

Victims, Witnesses, and Justice Reform (Scotland) Bill: factsheet

Trauma-informed practice

This page provides more information on the proposals in the [Victims, Witnesses and Justice Reform \(Scotland\) Bill](#) on trauma-informed practice.

It covers:

- what trauma-informed practice is
- why it's important the justice system is trauma-informed
- what the bill does

What trauma informed practice is

Trauma-informed practice describes a way of working with people that recognises the impact traumatic experiences may have had on them, and tries to avoid causing them more trauma.

Trauma-informed practice is based around five core principles:

- **safety:** helping people feel physically and emotionally safe
- **choice:** giving people meaningful choices, and a voice in decisions that affect them
- **collaboration:** asking people what they need, and involving them in considering how their needs can be met
- **trust:** being clear so that people know what to expect, and doing what you say you will
- **empowerment:** validating people's feelings, and supporting them to take decisions

Why it's important the justice system is trauma-informed

The experiences that bring people into the justice system are often traumatic. For some people, their experiences of the system itself – including giving statements to the police, or giving evidence in court - traumatise them further.

Trauma can impact our ability to cope with stress and other emotions, and it can affect our memory. Legal processes often require witnesses (and parties in civil cases) to remember and talk about traumatic events - so if someone is traumatised, it can be harder for them to take part effectively in these processes. In turn, that can affect the quality of the evidence and information they are able to give. If people working in the justice system don't understand the impact that trauma can have, they may misinterpret its effects on a witness's actions, evidence or demeanour. For example, if someone delays reporting a crime or struggles to narrate events coherently because they are traumatised, that might be misinterpreted as indicating a lack of credibility. This could impact the course of justice.

We can't remove all risk of traumatisation from the justice system: there is an unavoidable risk that people are traumatised by having to recall traumatic experiences. In criminal cases, the need to ensure a fair trial and to follow the rules of evidence can also limit what adaptations are possible to make the process more trauma-informed.

However, trauma-informed practice in the justice system can minimise the risk of re-traumatising people. If witnesses and parties are treated in a trauma-informed way, that can help keep them engaged with the justice process; help make sure that trauma doesn't prevent them from participating effectively; and help them to give their best evidence and provide the best information. As well as significantly improving the experiences of witnesses and parties themselves, this has the potential to improve the quality of the justice process for everyone involved.

That's why it's important that our justice system recognises how common trauma is, understands how trauma can affect people, and adjust its ways of working to respond to those impacts as far as possible.

What the Victims, Witnesses, and Justice Reform (Scotland) Bill does

The Bill creates a framework to embed trauma-informed practice across the justice system, and support a cultural shift towards trauma-informed ways of working.

There isn't a 'one size fits all' approach to trauma-informed practice: it will depend on the circumstances and on the needs of each individual. The Bill therefore aims to foster a shared understanding of trauma-informed practice and put it at the heart of decision-making in the justice system, while giving justice agencies flexibility to implement trauma-informed practice in ways that are tailored to the context they are working in.

The Bill makes the following provisions on trauma-informed practice:

- definition of trauma-informed practice - the Bill creates a legal definition of trauma-informed practice for the justice sector, to help provide clarity and consistency
- principle of trauma-informed practice - the Bill requires criminal justice agencies – that is, the Scottish Courts and Tribunals Service, Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Prison Service and the Parole Board for Scotland - to have regard to trauma-informed practice in their work with victims and witnesses of crime. This means that they should recognise that victims and witnesses may have experienced trauma, understand the impact that might have had, and respond to them in ways that try to reduce the risk of re-traumatising them
- standards on trauma-informed practice - the criminal justice agencies all publish 'Standards of Service' that set out the standards the agencies aim to meet in their work with victims and witnesses. The Bill requires that, in future, the Standards of Service must include standards on trauma-informed practice. The Bill establishes an independent Victims' and Witnesses' Commissioner for Scotland, and part of their role will be to monitor how justice agencies are complying with the Standards of Service, including these new standards on trauma-informed practice

- court scheduling - the Lord President and certain other members of the judiciary have a legal responsibility to ensure the “efficient disposal” of civil and criminal court business. The Bill requires that they also take trauma-informed practice into account in scheduling. This is because the way business is scheduled can have a negative impact on people involved in court cases (for instance, if a case is repeatedly adjourned, or if there is uncertainty over when a trial or hearing will take place), and potentially be traumatising. The Bill does not abolish floating trial diets in criminal cases, but one possible way the judiciary could apply trauma-informed practice when scheduling court business would be to aim to assign fixed trial dates in certain circumstances, such as when a vulnerable complainer needs to attend court to give evidence during the trial, because their evidence has not been pre-recorded. However, this is just an example: decisions on specific approaches to trauma-informed scheduling would be a matter for the judiciary
- court rules - the Bill makes sure that courts have powers to set rules that require court business to be carried out in ways that are consistent with trauma-informed practice (in both the criminal and civil courts). These rules could apply to a range of people working in the courts, including defence lawyers in criminal cases. This is significant, because victims often describe the way a defence is conducted as one of the most distressing aspects of the criminal justice process, and it can contribute to their re-traumatisation. It would ultimately be a decision for the courts whether to set such rules, and if so what the contents of the rules would be