, particularly professional witnesses.

111. In principle, we are also supportive of making aspects of the current temporary arrangements permanent. This is because we would not wish to lose the improvements for some users which have been achieved under the temporary provisions which are due to expire in November. However, our support in principle is subject to more detail being included in the Bill about the circumstances in which virtual attendance is permitted.

112. At present, the framework in the Bill is enabling rather than prescriptive, and sets the parameters within which courts can take decisions on virtual attendance. However, we consider that the Bill must include clearer rules setting out how the courts should use their powers.

113. The first area we would highlight is about the criteria which should be used by the Lord Justice General in making a determination in favour of virtual attendance in particular categories of case. The Bill does not elaborate on what the criteria should be, beyond that it should not prejudice the fairness of proceedings or be contrary to the interests of justice.

114. In our view, the Bill should provide for additional criteria which the Lord Justice General must take into account before making a determination. These should be more directly relevant to the question of whether virtual attendance is appropriate. We recommend that the Scottish Government brings forward amendments at Stage 2 to that effect.

115. The second area where we consider clearer rules are required is in respect of the types of location from which it is appropriate for virtual attendance can take place.

116. We recommend that the Bill is amended to include an additional requirement for the court to issue a direction in relation to the appropriateness of the location from which an individual participates, to address the concerns highlighted in evidence.

117. Finally, we would also wish to highlight the evidence in paragraph 105 which points to clear practical issues which need to be addressed relating to the operation of virtual attendance. We welcome the acknowledgement of these concerns by the Scottish Courts and Tribunals Service, as well as its commitment to evaluate the experience of virtual custody courts and learn lessons before

moving forward. It is right that this evaluation should involve all court users, including the legal profession.

118. Our view is that there should be a full and urgent evaluation of the results of the pilots of virtual custody courts which have taken place. This must ensure that measures are put in place to address the concerns which have arisen. In our view, it is essential that all court users must have confidence in the effective operation of court proceedings.

Digital productions

119. Section 4 of the Bill sets out new provisions in relation to the use of digital productions in criminal proceedings. They include two new rules.
120. First, where evidence is in electronic form or has been put into electronic form for use in court, the Bill would remove the right of an accused to view the evidence in a court office prior to any trial, if they have been given another opportunity to see it (for example, via a secure link in their solicitor's office).
121. Second, where evidence is a physical item, the Bill allows images of that item to be treated for evidential purposes as if they were the item, but subject to the court having the power to direct that the original item is produced. The Policy Memorandum explains that—
- ” The Bill gives the court the power to direct that an image of physical evidence may not be used in place of the physical evidence. This is important to protect a party's right to have physical evidence produced where the court is satisfied that is required.
122. Where a physical item is replaced by an electronic image under this provision, the first rule above would apply to it.
123. The Bill does not set a 'default' position in favour of the use of either a physical object or an image of that object. Instead, the position is that both the physical item or an image of it could be used. As mentioned above, this position is subject to the ability of the court to require the physical item to be produced.
124. The Bill does not specify any criteria which must be followed by the court when deciding whether to require the physical item. The wording of the Bill simply states that “an image of physical evidence is, unless the court otherwise directs, to be treated for evidential purposes as if it were the physical evidence itself, whether or not the physical evidence is still in existence”.
125. The mechanism for the court in solemn cases to take a decision on requiring a physical item under the provisions of the Bill is explained in the Policy Memorandum—

In solemn cases, the Bill makes issues and objections around the use of

digital evidence a ‘preliminary issue’, which means that the party seeking to raise an objection has to give notice of that to the court in accordance with timescales set out in the 1995 Act: two clear days before a first diet in sheriff solemn proceedings or seven clear days before a preliminary hearing in High Court cases.

126. The Policy Memorandum goes on to state that “this provision removes the need to routinely transport and lodge items of physical evidence with the court or to store the items beyond this timescale”. The Policy Memorandum does not, however, specifically explain the procedure to be followed in summary cases
127. Police Scotland has published National Guidance on Productions which sets out current guidelines for the retention of physical evidence. It provides guidance to police officers, police staff and production staff on the seizure, packaging, handling and management of productions.
128. The Guidance includes a section on the circumstances in which productions should be retained or disposed of. As the Bill has not yet been enacted, and the provisions on digital productions are not in force, there is no reference in the Guidance to the circumstances where an image of a physical object has been used in its place in court.
129. The Policy Memorandum notes that the provisions in the Bill would take advantage of the new Digital Evidence Sharing Capability (DESC), which is a collaborative programme between criminal justice partners which aims to modernise and streamline the way digital evidence is collected, managed, and shared throughout the criminal justice process.
130. According to the Policy Memorandum, the provisions on digital productions will support—

“greater efficiency across the criminal justice system and enhances the way that evidence is led in order to create improvements in the court experience”
131. The provisions in this section of the Bill were supported in principle by many organisations, although some had comments on the detail.
132. Stuart Munro from the Law Society of Scotland commented that “a huge amount of time is wasted in the process of criminal investigations in complying with outmoded, analogue ways of dealing with documents”.²⁶
133. The proposals on digital productions also attracted support from organisations including the Scottish Courts and Tribunals Service, the Sheriffs Principal, the City of Edinburgh Council adult justice services, the Sheriffs and Summary Sheriffs Association, and the Society of Solicitor Advocates.
134. The written submission from Victim Support Scotland highlighted the potential benefits for the victims of crime. It commented that—

” Witnesses will be able to verify evidence online prior to trial which will mean less time spent in court, ultimately improving the experience of the criminal justice system for people affected by crime.

135. Kate Wallace from Victim Support Scotland told us—

” We have had feedback that the traumatising nature of physical evidence productions in court may be lessened by it being possible to view those types of evidence digitally.²⁷

136. The written submission from British Transport Police noted the potential for administrative efficiencies. For example, at present if the BTP dealt with an incident in Wick but its nearest office is in Inverness, the seized production would be stored in Inverness and then need to be taken back to the court in Wick for trial.

137. The written submission from the Faculty of Advocates noted that “in principle, this is a valuable provision” but noted that it would be important to retain the ability to require original productions when this is in the interests of justice. For example, in some cases, an item may have certain distinctive physical characteristics which are less obvious in an image.

138. Paul Smith from the Edinburgh Bar Association made a similar point, highlighting a concern that physical evidence may be disposed of by the police if it is deemed that a photograph could be used instead.

139. Stuart Munro from the Law Society of Scotland appeared to be satisfied with the safeguards in the Bill in this respect. He commented—

” I entirely share Paul Smith’s concern about that, but that is more of a culture and practice issue than an issue with the provisions of the bill, because the bill makes it clear that the court can “otherwise direct”.²⁸

140. Laura Buchan from the Crown Office and Procurator Fiscal Service offered similar reassurances, noting that—

” ...the bill contains protections that allow the presumption to be overruled, so, if the Crown or the defence say that they want a certain physical product in court, it would be available. Of course, there would be the opportunity for the defence to examine an item, forensically or otherwise.²⁹

141. The written submission from Victim Support Scotland argued that adequate safeguards must in place to ensure that images are not tampered with and that there must be adequate security to protect the sensitive data stored on DESC with proactive steps taken to prevent security breaches.

142. On the question of what will be the policy for retaining original physical objects under the proposals in the Bill, the Cabinet Secretary for Justice and Home Affairs commented that—

” There will indeed need to be a retention and disposal policy—that is for sure. It will need to be developed. The Government will have an interest in that, but the policy will need to be informed and developed by the justice agencies with expertise in the area, and it will need to be done on a partnership basis.³⁰

143. She also commented that there was a procedure in the Bill to allow for physical objects to be produced in court. She noted that—

- ” The bill also makes digital productions for solemn cases relevant in issues and objections. The use of digital evidence can be a preliminary issue; representatives can, with notice, raise objections, and the court can grant leave to raise a preliminary issue if it believes that cause has been shown. There are, therefore, some safeguards and powers that the court can exercise in particular circumstances, if it so wishes.³¹

Conclusions and recommendations

144. These provisions in the Bill were broadly supported by many organisations. In principle, we are supportive too. It is clear that dispensing with the need to transport physical objects around the country unnecessarily can help improve the efficiency of the criminal justice system. It is also right that the justice system seeks to take advantage of the opportunities afforded by the new Digital Evidence Sharing Capability.

145. However, we wanted to highlight two points on which we seek reassurance from the Scottish Government.

146. First, our view is that there will always be occasions when it is necessary for a physical object to be produced in court. For example, the prosecutor may wish to show the actual weapon used in a crime and feels a digital image would not suffice. The Bill acknowledges this by providing that a physical object can be produced in place of a digital image where a court so decides.

147. However, we question whether these safeguards could be stronger. It appears that there is no absolute right for one party in a case to have a physical object produced unless the court decides. Furthermore, the Bill does not elaborate further on the criteria which must be followed by the court when deciding whether to require a physical object to be produced.

148. At any point, up to and including during a trial, any party, including the judge, who wished to see the physical production should not be prevented by this Bill. We recommend that the Scottish Government strengthens these provisions on the face of the Bill to make it clearer that this would be the case. Furthermore, we recommend that when this provision is brought in, the Scottish Government looks at international experience in relation to the impact of digital productions.

149. Second, we heard concerns about the implications of the provisions in the Bill for the retention of physical evidence. Although the Bill sets out the mechanism by which a court will take a decision on whether a physical object is required, it is not

clear how long that object must be retained for beyond that point. The concern from some organisations was that, in the absence of any guidance to the contrary, the existence of a digital image might make it more likely that the original physical object would be disposed of. This clearly would be inappropriate if there was the chance that the object may be required in any future court proceedings.

