

VICTIMS AND WITNESSES (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Vulnerable witnesses

Section 16 – Other vulnerable witnesses: assessment and application

44. The section provides that any party intending to cite a witness, other than a child or deemed vulnerable witness, must take reasonable steps to determine whether they are likely to be vulnerable and if so, what special measures should be used in order to take that person's evidence. It also sets out the matters to be considered in making an assessment of vulnerability which include the nature and circumstances of the alleged offence, the nature of the evidence likely to be given, the person's age and maturity, any behaviour by the accused (or the accused's family or associates) towards the person along with any other matters the court considers relevant, including social and cultural background and ethnic origins, sexual orientation and any physical disability or impairment. In addition, in assessing whether the person is likely to be a vulnerable witness, the party intending to cite the person as a witness must also have regard to the best interests of that person and any views expressed by that person.