VULNERABLE WITNESSES (SCOTLAND) ACT 2004

PROTOCOL FOR THE ALLOCATION AND MANAGEMENT OF FACILITIES FOR THE TAKING OF EVIDENCE BY LIVE TV LINKS

Introduction

1. The Vulnerable Witness (Scotland) Act 2004 is aimed at making it easier for child and adult vulnerable witnesses to give their best evidence by formalising existing special measures for giving evidence and introducing new measures and other provisions. In some circumstances this will include the provision to take the witness's evidence at a suitable location outwith a court building. These locations are generally referred to as 'remote sites'. Applications for special measures under the Act may be made in criminal cases and civil cases and are governed by statute.

2. This protocol sets out the principles within which those involved in relevant applications to court will operate to ensure the smooth and effective conduct of proceedings involving the giving of Live TV evidence by children.

3. It will highlight the responsibilities encumbent on any party involved in the proceedings whilst recognising the importance of working together to ensure that best service is offered to child witnesses in particular to :-.
    a. ensure the service provision meets a victim/witness's needs as best as is practicably possible;
    b. meet the court requirements prior to and during the taking of any evidence; and
    c. limit any opportunity for misunderstanding or legal challenges at a later time.

4. Further technical information is available in related guidance on standards and technical specification for remote sites.

5. A witness may give evidence from a remote site through a live TV link with the court. The witness will view the 'examiner' through the site's TV monitor; the court and relevant parties will view the witness through court TV monitors.

6. Whilst giving evidence the witness may be accompanied by a supporter and possibly an interpreter.

7. **Level of Service**

8. When using the site for the taking of evidence, the objective should be to make the setting and procedures as close as possible to the usual practice in court. Procedural guidance exists for the use of these special measures in both criminal and civil cases.

9. Remote sites, where at all possible, are required to meet requisite standards in order to ensure that minimum requirements are consistently applied and to satisfy all parties to the proceedings, including the presiding judge, that the accommodation and operation of the site and equipment will not hinder the interests of justice or the witness's ability to give best evidence. A copy of the agreed standards and this protocol are available on the SCS website.

10. Remote sites must be seen to be capable of operation without interference of undue influence or suggestion that prejudice might be caused to any party to the proceedings or the quality of the evidence obtained.

Availability of facilities

11. Access to facilities for the giving of evidence by TV links will be managed by the Scottish Court Service Electronic Service Delivery Unit (ESDU) based in Glasgow. In order that a clear picture of the demand for this service be maintained and monitored, **it is essential that details of all applications for special measures involving CCTV links are intimated to ESDU at an early stage**. **This will include normal CCTV links within a court.** To this end applicants should forward a copy of the intimation contained at Annex A to ESDU at the following address by fax or by e-mail **prior** to any notice or application being submitted to court.

    Scottish Court Service
    Electronic Service Delivery Unit
    Tel: 0141 559 4590
    Fax: 0141 559 4585
    Email: esdu@scotcourts.gov.uk

    This procedure will enable ESDU to diary requirements and avoid potentially conflicting demands. On receipt of a request form ESDU will liaise with the applicant as regards the availability of the requested site or viable alternatives.

    A flowchart is attached at Annex B which demonstrates the application and intimation procedure.

Remote Sites April 2005

12. With effect from 1 April 2005 there will be instances where children may give evidence to court from a remote location i.e. from a building other than that in which the principal proceedings are being conducted.

    From 1st April, and until further dedicated remote facilities can be secured, this will involve the giving of evidence from one court by TV link to another court e.g. the child may be located in Dundee and the evidence transmitted by TV link to the hearing/trial in Perth. A list of the courts which have witness rooms and court rooms equipped to accommodate this process may be found in the Courtroom Technology feature under "What's New" on the SCS Website. http://www.scotcourts.gov.uk/resources/courtroomtech/courtroomtech.asp

13. In addition the Office of the Public Guardian (OPG) in Falkirk has also been equipped, as the first dedicated remote site, to enable evidence to be relayed to any of the courtrooms indicated on that list.

14. Due to the finite number of sites available it will not be possible to guarantee availability of preferred sites on the dates required and applicants will require to consider alternative venues and to advise witnesses accordingly. Where at all possible SCS will attempt to provide facilities at preferred sites.

Children's Referrals/Appeals

15. In addition to the above facilities, where sufficient notice is given SCS will make such arrangements as are practicable to enable evidence to be relayed to a suitable room or civil courtroom within a court complex in order to preserve the requisite informality of these proceedings. It may be necessary however on occasion for these cases to occupy a fully equipped jury courtroom for the taking of evidence of the particular child witness.

Rural Areas

16. Where sufficient notice is provided SCS will consider what ad hoc arrangements may be provided in more remote areas to minimise travelling and inconvenience to witnesses. ESDU will liaise directly with the applicant in this regard.

Staffing

17. A member of SCS staff will be present at any remote site during the conduct of proceedings.

Pre-Evidence/Trial Visits

18. Where evidence is to be given court to court, current arrangements for pre-evidence familiarisation visits should continue. Requests for visits to the Office of the Public Guardian in Falkirk should be directed to the Sheriff Clerk at Falkirk Sheriff Court in the first instance.

Technical Equipment

19. SCS will arrange for TV links to be tested at least one day prior to the date assigned for proceedings. The TV equipment will be operated by SCS or SCS contracted staff throughout the proceedings with the exception of the facilities which are controlled by the judge or sheriff within the courtroom itself.