150. We note that Police Scotland publishes a National Guidance on Productions. This is likely to be the appropriate location for an updated retention policy which takes account of these provisions in the Bill. We recommend that the Scottish Government coordinates work on an updated policy for the retention of productions which ensures that physical objects are retained for as long as they may be required in court proceedings.

Modernisation of the law on copy documents

151. Section 5 of the Bill sets out new provisions which would, in certain circumstances, remove the requirement for a signed certificate authenticating a copy document. This would apply where the copy was created by uploading the document from an electronic device onto a relevant digital evidence storage system.
152. The Policy Memorandum noted that the Digital Evidence Sharing Capability has significantly changed the way in which digital evidence can be stored, edited, transmitted, and presented in court. DESC incorporates multiple authentication and auditing measures to ensure the accuracy and integrity of digital documents, including where documents must be edited or redacted. The Policy Memorandum argued that—
- “...this avoids the need for separate certificates for authentication as all the necessary information is available from the internal audit trail in DESC.”
153. These proposals appeared to attract general support from organisations which provided evidence, including the Law Society of Scotland, the Faculty of Advocates, the Sheriffs Principal, and the Senators of the College of Justice.
154. In its written submission, the Crown Office argued that—
- ” This maximises the use of existing and potential future digital technologies and gives courts more discretion in relation to acceptance of copies of physical documents. Removing the requirement of certification for files transferred to DESC is likely to make the management of evidence more efficient and streamlined.
155. Victim Support Scotland was supportive of the proposals in its written submission. However, as with the provisions on digital productions, it called for assurances that safeguards would be in place to protect any sensitive data and to prevent documents from being tampered with.

156. One point of concern was raised by British Transport Police in its written submission. British Transport Police stated that it did not have access to use the DESC and noted that the current wording of section 5 in the Bill would exclude BTP from making use of the provision. The written submission commented that—

” BTP operate in a CCTV rich environment and all of our officers are equipped with Body Worn Video. Consequently, most of the cases that we deal with will contain an element of digital evidence. As such, if the Bill remains as drafted, we would be significantly detrimentally impacted by our lack of inclusion in the provision.

Conclusions and recommendations

157. These proposals would help streamline procedures relating to certificates of authentication by taking advantage of the new Digital Evidence Sharing Capability.

158. The proposals are fairly technical in nature and appeared to attract broad support. As such the Committee is content to support them.

159. In doing so, we request that the Scottish Government addresses the specific point raised by the British Transport Police that they will not be able to take advantage of these provisions due to their lack of access to the Digital Evidence Sharing Capability.

Fiscal fines

160. Section 6 of the Bill would amend the Criminal Procedure (Scotland) Act 1995 Fixed Penalty Order 2008 to make permanent provision in relation to higher fiscal fines.

161. The offer to pay a fiscal fine is one of a range of actions prosecutors can take instead of prosecution through the criminal courts. The offer does not have to be accepted, but the possibility of prosecution remains if it is not.

162. Under the proposal in the Bill, prosecutors would be able to select between nine levels, ranging from £50 to £500. These are the same as currently provided for on a temporary basis in the Coronavirus (Recovery and Reform) (Scotland) Act 2022. Prior to the COVID-19 pandemic seven levels of fiscal fine were in use, ranging from £50 to £300.

163. The Policy Memorandum notes that the previous scale and maximum level of £300 had not been revisited since they were introduced in 2008. It notes that according to the GDP deflator measure of inflation, £300 in 2008 would be the equivalent of £428.90 today.

164. The Policy Memorandum states that—

“Making the increased maximum level of fiscal fine of £500 permanently available to prosecutors as a non-court disposal allows prosecutors to continue to deal with less serious offending appropriately, freeing up capacity in the criminal courts system for more serious cases.”

165. The Crown Office and Procurator Fiscal Service was supportive of this proposal in the Bill. In its written submission, it commented—
- ” Whilst a relatively small proportion of the fines issued have been above the previous scale maximum the change has been a useful modification, which has allowed the Crown to respond proportionately, efficiently and in a timely manner to offending for which such a measure is appropriate.
166. Laura Buchan from the Crown Office and Procurator Fiscal Service noted that the increase in the level of fiscal fine proposed is broadly in line with inflation over the years.
167. Several organisations commented on the proposals.
168. Victim Support Scotland indicated that the use of fiscal fines was not a topic which was particularly raised by victims. In supplementary written evidence, Victims Support Scotland stated that it was satisfied with the idea that court time would not be tied up in prosecuting crimes that could be disposed of with a fiscal fine. The submission noted that there could be a benefit for witnesses who will not have to attend court to give evidence if the offer for a fine is accepted.
169. Kate Wallace of Victim Support Scotland told us that—
- ” Our main point about fiscal fines is about communicating to victims that that is the outcome—being clear with victims that that is what has happened. ³²
170. On this point, Laura Buchan of the Crown Office and Procurator Fiscal Service commented on the approach taken to informing victims—
- ” Whether they would be updated on the outcome if a fiscal fine had been offered would depend on what type of offence had been reported. If they contacted us, we would inform them that a fiscal fine had been offered. ³³
171. Another point raised with us was about individuals’ ability to pay an increased fine.
172. The written submission from the Scottish Women’s Convention noted that it held “strong reservations” about the increase. It noted that the majority of those receiving fiscal fines reside in the most deprived areas in Scotland and stated that—
- ” We believe that in most cases, fines worsen an individual’s outcomes, placing many into further financial hardship
173. A written submission from adult justice services at the City of Edinburgh Council indicated that it supported the increase in the level of fiscal fines, but acknowledged that there needed to be a realistic prospect that a fine imposed will be paid, otherwise the proposal could increase pressure on the justice system.
174. The written submission from the Scottish Solicitors Bar Association made a similar

point. It did not have an issue with the increases set out in the Bill, as they reflect inflationary rises in costs, but “recognition will however have to be given to the fact that there is an increased period in custody now available for the non-payment of such fixed penalties”.

175. A written submission from SafeLives stated that it would not support the use of fiscal fines in a domestic abuse context.

176. One final point made about the use of fiscal fines for offences such as shoplifting was that the public might perceived their use as diminishing the importance with which the justice system treats such offences. Simon Brown of the Scottish Solicitors Bar Association commented—

” At a practical level—this has been picked up in the press—we see the effective decriminalisation of shoplifting. Shoplifting becomes an offence that is viewed as a low-level crime and is dealt with by fiscal fines.³⁴

177. In supplementary written evidence, Victim Support Scotland addressed the question of how victims may respond to the use of fiscal fines for crimes of anti-social behaviour such as shoplifting. The submission stated—

” From VSS’s experience, fiscal fines are relevant to wider crime types including anti-social behaviour. While we understand the trauma that can occur when you are the victim to these types of this crime, we have not received any direct feedback from victims of crime, that the increase to £500 would not be appropriate or otherwise.

178. The Cabinet Secretary for Justice and Home Affairs commented that “I do not have any evidence to suggest that fiscal fines are being used inappropriately”. On the concerns raised about the ability of people to pay higher fines, she noted that in a recent update to the Committee “..COPFS said that higher fines—that is, those in the £300 to £500 bracket—had not been used with 16 to 18-year-olds, because of concern about younger people having less income.”³⁵

179. On the question of whether victims should be informed when a case has been dealt with by way of a fiscal fine she commented that “throughout our justice system, we need to get better at giving the right information to victims at the right time”. She went on to state that—

” The issue with fiscal fines is that, given that they tend to be used in less serious cases—and I make it clear that there is no excuse for any offending—it might be difficult to identify the victim. From an operational point of view, I am not sure how that would be done. Those who operate the system might have more fruitful and practical ideas about that. As a point of principle, however, the justice system needs to find better ways to proactively inform victims.³⁶

Conclusions and recommendations

180. The proposal to make permanent the higher level of fiscal fines was supported by several organisations, including the Crown Office. Their argument is that the previous scale and maximum had not been increased since 2008 and so the

increase is broadly in line with inflation.

181. We understand the logic behind this approach. If the use of fiscal fines is to continue to be used by prosecutors as a tool for dealing with particular types of offence, then the level of the fines will need to keep pace with inflation.

182. Having said that, we did hear some concerns about the impact of increased levels of fiscal fines on the ability of certain individuals to pay, with the potential that it could cause them financial difficulties. Furthermore, if non-payment rates increase, more individuals could find themselves in custody. This is something the Scottish Government and the Crown Office will need to monitor.

183. We also heard calls for victims to be informed when a fiscal fine is accepted. We accept there may be certain practical difficulties with this proposal, however we believe it is worthy of further consideration in the context of wider reforms relating to how information is provided to victims of crime.

National jurisdiction for callings from custody

184. Section 7 of the Bill would amend the Criminal Procedure (Scotland) Act 1995 to make permanent provision for a national jurisdiction when courts are dealing with the initial stages of custody cases. It goes further than the current temporary provisions by applying this national jurisdiction to justice of the peace courts as well as sheriff courts.

185. Prior to the COVID-19 pandemic, normal practice was for a custody case to go to a court within the sheriffdom where the offence was allegedly committed.

186. The Policy Memorandum explained that—

“Justice partners including SCTS [Scottish Courts & Tribunals Service] and Police Scotland have expressed clear support for permanency due to the continued flexibility and efficiency in the programming and management of custody court business which is provided for through a national jurisdiction for callings from custody.”

187. The Policy Memorandum noted that maintaining the provisions would allow an effective operational response to transport disruption, severe weather, large public events or other unexpected situations.

188. The provisions in the Bill for a national jurisdiction for custody cases do not specify that the custody courts need to take place virtually.

189. However, the Policy Memorandum notes that a national jurisdiction for custody cases would “enable the increased use of virtual custody courts” by allowing

accused persons to attend any sheriff court in Scotland remotely by electronic means from their local police station. The Policy Memorandum commented that—

“This may minimise the length of time a person is held in custody prior to their first court appearance and enable the swift and efficient processing of custody cases.”

