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Dear Convener

VICTIMS, WITNESSES, AND JUSTICE REFORM (SCOTLAND) BILL – EVIDENCE ON 15 NOVEMBER 2023 – FOLLOW UP

Further to my oral evidence on the Victims, Witnesses and Justice Reform (Scotland) Bill on 15 November I am writing to provide further information on the court rules in place in relation to family law actions. This relates to the discussion on Integrated Domestic Abuse Courts at columns 23 and 24 of the Official Report.

The relevant court rules are at [Act of Sederunt \(Ordinary Cause Rules 1993 Amendment\) \(Case Management of Defended Family and Civil Partnership Actions\) 2022](#) and came into force on 25 September 2023. The news release issued by the Scottish Civil Justice Council is at [Act of Sederunt \(Ordinary Cause Rules 1993 Amendment\) \(Case Management of Defended Family and Civil Partnership Actions\) 2022](#). As I mentioned when I gave evidence, measures around initial and full case management hearings have been introduced.

The discussion at Committee was about Integrated Domestic Abuse Courts (IDACs), including the flow of information from the criminal courts to the civil courts. As I said, we intend to hold workshops in 2024 with key stakeholders, which will look at IDACs and other potential ways of improving the interface between the criminal and civil courts in relation to domestic abuse. Rules of court are made by the courts rather than by Government although Government can and does suggest areas where rules of court may be required or may be useful, for example, one possible way in which the criminal/civil interface could be improved might be to suggest that case management hearings in family actions include more information about any relevant criminal convictions or live prosecutions. This is an initial thought, which we will seek views on at the workshops. The workshops will also consider the

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recommendations in this research on "[Domestic Abuse and Child Contact: The Interface Between Criminal and Civil Proceedings](#)".

I will, of course, keep the Committee informed of progress in this area. Our work here will inform the discussion paper on improving interaction between criminal and civil courts which we are committed to producing in paragraph 4.31 of the [Family Justice Modernisation Strategy](#).

There are two further areas discussed during my oral evidence on 15 November upon which I would like to take the opportunity to comment.

First, Russell Findlay MSP mentioned research on IDACs. The Scottish Government has carried out and published a literature review on IDACs which may be of interest to the Committee, available at <https://www.gov.scot/publications/evidence-effectiveness-integrated-domestic-abuse-courts/>.

Second, with regard to the proposed Victims and Witnesses Commissioner, Mr Findlay asked whether I believe that is reasonable and straightforward to empower the Commissioner to act in certain cases without interfering with justice.

In my response, I set out that the Victims & Witnesses Commissioner could engage with individuals and consider their individual experiences in order to improve the Commissioner's understanding of the national picture. I stated "I am satisfied that the Commissioner, as is the case with other commissioners, will not take on or intervene in individual cases."

I wish to clarify the position, which is that although most commissioners do not *intervene* in individual cases, it is the case that the Children and Young People's Commissioner Scotland can *investigate* individual cases where certain conditions are met (as set out in [section 7](#) of the Commissioner for Children and Young People (Scotland) Act 2003). It is important to note though, the power may not be used so far as it relates to: (i) the making of decisions or taking of action in particular legal proceedings before a court or tribunal; or (ii) a matter which is the subject of legal proceedings before a court or tribunal. Separately, it is also worth noting that the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, once enacted, will introduce new powers for the Children and Young People's Commissioner to bring legal proceedings under section 7(1)(a) of the UNCRC Bill and also intervene in proceedings in which a person claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) of that Bill.

I remain content that the powers set out within Part 1 of the Bill will be sufficient for the Victims & Witnesses Commissioner to fulfil their role effectively.

Yours sincerely



ANGELA CONSTANCE

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