

Advice to Government: Criminal Justice (Sentencing etc.) Bill

May 2026

Introduction

The office of the Northern Ireland Commissioner for Children and Young People (NICCY) was established in accordance with ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland (NI). This legislation confers on NICCY a range of powers and duties including keeping under review the adequacy and effectiveness of law, practice and services, advising government, promoting an understanding of children’s rights and best interests and bringing, assisting or intervening in legal proceedings.

The remit of the Commissioner is children and young people up to 18 years, or 21 years if the young person is disabled or was in the care of social services. In determining how to carry out these functions, the paramount consideration is the rights of the child, and the Commissioner is required to base all work on the United Nations Convention on the Rights of the Child (UNCRC).

While we are not able to provide advice on the detail of the legislative proposals contained within the Bill due to resource pressures, we would draw the Committee’s attention to a number of key children’s rights principles to support their consideration and scrutiny. NICCY has not, to date, advised on sentencing to which the majority of this legislation is considering. Alongside some general comments, NICCY does wish to draw the Committee’s attention to a number of specific areas within the Bill for further consideration.

Children and young people’s rights

The UNCRC sets out minimum standards for children’s rights across all areas of their lives such as, civil and personal protection, health, education, welfare. The four guiding principles which flow through the Convention are the rights:

- To non-discrimination;
- To survival and development to the highest level;
- To their best interests being a primary consideration; and
- To their voice being heard in all matters affecting them.

The UNCRC also highlights that as rights-holders, children have special rights to protection from all forms of harm, violence and abuse and to be supported in their recovery from abuse. The State party has an obligation to ensure that appropriate measures and procedures, including investigatory, court and judicial processes, are in place to realise these rights. The

rights of the UNCRC are interdependent and indivisible – like children’s lives they cannot be compartmentalised. Relevant UNCRC articles should be explored by the Committee in relation to this consultation and how it engages with the rights of children and young people.

The UN Committee on the Rights of the Child also periodically provides more detailed advice on specific rights in its General Comments, and the following should be considered in relation to these proposals, namely, General Comment 24: Children’s Rights in the children’s justice system.¹ The Committee will also be aware that a draft General Comment on access to justice is currently in development, with expectation of publication in May 2026.²

Similarly, the Committee should be aware of the UN Committee’s Concluding Observations of the UK State Party, which includes NI, and incorporate the recommendations into laws and policies it seeks to develop or is considering. A copy of the 2023 Concluding Observations is available at this [link](#). Relating to sentencing, the UN Committee have advised the State party to ensure that the best interests of the child are the primary consideration in all decisions taken, including when sentencing caregivers, and that alternatives to incarceration are considered, alongside raising other concerns about specific legislation on a child’s right to protest. Given the scope of the Sentencing Bill under consideration here, NICCY encourages the Committee to ensure that the provisions of the Bill are compliant with UNCRC standards, and meet the Concluding Observations published in 2023.

We also advise the Committee to encourage the Department to undertake a Child Rights Impact Assessment (CRIA) on the Bill. NICCY have developed guidance on CRIAs, including a template form, alongside two online training modules to support learning on children’s rights, your role on supporting children’s rights and the importance of acknowledging children’s rights when delivering policies, strategies, legislation and services. These modules are for people who work with children and young people or whose work impacts children and young people and we would be happy to advise and support on this process.³

The UN Committee’s ‘General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child’, published in 2005, provided guidance on a wide range of measures that are needed for effective implementation, including the development of special structures and monitoring, training and other activities in Government, parliament and the judiciary at all levels.⁴ We encourage the Committee to consider the

¹ General Comment 24 is available at: [General comment No. 24 \(2019\) on children’s rights in the child justice system | OHCHR](#)

² For more information on the UNCRC’s General Comments and Optional Protocols, please see: [Optional Protocols and General Comments of the UN Committee - Niccy](#). You can find out more about the draft General Comment on access to justice here: [Draft general comment No. 27 on children’s right to access to justice and to an effective remedy | OHCHR](#)

recommendations in this General Comment within the context of this Bill, the proposed changes and its impacts.

Participation and engagement with children and young people must be viewed as an essential and indeed positive opportunity to inform legislation, strategies, policies and services which ensure the promotion of the rights of all children and young people in NI. As the Committee will be aware, communication with and participation of children and young people is an important aspect of fulfilling Section 75 duties and important for proper consultation processes. Children and young people with multiple characteristics, and vulnerabilities should be specifically reflected and engaged with. We draw your attention to our advice issued to Government in 2018 which was developed in partnership with the NICCY Youth Panel, available [here](#), specifically using the Lundy Model of Child Participation. The Equality Commission's guidance 'Let's Talk Let's Listen – Guidance for public authorities on consulting and involving children and young people' is also relevant, available [here](#). The Committee should ensure that children and young people's voices and lived experiences, where relevant, are heard throughout this Bill's scrutiny stage.