Views on proposals for national jurisdiction for custody cases

190. Some organisations welcomed the provisions in this section of the Bill as allowing more efficient management of court business and a response to emergency situations such as bad weather. Organisations supporting these provisions in the Bill included the Crown Office and Procurator Fiscal Service, the Senators of the College of Justice, the Sheriffs Principal, and the British Transport Police.
191. The Scottish Courts and Tribunals Service submission noted that the provisions allow “a degree of flexibility for occasions where there is a need to manage unexpected or emergency situations”. It noted that the alternative is that courts would have to transfer cases, which would be burdensome, or a direction would need to be sought from the Sheriff Principal for each diet of the court.
192. Some of the comments on the use of national jurisdiction for custody cases linked the provisions with the separate provisions in the Bill for the use of virtual attendance at court.
193. Although virtual attendance at a national custody court is not a requirement of the Bill, Simon Brown from the Scottish Solicitors Bar Association commented that “practically, to make a national custody court work, it would have to be done virtually”.³⁷
194. The Scottish Courts and Tribunals Service noted that—
 - ” This provision would also allow for any future modernisation of custody matters such as a virtual custody model, if this was to be taken forward at a later date.
195. The written submission from the Crown Office and Procurator Fiscal Service noted that national jurisdiction for custody cases “takes advantage of an increased use of virtual custody courts by allowing accused persons to attend any sheriff court in Scotland remotely by electronic means”.
196. As such, some of the concerns raised about this section in the Bill from legal representatives and others were linked to their separate concerns about the practicalities of virtual attendance, which we have discussed earlier in this report.
197. Simon Brown from the Scottish Solicitors Bar Association noted that “in general terms, a national custody court has some merit, but there are significant practical difficulties”, and pointed to the concerns following the pilot scheme in Kilmarnock sheriff court, which were discussed earlier in this report. As we have discussed, similar concerns were expressed by the Edinburgh Bar Association.³⁸
198. The written submission from the Society of Solicitor Advocates commented—

” ...whilst it was clearly a convenience to the court and prosecutor in a centralisation of a National Jurisdiction for the calling of custody cases it is not convenient either to Defence Agents or to the Accused.

199. The written submission from Police Scotland pointed out that “adequate funding for VC infrastructure, including custody suite upgrades and IT systems, will be critical to the long-term success of this proposal” and it would welcome further engagement with the Scottish Government as to how “existing operational barriers might be overcome to make national jurisdiction possible in the short- and longer term”.

200. The written submission from the Sheriffs and Summary Sheriffs Association commented that “there are significant difficulties in having a ‘National Jurisdiction for Callings from Custody’ and it noted that pilot schemes for virtual courts were “technically compromised” and “never ran efficiently or satisfactorily”. The submission went on to state—

” “...more importantly, we consider the principle of such a scheme is unsatisfactory. In our experience, such a scheme is not as efficient as in person courts. Delays and wasted time are a poor use of scarce and valuable court time.”

201. The submission went on to state that—

If this provision is to be brought into effect, we strongly suggest detailed engagement with all interested parties well in advance of commencement, perhaps with a fully evaluated pilot for the reasons already discussed.

202. As we have discussed above, Malcolm Graham of the Scottish Courts and Tribunals Service acknowledged the concerns which have been raised and indicated that he intends to evaluate all the lessons learned from the pilots before moving forward and to take on board all the views of the different court users.

203. A separate point raised by the Edinburgh Bar Association in connection with this section was that clarity could be provided in relation to at what stage in a case national jurisdiction ends. The written submission from the Edinburgh Bar Association stated that—

” Regarding the operation of proceedings on petition, some clarity could be provided. Where an accused is Fully Committed for trial, the case goes back to the court of origin. Not all accused are Fully Committed. Where an accused is Committed for Further Examination only, it is not clear if the case remains at the Court of first appearance or reverts to the court of origin.

204. Paul Smith from the Edinburgh Bar Association told us—

” I think that we would all agree that the first appearance from custody being able to take place in any sheriff court in Scotland is a good idea. The issues that you have identified with what happens jurisdictionally afterwards are separate, and I think that those could be further scrutinised, because there are issues there.³⁹

205. One specific issue identified in evidence related to the legal effect of subsections (5) to (7) of inserted section 5B in section 7 of the Bill. In particular, the explanatory notes refer to certain circumstances in which a case would not return to the court of

origin. The explanatory notes state—

“Subsection (7) means that a court which began dealing with a case at the petition stage can continue dealing with it, under subsection (5), once it has reached indictment stage. In practice, because jurisdiction under subsection (5) ends with an accused being fully committed for trial, which marks one way the petition stage can end, the effect of subsection (7) is likely to be relevant only where an accused makes an early guilty plea under section 76 of the 1995 Act.”⁴⁰

206. In response to the request for clarity in this area, Laura Buchan from Crown Office and Procurator Fiscal Service told us—

” ...I agree that we could do further work, in discussion with the Scottish Government, to clarify when it is intended that the provisions will be used. Such a case could call on petition in any court, but then we would almost always look for it to be transferred to the court where the case would be prepared.”⁴¹

207. Some organisations raised points about the implications for users of the criminal justice system from a national approach to callings from custody. One point mentioned was that it would be desirable to preserve ‘local justice’ where possible. The written submission from the Sheriffs and Summary Sheriffs Association stated that—

” The Association considers that access to local justice is best served by those appearing from custody appearing before a local sheriff, prosecutor and defence bar. The input of local social work services is integral to putting the best information before the court upon which to base its decisions. It would be detrimental to justice should that be lost.

208. A similar point was made in the written submission from the Law Society of Scotland.

209. While it supported the proposals, Victim Support Scotland noted in its written submission that safeguards should be put in place to ensure that court proceedings remain accessible to victims and witnesses either by being in a convenient sheriffdom or by virtual attendance.

210. In its written submission, SafeLives expressed reservations remain about the impact a national jurisdiction for callings from custody would have on victims of domestic abuse and their ability to access support and advocacy.

Position of the Scottish Government

211. The Committee raised with the Cabinet Secretary for Justice and Home Affairs the question of at what point national jurisdiction would end under the Bill. She told us that—

” In summary cases, national jurisdiction applies to appearances from custody but ceases after the accused pleads not guilty. If the accused pleads not guilty, the case has to go on to further proceedings and to trial, so it is very clear when national jurisdiction stops.

There is also clarity on when national jurisdiction ceases in solemn cases. In such cases, it ceases after the accused is fully committed, so it is only used for appearances in relation to questions of bail, not broader appearances with regard to first diets or trial court.⁴²

212. The Committee sought clarification on the specific concerns relating to the legal effect of subsections (5) to (7) of inserted section 5B in section 7 of the Bill and the reference in the explanatory memorandum to certain circumstances in which a case would not return to the court of origin.

213. In evidence, a solicitor from the Scottish Government Legal Directorate stated that—

” ...in solemn cases, the national custody jurisdiction ends when the accused is fully committed—that is, committed until liberated in the due course of law. Therefore, there is no potential for a solemn trial to be held under national jurisdiction. If it is a sheriff-and-jury trial, the case will go back to the local sheriff court for the trial to take place.⁴³

214. She was asked about the inclusion of the statement in the explanatory notes that “subsection (7) means that a court which began dealing with a case at the petition stage can continue dealing with it...” and why this subsection was necessary. She responded—

” Because, over and above the first appearance on petition, there can still be hearings to come before the accused is fully committed.⁴⁴

215. The solicitor from the Scottish Government Legal Directorate about was asked whether subsection (7) applied up to full committal. She responded “yes, that is where the cut-off is” and confirmed that beyond that point “the normal rules apply”.⁴⁵

Conclusions and recommendations

216. Many organisations commented on the proposal to make permanent provision for a national jurisdiction when courts are dealing with the initial stages of a custody case.

217. Various organisations were supportive, on the basis that making these proposals permanent would allow for continued flexibility and efficiency in the justice system. This would be particularly helpful in instances of operational disruption, due to (for example) severe weather.

218. While many organisations supported making the current temporary powers permanent, there were two broad concerns expressed about the proposal.

219. First, many organisations took the view that a national jurisdiction for custody cases would, in practice, need to involve the use of a virtual custody court, though this is not specifically provided for in the Bill.
220. As such, many of the arguments we heard against a national jurisdiction for custody cases were based on concerns about the use of virtual custody courts. As we discussed earlier, many of these issues related to practical and technical problems which had arisen with the pilots of virtual custody courts.
221. The second issue highlighted to us related to the point at which the national jurisdiction would cease to apply and a case would return to the court of origin.
222. This is a complex area and the provisions in the Bill, and the accompanying documents, could be clearer. A particular area of concern was that the Bill could potentially allow national jurisdiction to continue to beyond full committal in certain circumstances. This was implied in a statement in the explanatory notes which referred to there being circumstances in which a court which began dealing with a case at the petition stage could continue to deal with it. A solicitor from the Scottish Government sought to clarify that national jurisdiction would end at full committal, however a representative of the Crown Office acknowledged that there would be scope for clarifying when these provisions would be used.

223. The Committee is supportive of the premise of these temporary measures becoming permanent. However, our concerns lie in the detail of what is being proposed, given it departs from previous practice before COVID. In addition to the clarity we have called for in relation to virtual appearances, there is also a need for more detail here.

224. Our support for this part of the Bill is subject to there being clarity about the point at which national jurisdiction ends. In our view this should be the point at which full committal takes place. This is in the interests of preserving the important principle of local justice, which benefits users of the justice system. We understand that the Scottish Government's policy is that national jurisdiction would end at full committal, but it is not entirely clear to some in the justice sector that the wording of the Bill provides for this.

