

being a witness

A BOOKLET FOR YOUNG PEOPLE
IN CRIMINAL PROCEEDINGS



safer
scotland
SCOTTISH EXECUTIVE

being a witness

A BOOKLET FOR YOUNG PEOPLE
IN CRIMINAL PROCEEDINGS



Special thanks to the children of Albert Primary School of Springburn
and Glendale Primary School of Pollokshields.

Illustrations by Eleanor Meredith,
Duncan of Jordanstone College of Art and Design, University of Dundee

Produced for the Scottish Executive by Astron B41391 06/05

Published by the Scottish Executive, June, 2005

100% of this document is printed on recycled paper and is 100% recyclable

contents

- 01** introduction
- 02** what is a witness?
- 04** how do you feel about being a witness?
- 06** who can help you?
- 08** what happens before you go to court?
- 09** the court
- 10** who is in the courtroom and what is their job?
- 12** the trial – what you have to do
- 14** telling the court what you know
- 16** identifying someone in the courtroom
- 17** special measures to help you give evidence
- 18** using a television link
- 20** using a screen
- 22** using a support person
- 23** other special measures to help you give evidence
- 24** choosing a special measure
- 25** visiting the court
- 26** waiting to be a witness
- 27** what happens after you have given your evidence?
- 28** remember to ask for help
- 30** questions?
- 31** do you have any other questions?
- 32** glossary – what do these words mean?



introduction

You have been given this booklet because you are going to be a witness in a court case.

You have probably received a letter about this.

Some people worry about being asked to be a witness.

Some people don't know what being a witness means.

This booklet will tell you more about being a witness and will try to answer some important questions.

Courts often use words you may not have heard before. To help you understand, there is a list of some of the words used at the back of this booklet

what is a witness?

A witness is someone who may know something important.

You may have seen or heard something about a crime or perhaps you have been a victim of a crime.

You have probably spoken to the police or a lawyer, and told them about what you know. This is called making a statement.

After the police have investigated everything, they may have sent a report to the procurator fiscal. The procurator fiscal is a lawyer whose job it is to decide whether a case should go to court.

Now you might have to tell the court about what you know. This is called your 'evidence'.

Once you and any other witnesses have given their evidence, a decision can be made about whether someone has committed a crime (or broken the law).

The court can only make a decision with the help of information from witnesses like you.



how do you feel about being a witness?

Lots of people are witnesses, so you don't have to feel that you are alone.

Being a witness is very important. It's about telling the truth.

Some people don't know a lot about being a witness or going to court. Don't worry. There are lots of things that can be done to help you.

You will have received either a letter or an official citation which will give you a date and time when you are needed as a witness.

You should tell the lawyer as soon as you can if there is some important reason why that date might be difficult for you, for example, if you are sitting an exam at school.

Here are some things that other young people have asked about.

What happens at court?

Who will be at the court?

Will I have to see anyone I'm frightened of?

Will I be safe?

Will I be on my own?

Have I done something wrong?

What will I say at school or to friends?

Who can help me when I am a witness?

The information in this booklet will help to answer these questions.



who can help you?

There are lots of people who can help you.

Talking to your friends can sometimes help, but if you don't want to do this, you might find it easier to talk to someone in your family or to someone at your school.

Here are some people whose job it is to help you:

Victim Support have volunteers who can help victims of crime and also some witnesses, even if there is no court case.

A social worker is someone who works with people who need extra help. They will listen to you and try to answer your questions.

The police can often help you to find out what's happening and will also try to answer your questions.

The procurator fiscal can also help you. Perhaps you have spoken to them when they asked you questions about your evidence. They will tell you about the court case and explain what will happen.

VIA is a service for some witnesses. VIA stands for **Victim Information and Advice** and people from VIA work with the procurator fiscal to provide information and advice to most people who are witnesses. Perhaps it was someone from VIA who sent you this booklet. They will also have sent you some leaflets about the court and will always try to answer your questions about what's happening.

A lawyer may have asked you to be a witness. You should ask them to help you.

