

Written Evidence to the Northern Ireland Committee for
Justice on the Criminal Justice (Sentencing etc) Bill from
the Commissioner for Older People for Northern Ireland
(COPNI)

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Introduction

1. This document provides Justice Committee members with the views of the Commissioner for Older People for Northern Ireland (COPNI) on the Criminal Justice (Sentencing etc) Bill.
2. COPNI has reviewed only the hate crime provisions at Clauses 33 to 36 and therefore this response does not constitute a clause-by-clause analysis of the entire draft Bill.
3. Under the Commissioner for Older People Act (Northern Ireland) 2011, COPNI's principal aim is to "safeguard and promote the interests of older persons". Such an aim is supported by duties to "keep under review the adequacy and effectiveness of law and practice relating to the interests of older persons" and "advise the Secretary of State, the Executive Committee of the Assembly and a relevant authority on matters concerning the interests of older persons".¹ Thus COPNI has reviewed Clauses 33 to 36 from the lens of an independent champion for older people.
4. As the Committee may be aware, COPNI has engaged extensively on criminal justice issues pertinent to older people. Our office has provided recommendations aimed at improving the experiences of older people when they engage with the justice system, improving justice outcomes for older people, and increasing older people's legal protections.
5. As part of this work, COPNI contributed to Judge Desmond Marrinan's *Hate Crime Legislation in Northern Ireland Independent Review*.² Since then, COPNI has continually stressed the importance of considering and including older people in any developments in hate crime legislation. Therefore, the Commissioner's office welcomed and agreed with Judge Marrinan's analysis that "there is sufficient evidence of hostility-based offences against the elderly to include age as a protected characteristic", as well as his recommendation that age should be included among the protected characteristics in Northern Ireland's hate crime legislation.

"Recommendation 9

*All current protected characteristics in Northern Ireland - race, religion, disability and sexual orientation - should continue to receive protection under the proposed model set out in Recommendation 2, together with the new recommended protected characteristics of age, sex/gender and variations in sex characteristics."*³

¹ [Commissioner for Older People Act \(Northern Ireland\) 2011](#).

² D. Marrinan (2020) '[Hate crime legislation in Northern Ireland, Independent Review](#)'.

³ D. Marrinan (2020) '[Hate crime legislation in Northern Ireland, Independent Review](#)'.

6. In April 2022 however, COPNI responded to the Department of Justice's (DoJ) *Improving the Effectiveness of Hate Crime Legislation in Northern Ireland* consultation⁴ noting our disappointment that the DoJ only partially accepted Judge Marrinan's recommendation.

"Recommendation 9 [in part]

*All current protected characteristics in Northern Ireland – race, religion, disability and sexual orientation – will continue to receive protection under the proposed model."*⁵

7. The Department's decision has meant that age is omitted from the list of protected characteristics at Clause 33 of the Criminal Justice (Sentencing etc) Bill as introduced.⁶ Clause 33(1) is the point at which the Bill determines which group identities are capable of attracting hostility-based protection. The omission of age therefore excludes older people from the principal hate crime aggravator. COPNI is of the view that "a decision appears to have been made to reject the inclusion of age as a protected characteristic despite a detailed jurisprudential opinion that to do so is reasonable and merited".⁷
8. COPNI provides this evidence to the Committee so that it may reconsider the exclusion of age as a protected characteristic in the new Criminal Justice (Sentencing etc) Bill. A detailed rationale for the inclusion of age is outlined in the following sections.

⁴ Department of Justice (2022) '[Consultation on Hate Crime Legislation in Northern Ireland](#)'.

⁵ Department of Justice (2022) '[Improving the effectiveness of Hate Crime Legislation in Northern Ireland, A Public Consultation and Call for Views](#)'.

⁶ [Criminal Justice \(Sentencing etc\) Bill](#), as introduced.

⁷ COPNI (2022) '[Improving the effectiveness of Hate Crime Legislation in Northern Ireland, Response from the Commissioner for Older People for Northern Ireland](#)'.