225. We think it is essential that this clarity is provided and we recommend that the Scottish Government makes explicit this position in the Bill and clarifies the explanatory notes.

Time limits in solemn cases

226. The Bill does not seek to make permanent the current temporary provisions extending some time limits in solemn cases.
227. These extended time limits are due to expire at the end of 30 November 2025,

having been extended previously on a temporary basis. When the time limits expire, they will revert to the pre-pandemic time limits. The relevant time limits are as follows—

1. how long may elapse between first appearance and preliminary hearing/first diet/trial in solemn proceedings
2. how long a person can be kept on remand before service of indictment/preliminary hearing/first diet/trial in solemn cases

228. The Cabinet Secretary for Justice and Home Affairs explained the Scottish Government's position when she gave evidence to the Committee on 9 October 2024—

” The two extended time limits—which, under the extension regulations, would continue for one final year before reverting to their pre-pandemic level—will increase the courts' capacity to hear trials rather than spend time on procedural matters. That will help the throughput of cases and protect victims' access to justice. ⁴⁶

229. The fact that the Bill does not propose to make permanent the extended time limits attracted comment from some witnesses.

230. Kate Wallace of Victim Support Scotland noted that there are 2,000 solemn cases waiting in the High Court that will hit a time bar in November this year. She commented that—

” I have real concerns about the impact of the amount of administration, resource and capacity that those cases will take up in the system if we do not do something about that cohort, which has had a different journey through the criminal justice system because of Covid, and extensions have to be applied for in every individual case. ⁴⁷

231. Her particular concern was about the risk of cases timing out and victims not receiving justice.

232. Simon Brown from the Scottish Solicitors Bar Association commented that—

” The time limits are being extended on a daily basis. They are nowhere near pre-pandemic time limits. Time bars are being extended in just about every solemn case that I deal with. ⁴⁸

233. Stuart Munro of the Law Society of Scotland commented that “it is very difficult to see the courts getting back on track to the point where we will have trials within, for example, the 12-month time limit that applies in a bail case” due to the capacity of courts to accommodate trials. ⁴⁹

234. However he commented that, it is harder to see any continuing justification for the other time limit—that is, the one for the Crown to bring a case to court by service of an indictment. He noted that—

” “We are long past the pandemic. It should be possible for a case that is reported to the Crown today to be investigated and turned around within the time limits that were applicable pre-pandemic.”⁵⁰

235. The Committee asked Malcolm Graham of the Scottish Courts and Tribunals Service whether the system was on track to deal with a return to the pre-pandemic time limits. He told us—

” The short answer is no. When I was before the committee at the tail end of last year, I expressed great concern about the level of business that is likely to come, particularly into the High Court, and about the Crown’s projections set against the capacity that the system—of which SCTS is just one part—will have to deal with.⁵¹

236. He noted that the issue of the time bar “is, I understand, under active consideration”⁵²

237. Laura Buchan from the Crown Office and Procurator Fiscal Service confirmed that “we are in discussions with our colleagues in the Scottish Government about that in relation to solemn cases”. She explained further that—

” We are not suggesting that, from 1 December, the cases that call when those provisions expire should not revert to the time bars that were in place before Covid. We are talking about the cases that are in the system now and those that are calling today. We would like clarity about the time bars that will be in place for those.⁵³

238. The Cabinet Secretary for Justice and Home Affairs acknowledged the progress made by the Scottish Courts and Tribunals Service in tackling the backlog in court cases but noted the current increases in business for prosecutors and the corresponding impact on the court system.

239. The Cabinet Secretary noted there is scope to extend time limits on a case-by-case basis, but indicated that “I do not want our court system to be wrapped up in procedural hearings”. She told us—

” We are therefore looking closely at the notion of a savings provision, which was one of the suggestions. That would require a statutory instrument and, therefore, the approval or otherwise of the committee. It would ensure that the current temporary time limits would apply to cases that are already in the system prior to 1 December 2025. For new cases that come into the system after 30 November 2025, the pre-pandemic time limits would apply.⁵⁴

Conclusions and recommendations

240. The Bill does not propose to make permanent the current temporary provisions extending certain time limits in solemn cases. As such, on 30 November 2025 they will revert to the previous pre-pandemic time limits.

241. In principle, we think this is the right approach. Our view is that the previous time limits were put in place for good reason and provide a guarantee that a case will progress through the criminal justice system within a certain timeframe.

242. While we support a return to the previous time limits, it is clear that there are concerns about whether the court system will have the capacity to meet the required timescales due to the number of cases in the system at present. Although the time limits could be extended on a case-by-case basis, this would take up valuable court time, when this is in short supply.

243. Given that concerns have been expressed by organisations across the justice sector (including the Crown Office, the Scottish Courts and Tribunals Service, the legal profession and victims organisations), we must take them seriously.

244. The Cabinet Secretary has suggested that the current temporary time limits could continue to apply to those cases in the system prior to 1 December 2025. In our view, this would be a pragmatic solution to deal with the current pressures. However, our expectation is that the time limits will return to their pre-pandemic level for any new cases beyond 1 December 2025. This should be provided for in any amendments made to the Bill.

Part 2 - Domestic Homicide and Suicide Reviews

Proposals in the Bill

245. Part 2 of the Bill builds on a commitment within the Scottish Government’s Equally Safe Delivery Plan and a key priority within its 2023-24 Programme for Government.
246. The Policy Memorandum states that “Domestic homicide and suicide reviews aim to identify what lessons can be learned and potentially applied following a death where abuse is known or suspected, in order to help prevent future abuse and death.”
247. The aim of the proposed domestic homicide and suicide reviews, as outlined in the Policy Memorandum, is to ensure that “change and improvements are delivered through effective learning from a robust review process so that individuals and communities are better supported by public services, and deaths can be prevented.”
248. By way of background, the Scottish Government’s Policy Memorandum notes that—
- “Work to develop the domestic homicide and suicide review model in Scotland has been progressed through the Scottish Government-led domestic homicide and suicide review taskforce, a multi-agency group which includes senior stakeholders. The expertise of stakeholders and those with lived experience of domestic abuse, alongside learning gained from UK and international jurisdictions, have been fundamental in forming the approach taken which is outlined within the Bill.”
249. The Scottish Government also note that Scotland is currently the only part of the UK that does not have a multi-agency domestic homicide review model.

Domestic homicide and suicide reviews

250. Section 9 of the Bill defines the concept of a domestic homicide or suicide review. Subsection (1) of this section provides that the term means a review—
- Of the circumstances in which a domestic abuse death, or a connected death of a young person, occurred,
- Held with a view to identifying lessons to be learned from the death and the circumstances leading up to it.
251. Subsection (2) sets out the definition of “person A” and “person B”. Person A is a person who has, or appears to have, behaved in an abusive manner towards person B. In other words, person A is the perpetrator of abusive behaviour. The person who has been abused (person B) needs to be, at the time of the behaviour, one of the following—
1. The partner or ex-partner of the perpetrator

2. The child of the perpetrator
 3. The child of the partner or ex-partner of the perpetrator
 4. A young person living in the same household as the perpetrator, or in the same household as the perpetrator's partner or ex-partner
252. The Scottish Government states that the possibility of a review would cover a range of situations where there was, or appears to have been, abusive behaviour within a relationship and that behaviour has, or may have, resulted in the death of the abused person or contributed to their suicide. There is also the provision for a review in some other circumstances, such as where an abused partner kills their abuser.
253. The Bill's Policy Memorandum explains that the purpose of domestic homicide and suicide reviews would be—
- “to identify what lessons can be learned and applied following a death where is known or suspected in order to help prevent future abuse and deaths.”
254. The Explanatory Notes state that—
- “The review is not about attributing liability to anyone but rather is about working with relevant agencies (whether statutory or voluntary) where either the victim or the perpetrator came into contact with them, in order to learn wider systemic lessons.”

Review Oversight Committee

255. Section 11 of the Bill provides for the establishment of the Review Oversight Committee, with responsibility for securing and overseeing the carrying out of domestic homicide and suicide reviews. Members of the Review Oversight Committee would be appointed by the Scottish Government, which would need to ensure that the Committee includes representatives of relevant voluntary organisations. The following public bodies would be able to nominate individuals for appointment—
1. Local authorities
 2. Health boards
 3. Police Scotland
 4. Crown Office & Procurator Fiscal Service
 5. Community Justice Scotland
 6. Care Inspectorate
 7. Scottish Social Services Council.
256. The fact that a death falls within the Bill's definition of those which may be the subject of a review does not necessarily mean that a review would be held. The

Review Oversight Committee would be responsible for determining whether to hold a review in respect of each relevant ‘reviewable’ death. Its decision would be based on the likelihood of a review identifying lessons which would improve safeguarding practices and promoting the wellbeing of those affected by abusive domestic behaviour and whether any relevant public authorities or voluntary organisations were, or could have become, involved in the circumstances leading up to the death. Where the Committee decides that a review should be held, it would establish a Case Review Panel to undertake the work.

257. Section 12 of the Bill provides that a Panel should consist of a chair selected by the Committee from a pool of Panel chairs appointed by the Scottish Government and any other members as determined by the Committee. The Bill’s Explanatory Notes state that members of Case Review Panels would be “people who have valuable insights to offer but who will be able to do this alongside their everyday lives and work”. The Policy Memorandum adds that each of the Panel chairs “will bring their own unique expertise, e.g. knowledge and experience of policing and domestic abuse or of the parole board”.
258. Following its review, the Panel would produce a report for the Review Oversight Committee to consider. The report would cover various issues, including whether opportunities to safeguard or promote the well-being of affected people were missed, and any recommendations.
259. The Policy Memorandum notes that—
- “the report will be shared with organisations where learning, recommendations and actions have been identified. This will in practice be discussed with the organisations to ensure the recommendations are clear and achievable.”
260. The Review reports would be shared with family members in line with guidance which would be issued on this point. The Policy Memorandum (para 173) states that families would “be given time to fully digest the report with an opportunity to meet and discuss the report with the panel. Family members are central to the review and will be kept updated throughout the process if they choose to be.”