The Witness Service can also help you. Every sheriff court and high court has a Witness Service. The people at the Witness Service are there to give help and support to all witnesses and their families. You may have spoken to them on the phone or met them if you have visited the court.



what happens before you go to court?

The procurator fiscal or lawyer may want to ask you questions. This is known as 'precognition' and it helps them to investigate all the evidence and prepare the case for court.

They will send you a letter telling you when they would like you to come to meet them. You can bring an adult with you for company and support. Ask the procurator fiscal if it's ok for this person to sit beside you during the meeting.

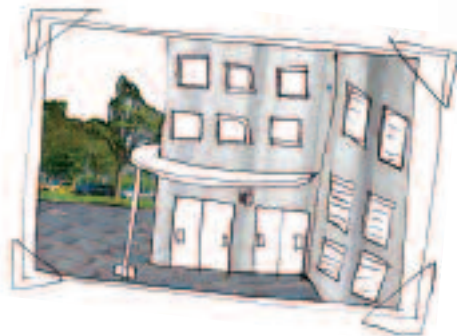
Other lawyers may also want to speak to you and you should think about where you would like to meet them. Some young people like the

lawyers to come to their house; other young people prefer to see them at an office. You can decide this. You can also suggest a time that suits you best. Again it's ok to have someone to sit beside you, as long as they are not a witness too.

When you are being asked questions by the procurator fiscal or other lawyers, you should always tell the truth.

After you have read this booklet you may still have some questions. The procurator fiscal or lawyer will try to answer them for you.





the court

There are courts all over Scotland and they deal with different sorts of cases. The criminal courts deal with cases when there is someone accused of breaking the law.

The judge is the person in charge of the court. In some courts, judges are also known as 'sheriffs.'

They will make sure that all witnesses including young witnesses are able to tell the court what they know. The judge will listen to your 'evidence' and will usually make the final decision about whether the law has been broken and what should happen next.

Most courts are buildings with more than one courtroom inside.

who is in the courtroom and what is their job?

The judge or sheriff is always in court. The most important part of their job is to make sure that everything is done fairly and that the court rules are followed.

The procurator fiscal or lawyer: These are the people who will ask the questions so that witnesses can give their evidence. They may also show the court other evidence such as photographs.

The clerk: This person is responsible for the court papers and records.

The court officer (sometimes called a macer): This person is responsible for helping the judge and other people in the court. The court officer will also let the witnesses know when it is their turn to give their evidence.

The jury: In some cases, it is the jury who decides whether the law has been broken. There are 15 people on a jury and they will know nothing about the case before it starts. They will listen to the evidence and decide if the law has been broken.

The accused: This is the person accused of breaking the law. He or she will always be in the courtroom and will be able to see and listen to everything.

The public: Courts are usually open to the public so there may be people sitting in the back of the courtroom listening to the witnesses and lawyers.

Court police or security officers: They will be there to make sure that the witnesses, court staff and the public are well-behaved and safe.



the trial - what you have to do

If the person accused of committing a crime says they are guilty, you may not have to come to court or answer any questions or give any evidence.

If the accused person says they are not guilty, there may be a trial and then your job is to tell the court what you know.

The judge needs witnesses to give their evidence so that they can build up a picture of what has happened. Without witnesses, the judge and sometimes the jury will not know what has happened and will not be able to come to a proper decision at the end of the case.

One by one, the witnesses will tell the court what happened or what they know. This is their evidence.

To help you give your evidence, you will be asked questions, usually by the procurator fiscal and the lawyers. The judge may also ask you questions.

The procurator fiscal or lawyers may ask you questions about something that may have happened to you or to someone else. Or they may ask you about something you may have seen or heard.

You should listen carefully and try your best to answer as accurately as you can.

As a witness, your job is to answer the questions truthfully and tell the court what you know.

Some questions may be difficult to answer or involve telling a secret. This is ok. You should remember that the court often hears people talking about personal things and they will understand how you feel. You should take your time and keep telling the truth.

