



Rape Crisis NI Response to:  
Northern Ireland Assembly's Consultation on the Criminal Justice (Sentencing etc) Bill  
April 2026

This response was prepared by:

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Registered with The Charity Commission for Northern Ireland NIC102763 and as a Registered Company NI057580

## **Rape Crisis NI:**

In 2019, the Women's Support Network (WSN) led the establishment of Rape Crisis Northern Ireland (Rape Crisis NI), an autonomous organisation providing high-quality support and advocacy services to survivors of rape and sexual violence. The organisation was created in response to a significant gap in crisis support, highlighted by the high-profile Belfast rape trial involving Ulster Rugby players. This case underscored the urgent need for accessible, specialist support services for survivors, regardless of when the violence occurred. Since our creation, we now provide gender-sensitive, trauma-informed support & information to survivors of sexual violence as well as advocating for systemic change by challenging societal norms that perpetuate sexual violence.

## **Introduction:**

Rape Crisis NI (RCNI) welcomes the new Criminal Justice (Sentencing etc) Bill and the introduction of several positive measures that, if implemented effectively, have the potential to improve outcomes for victims and enhance confidence in the justice system. However, while the Bill introduces a number of positive reforms, it does not yet go far enough to address the structural inequalities and lived realities of those most impacted by crime. We are primarily concerned with the absence of aggravating factors around misogyny-based and transphobic aggravators that fails to recognise the nature and context of which these crimes exist in.

## **What's missing?**

The introduction of a statutory aggravator model for hate crime where the victim belongs or is assumed to belong to a "racial group"; a "religious group"; a "sexual orientation group"; or a "disability group" is a welcomed addition to this Bill but it does not go far enough. We call for the introduction of misogyny-based and transphobic aggravators. The former would give extra protection for women and girls by reducing gaps in the law protecting women as well as help to reinforce that misogynistic behaviour will not be tolerated in the wider context of society. The latter would recognise that trans individuals experience disproportionately high levels of violence and abuse, often targeted specifically because of their identity. Moreover, both aggravators for misogyny and transphobia would enable the data collection and monitoring to understand the growth and spread of these crimes, as well as its extent across offences. These crimes are not isolated incidents but are rooted in structural inequality and power imbalances and without this recognition their seriousness and prevalence are not fully reflected in society.

Furthermore, while the Bill recognises certain vulnerabilities, it does not require courts to consider how multiple forms of inequality intersect. Without an intersectional approach, a disabled or trans woman experiencing sexual violence would have her harm be undervalued and/or misunderstood and the sentencing of such crime may not reflect the compounded vulnerability and impact she experienced. We recommend that courts should be required to consider how overlapping characteristics can intensify harm and risk.

Additionally, we highlight the absence of provisions equivalent to Jade's Law and recommend these principles are incorporated into the Criminal Justice (Sentencing etc.) Bill, ensuring that families in Northern Ireland receive the same protections now afforded to those in England and Wales under the Victims and Prisoners Act 2024. The principle would ensure that parental responsibility is automatically suspended for any parent convicted of murdering or committing voluntary

manslaughter against the person with whom they shared that responsibility, and that the burden of proof rests with the convicted individual to justify any continued involvement in the child's life.

Another central limitation of the Bill is its focus on legal structures, without sufficient attention to how these are applied in practice. This can lead to an underuse of existing sentencing powers as well as continued reliance on myths and stereotypes. We recommend the need to implement training across all levels of the judiciary, specifically regarding the minorities included in the statutory aggravator model, including on how these characteristics can intersect.<sup>1</sup> The importance of empathy and understanding around the context and impacts of these aggressors cannot be underestimated. This would be further reinforced with the introduction of misogyny-based and transphobic aggravators which bring a need for more education and training around these. This is a core focus that has been highlighted in many areas of reform as the issue is not just absence of powers, but failure to use existing powers effectively.

Lastly, the criminal justice system must be truly victim and survivor centred. Listening to their lived experiences and recognising the impact of such crimes should be at the heart of making the necessary changes required to systems and processes. Resourcing must be made available to do this work within the community organisations supporting them.

