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Assembly

## Committee for Justice

### Minutes of Proceedings

13 January 2022

**Meeting Location:** The Senate Chamber, Parliament Buildings, Belfast

**Present:** Mr Mervyn Storey MLA (Chairperson)

Mr Peter Weir MLA

**Present by Video or Teleconference:**

Ms Sinéad Ennis MLA (Deputy Chairperson)

Mr Doug Beattie MLA

Ms Sinéad Bradley MLA

Ms Jemma Dolan MLA

Ms Rachel Woods MLA

**Apologies:** Mr Robin Newton MLA

**In Attendance:** Mrs Christine Darrah (Assembly Clerk)

Mrs Clairita Frazer (Assistant Assembly Clerk)

Mr Stephen Corr (Clerical Supervisor)



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**In Attendance by Video or Teleconference:**

Mrs Kathy O'Hanlon (Senior Assistant Clerk)

The meeting commenced at 2:03 p.m. in closed session.

**Agreed:** The Committee agreed that in accordance with normal protocol, agenda item one would take place in closed session to receive advice from the Assembly Bill Clerk on potential amendments to the Justice (Sexual Offences and Trafficking Victims) Bill.

**1. Justice (Sexual Offences and Trafficking Victims) Bill – Consideration of Potential Amendments**

Ms Stephanie Mallon, Assembly Bill Clerk, attended the meeting to provide further advice in relation to potential amendments to the Justice (Sexual Offences and Trafficking Victims) Bill.

The Committee noted correspondence from the Migration Justice Project regarding the provision of post-National Referral Mechanism (NRM) support to all persons with a positive NRM outcome for a 12-month period or sooner if no longer required.

The Committee confirmed the drafting instructions in relation to the preparation of potential amendments relating to Clause 1, Clause 3, Clause 16, to create a new offence of Cyber Flashing, to place a duty on the Department of Justice to bring forward Slavery and Trafficking Risk Orders within a certain time period and to amend the Department's amendment to widen the scope of the current law on abuse of trust to specifically include those in a position of trust with young people and who would not be included in a religious or sporting description.

Doug Beattie MLA joined the meeting at 2:20 p.m.

The Committee discussed a number of other potential amendments.



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**Agreed:** The Committee agreed to ask the Bill Clerk to prepare potential amendments to place a duty on the Department to provide and review in due course guidance, training and data collection on Part 1 of the Bill and to extend the statutory defence on exploitation to include Class A drugs.

The Committee discussed bringing forward a potential amendment to the Bill to remove the defence of reasonable chastisement.

Rachel Woods MLA proposed that the Bill Clerk should prepare a Committee amendment to remove the defence of reasonable chastisement for consideration by the Committee.

The Committee divided: Ayes 5; Noes 3; Abstain 0

AYES

Mr Doug Beattie

Ms Sinéad Bradley

Ms Jemma Dolan

Ms Sinéad Ennis

Ms Rachel Woods

NOES

Mr Robin Newton

Mr Mervyn Storey

Mr Peter Weir

**Agreed:** The Committee agreed that the Bill Clerk should prepare an amendment to remove the defence of reasonable chastisement for consideration by the Committee.

**Agreed:** The Committee agreed to inform the Department of Justice of the amendments the Committee is considering and ascertain whether the Minister of Justice is willing to bring them forward.



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The Chairperson advised the Committee that an additional meeting had been scheduled for Monday 17 January at 9:30 a.m. to consider the draft text of the proposed amendments subject to Members confirming their availability. This would take place in closed session in accordance with normal protocol.

The Chairperson thanked the Bill Clerk, Ms Mallon, for her assistance.

The meeting moved into public session at 3:29 p.m.

### **2. Apologies**

As above.

The Clerk informed the Committee that, under Standing Order 115(6), Robin Newton MLA had delegated authority to the Chairperson, Mervyn Storey MLA, to vote on his behalf and Rachel Woods MLA had delegated authority to Sinéad Bradley MLA to vote on her behalf during any absence from the meeting.