Northern Ireland's Ageing Population

9. Firstly, it is important to note the wider context of Northern Ireland's population, characterised by a rapid increase in the number of older people here. In 2025, more than 484,000 people in Northern Ireland were aged 60 or over. By 2055, this number is projected to grow to 660,817, an increase of over 36%. Older people will then make up over 34% of the total population of Northern Ireland, representing a significant and growing cohort whose interaction with all public services will increase accordingly.⁸
10. Since 2016, COPNI has recommended the inclusion of an Outcome in the Programme for Government focused on cross-departmentally planning for an ageing population. In 2024, COPNI published *At the Centre of Government Planning* which sets out some of the "critical issues caused or exacerbated by demographic ageing", including increasing health and social care costs, increasing pension costs, and a limited supply of specialist social housing. If such challenges, among others, remain unaddressed they will have "devastating social consequences, in particular for older people".⁹ COPNI has been consistent in calling for a cohesive plan to address the challenges an ageing demographic brings. Despite our efforts, and that of other organisations,¹⁰ the current Programme for Government contains just two mentions of older people and lacks any specific actions aimed at planning for our ageing population.¹¹
11. An ageing population risks overwhelming all of our public services, including those provided by the criminal justice system. As Northern Ireland continues to age, older people will likely represent a larger proportion of victims of crime. This in turn means there may be increased demand for criminal justice services that address the unique needs of older people. As such, an ageing population places new demands on the justice system to respond to this demographic change, to become more attuned to the needs of older people and to consider how effectively it responds to those needs. This demographic shift also reinforces the importance of ensuring legislative frameworks, including hate crime provisions, are sufficiently robust to recognise and respond to harms experienced by older people.

⁸ NISRA (2025) '[2022-based Population Projections for Northern Ireland](#)'.

⁹ COPNI (2024) '[At the Centre of Government Planning: The Programme for Government and preparing for an ageing population](#)'.

¹⁰ The Northern Ireland Executive published an analysis of responses to the Programme for Government Consultation. Among the key findings was that "Some sectors and groups felt that they could not see themselves within the PfG and wanted more clarity on how the PfG would support them. These included older people...". Northern Ireland Executive '[Our Plan: Doing What Matters Most, Programme for Government 2024-2027, Analysis of Responses to Consultation](#)'.

¹¹ Northern Ireland Executive '[Our Plan: Doing What Matters Most, Programme for Government 2024-2027](#)'.

Ageism

12. An ageing population is something to celebrate, reflective of the fact that we are living longer. However, the prevalence of age discrimination in Northern Ireland is concerning. COPNI is in no doubt that its prevalence is undermining many older people's ability to age well.
13. Ageism, as defined by the World Health Organisation (WHO), "refers to the stereotypes (how we think), prejudice (how we feel), and discrimination (how we act) towards others or oneself based on age".¹²
14. COPNI's *Are You Ageist* research found that almost half of older people have experienced ageism in Northern Ireland. 60% of older people reported that they were viewed as frail, vulnerable or dependent, with 65% stating that older people are viewed as a burden to society.¹³
15. Ageism can have significant impacts on older people's mental and physical health, particularly when those attitudes become self-directed. COPNI's report notes that self-directed ageism can occur when we internalise the ageist stereotypes presented to us by society.¹⁴ The Centre for Ageing Better highlights how self-directed ageism can modify an older person's own thinking and behaviour. Those experiencing self-directed ageism can have a "corresponding tendency to engage in unhealthy behaviours such as smoking, drinking or being physically inactive. People who internalise self-ageist attitudes have "worse medication compliance and are less likely to seek healthcare and to go for check-ups".¹⁵
16. As such, the media can play a role in shaping and influencing attitudes towards older people and ageing. Research by the Centre for Ageing Better found that older age groups are under-represented in advertising, television and films. However, when they are, it is often in ways that are negative or inaccurate.¹⁶ This was particularly evident during the Covid-19 pandemic. A study of the portrayal of older people in the United Kingdom (UK) during the first wave of the pandemic found that, while older people had an increased risk of contracting Covid-19, mitigating the impact of the virus on them was portrayed as "unmanageable". This had a negative impact on the way older people

¹² World Health Organisation (2025) '[Ageing: Ageism](#)'.

¹³ COPNI (2024) '[Are You Ageist: Older people's perception of ageism in Northern Ireland](#)'.

¹⁴ COPNI (2024) '[Are You Ageist: Older people's perception of ageism in Northern Ireland](#)'.

¹⁵ Centre for Ageing Better (2023) '[Ageism: What's the harm?](#)'.