The procurator fiscal and lawyers will want to check what you've said. They may test what you have said by repeating some questions. This is normal. The only thing you should think about is telling the court the truth.



telling the court what you know

The judge and lawyers don't know what happened. You need to help them by telling the court what you know.

There are some important things that can make this easier.

- **Always listen carefully** to each question. Answer the question but try not to rush.
- **Speak clearly.** If you speak clearly the judge will be able to hear you properly and won't have to ask you to repeat everything.
- In many courts, everything that happens is recorded on a tape. This is another reason to speak clearly. It also means that **you can't just nod or shake your head. You have to speak out loud.**
- **What you tell the court is your own evidence.** The court needs to hear from you in your own words. **Nobody should tell you what to say.**



- **You must make sure that you understand what each question means before you answer.** If you don't understand a word or phrase or part of the question, you should **ask them to explain it or say it differently.** Don't just guess. Keep asking until you are sure that you understand.
- If you are not sure of an answer or can't remember something, just tell the lawyers or judge. **You shouldn't try to guess or make up an answer.**
- **Remember that you don't have to agree with everything the procurator fiscal or lawyers say to you** and you don't have to say anything just to please them. You shouldn't make things up or leave anything out.
- **Telling the truth is the most important job you've got to do. Always tell the truth.**

identifying someone in the courtroom

Before you go to court, perhaps the police asked you to show them the person you have told them about. If you did this, you will probably not be asked to do it again at the court.

But sometimes, witnesses are asked in the courtroom to identify the person they are talking about. You might be asked to look around the court and to say if you see him or her.

You should take your time and look carefully. If you see the person you should point to them. If you don't see the person, you should say so.

If you are very worried about seeing someone in court, you should tell the procurator fiscal or lawyer or someone else who can help you.

special measures to help you give evidence

Being a witness at court is not always easy, especially for young people. Adults will understand that you may be worried. **The law allows the court to provide you with different ways to help you give your evidence.**

The procurator fiscal or lawyer will ask you if you would like to give your evidence by:

- using a screen in the courtroom
- using a television link in another room within the court building
- having a support person with you when you use a screen or a television link

The procurator fiscal, lawyer, VIA, Witness Service or social worker can all help to explain these different ways to you. **These different ways are called 'special measures'.**



using a television link

You can be a witness by using a television link without going into the courtroom. This can help you if you are worried about going into a courtroom full of people. **You can use this television to give your evidence to the court.**

The television link room is usually in the same building as the court. The television is linked to the courtroom where the judge and lawyers also have televisions and cameras. When these are switched on, **you will be able to see and hear the person asking you questions but you won't see anyone else. Everyone in the courtroom will be able to see and hear you.**

The television and cameras are controlled by the judge. Even when the lawyers are speaking to you, the judge can always see and hear you and anyone else who is in the room to support you.

