



Making Justice Work for Victims and Witnesses

Victims and Witnesses Bill – A Consultation Paper

July 2012

Introduction

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy.

This is achieved in a number of different ways - through roadshow, round table, conference and celebratory events. Following each event a report is compiled and issued to women who attend and relevant policy and decision makers.

The SWC uses the views of women to respond to Scottish and UK Government consultation papers.

SWC Evidence Source

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events throughout Scotland, Thematic Conferences and regional contact groups. During these events concerns have been raised regarding a number of issues regarding access to justice and how this can be better improved. This submission paper provides the views of women throughout Scotland and reflects their opinions and experiences in a number of key areas relevant to this consultation document.

The SWC have only responded to questions where women have provided information.

Purpose of the Consultation

The Scottish Government's 'Making Justice Work' programme represents the most significant set of reforms to Scottish courts for more than a century. A central objective of this programme is to improve the experience of victims and witnesses.

The proposals start from the view that victims should not simply be seen as passive spectators of proceedings or recipients of services but people who have legitimate interests and needs. How victims are treated must be a measure of the success of the Scottish justice system as a whole. Similarly, if witnesses are to come forward and report what they saw or heard, they must feel confident that their contribution will be worthwhile, valued and supported.

Proposed improvements include:

- **Improved information**
- **Delivering greater certainty**
- **Feeling supported**
- **Feeling safe and less intimidated**
- **Feeling involved**
- **Making offenders pay**

Question 3

"Ideally we [the Scottish Government] want to move to a situation where victims and witnesses can find out a range of information about their case from whichever statutory body or support organisation they are currently dealing with."

Do you believe a statutory framework is needed to promote information-sharing in the interests of victims and witnesses? Please Comment on the reason(s) for your answer.

The SWC would support the establishment of a statutory framework in order to improve and promote information-sharing in the interests of victims and witnesses.

Women, particularly victims of domestic abuse and sexual violence, have often commented on the difficulty they face in obtaining information about the progress of

cases they are involved in. The lack of information can be very off-putting and can, in some situations, lead women to stop proceedings.

“Lack of information and the length of time it can take to process a case means women often drop charges. They have to think about themselves and their children.”

Women also suffer increased stress when waiting for cases to come to court. Ensuring that they will be able to obtain all information necessary about a case and their role in that case will go a long way to alleviating any fears and anxieties they may have. A statutory framework to guarantee this would be welcomed.

The Scottish Government mentions the establishment of a ‘one stop shop’ for victim and witness information, advice and support, most likely in the third sector. The SWC would welcome moves towards this method of delivery. Women who are victims of crime will, in many cases, already be in contact with third sector service providers. A level of trust will be built with the workers in e.g. Women’s Aid, Victim Support etc. Victims will therefore inevitably feel less intimidated by court processes if they are guided through them and provided with information from people they already trust and confide in.

Question 12

Improving victim and witness care and support

“Some of the ideas already suggested include:

- *A dedicated contact point*
- *A co-ordination/liaison/care unit*
- *A support programme for child victims/witnesses*
- *A central hub”*

Please let us have your views on the possible options for piloting improved care and support for victims and witnesses.

The establishment of a **dedicated contact point** is welcomed. This would ensure women victims, particularly those who have experienced violence, are dealing with one worker on a one-to-one basis. They will be able to build trust which, in turn, will build their confidence both as a victim/witness and in moving forward from the crime committed against them. A dedicated contact point would also ensure that information was disseminated in a way which suits the individual concerned and would be specifically tailored to them.

Support for child victims/witnesses, especially in cases of violence against women, should be made available as a matter of course. These young people will have been witness to and involved in a lot of difficult and challenging scenarios. Every effort to take them through and beyond the criminal justice system would be encouraged. Such support would also make it easier for children who have to give evidence and may make them feel more confident about being involved in the justice system. Providing this assistance on a one-to-one basis, from a dedicated point of contact, would be of benefit to children and young people.

Question 16

Do you agree the definition of a vulnerable witness – and therefore automatic entitlement to standard special measures – should be extended to include:

- (a) Victims of sexual offences**
- (b) Victims of domestic abuse**

The SWC wholeheartedly supports the definition of a vulnerable witness to be extended to victims of sexual offences and domestic abuse.

Standing up in court to give evidence in front of an abuser or attacker is a difficult and very harrowing thing for a woman to have to do. Being faced with a man who has been controlling over a number of years, or a man who has committed a sexual assault, while at the same time being asked a number of questions by lawyers, can make women very unwilling to disclose fully what has happened to them.

“Women have been held in contempt of court and put in a police cell for refusing to give evidence against an attacker. There needs to be a way they can give evidence without having to face these men.”

Standard special measures, which include a live TV link in another part of the court building, a screen and a supporter in conjunction with either of these, are vital. They will ensure that women who have been subject to abuse and sexual violence can still participate in court proceedings, without having to confront the man who committed the crime.

Question 17

Do you agree that any witnesses who are automatically entitled to standard special measures should be able to opt-out of using them? Please comment on the reason(s) for your answer.

Witnesses who are automatically entitled to standard special measures should be able to opt-out of using them. For some, standing up in court and facing an abuser or attacker may be considered part of the healing process. Others will require the standard special measures as a matter of course. It is vital that women are given the option to decide how they give evidence in court.

Question 28

"We propose to enshrine the right of victims of sexual violence to choose the gender of the interviewer."

Do you agree that victims of sexual violence should have the right to choose the gender of the person who interviews them? Please comment on the reason(s) for your decision.

Victims of sexual violence should be given the right to choose the gender of the person who interviews them.

Women who have been subject to sexual violence will, in the main, want to be interviewed by another woman. Information given as evidence could be seriously jeopardised if women are not able to choose the gender of their interviewer. Continuing to allow men to interview women could seriously jeopardise efforts being made in other areas of justice to obtain more convictions in sexual violence cases.

Question 29

“The Scottish Government is proposing that it should not be necessary to disclose the witness’ personal circumstances in an application for standard special measures”

Do you agree with the proposal that it should not be necessary to disclose the witness’ personal circumstances (e.g. medical details) in an application for standard special measures? Please comment on the reason(s) for your argument.

The SWC agree with the above proposal. As evidence will still be tested, there is no affect on the fairness to the accused. In theory, personal circumstances could be used to discredit witnesses and their statements. Often such information has no place in proceedings and is irrelevant therefore there is no need for it to be disclosed.

Question 35

“We propose to amend legislation so that Victims Statements can be submitted to the court prior to sentence. This will ensure that, if the statement is not available at the time of the guilty plea, this does not prejudicially affect the victim in the case.”

Do you agree with the proposal to allow Victim Statements to be submitted to the court at any time after the prosecutor moves for sentence (or the accused pleads guilty or is found guilty), but before sentence is passed? Please comment on the reason(s) for your answer.

“It’s important for women to be able to provide context in cases of domestic abuse. Just because it’s an accused’s first time in court doesn’t mean the abuse hasn’t gone on for a long time.”

Victim Statements should be submitted to the court at any time before sentence is passed. Answering questions in the witness box does not always allow victims to fully disclose the context of the crime committed against them. This is especially the case with domestic abuse, where physical and mental violence often take place over a number of years. Victim Statements allow those affected by the crime, such as women, their children and other family members, to provide necessary information in order to ensure a suitable conviction is achieved. Assistance from specialist agencies, such as Women’s Aid, can ensure a full overview of the abuse is presented to the judge.