Criminal Justice (Sentencing etc) Bill

Part 3 – Life Sentences

Part 3 of the Bill relates to life sentences including a duty to give reasons when determining a tariff and mandatory life sentences for adult offenders. Whilst this section specifically relates to sentencing for those aged over 18, NICCY wishes to draw the Committee's attention to the potential ability for life sentences to be issued to children and young people in NI, including in the Criminal Justice (NI) Order 2008, Section 13, in particular circumstances. Given the UNCRC's clear position on children in custody, we encourage the Committee to consider this. Detention must be for the shortest appropriate period, and any parole review period should be substantially shorter than for adults. The 2023 Concluding Observations specifically recommended that the UK State Party:

- Abolish the mandatory imposition of life imprisonment for children for offences committed while they are under the age of 18; and
- Establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time.

Whilst we welcome progress that has been made and continues to be attempted to be made through policy, strategy and legislation in relation to youth justice, NICCY continues to press the need for further reform, including an increase in the minimum age of criminal responsibility. We consider that there would be merit for the Committee to scrutinise the circumstances in which a life sentence for a minor could be approved on. Clarity would be

welcomed on what constitutes a ‘serious offence’ under Schedule 1 of the 2008 Order, and if under 18s are captured within it.

Part 6 – Attacks on public workers

NICCY understands the rationale for this provision. However, NICCY also notes this could capture vulnerable children and young people in the care of social services in settings such as Health and Social Care Trust residential accommodation. NICCY wishes to raise caution with the Committee in so far as if the provisions as outlined have the potential to criminalise children and young people, particularly those with mental and physical health issues, or those who are encountering a frontline worker in times of distress. We would welcome clarity from the Department if the intention that this section, the new offence and aggravator, would apply to children and young people. We are also aware of the debate around expanding the definition of frontline workers and will monitor this as the debate progresses.

Part 6 – Aggravation where there is hostility; and vulnerability

All children have the right to protection from discrimination, violence, and abuse based on their race, religion, disability, sexual orientation, or identity as guaranteed by the UNCRC. It is consideration of this Part, we encourage the Committee to seek the views and lived experiences of children and young people. There is clear evidence that young people (under the age of 18) are ‘demonised’ and subject to negative stereotyping.

As we know, hate crime motivated by age is not currently adequately protected by law in NI and our anti-discrimination legislation indeed falls short. We also note that according to PSNI statistics there were more race, sectarian, and disability incidents between January and December 2025, than there were in the previous year.³ From PSNI recorded trends for 2024/25, an analysis of the age of victims, under 18, can be shown as:

Table 1: Percentage of type of crime recorded where victim under 18, 2024-2025

Type of crime	Percentage (%) of victims under 18
Disability	21
Race	15
Sexual orientation	10
Sectarian	13*

Source: PSNI Hate Motivation Incidents and Crimes in NI, 2004/5 - 2024/5⁴

³ PSNI, ‘Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: December 2025’ (2026) (Available at: [Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland Update to 31st December 2025](#))

⁴ Available at: [Hate Motivation Statistics | PSNI](#), accessed on 23/4/26. *13 is an estimated amount as the data tables do not confirm an exact percentage for this year for children under 18 years old. An age breakdown for

It is our understanding that current data collection of victims who are transgender is not consistently recorded, including on the Niche forms, nor is it possible to identify someone under the age of 18/24 who was subject to hate within a hate incident.⁵

Contained within the Sentencing Bill is aggravators for hostility and, also, for vulnerability, which includes those who are under 18 in Clause 36. NICCY welcomes this inclusion and advises the Committee again to directly engage with children and young people on their views and experiences of this. We do question however, why age was not included at this stage.

We are aware that the Department, under Clause 35, may have the power to make regulations to amend section 34 to add further kinds of hostility and specify circumstances where an offence is aggravated by hostility, by draft affirmative procedure, should the Bill pass as it stands. NICCY understands that other areas that had been identified for inclusion in any hate crime legislation within the Hate Crime review have not been included here, but that may be able to be included in the future. We would welcome however, further areas to be included in, and across, NI's legislation in order to adequately address *legislatively* all hate crimes, given the UNCRC's clear condemnation of any discrimination of a child or young person on the grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status – outlined in Article 2. States Parties shall also take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members. Furthermore, the UNCRC Articles 14, 22, and 30 are also applicable, respecting the right of the child to freedom of thought, conscience and religion, the rights of refugee children and of ethnic, religious or linguistic minorities.

