



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

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By email to: committee.justice@niassembly.gov.uk

28 September 2021

Re: Proposed Legislative Consent Motion – Police, Crime, Sentencing and Courts Bill

Dear Christine,

Thank you for your letter, dated 14 September 2021, in response to ours of 21 June 2021 and the Department's response of 17 August 2021.

The Commission, in June, outlined a number of points regarding data extraction from electronic devices. At that stage, we awaited publication of a draft statutory Code of Practice. We were assured by the Department and the Home Office that the code would contain detailed guidance that would ensure all decision-making and practice on data extraction would be compliant with the European Convention on Human Rights (ECHR). We were also advised that the code would, as per our advice, include expressly: (i) the guidance contained in the judgment of R v. Carl Bater-James; and, (ii) recognise the particular impact on victims of rape and sexual offences. The issue of data extraction was not addressed specifically in the Department's response of 17 August 2021. Since then, the Commission has received a copy of the draft Code of Practice and welcomes this early opportunity to comment.

In our response to the Department, we have stressed the benefit of further consultation and engagement with relevant groups and individuals in Northern Ireland, particularly those representing marginalised or vulnerable groups. The Commission has also called for a clearer human rights-based approach,

particularly more detailed guidance on the application of the ECHR to decisionmaking. Moreover, the Commission repeats its advice that the code should be drafted to reflect the best trauma-informed practice. That requires inclusion of practical advice to prevent, or at least mitigate, the secondary victimisation that can result from such data extraction.

Lastly, the Commission urges the Committee to protect the monitoring and review of oversight functions.

The Commission notes the points made in relation to speeding courses (as an alternative to prosecution), the management of sex offenders, and amendments to the Crime (Overseas Production Orders) Act 2019. We have no comments to add at this stage but look forward to the further engagement referred to.

I hope these comments are helpful. Should any human rights issues arise in the Committee's consideration of the Bill, the Commission would be happy to advise.

In the meantime, in any event, I remain at the disposal of the Committee for further advice or engagement as necessary.

Yours sincerely,

Alyson Kilpatrick Chief Commissioner