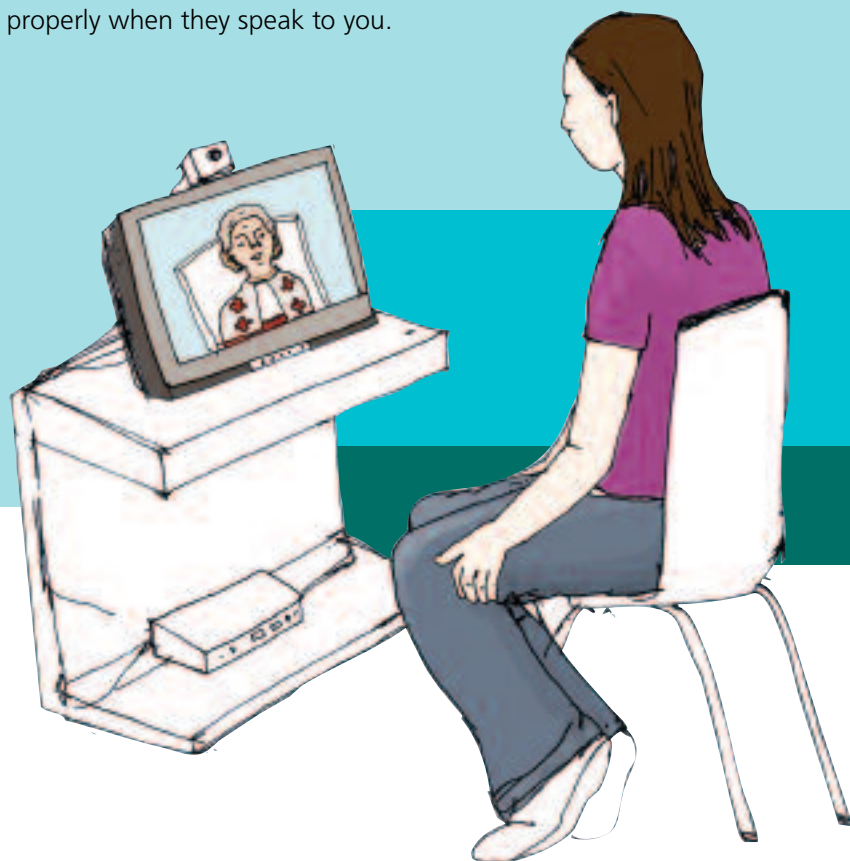
If you decide to use the television link, there are some things you should know about:

- The judge and lawyers still have to write things down and this can sometimes be quite slow. Don't worry if there are gaps between questions.
- Sometimes the lawyers turn away to speak to the judge or other people in the courtroom.
- Sometimes the judge will switch the camera off so that they can discuss a legal problem. This is all normal.

If you notice any problems with the television or cameras, you should tell the judge. For example:

- if you can only see part of the lawyer's face or head;
- or if you can't hear the questions properly when they speak to you.

If there is a particular reason why you can't go to the court building, you may be able to use a television link in a room in another building away from the court. You can ask about this.





using a screen

Some people may prefer to go into the courtroom to give their evidence. You can be a witness using a screen. This can help you if you are worried about seeing a particular person in the courtroom.

A screen can be put up in the courtroom, so that you don't have to look at that person. The screen is a 'room divider' like a curtain.

You will not be able to see the person, but you will still be able to see the judge, procurator fiscal, lawyers, jury and other court staff.



The screen is usually used with a camera so that everyone on the other side of the screen, including the accused, can see you.



using a support person

You can also have a 'support person' as well as the screen or television link. Some young people find it helpful to have **an adult support person to sit with them the whole time at court, in the courtroom or in the television link room.**

The court will ask if you want this and you should think about who might be the best person to sit with you. Your supporter could be someone from the Witness Service, someone from another organisation, a teacher, a social worker or a relative.

If you don't want a screen or television link, you can still ask about having a support person in court with you.

other special measures to help you give evidence

Prior Statements

A video or tape recording may have been made when you talked to the police or lawyers. The police may have made notes of what you said. These are all known as prior statements. The video or tape can be played to the lawyers and other people in court or the notes can be read out.

If that happens, you might be asked to watch or listen. Then you might be asked questions about what you said.

Evidence on commission

From November 2005, in some cases, the procurator fiscal or lawyer may also decide to let you give your evidence before the rest of the court case starts. This may be helpful if the court case is going to be delayed for a long time. If they want to do this they will talk to you and explain what this means and how it can help you.

Other things that may help you

Some people in the court usually wear a wig and also a gown over their clothes. When a young person is a witness, the judge and lawyers may be asked to leave these off. If you do not want them to wear their wigs and gowns, tell someone.

The courts are usually open to all the public, but sometimes the judge will order the public to leave the court when you are giving your evidence. You should ask the procurator fiscal or lawyer about this.



choosing a special measure

The court must be told which special measures you prefer to use before you come to give your evidence.

It is really important that you let the procurator fiscal or the lawyer know what you think about being a witness and what things you might be worried about.

They will then be able to help you decide what special measures will be best for you. You might already have an idea about what measures you would like to use just from reading this booklet.

You might be happy to be a witness without any extra support. You might not want the television link or screen.