Deaths which may be reviewed

261. The definition of ‘domestic abuse death’ covers situations where a death is, or may have been, associated with abusive behaviour; namely, when an abuser kills a partner or ex-partner; an abuser kills their own child, or a child of their partner or ex-partner (including an adult child); an abuser kills a young person who is living in the same household as the abuser or the abuser’s partner or ex-partner; where a person has felt driven to suicide by the abusive behaviour of a partner or ex-partner or a victim of domestic abuse killing their abusive partner or ex-partner.
262. The Bill also includes scope to review ‘connected deaths’ where there is a background of domestic abuse, but the young person killed was not related to or living with the abuser or the person being abused. The Bill’s Explanatory Notes give the example of a young person being killed by an abuser whilst at a friend’s house.
263. The Bill defines the meaning of abusive behaviour by reference to sections 2 and 3 of the Domestic Abuse (Protection) (Scotland) Act 2021. In short, this covers

behaviour which a reasonable person would consider to be likely to cause the victim to suffer physical or psychological harm.

264. The definition of a ‘domestic abuse death’ does not cover a range of scenarios where other family relationships existed between the abuser and the victim. For example, the system of reviews would not apply where a child kills a parent, or a brother kills a sister. The Policy Memorandum notes that the Scottish Government is committed to expanding the system of reviews to other family relationships where the death was an ‘honour killing’.
265. Section 10 of the Bill would allow the Scottish Government to make various changes to the provisions in Section 9, such as the inclusion of deaths in the context of honour-based abuse.

Notification of reviewable deaths

266. Section 14 of the Bill provides for the notification of reviewable deaths (i.e. ones which fall within the definition of deaths which may be reviewed set out in section 9) to the Review Oversight Committee. This then allows the Review Oversight Committee to consider whether to set up a review in relation to a particular death.
267. Under section 14, the Chief Constable of Police Scotland and the Lord Advocate would be required to notify the Review Oversight Committee where this has not been done by the Chief Constable or Lord Advocate. For example, as stated in the Bill’s Explanatory Notes, this would apply in circumstances such as “a Scottish resident dies abroad and so the authority with responsibility for investigating the death and bringing any appropriate criminal proceedings is a foreign authority.”
268. Section 15 allows for the withdrawal of a notification where the death is now believed not to be a reviewable death.

Conduct of reviews and relevant powers

269. Section 17 of the Bill provides that a domestic homicide or suicide review would be carried out by a Case Review Panel, which would be established by and work under the supervision of the Review Oversight Committee.
270. The Review Oversight Committee would set the terms of reference for each review. It would also be able to establish a Case Review Panel to carry out a joint review of more than one death, and to instruct a Panel to carry out its review in conjunction with another form of review being carried out by someone else.
271. Sections 20 and 21 of the Bill set out provisions aimed at supporting the Review Oversight Committee and Case Review Panels, in getting the cooperation and information they need from others to carry out their work. The Bill’s Policy Memorandum notes that—

“In order for a review to be undertaken, information on the victim(s) and the perpetrator (where being considered) needs to be shared with the review. This has been a challenge with other non-statutory reviews and therefore a duty to

participate, co-operate and to share information through a legal data gateway is a key component of the Bill that will support the review process to operate successfully.”

272. Under section 20, certain public bodies could be required to take part in a review and/or provide relevant information. The public bodies covered are—
1. Local authorities
 2. Health boards
 3. Police Scotland
 4. Scottish Police Authority
 5. Crown Office and Procurator Fiscal Service
 6. Scottish Prison Service
 7. Community Justice Scotland
 8. Care Inspectorate
 9. Scottish Social Services Council.
273. Under section 21, other people and organisations, such as private and third sector organisations which had contact with the victim, could be required to provide information in their possession.
274. The requirements to provide information, under both sections 20 and 21, would not apply in relation to information which could be refused in court proceedings (e.g. legally privileged information).

Preventing prejudice to other investigations or proceedings

275. The Bill would allow for a domestic homicide or suicide review to be carried out in parallel with other investigations or proceedings, including criminal proceedings. With that being said, section 18 of the Bill would allow the Lord Advocate to pause or end a review in light of any other investigation, criminal proceedings or fatal accident inquiry. Before doing so, the Lord Advocate would have to consult the chair of the Review Oversight Committee.
276. Section 19 of the Bill seeks to further reduce the risk of a domestic homicide or suicide review compromising other ongoing investigations or proceedings. It provides for a protocol between the chair of the Review Oversight Committee, Police Scotland, the Crown Office & Procurator Fiscal Service, and the Scottish Government.

Reporting

Case Review Reports

277. Section 22 of the Bill provides that, following the completion of each domestic homicide or suicide review, the relevant Case Review Panel would produce a report for consideration by the Review Oversight Committee. The case review report would cover various issues, including whether opportunities to safeguard or promote the well-being of affected people were missed, areas of good practice, and any recommendations.

278. The work of the Review Oversight Committee would include the approval of case review reports. This could involve instructing the Case Review Panel to resubmit a report with additional information.

279. Once approved by the Review Oversight Committee, copies of case review reports would be provided to the Scottish Government. Where a review related to the death of a young person or an adult at risk, a copy would also be provided to the Care Inspectorate.

280. The Bill's Policy Memorandum states that case review reports will also be shared with family members—

“Review reports will be shared with family members in line with guidance which will be issued on this point, and they will be given time to fully digest the report with an opportunity to meet and discuss the report with the panel.”

281. The Review Oversight Committee would be required to publish information on the recommendations of each case review report. This might include publishing part or all of a report, although this would require the consent of the Lord Advocate. In addition, any information which might identify a living individual could only be published with the consent of that person.

282. Section 23 of the Bill provides that a case review report may require people to respond to recommendation. Those people, including organisations, will be provided with a copy of the report. The Policy Memorandum (para 172) notes that a case review report—

“will be shared with the organisations where learning, recommendations and actions have been identified. This will in practice be discussed with the organisations to ensure the recommendations are clear and achievable.”

Periodic Reports

283. Section 24 of the Bill would require the Scottish Government to report on domestic homicide and suicide reviews every two years. These periodic reports would cover a range of matters, including emerging themes arising from reviews, lessons learned, and actions taken, and the relevant statistics.

Statutory guidance

284. Section 25 of the Bill provides that the Review Oversight Committee and Case Review Panels would need to have regard to any written guidance issued by the Scottish Government when carrying out their work. Such guidance would be published.

Views on domestic homicide and suicide reviews

285. The overwhelming majority of those who gave evidence to the Committee on Part 2 of the Bill were broadly supportive of the introduction of domestic homicide and suicide reviews. In the Policy Memorandum, the Scottish Government also note broad support from stakeholders for the proposals in the Bill which would introduce a domestic homicide and suicide review model.
286. Fiona Drouet, Founder and CEO of EmilyTest, stated in a written submission to the Committee that—
- ” In Scotland, we currently have no system to review suicides linked to domestic abuse. This is a glaring omission in our efforts to prevent further needless deaths...It cannot be left to grieving families to uncover these failures. Each death is a tragedy, but it must also be an opportunity to learn and improve. We owe it to every victim to show that their life mattered, that their death will not be in vain, and that we will fight to prevent others from suffering the way they and their families have.
287. In a written submission, Scottish Women’s Aid stated that they were supportive of the creation of a statutory model underpinning the process of domestic homicide and suicide reviews, and they have “lobbied for such for almost a decade.”
288. Social Work Scotland, in a written submission, told the Committee that the organisation—
- ” welcomes the principle of reviewing and learning from domestic homicide and suicides, bringing Scotland into line with other UK jurisdictions. We agree that this is critical to focus on learning to identify areas of change and improvement, where necessary, in these rare but traumatic circumstances, in order to prevent further tragedies and give a voice to victims.”
289. Victim Support Scotland, in a written submission to the Committee, outlined their support for the proposals in Part 2 of the Bill. They highlighted their support for the approach taken in developing the proposals, stating—
- ” “We have greatly appreciated the collaborative approach taken in developing Scotland’s approach to this issue. We firmly believe that listening to and understanding the needs and experiences of victims is key...[We] welcomed the opportunity to be involved in planning these new statutory reviews from the outset and ensure that our expertise and perspective from families with experience has informed the approach.
290. COSLA also stated, in writing, that it “welcomes the principles and aims of the

[domestic homicide and suicide] reviews”.

291. The Crown Office and Procurator Fiscal Service (COPFS) said, in a written submission, that they are “supportive in principle of domestic homicide reviews and has been committed to working with [the Scottish Government] and stakeholder partners to develop a model.”
292. In a written submission, Police Scotland told the committee that they “fully support...the development and introduction of a multi-agency system of review to identify learnings and adapt practice following a ‘domestic abuse death.’”
293. Although there was general support for the principles of such reviews, we did hear some specific comments about the practical details of the proposals, which we will discuss below.