¹⁶ Centre for Ageing Better (2023) '[Ageism: What's the harm?](#)'.

were treated and, as a result, the deaths of older people were “more readily accepted” by the rest of the population.¹⁷

17. Considering this in a criminal justice context, the Criminal Justice Inspection Northern Ireland (CJINI) in their inspection of the justice system’s approach to vulnerable older people in Northern Ireland, note how older people are less likely to be taken seriously by law enforcement bodies. Their inspection refers to a report by the UN Independent Expert on the enjoyment of all human rights by older persons, that states “a great majority of violations and abuses involving older persons are tolerated or suppressed. The lack of awareness of age as a factor that might incite violence, abuse and discrimination contributes to this invisibility and lack of protection of older victims”.¹⁸ This is particularly relevant in the context of hate crime where failure to recognise age as a factor underpinning hostility risks leaving such conduct unidentified and unaddressed within the current legislative framework.

¹⁷ S. Shimoni (2023) [‘The unprotectables: A critical discourse analysis of older people’s portrayal in UK newspaper coverage of Covid-19’](#) as discussed in COPNI (2024) [‘Are You Ageist: Older people’s perception of ageism in Northern Ireland’](#).

¹⁸ United Nations (2021) [‘Report on ageism and age discrimination’](#) as discussed in Criminal Justice Inspection Northern Ireland (2023) [‘Vulnerable Older People: An Inspection of the Criminal Justice System’s Approach to Vulnerable Older People in Northern Ireland’](#).

Crime and Older People

18. COPNI maintains that the needs of older people are not yet fully understood or addressed by the justice system. Our reports¹⁹ and consultation responses²⁰ outline the barriers older people can face when engaging with the justice system and provide recommendations aimed at improving older people's experiences and increasing their legal protections. This section discusses some of the key issues pertinent to older victims of crime.
19. Older people are statistically less likely to be victims of crime in Northern Ireland. For instance, in 2024/25, there were 6,470 older victims (aged 60 plus) in Northern Ireland compared to 14,707 victims aged between 30 and 39.²¹ However, such statistics must be considered alongside evidence of the impact of crime on older people, the underreporting of crimes by older people and poor outcome rates of crimes involving older victims.
20. When older people do experience a crime, the impact is often more severe. COPNI's *A Different Crime* report found that a "victim's pre-offence status" is a major factor as regards the extent to which crime impacts an individual.²² In the case of older people, they are more likely to have poor health,²³ live with a disability or long-term health condition,²⁴ live alone,²⁵ be widowed,²⁶ and experience social isolation and loneliness.²⁷ Such experiences, before a crime has been committed, can mean older people suffer more profound and lasting impacts after crime. In effect, "an older victim

¹⁹ See COPNI (2019) ['Improving Access to Justice for Older Victims of Crime: Older People as Victims of Crime and the Response of the Criminal Justice System in Northern Ireland'](#), COPNI (2019) ['Crime and Justice: The Experience of Older People in Northern Ireland'](#), COPNI (2023) ['A Different Crime: Offending Against Older People'](#), COPNI (2024) ['Growing Concern: Older Victims of Domestic Abuse in Northern Ireland'](#), and COPNI (2025) ['Beyond Good Intentions: A Review of the Adult Protection Bill as Introduced'](#).

²⁰ See for example COPNI (2022) ['Improving the Effectiveness of Hate Crime Legislation in Northern Ireland. Response from the Commissioner for Older People for Northern Ireland'](#), COPNI (2025) ['Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill'](#), COPNI (2025) ['Consultation on the proposal to increase the existing maximum sentences for the offence of causing or allowing a child or vulnerable adult to die or suffer serious physical harm'](#), COPNI (2025) ['Consultation on Draft Victims and Witnesses of Crime Strategy 2025-2030'](#) and COPNI (2025) ['Written Evidence to the Northern Ireland Committee for Health on the Adult Protection Bill from the Commissioner for Older People for Northern Ireland'](#).

²¹ PSNI (2025) ['Annual Trends in Police recorded crime 1998/99 to 2024/25'](#).

²² COPNI (2023) ['A Different Crime: Offending Against Older People'](#).

²³ Census 2021 results showed that 17.4% of people aged 65+ have 'bad or very bad general health' compared to 11% of 40- to 64-year-olds, 3.1% of 15- to 39-year-olds. NISRA (2022) ['Main statistics for Northern Ireland, Statistical bulletin, Health, disability and unpaid care'](#), page 10.