### **3. Draft Minutes**

**Agreed:** The Committee agreed the minutes of the meeting held on 16 December 2021.



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#### **4. Matters Arising**

##### **Item 1 - Department of Justice Request for Extension to Response Deadline**

The Committee noted that the Department of Justice had requested an extension to the deadline for the provision of the response on the Review of Support Services for Operational Prison Staff.

##### **Item 2 – Correspondence from the Minister of Justice regarding additional precautionary steps being taken by the NI Prison Service due to Omicron Variant**

The Committee noted correspondence from the Minister of Justice outlining additional precautionary steps that had been put in place by the NI Prison Service due to the Omicron variant.

##### **Item 3 – Correspondence from the Minister of Justice on the Justice (Sexual Offences and Trafficking Victims) Bill and PSNI Resources**

The Committee noted a response from the Minister of Justice regarding PSNI resources to ensure effective implementation of the Justice (Sexual Offences and Trafficking Victims) Bill and recent other pieces of legislation including the Domestic Abuse and Civil Proceedings Act and the Protection from Stalking Bill.

**Agreed:** The Committee agreed to consider the matter further as part of the scrutiny of the Department of Justice draft Budget 2022-25.

##### **Item 4 – Justice (Sexual Offences and Trafficking Victims) Bill – Draft Committee Amendments**



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The Chairperson advised Members that, as agreed earlier in the meeting, the Bill Clerk would provide the draft text of amendments for consideration by the Committee to provide for:

- An amendment to Clause 1 to include a form of words that unequivocally removes the 'banter' defence.
- An amendment to introduce a new offence of Cyber Flashing which covers the anonymous sending of images to another who happens to be nearby (and who are unknown to the person) and the sending of an intimate image to someone the person knows (e.g. via a dating site).
- An amendment to Clause 3 to make it clear that payments may be something other than financial.
- Amendments to Clause 16 to provide for an extension of support beyond 45 days to cover from presentation stage to NRM decision based on need, support post a positive NRM decision for 12 months (or less if no longer required) and continuation of support following receipt of a negative NRM decision for those who are appealing the decision until the outcome of the appeal.
- An amendment to place a duty on the Department of Justice to bring forward Slavery and Trafficking Risk Orders by 2024.
- An amendment to the Department's amendment to widen the scope of the current law on abuse of trust to specifically include those in a position of trust with young people and who would not be included in a religious or sporting description.
- An amendment to place a duty on the Department to provide guidance, training and data collection on Part 1 of the Bill and to keep under review.



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- An amendment to remove the defence of reasonable chastisement.
- An amendment to extend the statutory defence on exploitation to include Class A drugs (currently covers Class B drugs).

Peter Weir MLA left the meeting at 3:38 p.m.

Rachel Woods MLA left the meeting at 3:39 p.m.

### **5. Protection from Stalking Bill - Consideration of Revised Departmental Amendments**

The Committee considered the text of revised amendments provided by the Department of Justice for the Protection of Stalking Bill which included the Committee's additional requirements in relation to guidance, training and reporting. .

**Agreed:** The Committee agreed that it was content to support the revised amendments put forward by the Department of Justice.

### **6. SL1: The County Courts Fees (Financial Limits) Order (Northern Ireland) 2022**

### **7. SL1: The County Courts (Amendment) Rules (Northern Ireland) 2022 – Small Claims**

The Committee considered further information provided by the Department of Justice regarding the informal consultation that had taken place with the Lady Chief Justice on proposals for Statutory Rules, which are subject to the negative resolution procedure, to increase the Small Claims jurisdiction of the County Court from £3,000 to £5,000 and to amend references in the County Court Rules (Northern Ireland) 1980 to reflect the proposed increase.



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Peter Weir MLA re-joined the meeting at 3:42 p.m.

**Agreed:** The Committee agreed that it would defer consideration of the proposed Statutory Rules until the results of the formal consultation with the Lady Chief Justice are available.