Definition of domestic abuse and relationships covered by the reviews

Proposals in the Bill

294. The scope of the review process is broader than the current definition of domestic abuse, which amounts to criminal conduct, as outlined in the Domestic Abuse (Scotland) Act 2018. The Policy Memorandum outlines the Scottish Government’s rationale for this, explaining that it is “in recognition of the strong support and opportunity for domestic homicide and suicide reviews to go further.”
295. The Policy Memorandum explains that a deliberate focus has been placed on the ‘behaviours’ of domestic abuse rather than the ‘relationships’, to allow for any future expansion of the scope of the reviews.
296. Those experiencing domestic abuse do not always report to the police, or if they do, it can take some time. Under the 2018 Act, when a report is made to the police, there must be a course of conduct established, meaning that there must be two or more recorded ‘incidents’ of domestic abuse. As the Policy Memorandum notes, in around half of domestic homicides in Scotland, victims did not report any prior domestic abuse incidents. Thus, for the purposes of domestic homicide reviews, the death itself is considered enough to constitute abusive behaviour.
297. The Committee heard some opposing views on the definition of domestic abuse contained within the Bill.

Views on definition and scope

298. Detective Superintendent Adam Brown of Police Scotland told the Committee that on the inclusion of deaths in which domestic abuse might be a contributing factor, the issue of causality is “not particularly clearly defined” in the Bill’s Explanatory Notes, resulting in a “very wide scope with regard to the deaths that could be considered subject to review under the model.”⁵⁵

299. Dr Emma Forbes of the Crown Office and Procurator Fiscal Service raised concerns that the definition of domestic homicide in the Bill is “much wider” than in the Domestic Abuse (Scotland) Act 2018 and therefore “dilutes the approach”.⁵⁶
300. Dr Forbes told the Committee that Scotland has a unique definition of domestic abuse, and that this is different from any other country or jurisdiction worldwide. She said that “I fear that part 2 of the bill borrows too much from other jurisdictions when we should be setting our own path.”⁵⁷
301. These concerns were shared to some degree by Dr Marsha Scott of Scottish Women’s Aid, who told the Committee that—
- ” It should not be a binary decision between changing the definition and not changing the definition. We need to be better at implementing our responses within the definition and be willing to grasp the nettle, ask why the system is not working for honour-based abuse and other permutations of domestic abuse deaths, and design systems and provide services that do.”⁵⁸
302. Dr Scott expressed support for maintaining the definition in the 2018 Act as it would “help us to focus on the critical cases that the system will...be designed to address.”⁵⁹ Pointing to difficulties in implementation of domestic homicide and suicide reviews in England, Dr Scott noted that this was owing to the “sheer number of cases being reviewed” as a result of a wide definition.⁶⁰
303. Professor Devaney of the University of Edinburgh, noted Dr Forbes’ point on definitional issues in the Bill and agreed that it should not “do anything that seeks to undermine the commonly understood definition of domestic abuse in Scotland.”⁶¹ Professor Devaney was supportive of the definition in the Bill, however, warning that sticking tightly to the definition in the 2018 Act risks “unintended consequences”. He said—
- ” For example, somebody might be killed along with somebody else in the same incident, and therefore only one death, rather than two, three or four, would be look at in that context. It would be hard to explain to [the victim’s family] why that would be the case.”⁶²
304. Moreover, Professor Devaney told the Committee that limiting the definition of domestic abuse to current legislation, risks missing “a lot of learning”.⁶³
305. Similarly, Victim Support Scotland, in a written submission, expressed support for the broadening of scope to included “cases of suspected domestic abuse and the inclusion of suicide cases where domestic abuse is suspected as part of the context.”
306. And Fiona Drouet, of EmilyTest, told the Committee that—
- ” I agree that we should not be constrained by the definition. We have to think about the country that we live in and represent the whole population, and I am not sure that the 2018 act lets us do that. I do not think that honour-based killings fall under that definition, so I welcome the wider scope of the bill in that regard.”⁶⁴

307. In a written submission to the Committee, the Equality and Human Rights Commission, expressed concerns that the Bill “does not account for all forms of domestic homicide.” Referencing a recent summary of UK evidence on minoritised ethnic women’s experiences of domestic abuse, published by the Scottish Government, they said this “highlights that ethnic minority women may experience distinct forms of domestic abuse, such as that perpetuated by extended family households.”
308. On the issue of definition, the Cabinet Secretary said—
- ” I recognise that the deaths in the scope of the review model do not mirror the Domestic Abuse (Scotland) Act 2018...the 2018 act focuses more narrowly on relationships between partners and is about domestic abuse as an offence. However, the impact of domestic abuse reaches beyond the relationships that are set out in the 2018 act. The bill therefore focuses on that broader impact to better understand the full effect and create wider opportunities for learning in order to prevent the wide range of domestic abuse behaviour and future deaths.⁶⁵

Reviewable deaths - definitions of child and young person

309. The Bill makes provision for a review of a “domestic abuse death” or of a “connected death of a young person”. The Bill outlines that the person on the “receiving end of the abusive behaviour” must be one of the following—
1. The partner or ex-partner of the perpetrator
 2. The child of the perpetrator
 3. The child of the partner or ex-partner of the perpetrator
 4. A young person living in the same household as the perpetrator, or in the same household as the perpetrator’s partner or ex-partner
310. The Committee heard some comments on the need for further clarity in the definition of “child” in this section of the Bill. For instance, in a written submission, Scottish Women’s Aid told us that Section 9 “appears to use the terms “child” and “young person” interchangeably, with no consistency and “young person” as a shorthand for both.” They further state that—
- ” “The only definition of a child is in the Explanatory Notes, paragraph 106, which defines a child in terms of the nature of the relationship between that person and Person A and Person B, as opposed to any legal definition relating to age.”
311. When asked about the definition of “child” in the Bill, the Cabinet Secretary told the Committee—

- ” ...although the term “child” is normally defined in statutes to mean a person below a certain age, that approach has not been adopted in this bill, because it is about the relationship and the connection, and the child could be an adult who is living independently.⁶⁶

Complexity of the existing review landscape

312. The Committee heard several comments on the complexity of the existing review landscape in Scotland and some concerns about how domestic homicide and suicide reviews would operate within this.
313. The Policy Memorandum states that in order to reflect the nature of the review landscape in Scotland, the Review Oversight Committee would be able to establish a joint review where it is relevant and appropriate. For example, it is anticipated that this approach would be taken following the death of a child to reduce duplication and burden on family members and stakeholders by engaging in multiple reviews in addition to a potential criminal investigation.
314. The Committee heard some concerns about how this would work in practice, however. In a written submission, Social Work Scotland told the Committee that the proposals, as they are currently drafted, “requires significant further detailed consideration”. They went on to say that “Layering on additional Review processes onto a cluttered and unaligned landscape adds to complexity within the system. We do not believe sufficient focus or consideration has been given to this within the current proposal and working groups.”
315. Similarly, COSLA, in a written submission, highlighted concerns about the addition of domestic homicide and suicide reviews to “an already complex review landscape in Scotland.”
316. Social Work Scotland also told us that the model, as currently proposed, risks creating a “two-tier review system” i.e. a statutory and government appointed process and a locally accountable non statutory process which poses “particular risks in relation to situations where several review processes are relevant with duplicate criteria.”
317. Graeme Simpson, representing Social Work Scotland, expressed concerns about the impact of multiple reviews on children and families, and the workforce.
318. Fiona Drouet, of EmilyTest, shared some of these concerns; she told us that “We need to be careful that there is no duplication of processes...we want to ensure that there will be a review of which review process is most suited to each case.”⁶⁷
319. Dr Emma Fletcher, NHS Tayside, echoed these comments, stating that “it would be of value to ensure that any new review process does not duplicate existing structures but works within them for maximum impact.”⁶⁸
320. When asked about the complexity of the existing review landscape, the Cabinet Secretary said—

- ” The bill provides for joint reviews and multi-agency reviews. That is important, because a scenario could include both a significant child protection concern and a concern about domestic abuse or suicide...we want to achieve one set of recommendations, and it is of central importance that they be joined up.⁶⁹

Structure of the Review Oversight Committee and Case Review Panel

Review Oversight Committee proposals

321. The Bill proposes the creation of Review Oversight Committees, which would oversee the work of the case review panels. The Policy Memorandum explains that the Review Oversight Committee chair and deputy chair are to be public appointments. It states that “this is to ensure that the model is independent, robust, resilient, fit for purpose and inspires trust in those engaging in the process.”
322. The Review Oversight Committee would comprise of key agencies and organisations, with the ability to add and remove those listed in the Bill. This would include representatives from several public authorities and victim support representation. The membership is intended to remain “fairly static” in order to “build up a body of collective knowledge in relation to domestic homicide and suicide reviews.” The Review Oversight Committee would also be responsible for determining whether a review will be held.

Views on the Review Oversight Committee

323. The evidence heard by the Committee amounted to a largely positive view of the model of having a Review Oversight Committee in addition to case review panels, but there were some specific concerns raised in written and oral evidence on how this would operate in practice in the Scottish context.
324. For instance, in a written submission to the Committee, Scottish Women’s Aid expressed concerns around the Bill’s proposals for the constitution of the committee. More specifically, that the drafting of the proposals in the Bill indicates that “the inclusion of victim support organisations is discretionary.” They added that—
- ” ...this section must contain a requirement that Ministers appoint representatives from expert, specialist, voluntary sector organisations supporting as committee members.
325. They also called for a balance of voluntary and statutory members of the review oversight committee in order to “mitigate the uneven distribution of power and resources in these two sectors.”
326. Professor Devaney, a member of the Taskforce, was particularly supportive of a separation of functions between the Review Oversight Committee and the Case

Review Panels stating that they are useful to ensure that reviews are done in a way that “does not try to favour or excuse what might be poor practice or limitations in services.”⁷⁰

327. The Committee also heard comments on the importance of robust training for members of the oversight committee. For instance, Fiona Drouet of EmilyTest told the Committee that “If we are to have a robust process, we must ensure that training is comprehensive.”⁷¹
328. Marsha Scott of Scottish Women’s Aid emphasised the importance of balancing members of the oversight committees with experts from the domestic abuse sector.