You should think very carefully about this and ask for more information to help you fully understand what it will be like.

Remember that the court will expect all young people to have some help.

As the court date approaches you might decide you prefer a different way of giving evidence. Tell the procurator fiscal, VIA or the lawyer and they will discuss what can be done.



visiting the court

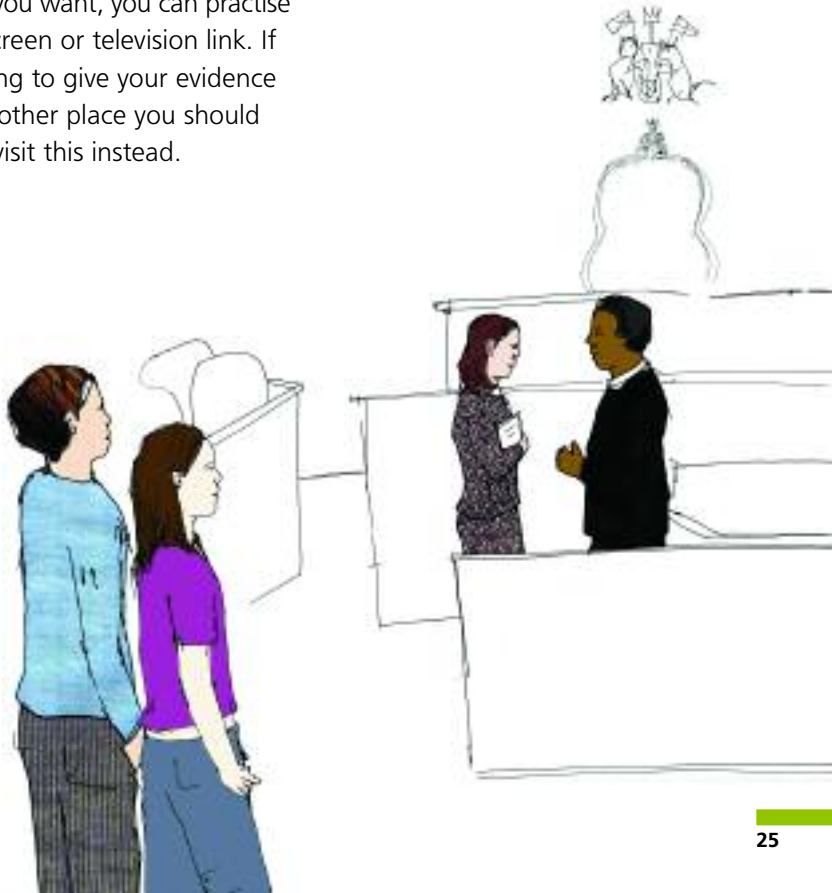
You might not have been to a court before.

Most young people feel better about being a witness if they know what to expect and have visited the court beforehand.

This is a really good idea. You can look around, meet some of the court staff and if you want, you can practise using the screen or television link. If you are going to give your evidence from some other place you should arrange to visit this instead.

VIA will arrange a court visit for you or you can ask the lawyer. The Witness Service will be there to show you around and help answer your questions.

You may also be able to look round a 'virtual' courtroom on a CD-ROM.





waiting to be a witness

Courts are busy places and a lot of planning and preparation is needed before everything is ready to start. If it has taken a long time to get a date, you may already be feeling a bit fed-up. If you are feeling like this, tell the procurator fiscal, lawyer, VIA or someone at the Witness Service or your social worker if you have one.

Sometimes you might be told that the date has been changed or you may have started to give your evidence and be told to come back to finish on another day.

You may have to wait a while before it is your turn to give evidence. The procurator fiscal or lawyer will try to make sure that you don't have to wait too long, but **it's a good idea to bring something to help you pass the time.** Most courts have some books or magazines but it's probably better to bring your own favourites. **In some courts you may be able to buy things to eat and drink and you should check this before you go.** Otherwise it's ok to bring something with you.

what happens after you have given your evidence?