²⁴ Census 2021 results showed that 56.8% of people aged 65+ live with a limiting long-term health problem or disability. NISRA (2022) ['Main statistics for Northern Ireland, Statistical bulletin, Health, disability and unpaid care'](#), page 18.

²⁵ In 2025, the number of people aged 75+ living alone is projected to be 57,560. By 2040, this figure is projected to increase to 77,924. NISRA (2018) ['Northern Ireland Household Projections \(2016 based\)'](#).

²⁶ Census 2021 results showed there were 80,802 people aged 65+ who were widowed or a surviving partner from a civil partnership, equating to 24.7% of all those aged 65+. NISRA (2023) ['Marital and civil partnership status by broad age bands'](#).

²⁷ 16.7% of those aged 65 to 74 and a further 22.7% of those aged 75+ report feeling lonely at least some of the time. NISRA (2026) ['Individual Wellbeing in Northern Ireland Report 2024/25, Data Tables'](#).

of crime may be subject to the same crime as a younger victim but frequently, she or he, experiences a greater impact from that crime due to pre-existing issues”.²⁸

21. Recorded crime statistics also offer only a limited view of offending against older people. CJINI noted the “significant level of underreporting of crimes against older people” and identified a number of barriers that can prevent older people from reporting experiences of crime, such as “not wanting to be cut off from grandchildren, fear of loss of their home or being placed in a nursing home, fear of repercussions from (alleged) paramilitaries or because of shame and fear of stigma in their communities.”²⁹ Recorded statistics can therefore significantly underestimate the true scale and nature of crime against older people in Northern Ireland.
22. When older people do choose to report crime, they are more likely to experience poor crime outcome rates. In 2024/25, the police recorded sanction outcome rate for victims aged 65 plus was 17.5%, the lowest across all adult age categories.³⁰ In our response to the DoJ’s consultation on a draft Victims and Witnesses of Crime Strategy for Northern Ireland, COPNI noted how such statistics may discourage older people from coming forward and reporting experiences of crime: “If older people perceive that reporting crime is unlikely to result in meaningful action, prosecution or resolution, they may be less likely to come forward, report their experiences and receive support. This erosion of trust contributes to a cycle where underreporting and poor outcomes reinforce each other, which can deepen older people’s sense of vulnerability and marginalisation within the justice process”.³¹
23. COPNI’s *Crime and Justice* report identified a number of reasons why outcome rates are often lower for crimes involving older people. Namely, older people may experience a reluctance to give evidence in court and may fear reporting certain crimes. As an example, an older person may fear reporting a domestic burglary because the offender knows where they live. Police also noted a greater tendency among older people to delay reporting due to limited awareness that what they had experienced was a crime or they were too embarrassed to report it.^{32 33}
24. Despite being less likely to be victims of crime, many older people experience high levels of fear of crime. The 2023/24 Northern Ireland Safe Community Telephone survey found that 26% of people aged between 65 and 74, and 20% of people aged

²⁸ COPNI (2023) ‘[A Different Crime: Offending Against Older People](#)’.

²⁹ Criminal Justice Inspection Northern Ireland (2023) ‘[Vulnerable Older People: An Inspection of the Criminal Justice System’s Approach to Vulnerable Older People in Northern Ireland](#)’.

³⁰ Police Service of Northern Ireland (2025) ‘[Annual Trends in Police recorded crime 1998/99 to 2024/25, Pivot Table 3 Police recorded crime, sanction outcomes and population rates by victim gender, victim age and crime type](#)’.

³¹ COPNI (2025) ‘[Consultation on Draft Victims and Witnesses of Crime Strategy 2025-2030](#)’.

³² COPNI (2019) ‘[Crime and Justice: The Experience of Older People in Northern Ireland](#)’.

³³ COPNI (2024) ‘[Growing Concern: Older Victims of Domestic Abuse in Northern Ireland](#)’.

75 plus describe the effect of fear of crime on their quality of life as ‘moderate’.³⁴ COPNI’s *A Different Crime* report highlights that older people are from a “social grouping that is pre-disposed (i.e., pre-offence) to be fearful of crime”, due to pre-existing issues (discussed at paragraph 20).³⁵ CJINI give an example of older people “who refused to have mobility aids erected on the outside of their homes, despite their need, because of a fear that it made them easily identifiable.”³⁶ Fear of crime among older people can stem from a range of factors such as living alone, reduced confidence in public spaces or past experiences that may have interrupted their sense of safety. Media reporting and community reports can also heighten older people’s anxieties. As such, a crime against one older person can cause fear and intimidation among older people in general. Fear of crime may further influence whether older people report experiences of victimisation.