**8. SL1: The Coronavirus Act 2020 (Extension of Live Links in Courts, Tribunals and Inquests) Order (Northern Ireland) 2022**

The Committee considered a proposal for a Statutory Rule, which is subject to the draft affirmative resolution procedure, to allow a coroner to hold an inquest into a death in prison caused by natural injury without a jury and to allow courts and statutory tribunals to receive evidence wholly or in part through the use of audio or video live links beyond 24 March 2022.

**Agreed:** The Committee agreed that it was content with the proposal for the Statutory Rule.

**Agreed:** The Committee agreed to request information from the Department of Justice on any other provisions in the Coronavirus Act 2020 within its remit that will end in March 2022 which may also need to be extended.

**9. Misuse of Drugs Regulations (Northern Ireland) 2002 - Legislative Amendments to Tighten Restrictions on GHB, GBL and Related Compounds**

The Committee noted information provided by the Department of Justice regarding an affirmative Order laid by the Home Office to amend the Misuse of Drugs Act 1971 across the UK to tighten restrictions on GHB, GBL and Related Compounds and a Statutory Rule being brought forward by the Department of Health to amend the





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Misuse of Drugs Regulations (NI) 2002 to maintain alignment with controlled drugs legislation.

**10. Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 -  
Implementation of Section 28 (Domestic Abuse Waiver for Legal Aid) -  
Update**

The Committee considered an update provided by the Department of Justice on the implementation of the domestic abuse waiver for legal aid including the position regarding the Outline Business Case and the engagement taking place with statutory and non-statutory bodies.

Members expressed disappointment regarding the lack of progress in relation to the Outline Business Case.

**Agreed:** The Committee agreed to request further information from the Department of Justice on a range of issues including a definitive timeline.

**11. Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 -  
Implementation of Section 29 (Proposals as to Availability of Civil Legal  
Aid)**

The Committee noted information provided by the Department of Justice on progress to implement Section 29 of the Domestic Abuse and Civil Proceedings Act (Proposals as to Availability of Civil Legal Aid).

**12. NI Audit Office Report on Mental Health in the Criminal Justice System -  
Update on Progress to Implement the Recommendations**

The Committee noted an update provided by the Department of Justice on progress to implement the recommendations in the Northern Ireland Audit Office Report on



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Mental Health in the Criminal Justice System and information on a Mental Health in Criminal Justice Dashboard.

### **13. Northern Ireland Courts and Tribunals Service Digital Strategy 2021-26**

The Committee noted a copy of the final version of the Northern Ireland Courts and Tribunals Service Five Year Digital Strategy provided by the Minister of Justice.

### **14. Statutory Authority for a Fee for a Certified/Sealed Copy of a Grant in Non-Contentious Probate Business Area**

The Committee considered further information provided by the Department of Justice on the position in relation to the lack of statutory authority for the NI Courts and Tribunals Service to charge a fee of £14 for a certified sealed copy of a grant within the non-contentious probate business area.

**Agreed:** The Committee agreed to request further information from the Department of Justice on the estimated cost of potential redress arrangements.

### **15. Committee Forward Work Programme - January – February 2022**

Rachel Woods MLA re-joined the meeting at 4:01 p.m.

The Committee considered a list of items of business that the Department of Justice wished it to consider during February 2022 and a proposal to schedule an additional written briefing paper for the meeting on 27 January 2022.

**Agreed:** The Committee agreed to schedule the work items requested by the Department on the dates indicated in February 2022, subject to the caveat that, given the volume of written papers for the meeting on 24 February, some may need to be deferred to the meeting on 3 March if other priority work items arise that need to be scheduled on that date.



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**Agreed:** The Committee agreed to schedule the additional written paper on Court Rules in relation to the Domestic Abuse and Civil Proceedings Act (NI) 2021 for the meeting on 27 January 2022.

The Committee considered proposals to assist the consideration of the Department of Justice draft Budget 2022-25 and inform a response to the Committee for Finance.

