



Victims Organisations Collaboration Forum for Scotland

Response to consultation: Victims, Witnesses, and Justice Reform (Scotland) Bill

Victims Organisations Collaboration Forum for Scotland brings together organisations that support victims across a number of specialist areas including:

- Childhood sexual abuse
- Children and families
- Gender-based violence, both male and female and within minority ethnic communities
- Irresponsible driving
- Rape and sexual violence
- Stalking
- Survivors of trauma, loss and personal crisis

The following members of the VOCFS are submitting this joint response.

- Action Against Stalking
- AMIS
- Children 1st



- The Manda Centre
- The Moira Anderson Foundation
- Rape Crisis Scotland
- SCID



Scotland's Campaign against Irresponsible Drivers
Supporting victims of road crashes

- Scottish Women's Aid
- Shakti Women's Aid
- Thriving Survivors
- Victim Support Scotland



- Women's Support Project



The content of this response was collated following group discussions specifically about Parts 1, 2, and 4 of the Victims, Witnesses, and Justice Reform (Scotland) Bill which respectively refer to:

- the creation of the office Victims and Witnesses Commissioner for Scotland
- embedding Trauma Informed Practice
- changes to the size of a criminal jury in criminal and civil courts; making rules about majority verdicts and what happens when a juror is dismissed or unable to continue on the jury; removes the not proven verdict.

These particular sections were selected both due to time restrictions and also that these Parts of the Bill covered a wide range of crime types reflecting the diverse VOCFS membership.

While members might vary in opinion on some of the specific provisions within the Bill, consensus was expressed overall that the Bill needs to work to change the system for the benefit of victims and survivors of crime, of witnesses of crime and for families.

The select Parts below are discussed in turn, but members wanted to make a key point overall about connectivity across the whole Bill being important, for example trauma-informed principles being put into practice through the other provisions put forward.

Question 1. What are your views on Part 1 of the Bill which establishes a Victims and Witnesses Commissioner for Scotland?

Among VOCFS members there have been organisations that have previously responded in favour of a Victims and Witnesses Commissioner, and others that have publicly submitted responses not in favour of a Victims and Witnesses Commissioner.

While there remains divided opinion among member organisations represented here about the necessity of the establishment of the new role, discussion as a group revealed common themes about what aspects of the current justice system they feel can be improved that relate to the possible creation of this post.

Consensus from the group was that the overall principle of any additional roles in the justice system must be the creation of a conduit rather than a wall or barrier to engagement between people affected by crime and the justice process.

At the heart of this, the organisations in the discussion asked:

Will the Victims and Witnesses Commissioner encourage people affected by crime and the organisations that support them to be more connected to systems of change?

Learning from elsewhere in the world was seen as vital, where similar roles to the Victims and Witnesses Commissioner have been reported as either successful or not successful in different country contexts. The Children and Young People's Commissioner model in Scotland was also seen as a format that many of the participating members had found effective and approachable.

It was seen as important to all members of VOCFS participating in this response that:

- there is accountability from the agencies in the justice system
- that there is oversight and progress mapping of important areas such as the embedding of trauma-informed principles in justice

For the members of VOCFS who support the creation of a Victims and Witnesses Commissioner, this was seen as a key role that the Commissioner would carry out.

Question 2. What are your views on Part 2 of the Bill which deals with trauma-informed practice in criminal and civil courts?

Within discussion, VOCFS members highlighted that creating a definition of trauma-informed practice is a very positive step and one that might not have been feasible in past years. All the members taking part in the discussion agreed that the important thing beyond the definition is how this is built upon in policy, practice and secondary legislation, to make the principles effective. It was highlighted that an entire culture change is needed within justice and to achieve this there also needs to be sufficient resourcing and sufficient reflection.

It was highlighted also that the embedding of trauma-informed principles, for example in the Standards of Services, concentrates on the five main statutory justice bodies of Police Scotland, COPFS, SCTS, the Parole Board for Scotland and the Scottish Prison Service. These were discussed as agencies where widescale culture shift to principles of trauma-informed practice would indeed have the greatest positive impact on people affected by crime.