Case review panel

329. The Bill proposes that Review Oversight Committee would establish Case Review Panels for the purpose of carrying out domestic homicide and suicide reviews. As with the oversight committees, the chair and the deputy chair would be recruited through a public appointment process. The Policy Memorandum outlines the proposed process for the recruitment of a review panel chair from an established pool—

” Each of the chairs will bring their own unique expertise e.g. knowledge and experience of policing and domestic abuse or of the parole board. Due to their being a small bank of chairs, should there be any conflict of interest, another individual can chair a review.

330. Similarly to the evidence heard on Review Oversight Committee, the Committee heard generally positive views on proposals relating to case review panels, but again, there were some specific comments on how these would work in practice.

331. On the role of case review panel member, the Explanatory Notes accompanying the Bill states that “the intention is that this will be a role performed by people who have valuable insights to offer but who will be able to do this alongside their everyday lives and work.”

332. In a written submission, Scottish Women’s Aid raised concerns on this proposal in the Bill; they said—

” “There is no indication that either the panel chair or the members will be required to demonstrate any specific knowledge, competency, relevant experience or understanding around the causes, impact and dynamics of domestic abuse, the qualifications being, simply that they “...have valuable insights to offer...”

333. Scottish Women’s Aid suggested that the guidance for the oversight committee and review panel, which would be set by Scottish Ministers under Section 25 of the Bill, to include a mandatory requirement for a knowledge and competency framework for both panel chairs and members.

334. On the function of case review panels, Dr Grace Boughton, criminologist, stressed that “it is exceptionally important that the local aspect is not lost but is appropriately

reflected at case review panel level because...different areas have different levels of community cohesion and feeling.”⁷²

335. On membership and training of both the Review Oversight Committee and Case Review Panels, the Cabinet Secretary said—

” The membership of the regional oversight group will have to be broad and capture a range of expertise. The task force has a working group that is looking at things such as job descriptions and training needs. The membership of individual case reviews will depend on the facts and circumstances of the case, but I expect that it will include statutory organisations, such as the police, social workers and organisations that have a responsibility in and around public protection.⁷³

Reports

336. The Policy Memorandum explains that the report produced by the Case Review Panel would be shared with organisations where learning, actions and recommendations have been identified. Reports would then be submitted to the review oversight committee, and where relevant, to the Care Inspectorate. The Policy Memorandum states that then, “The learning will be shared locally and nationally through a number of mechanisms and the Scottish Ministers will track and monitor progress against the recommendations and actions.”
337. Review reports would be shared with family members in line with guidance issued on this point, and they would be given the time to fully digest the report and meet with panel members to discuss the report. The Policy Memorandum states that “Family members are central to the review and will be kept updated throughout the whole process if they choose to be.”
338. Reports would be anonymised, but the Policy Memorandum acknowledges that there may be times in which a report or summary report is not able to be published at all. Where this is the case, the Review Oversight Committee would be required to publish what it can in terms of a summary of the lessons learned.
339. Over the course of its evidence-taking, the Committee heard several comments on the reports following a review, particularly on the impact on families and the need for anonymity.
340. Victim Support Scotland, in a written submission, stated that in the interests of the families affected by these crimes, they believe that it is “pertinent to allow them access to the full copy of the report, not just a summary, if they wish.” They also ask that appropriate measures are taken to protect the privacy and dignity of victims and their families and that “This includes safeguarding sensitive information and ensuring that reports are anonymised as a default, with the right to waive anonymity should the victim or family wish to do so.”
341. Echoing this, Fiona Drouet of EmilyTest told the Committee that “Families should, absolutely, be involved in the process from start to finish and should be kept informed along the way...If [a report] is in the public domain, we need to be careful that the information on the victim/survivor does not make them identifiable, because

that can be hugely traumatic for families.”⁷⁴

342. Professor Neil Websdale of Arizona State University also urged caution on the level of detail that could be publicly available in reports following a domestic homicide or suicide review, he said this could be “potentially extremely invasive, and we ought to be concerned about it if we are concerned about family traumatisation.”⁷⁵

343. These concerns were also shared by Graeme Simpson, representing Social Work Scotland, who told the Committee that “We need to think carefully about publishing reviews, because of the real risk of re-traumatising children and family members who are impacted.”⁷⁶

344. When asked about the publication of reports following a review, the Cabinet Secretary said—

” The default position is that reports should be shared with families and loved ones. Nonetheless, consideration needs to be given to sensitive information about survivors who are living...With regard to what is published, we want to ensure that the learning and the findings are clear...Under the auspices of the task force, there is a working group that is working through the issues of data and information sharing, confidentiality and transparency.”⁷⁷

Resources

345. Several organisations expressed concerns about the financial implications of developing and implementing the domestic homicide and suicide review model. For instance, COSLA, in a written submission, told the Committee that—

” The financial memorandum does not reflect the costs and capacity needs of local authorities and their strategic community planning partners to properly prepare and support their workforces, nor to facilitate support for family engagement, and provide ongoing (sometimes across a lifetime) services to support them where needed once a review has been completed.

346. Expressing similar concerns, Detective Superintendent Adam Brown of Police Scotland told the Committee that the implementation of the domestic homicide and suicide review model would potentially have a significant impact on Police Scotland’s budget and resources. Moreover, Detective Superintendent Brown highlighted that the Financial Memorandum that accompanies the Bill is “silent on the anticipated financial impact on the police budget.”⁷⁸

347. On the impact of the Bill on the budgets of the Scottish Courts and Tribunals Service (SCTS), COPFS and Police Scotland, the Finance and Public Administration Committee [asked the Scottish Government](#) to “provide an estimate of costs to these organisations so that they can contribute meaningfully to domestic homicide and suicide reviews.”

348. In a [letter to the Public Finance and Administrative Committee](#) dated 13 February 2025, the Cabinet Secretary for Justice and Home Affairs stated—

” Given the anticipated volume of cases, it is anticipated that the cost falling on these agencies will be minimal...However, should costs be identified during the development of the accompanying statutory guidance, we will explore these with relevant organisations as part of our ongoing engagement with these organisations through the Taskforce structure or otherwise.

349. When asked about some of the concerns raised about the resourcing of reviews, the Cabinet Secretary told the Committee that—

” ...the financial memorandum states that the costs of setting up the review oversight committee and the public appointment of the chairs and deputy chairs, including financial support for expenses related to their recruitment, would fall to the Government...costs under part 2 will be met by the Government.⁷⁹

Conclusions and recommendations

350. Part 2 of the Bill proposes the establishment of domestic homicide and suicide reviews. This has been broadly welcomed by stakeholders owing to Scotland not currently having a statutory system to review deaths linked to domestic abuse and the need to identify areas of change and improvement to help to prevent future abuse and deaths. As such, we welcome the principle in the Bill to establish domestic homicide and suicide reviews. We are aware that there is a gap in the review landscape in Scotland that means deaths linked to domestic abuse may not be subject to any review process and therefore the opportunity to learn lessons is lost.

351. We welcome the opportunity to learn from review processes in other parts of the UK, and internationally, to ensure that Scotland implements best practice in establishing its domestic homicide and suicide review model.

352. Although the provisions in the Bill attracted general support, there were some specific comments on the details which we discuss below.

353. First, the scope of the review process is broader than the current definition of domestic abuse, which amounts to criminal conduct, as outlined in the Domestic Abuse (Scotland) Act 2018. We heard conflicting views on whether the definition used in the Bill was too wide in scope and that we need to stick to the definition in the 2018 Act. On the other hand, we recognise that many of those experiencing domestic abuse do not report their abuser to the police and a broader definition will create wider opportunities for learning through the review process, and to prevent future deaths.

354. It is important that the approach taken in this Bill does not undermine the existing definition in the 2018 Act. We therefore seek reassurances from the Scottish Government that there is nothing in the Bill that will undermine the commonly understood definition of domestic abuse in Scotland.

355. Second, we also heard some comments on the definition of ‘child’ and ‘young person’ in the Bill as being unclear. We recognise that this is intended to extend the provision for reviews to ‘connected deaths’ which may, in some cases, be an adult child who may not live in the same household as the abuser. Nevertheless, there is still some confusion around the wording in the Bill, therefore we recommend that consideration is given to more clear definitions of ‘child’ and ‘young person’ in the context of this Bill.

356. We note that Section 10 of the Bill would allow the Scottish Government to expand the scope of the reviews in the future. The Committee would welcome the inclusion of deaths in the context of honour-based abuse and homicide by family members.

357. Third, we heard some concerns about where the domestic homicide and suicide reviews would fit in to an already complex review landscape in Scotland. Both Graeme Simpson, representing Social Work Scotland, and Emily Drouet, Founder and CEO of EmilyTest, cautioned against the duplication of processes and the strain this would place on children and families. We recognise that Scotland is the only part of the UK that does not currently have a statutory domestic homicide review model and that there is a gap in the existing review landscape. We recommend that the Scottish Government provide detail on how joint and multi-agency reviews will work in practice and how it will ensure the reviews do not duplicate existing processes in order to minimise the impact on children and families.

358. Fourth, the Bill proposes the creation of Review Oversight Committees, which would oversee the work of the Case Review Panels, who would carry out the reviews. We are supportive of the proposed model, but it is clear there are specific training needs for members of both the Review Oversight Committee and Case Review Panels. We note that Section 25 of the Bill includes a mandatory requirement for a knowledge and competency framework. We seek reassurances that all panel members, including chairs, will undergo robust and comprehensive training, guided by those with expertise in domestic abuse, before undertaking their roles.