After the judge, procurator fiscal and any other lawyers have asked their questions, the judge will tell you when you are finished being a witness.

You will have done a very important job.

Well done and thank you.

The judge or jury may not be able to reach a decision immediately because there may be other witnesses. Some trials may take several days or even longer to finish.

If the judge or jury is absolutely sure that the accused has broken the law, they will decide that he or she is guilty. The judge has to decide about any punishment.

If the judge or jury is not absolutely sure whether someone has broken the law, they will say that he or she is not guilty or that the case is not proven. The judge will then tell the accused that he or she is free to leave.

Someone will tell you what the court decides. If you're not sure about the result or don't quite understand it, you should ask to speak to VIA or the procurator fiscal or lawyer to ask them to explain it to you.

Whatever the result, remember that your job as a witness was a very important part of the case.

remember to ask for help

Before the case starts you should ask the procurator fiscal, VIA, the Witness Service or the lawyer about anything you are not sure about.

You should always tell them about anything that's worrying you. Talk to them about how you feel.

You should make sure you get an opportunity to visit the courtroom or any other television link room.

You should think about:

- **What special measures you prefer to use**
- **What you want to take with you**
- **Who will be going with you**
- **Who will be your support person**
- **What other help you may need**

When you are giving your evidence, you should ask the people in court about anything you need help with.

You should always tell the people in court if:

- **you don't understand something**
- **you need a tissue or a drink of water**
- **you start to feel unwell or tired**

Everyone will try to help you as much as they can.



questions?

It may help you to write down any questions you have about being a witness, so that you can show these to the procurator fiscal, VIA or lawyer or to the person who shows you around the court.

Here are some things to think about and try to answer:

QUESTIONS?	ANSWER
Where do I want to meet the procurator fiscal or lawyer?	
Who do I want to be with me when I meet the procurator fiscal or lawyer?	
Do I want to use a screen or a TV link?	
Do I want a support person?	
Who could be my support person?	
What things am I worried about?	
Do I want to visit the court?	
What will I call the Judge?	

do you have any other questions?

QUESTIONS?	ANSWER

The procurator fiscal, VIA or the lawyer will try to answer all your questions.

Our justice system relies on witnesses to come to court and to tell the truth about what they know.

Without witnesses the courts cannot work properly.

Remember each witness is only one part of the whole case.

When you are a witness, you are not responsible for what the court decides to do.

Thank you for being a witness.

glossary - what do these words mean?

In court, people use lots of words that you may not have heard before. Here is a list of some of them:

accused: a person on trial who has been charged with breaking the law

advocate depute: a prosecution lawyer who appears in the high court – see procurator fiscal

allegation: something that someone says has happened

charge: the crime that the accused person is on trial for

citation: the official form or letter that tells a witness to go to a particular court on a certain date

clerk (of court): the person who keeps the court papers and records

committing a crime: the same thing as breaking the law

complaint: a statement accusing someone of breaking the law – it can also be a court document describing the crime the accused is on trial for

cross examination: being questioned by the other lawyer(s) after the person who has asked the witness to come to court – see examination (in chief)

crown office: the place in charge of bringing cases to court – see prosecution

court case: an individual trial or action in court

court officer (sometimes called a macer): a person who helps the judge – they also call each witness into court

court visit: a visit to the court before the trial to allow a witness to see what a court looks like and learn more about court procedures

defence lawyer/defence counsel: a lawyer who represents the accused and helps the accused in court

evidence: what a witness says in court – it can also be things like photographs, clothes or drawings that are brought to court to show what happened

examination (in chief): being questioned by the lawyer who has asked the witness to come to court. This lawyer asks the witness questions first, before any other lawyers – see cross examination

identification: when a witness points out the person he or she has been talking about – this sometimes happens before the court case starts or it can happen in court

indictment: a court document in the high court or sheriff and jury court – it describes the crime that the accused is on trial for

judge: the person in charge of the trial and in control of what happens in the courtroom – see sheriff

jury: fifteen men and women (jurors) who listen to the evidence and decide if the accused is guilty or not