25. Moreover, COPNI has identified a number of recurring, identifiable trends and attitudes that underpin much offending against older people. Participants in the *A Different Crime* study highlighted several factors in the targeting of older victims including the perception of physical weakness of the victim, the perception of the victim’s limited social connectedness, the perception of the victim’s increased fear to report and pursue criminal proceedings, and the perception of increased obstacles for authorities to gather evidence and prosecute crimes. Probation staff who engaged with COPNI during the study also noted that “only rarely did an offender admit to targeting older people” because there was “great stigma attached to any person suspected of targeting older people”. Staff also emphasised that many offenders were ashamed and empathised with their victims because of their age and similarity to their older relatives. Probation Officers, while reluctant to attribute age as an element in the targeting of the victim, noted how “offenders felt that committing crimes against older people involved fewer risks”.³⁷ These factors demonstrate that offending against older people is not solely opportunistic but may also be influenced by attitudes and perceptions linked to age, relevant in the context of hostility-based offending.
26. In summary, while older people are statistically less likely to be victims of crime, there is evidence that crimes against older people are less likely to be reported or successfully prosecuted, and often have more severe and lasting impacts on older victims. Older people also experience a heightened fear of crime and may be subject

³⁴ Department of Justice (2025) ‘[Experience of Crime and Perceptions of Crime and Policing and Justice: Findings from the 2023/24 Northern Ireland Safe Community Telephone Survey](#)’, Tables 17b and 18b.

³⁵ COPNI (2023) ‘[A Different Crime: Offending Against Older People](#)’.

³⁶ Criminal Justice Inspection Northern Ireland (2023) ‘[Vulnerable Older People: An Inspection of the Criminal Justice System’s Approach to Vulnerable Older People in Northern Ireland](#)’.

³⁷ COPNI (2023) ‘[A Different Crime: Offending Against Older People](#)’.



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to identifiable patterns of targeting linked to perceptions about age. Accordingly, the case for enhanced legal protections for older people as a group is clear. In the context of hate crime provisions, COPNI is of the view that these distinct factors pertaining to crime against older people must be considered and recognised within the legislative framework.

Age as a Protected Characteristic in Hate Crime Legislation

27. The previous sections and associated evidence inform COPNI's position on hate crime provisions in Northern Ireland. COPNI has consistently maintained that older people must be encompassed within any development of hate crime protections.

28. Having welcomed Judge Desmond Marrinan's independent review and subsequent recommendations, COPNI is disappointed by the DoJ's partial acceptance of his Recommendation 9, which has resulted in age being absent from the list of protected characteristics at Clause 33 of the Criminal Justice (Sentencing etc) Bill.

"33.-(1) It may be specified as an allegation alongside a charge of an offence against a person ("A") that the offence is aggravated by-

- (a) racial hostility,*
- (b) religious hostility,*
- (c) hostility related to sexual orientation, or*
- (d) hostility related to disability.*

(2) An offence committed by A is aggravated by hostility of one of the kinds mentioned in subsection (1) if-

- (a) at the time of committing the offence, or immediately before or after doing so, A demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of-*
 - i. a racial group,*
 - ii. a religious group,*
 - iii. a sexual orientation group, or*
 - iv. a disability group; or*
- (b) the offence is motivated, wholly or partly, by hostility towards members of a group referred to in paragraph (a) based on their membership of that group.*³⁸

29. COPNI maintains that age should be included among the protected characteristics at Clause 33. Its omission remains a matter of profound concern for the Commissioner and her office. The following paragraphs outline COPNI's rationale for why age should be included as a protected characteristic in the Criminal Justice (Sentencing etc) Bill.