359. Fifth, the Bill establishes that the report produced by the Case Review panel would require approval by the Review Oversight Committee. Once approved,

these reports would be shared with family members, who would have the opportunity to meet with panel members to discuss the findings. These reports would be anonymised. Given the relatively small population of Scotland, we have some concerns about the ability to truly anonymise such reports, and the subsequent impact of this on families, including children. It is clear to the Committee that there is a potential risk of further traumatising families by making these reports publicly available. We ask that the impact on surviving family members is central in the consideration of how reports are published, shared or distributed. We recommend that further details be provided on how reports will be sufficiently anonymised and the level of detail that would be in the public domain following a review.

360. Finally, we heard some significant concerns from public sector organisations about the financial implications of developing and implementing the domestic homicide and suicide review model. We recognise the budgetary pressures facing public sector organisations and we note the Cabinet Secretary's views expressed at paragraph 348. That said, the organisations that take part in these reviews must be provided with the necessary resources to enable their effective participation.

Reviewing the legislation: post-legislative scrutiny reviews

361. The Committee considers that this Bill, if passed at stage 3, may be a suitable candidate in the coming years for post-legislative scrutiny in relation to the following matters which were key debates during the consideration of the evidence we heard.
362. In relation to Part 1 of the Bill, there were questions over whether the provisions in section 2 of the bill, on virtual court appearances, would impact on the interests of justice of participants and also whether potential benefits might not be realised due to a lack of resources. To assess this in future years, information will need to be collected and reported on the number and types of virtual appearances and other relevant matters.
363. Also, in Part 1, there were questions around whether section 7, and sub-sections 5, 6 and 7 in particular, would see parts of the trial process beyond the petition stage in solemn cases taking place in different sheriffdoms than where the crime took place. To assess this in future years, information will need to be collected and reported on the number of times when this occurs.
364. In Part 2, a future committee of the Parliament may wish to review the effectiveness of the new Domestic Homicide and Suicide Reviews and we note that section 24 will provide useful periodic reports that will be laid in the Scottish Parliament.
365. Assessing the effectiveness of the review process may require additional data on, for example, the number of recommendations from review reports that were implemented or taken forward. It may also be useful for a future committee to consider whether the number of deaths reviewed each year was in line with the estimates given in the financial memorandum. This may give an indication about whether the definition was too narrow/too broad or if it met the policy intention to allow for lessons to be learned.

General principles

366. At Stage 1, there is a requirement for the lead committee to consider and report on the general principles of the Bill. The 'general principles' of the Bill are generally understood to refer to the main purposes of the Bill rather than its finer details.

367. This is a dual-purpose bill which modernises certain procedures relating to criminal cases and the courts, and creates a process for reviewing deaths which relate to abusive behaviour within relationships.

368. In this report, we have welcomed many of the provisions in the Bill. In some areas, we have commented on the specific provisions and on occasion have made recommendations to the Scottish Government to strengthen the proposals.

369. Overall, however, we are content to support the general principles of the Bill.

Annex

The Committee discussed its approach to the Bill, the views of witnesses and its report at the following meetings:

- 30 October 2024
- 18 December 2024
- 15 January 2025
- 22 January 2025
- 29 January 2025
- 05 February 2025
- 19 February 2025
- 26 February 2025
- 05 March 2025

Details of the meetings, the Official Reports and written submissions are available on the Parliament's [webpage](#) for this Bill.

- 1 Scottish Government, Policy Memorandum. The Policy Memorandum can be found online here: <https://www.parliament.scot/bills-and-laws/bills/s6/criminal-justice-modernisation-and-abusive-domestic-behaviour-reviews-scotland-bill>
- 2 Scottish Courts and Tribunals Service, written submission. All written submission can be found online: https://yourviews.parliament.scot/justice/abusive-domestic-behaviour-bill-call-for-views/consultation/published_select_respondent
- 3 Official Report, Criminal Justice Committee, 22 January 2025, col 44
- 4 Official Report, Criminal Justice Committee, 5 February 2025, col 22
- 5 Official Report, Criminal Justice Committee, 5 February 2025, col 22
- 6 Official Report, Criminal Justice Committee, 5 February 2025, col 17
- 7 Official Report, Criminal Justice Committee, 22 January 2025, col 6
- 8 Official Report, Criminal Justice Committee, 22 January 2025, col 5
- 9 Official Report, Criminal Justice Committee, 22 January 2025, col 12
- 10 Official Report, Criminal Justice Committee, 29 January 2025, col 9
- 11 Official Report, Criminal Justice Committee, 29 January 2025, col 2
- 12 Official Report, Criminal Justice Committee, 29 January 2025, col 13
- 13 Official Report, Criminal Justice Committee, 22 January 2025, col 38
- 14 Official Report, Criminal Justice Committee, 29 January 2025, col 3
- 15 Official Report, Criminal Justice Committee, 29 January 2025, col 3
- 16 Official Report, Criminal Justice Committee, 29 January 2025, col 8
- 17 Official Report, Criminal Justice Committee, 29 January 2025, col 15
- 18 Official Report, Criminal Justice Committee, 29 January 2025, col 16
- 19 Official Report, Criminal Justice Committee, 29 January 2025, col 16
- 20 Official Report, Criminal Justice Committee, 29 January 2025, col 17
- 21 Official Report, Criminal Justice Committee, 29 January 2025, col 17
- 22 Official Report, Criminal Justice Committee, 5 February 2025, col 11
- 23 Official Report, Criminal Justice Committee, 5 February 2025, col 15
- 24 Official Report, Criminal Justice Committee, 5 February 2025, col 18
- 25 Official Report, Criminal Justice Committee, 5 February 2025, col 24
- 26 Official Report, Criminal Justice Committee, 22 January 2025, col 26

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- 27 Official Report, Criminal Justice Committee, 22 January 2025, col 40
- 28 Official Report, Criminal Justice Committee, 22 January 2025, col 28
- 29 Official Report, Criminal Justice Committee, 29 January 2025, cols 31-32
- 30 Official Report, Criminal Justice Committee, 5 February 2025, cols 21-22
- 31 Official Report, Criminal Justice Committee, 5 February 2025, col 22
- 32 Official Report, Criminal Justice Committee, 22 January 2025, col 39
- 33 Official Report, Criminal Justice Committee, 22 January 2025, col 21
- 34 Official Report, Criminal Justice Committee, 22 January 2025, col 32
- 35 Official Report, Criminal Justice Committee, 5 February 2025, col 23
- 36 Official Report, Criminal Justice Committee, 5 February 2025, col 23
- 37 Official Report, Criminal Justice Committee, 22 January 2025, col 19
- 38 Official Report, Criminal Justice Committee, 22 January 2025, col 5
- 39 Official Report, Criminal Justice Committee, 22 January 2025, col 23
- 40 Scottish Government, Explanatory Notes. The Explanatory Notes can be found online here: <https://www.parliament.scot/bills-and-laws/bills/s6/criminal-justice-modernisation-and-abusive-domestic-behaviour-reviews-scotland-bill>
- 41 Official Report, Criminal Justice Committee, 29 January 2025, col 25
- 42 Official Report, Criminal Justice Committee, 5 February 2025, col 18
- 43 Official Report, Criminal Justice Committee, 5 February 2025, col 19
- 44 Official Report, Criminal Justice Committee, 5 February 2025, col 19
- 45 Official Report, Criminal Justice Committee, 5 February 2025, col 20
- 46 Official Report, Criminal Justice Committee, 9 October 2024, col 3
- 47 Official Report, Criminal Justice Committee, 22 January 2025, col 54
- 48 Official Report, Criminal Justice Committee, 22 January 2025, col 28
- 49 Official Report, Criminal Justice Committee, 22 January 2025, col 29
- 50 Official Report, Criminal Justice Committee, 22 January 2025, col 29
- 51 Official Report, Criminal Justice Committee, 29 January 2025, col 21
- 52 Official Report, Criminal Justice Committee, 29 January 2025, col 22
- 53 Official Report, Criminal Justice Committee, 29 January 2025, col 22
- 54 Official Report, Criminal Justice Committee, 5 February 2025, col 16

- 55 Official Report, Criminal Justice Committee, 29 January 2025, col 27
- 56 Official Report, Criminal Justice Committee, 29 January 2025, col 28
- 57 Official Report, Criminal Justice Committee, 29 January 2025, col 27
- 58 Official Report, Criminal Justice Committee, 5 February 2025, col 9
- 59 Official Report, Criminal Justice Committee, 5 February 2025, col 10
- 60 Official Report, Criminal Justice Committee, 5 February 2025, col 10
- 61 Official Report, Criminal Justice Committee, 29 January 2025, col 41
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- 63 Official Report, Criminal Justice Committee, 29 January 2025, col 42
- 64 Official Report, Criminal Justice Committee, 5 February 2025, col 10
- 65 Official Report, Criminal Justice Committee, 29 February 2025, col 2
- 66 Official Report, Criminal Justice Committee, 19 February 2025, col 6
- 67 Official Report, Criminal Justice Committee, 5 February 2025, col 11
- 68 Official Report, Criminal Justice Committee, 5 February 2025, col 27
- 69 Official Report, Criminal Justice Committee, 29 February 2025, cols 12-13
- 70 Official Report, Criminal Justice Committee, 29 January 2025, col 50
- 71 Official Report, Criminal Justice Committee, 29 January 2025, col 16
- 72 Official Report, Criminal Justice Committee, 29 January 2025, col 50
- 73 Official Report, Criminal Justice Committee, 19 February 2025, cols 7-8
- 74 Official Report, Criminal Justice Committee, 5 February 2025, col 13
- 75 Official Report, Criminal Justice Committee, 29 January 2025, col 46
- 76 Official Report, Criminal Justice Committee, 5 February 2025, col 40
- 77 Official Report, Criminal Justice Committee, 19 February 2025, cols 13-14
- 78 Official Report, Criminal Justice Committee, 29 January 2025, col 27
- 79 Official Report, Criminal Justice Committee, 19 February 2025, col 11