However, it was also raised that there are also other agencies present in the justice sector, and also in other sectors, who people affected by crime routinely encounter. It was felt there were the five agencies to positively adopt this culture change there could be a knock-on effect on those around them in other areas. It was also seen as vital that trauma-informed principles and practice are fully realised in civil justice as much as in criminal justice. The civil courts are also places dealing with people effected by trauma every day.

It was suggested that good learning is available from the Bairns Hoose model of support for children and young people in Scotland about the challenges of setting up a cultural change, as well as the positive effect of doing so. The creation of a definition is welcome, but is also acknowledge as just one step, as well the training being just one step. It was acknowledged that the system needs to accommodate for a whole-system approach.

Question 3. What are your views on Part 3 of the Bill which deals with special measures in civil cases?

This Part of the Bill was not discussed by VOCFS members as part of forming this collective response.

Question 4. What are your views on the proposal in Part 4 of the Bill to abolish the not proven verdict and move to either a guilty or not guilty verdict?

The members present in the discussion were unanimously in favour of abolishing the Not Proven verdict and moving to a system where there are two verdicts of guilty and not guilty.

Several members of VOCFS have been involved in campaigning work for many years about the need to abolish of this verdict from the viewpoint of people affected by crime.

The negative emotional impact for victims and survivors of crime, as well as the families of the accused in a case receiving a Not Proven verdict was highlighted by organisations supporting individuals affected by a range of crime types including survivors of sexual assault and individuals who have been bereaved by crime.

Wider points were also made within discussion about what is often a lack of information that individuals affected by crime as victims, witnesses or their family receive about the justice process. There was seen as potential for there to be greater explanation provided to the jury about what the verdicts mean. It was also raised that other factors such as the summing up of a trial by a sheriff or judge also has the potential to influence a jury's decision making.

Question 5. What are your views on the changes in Part 4 of the Bill to the size of criminal juries and the majority required for conviction?

Some of the organisations present have submitted their own individual organisational responses in favour of, or against, the changes for this part of the Bill.

Brief discussion on this topic from the members involved in this collective response, revealed a common theme that there is an appetite for more information on this topic.

Members highlight that there is the need for robust ongoing research, evaluation and review about how the current situation and changes impact on prosecution rates, conviction rates and decision-making within juries, and therefore ultimately have an impact on people affected by crime.

There is also a need for trauma-informed understanding and practice among those that take decisions to prosecute cases or who might determine verdicts such as members of the judiciary.

VOCFS members would like to call for greater data and information on the impact of the changes, and for regular and transparent review. This type of review will shine a light on the impact of the system on the people we support as organisations. The building in of frameworks of evaluation and review for new legislative changes is good practice. It makes the system transparent and accountable, and has been done in other legislation.

It was also discussed that there is currently low public awareness of how juries work including the number of people on a jury. VOCFS members expressed the overall point that changes such as abolishing the Not Proven verdict and changes to Jury Size and Jury Majority must also be accompanied by commitments to trauma informed practice being embedded in criminal justice. There is also the need for education of prospective jurors, victims/survivors and witnesses of crime and members of society more generally about how the justice system in Scotland works.

Question 6. What are your views on Part 5 of the Bill which establishes a Sexual Offences Court?

This part of the Bill was not discussed by VOCFS members as part of forming this collective response.

Question 7. What are your views on the proposals in Part 6 of the Bill relating to the anonymity of victims?

This part of the Bill was not discussed by VOCFS members as part of forming this collective response.

Question 8. What are your views on the proposals in Part 6 of the Bill relating to the right to independent legal representation for complainers?

This Part of the Bill was not discussed by VOCFS members as part of forming this collective response.

Question 9. What are your views on the proposals in Part 6 of the Bill relating to a pilot of single judge rape trials with no jury?

This Part of the Bill was not discussed by VOCFS members as part of forming this collective response.

Question 10. Are there provisions which are not in the Bill which you think should be?

This Part of the Bill was not discussed by VOCFS members as part of forming this collective response.

Question 11. Do you have any additional comments on the Bill?

n/a