**Agreed:** The Committee agreed to schedule oral evidence sessions with the PSNI, the NI Prison Service, the Youth Justice Agency, the NI Courts and Tribunals Service and the Probation Board on the 2022-25 draft budget allocations in late January/early February.

**Agreed:** The Committee agreed to ask the justice Non-Departmental Public Bodies to provide updated information on the implications of the draft budget allocations for their organisations.

**Agreed:** The Committee agreed to explore the potential of scheduling a visit to the PSNI Cybercrime Unit before the end of the current Assembly mandate.

### 16. Correspondence

- i. The Committee noted the publication of the Call for Views to inform the development of a Domestic and Sexual Abuse Strategy and an Equally Safe Strategy: A Strategy to tackle Violence Against Women and Girls.

**Agreed:** The Committee agreed to request an update from the Department of Justice on the number and range of responses received to the Call for Views which is due to close on 7 March 2022.

**Agreed:** The Committee agreed to highlight the Call for Views on its own Social Media channel and to encourage other relevant Committees to do the same to assist with achieving maximum publicity.

- ii. The Committee considered a response from the PSNI regarding the implementation of the recommendation in the Criminal Justice Inspection Northern Ireland (CJINI) Report on 'Effective Penalty Enforcement – A Review



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of the Impact of Current Fine Default Strategy and Services' for which it has responsibility.

**Agreed:** The Committee agreed to request a progress update from the PSNI in March 2022.

The Committee noted the following:

- iii. A response from the Department of Justice providing a list of those who responded to the consultation on Non-Fatal Strangulation Legislation.
- iv. A response from the Department of Justice providing details of the proposals covered in the consultation on the Stocktake of Policing Oversight and Accountability and the OPONI Five Year Review that would require legislative change and those that could be taken forward by administrative or procedural change.
- v. A response from the Department of Justice providing further information in relation to the Youth Justice Agency Performance Impact report for 2020/21.
- vi. A copy of a response from the Department of Justice to the Committee for Infrastructure Inquiry Report on the Decarbonisation of Road Transport in Northern Ireland.
- vii. A response from the Department of Justice providing an update on the research and work being taken forward in relation to jury directions.
- viii. A response from the Department of Justice providing further information on the consultation on a proposal for a Statutory Rule to amend the Civil Legal Services (Financial) Regulations (NI) 2015.
- ix. The Northern Ireland Courts and Tribunals Service Trust Statement for Year Ended 31 March 2021.
- x. The Northern Ireland Police Fund Annual Report and Accounts 2020-21.



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- xi. A memo from the Committee for Finance providing a copy of correspondence from the Minister of Finance on the super parity issue following a suggestion that amendments to the Parental Leave (Leave and Pay) Bill may require the Executive to meet additional costs in all other jurisdictions of the UK.
- xii. The Department of Finance Memorandum of Reply to the Public Accounts Committee Report “Speeding Up the Justice System”.
- xiii. A response from the Department for Agriculture, Environment and Rural Affairs providing information on the current position regarding the introduction of an animal cruelty register.
- xiv. Information from the Ulster University Legal Innovation Centre on a ‘Technology & Internet Law’ Short Course.
- xv. The Investment Strategy Northern Ireland – Department of Justice Procurement Activity Report for December 2021.

### **17. Chairperson’s Business**

None.

### **18. Any Other Business**

The Committee noted that the Troubles Permanent Disablement Payment (TPDP) Scheme had been open for applications for over four months.

Agreed: The Committee agreed to request an update on the implementation of the TPDP Scheme from the Department of Justice, the President of the Victims Payment Board, Capita and the representatives of Victims Groups.



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**19. Date, Time and Place of the next meeting**

The next meeting will be held on Monday 17 January 2022 at 9:30 a.m. in Room 30, Parliament Buildings.

The meeting was adjourned at 4:11 p.m.

**Mervyn Storey MLA**  
**Chairperson, Committee for Justice**  
**20 January 2022**