### **Response to questions on the Consultation on the Criminal Justice (Sentencing etc) Bill**

#### Clauses 1 & 2

1.4 Clause 2 imposes a duty to follow guidance relevant to the case when sentencing an offender, unless it would be contrary to the interests of justice to do so and to give reasons in relation to sentencing. Do you support the objectives of this clause?

We welcome the move towards enhanced sentencing guidance. However guidance must be robust, binding in practice, and consistently applied. There is a clear need for improved judicial training, particularly on trauma-informed approaches, rape myths and stereotypes and coercive control and non-physical abuse. We are concerned that existing guidance is not always effectively applied. Strengthening guidance alone is insufficient without mechanisms to ensure accountability and consistency in judicial decision-making.

#### Clauses 3 – 7

2.1 Clause 3 sets out when suspended sentence orders may be made and Clause 4 sets out what a suspended sentence order is and how it will be activated. Do you support the provisions around when suspended sentences can be used and what a suspended sentence order is in Clauses 3 and 4 of the Bill?

We have serious concerns about the continued availability of suspended sentences in cases involving sexual offences, domestic abuse and/or violence against women and girls. Suspended sentences in such cases can undermine victim confidence, fail to reflect the seriousness of harm and reduce

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<sup>1</sup> This aligns with the Gillen Review which contains more than 200 recommendations that could drastically change the experiences of victims/survivors within the judicial process.

deterrence. We recommend restricting the use of suspended sentence orders in serious offences, particularly those involving sexual violence or abuse.

#### Clauses 18 – 19

7.2 Clause 19 inserts new Article 5B and Schedule A1 into the 2001 Order on the determination of tariffs in cases of mandatory life sentences for adult offenders. This includes the starting point of 15 years where there are no aggravating factors and 20 years as the starting point where the seriousness of the offence is exceptionally high. Do you agree with the provisions of this clause?

We support efforts to clarify statutory starting points. However, consideration should be given to ensuring that gender-related factors, including domestic homicide and coercive control, are reflected in tariff decisions.

#### Clauses 24 – 27

9.1 Part 5 of the Criminal Justice (Sentencing etc) Bill, covering Clauses 24 to 27, proposes to introduce a statutory aggravating factor, adding a minimum of 30% to the notional custodial period, for failure to disclose the location of a victims remains or how a victim was disposed of. Do you agree with the introduction of this aggravating factor as an additional tariff to sentencing in "no body" cases?

We strongly support provisions requiring courts and parole bodies to consider failure to disclose victims' remains. This principle ensures that lack of remorse and accountability is properly reflected in sentencing and parole decisions.

#### Clause 36

14.1 Clause 36 introduces a new aggravator by reason of the victim being vulnerable, following a consultation which originally included older age and vulnerability as potential aggravators. Do you agree with including vulnerability as an aggravator in this Clause?

Vulnerability as an aggravating factor is a welcomed addition but it should also reflect overlapping vulnerabilities (including gender, sexual orientation, disability, race). Courts should be required to consider how these intersect to increase harm.

14.2 Do you have any other comments on Clause 36 of the Bill?

We strongly recommend the introduction of a statutory misogyny aggravator. Misogyny underpins a wide range of offences, including sexual violence, harassment, and domestic abuse. Explicit recognition would help to improve sentencing consistency and enhance data collection. We also recommend the introduction of a transphobic aggravator. Trans individuals experience disproportionately high levels of violence and abuse and current provisions do not adequately capture the specific harms involved. Explicit recognition would ensure visibility and protection for trans victims. Aggravating factors should also reflect overlapping vulnerabilities and consideration of how these intersect to increase harm must be mandatory.

Any Other Comments on the Bill

## 20.1 Do you have any other comments or views on the Criminal Justice (Sentencing etc) Bill?

While the Bill represents a positive step in several areas, it does not yet go far enough in addressing the realities of gender-based violence and the experiences of victims.

Key recommendations include:

- Introduction of a misogyny aggravator
- Introduction of a transphobic aggravator
- Introduce a requirement for consideration of how multiple forms of inequality intersect
- Restriction of suspended sentences in serious offences
- Strengthening judicial accountability and training
- Ensuring consistent and robust application of sentencing guidance

We would welcome further engagement with the Committee to support the development of a sentencing framework that delivers justice for victims and reflects the seriousness of these crimes.