Security

20. As mentioned at 17 above a member of SCS staff will be present on site during the conduct of proceedings. In exceptional circumstances, where applicants are of the opinion that witnesses attending remote sites may be subjected to intimidation, SCS will give consideration to providing a security officer at the remote site premises during the conduct of the proceedings. Though the presence of a security officer may act as a deterrent, it should be noted that, as with court building sites, SCS responsibility for the provision of security is confined to the building itself.

    SCS will give due consideration to the installation of CCTV cameras at remote sites.

    In all other respects current provisions regarding security issues should continue to operate.

This protocol is a live document and will be revised in any event prior to 1st November 2005 to provide for further "true" remote sites and any developments emanating from the commencement of evidence on commission.

Scottish Court Service
June 2005

Annex A

Date:

VULNERABLE WITNESSES (SCOTLAND) ACT 2004

Advance Notice of Request for Special Measures Involving TV Links

Case Reference Number(s):

Name of Case:

Court where hearing/trial to be heard: High/Sheriff Court

Date of trial/hearing (where known):

Witness Name & Address:

Special Measures being sought :

Preference of remote site location :
(where applicable)

Date & time evidence of witness to be given :
(where known)

Likely duration of evidence :

Applicants contact details (incl. telephone) :

Child Witness Notice /
Vulnerable Witness Application due to be submitted to ……..Court on

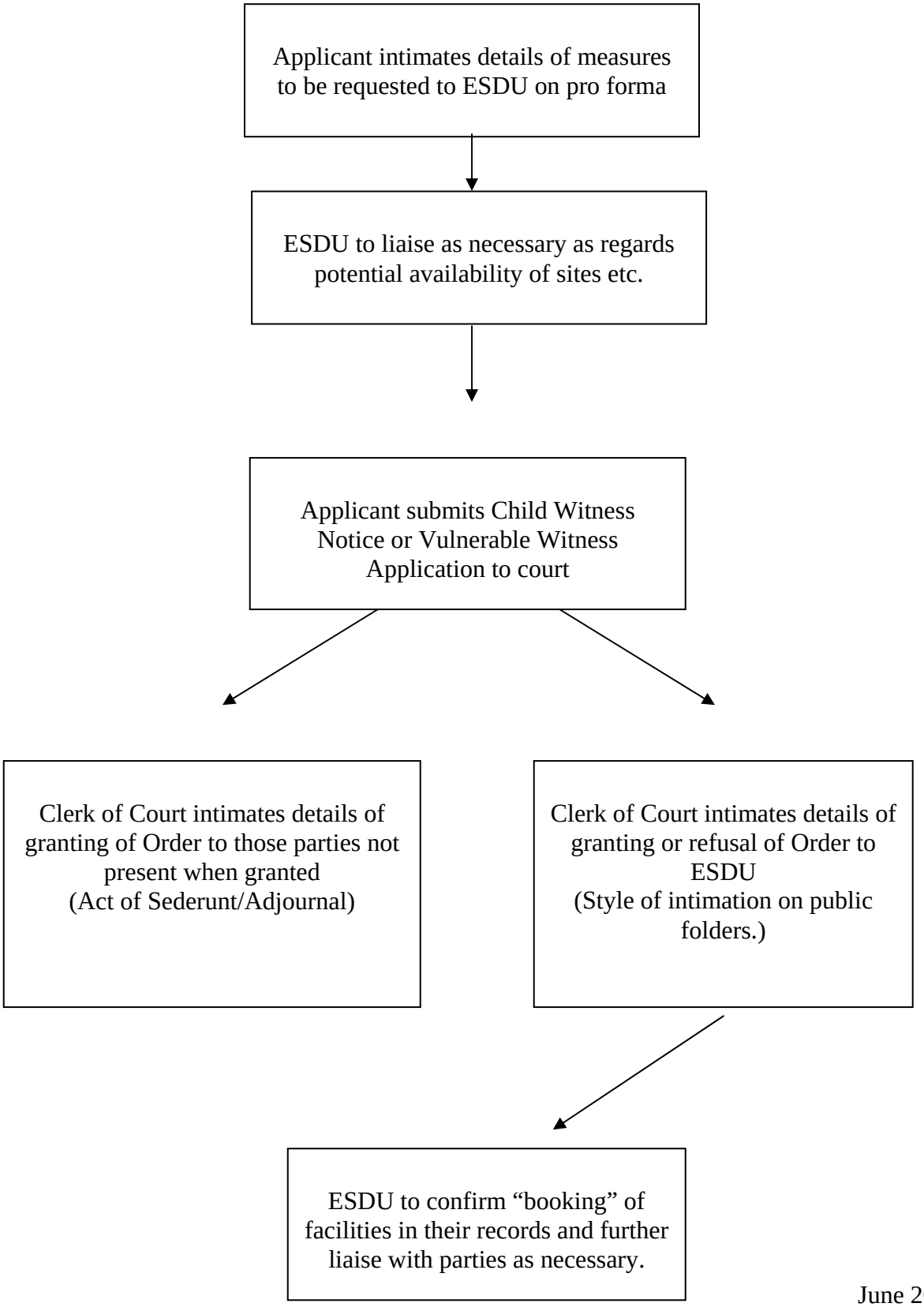
(date)…….…….

This form to be submitted to Scottish Court Service, Electronic Service Delivery Unit, High Court of Justiciary, Saltmarket, GLASGOW G1 5NA (0141 559 4590) where possible **by Fax:** 0141 559 4585 or **email** esdu@scotcourts.gov.uk

June 2005

VULNERABLE WITNESSES (S) ACT 2004 **Annex B**

SPECIAL MEASURES INVOLVING TV LINKS
(from vulnerable witness rooms and remote sites)



June 2005