oath: the religious promise a witness makes that they will tell the truth when they give evidence in court – a witness can also promise to tell the truth without the oath – you can ask about this

plea: the answer the accused gives to the court at the beginning of a trial when he is asked if he is guilty or not guilty

precognition: an interview of a witness by the procurator fiscal or defence lawyer(s) to help them prepare before the court case

procurator fiscal: a lawyer who works for the prosecution – see crown office. They make the decisions about bringing a case to court

prosecution: taking legal action against someone and bringing a case to court – see procurator fiscal and crown office

productions: things which are shown in court as evidence like letters or clothes

sentence: the judge's decision when the accused is found guilty of breaking the law – this might be a punishment given to the accused

sheriff: the name for a judge in the sheriff court

glossary - what do these words mean?

social worker: a person who works with children and adults when they may need extra help or supervision

special measures: different ways to help a child witness or vulnerable adult give evidence – eg a television link or a screen – see support person

statement: a note or recording made by the police of what the witness has said

support person: a person who can stay with a witness when they come to court – see special measures

trial: the legal action at court when witnesses come to give evidence

verdict: the decision reached at the end of a trial

VIA: stands for **Victim Information and Advice** – VIA staff work with the procurator fiscal – they provide victims and some witnesses with information about the court case

witness: a person who has information about something and may have to tell the court about it

Witness Service: people at the court who provide support and advice to all witnesses



your notes

your notes

Further copies of this document are available, on request, in audio, large print format and in community languages. Please contact 0131 244 2213.

اس دستاویز کی مزید کاپیاں آڈیو کیسٹس پر اور بڑے حروف کی چھپائی میں اور کمیونٹی کی زبانوں میں طلب کیے جانے پر دستیاب ہیں، برائے مہربانی اس پتے پر رابطہ کریں:

এই ডকুমেন্ট-এক (দলিতা) অতিথিতা কপি, অডিও এবং বড়ো ছাপার অক্ষর আকারে এবং সম্প্রদায়ভাষায় ভাষায় অনুরোধের মাধ্যমে পাওয়া যাবে, অনুগ্রহ করে যোগাযোগ করুন:

Gheibhear lethbhreacan a bharrachd ann an cruth ris an èistear, ann an clò mòr agus ann an cànan coimhearsnachd. Cuir fios gu:

इस दस्तावेज/कागजात की और प्रतियाँ, माँगो जाने पर, ऑडियो टैप पर और बड़े अक्षरों में तथा कम्प्यूनिटी भाषाओं में मिल सकती हैं, कृपया संपर्क करें:

ਇਸ ਦਸਤਾਵੇਜ਼/ਕਾਗਜ਼ਾਤ ਦੀਆਂ ਹੋਰ ਕਾਪੀਆਂ, ਮੰਗੋ ਜਾਣ 'ਤੇ, ਆਡੀਓ ਟੇਪ ਉੱਪਰ ਅਤੇ ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਕੰਪਿਊਨਿਟੀ ਭਾਸ਼ਾਵਾਂ ਦੇ ਵਿਚ ਮਿਲ ਸਕਦੀਆਂ ਹਨ, ਕ੍ਰਿਪਾ ਕਰਕੇ ਸੰਪਰਕ ਕਰੋ:

此文件有更多備份，如果需要，語音版本和大字體版本及少數種族語言版本也可提供，請聯絡：

يمكن أن تطلب النسخ الأخرى من هذا المستند كالتسجيل الصوتي والخط المكرر ونسخ بلغات أخرى، يرجى الإتصال على:

© Crown copyright 2005

This document is also available on the Scottish Executive website: www.scotland.gov.uk

Astron B41391 06/05

Further copies are available from
Blackwell's Bookshop
53 South Bridge
Edinburgh
EH1 1YS

Telephone orders and enquiries
0131 622 8283 or 0131 622 8258

Fax orders
0131 557 8149

Email orders
business.edinburgh@blackwell.co.uk

ISBN 0-7559-4655-3



9 780755 946556