We would also welcome engagement with the Department should further areas of hostility be added, including regarding making misogyny a hate crime as this is an area that is frequently raised with us by children, young people and our Youth Panel. This is particularly evident in discussions about our Youth Panel's experiences with the online world and social media, feeling safe online and in communities, relationship and sexuality education (and education in general), as well as on Ending Violence Against Women and Girls.⁶ We also note that NI still does not have legislation banning conversion therapy and would welcome this becoming law.

hate crimes where the victim was under for Race, Sexual Orientation, Sectarian, and Disability hate crime is shown only, given the way in which crimes are recorded.

⁵ Information provided to NICCY through an information request to the PSNI, January 2026.

⁶ NICCY has given advice to government relating to online harms, EVAWG and young people's experiences. For example: [Response-to-Ending-Violence-Against-Women-and-Girls-Strategic-Framework-and-Foundational-Action-Plan.pdf](#); [The Right Way Forward – Safety - Niccy](#); and [Submission to the GREVIO Committee - Niccy](#). Further pieces of advice and recommendations can also be issued to Committee.

We understand that there are to be recording mechanisms put in place should these new aggravators be employed, and would welcome further details on the data recorded and how it would be published – including if the vulnerability aggravator was used for someone under the age of 18, and the offence was conducted online, if that information would be made available. As in previous advice issued, we would welcome further data being made available on children and young people as victims and also as perpetrators, directly and indirectly.

Adequate strategies and actions must accompany changes in legislation, and a concerted and holistic effort made to tackle hate crime and hate motivation in NI of any sort. This must be cross-departmental, and cross-societal, including earlier identification and preventative work, increasing reporting and supporting victims.

Guidance, training, and data

NICCY has previously advised the Committee on the importance of guidance. To comply with the UNCRC, Concluding Observations and relevant General Comments, NICCY recommends that the Committee ensure that the Department publish relevant information and guidance on the Bill should it pass Royal Assent. This could be through an amendment to the Bill or through the EFM. Guidance should be clear, unambiguous and subject to regular review. The guidance should also refer to and comply with the UNCRC and be accessible to children and young people. NICCY considers that guidance on all Parts of the Bill be necessary. Similarly, NICCY wishes to draw the Committee's attention to the need for data collection.

NICCY recommends again that the Committee satisfy itself that the necessary training and guidance will follow the passage of this Bill, for all agencies and organisations involved in its commencement and operation. This must include information and guidance being made available for children and young people, and those who work with them. The Committee will be well aware of the need for robust and up to date data which is publicly available in all areas of government. Adequate data capture and reporting of the impacts and effects of any new legislation is key not only for the allocation of resources, as has been briefly mentioned above, but also to ensure that the legislation is working as intended. NICCY urges the Committee to ensure that data is collected and disaggregated on children and young people.

Criminal responsibility

The Bill does make reference in some areas of sentencing of the applicability to adults, with others applying to those we assume, over the age of criminal responsibility. NICCY also wishes to reiterate the importance of increasing the Minimum Age of Criminal Responsibility (MACR) from the unacceptably low 10 years old to 16 years old in NI and have previously submitted advice to the Committee and the NI Assembly on this. We appreciate that there are

currently amendments tabled to the Justice Bill relating to MACR, and we await the outcome of such decisions by elected members.

Finally, there are a number of areas to which NICCY are aware that are being requested that the Committee consider by way of amendment, including other matters that have been debated in Westminster relating to technology assisted child sexual abuse and the sentencing processes around this for example. My office through its engagement relating to safeguarding work and on child sexual exploitation, has been contacted on this growing issue of online sexual exploitation and consider this an area that the Committee should explore in the context of this Bill.

Conclusion

NICCY thanks the Committee for the opportunity to provide advice in relation to the Bill as part of its scrutiny process. We encourage the Committee to consider and act upon the voice of the child throughout this, recognising the array of UNCRC rights afforded to them. We recommend that the Committee engage with children and young people, particularly those with lived experience through the Committee Stage of this Bill.

If the Committee require any further information from NICCY on any of the issues raised within this paper, the future planned amendments, or any other matters relating to youth justice and children's rights, NICCY are more than happy to provide this.