³⁸ [Criminal Justice \(Sentencing etc\) Bill, as introduced.](#)

Age-Based Hate Crimes in Other Jurisdictions

30. This section details examples of jurisdictions in which age is included as a protected characteristic in hate crime law. These examples clearly illustrate that hate crimes motivated by age-based hostility and demonstrations of age-based hostility exist. They are also evidence that age-based hostility can be recognised within legislative frameworks and that crimes have been identified and recorded because of the inclusion of age as a protected characteristic in hate crime legislation.
31. As of 1st April 2024, Scotland's Hate Crime and Public Order (Scotland) Act 2021³⁹ includes age as a protected characteristic. The Scottish Government state that offences "motivated by prejudice based on the perceived age of the victim" exist in Scotland and "that these crimes should be treated in the same way as other hate crimes".⁴⁰ In the first year of age being included as a protected characteristic in Scottish hate crime legislation (2024/25), there were 48 hate crimes recorded by police with an aggravation of age.⁴¹ In the same year, there were 88 charges reported with an aggravation of age.⁴² 31 of these related to threatening and abusive behaviour and were charged under Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.⁴³ 86% of victims of hate crimes with an aggravation of age were individuals aged 60 plus. By contrast, 30% of the perpetrators of age-based hate crimes were under 16 years of age, 41% were aged between 25 and 44, and 22% were aged between 45 and 59.⁴⁴ Given the constitutional, cultural and socio-economic similarities between Scotland and Northern Ireland, COPNI considers Scotland to be a particularly relevant comparator. The inclusion of age within Scottish hate crime law has enabled the identification and recording of age-based hostility. In this context, Northern Ireland's government should consider aligning its approach to that of Scotland's, particularly in light of demographic ageing. In 2024, almost a third of Scotland's population was aged 60 plus, compared to 24.5% of Northern Ireland's. By 2044, older people are projected

³⁹ Clause 1(1)(b) dictates an offence is aggravated by prejudice if the offence is motivated by malice or ill-will towards a group based on the group being defined by reference to a characteristic. Clause 1(2) lists these characteristics which includes age at Clause 1(2)(a). See [Hate Crime and Public Order \(Scotland\) Act 2021](#).

⁴⁰ Scottish Government (n.d.) '[Hate Crime and Public Order \(Scotland\) Bill Information Note, Age](#)'.

⁴¹ Scottish Government (2026) '[Hate crimes recorded by the police in Scotland, 2024-25, Table 3](#)'.

⁴² These figures are from two separate systems (Scottish police and the Crown Office and Procurator Fiscal Service). Thus, there are definitional and operational differences between them. The 48 hate crimes refer to cases that were reported to or otherwise came to the attention of Scottish police, while the 88 charges refer to when a charge is reported to the Crown Office and Procurator Fiscal Service by the police. The Crown Office and Procurator Fiscal Service can also amend a charge that is reported to them as part of the process of considering what action to take. For example, this may lead to a charge reported without a hate crime aggravation having an aggravation added (if the circumstances of the offence mean it is considered to fall under the scope of the legislation and there is enough evidence to prove the aggravation). See Scottish Government (2026) '[Hate crimes recorded by the police in Scotland, 2024-25](#)' and Crown Office and Procurator Fiscal Service (2025) '[Hate crime in Scotland, 2024-25, Background](#)'.

⁴³ Crown Office and Procurator Fiscal Service (2025) '[Hate Crime in Scotland, 2024/25, Tables 6 and 20](#)'.

⁴⁴ Scottish Government (2026) '[Hate crimes recorded by the police in Scotland, 2024-25, Tables 7 and 8](#)'.

to represent over 30% of Scotland's population, compared to 31.6% of Northern Ireland's population. This means Northern Ireland's population is set to age at a faster rate. Scotland has arguably taken steps to future-proof its hate crime legal framework by recognising age as a characteristic warranting protection. This may be reflective of an awareness that, as the proportion of older people increases, it is likely that the number of older victims of crime will also increase. In this context, Northern Ireland could benefit from adopting a similar approach by incorporating age in the hate crime provisions of the Criminal Justice (Sentencing etc) Bill. Doing so ensures our legislative framework is capable of recognising such offending, thereby planning for the consequences of an ageing population.

32. Similarly, Section 283 of the Austrian Criminal Code 1974 includes age among the protected characteristics of hate crime law.⁴⁵ Austria reports hate crime data to the Organisation for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR). In 2024, they reported 102 hate crimes with a bias based on age.⁴⁶
33. In Canada, subparagraph 718.2 (a)(i) of their Criminal Code provides that a judge must consider when sentencing "evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor".^{47 48} In 2024, there were 10 hate crimes with an age motivation recorded by Canadian police, the second highest prevalence since recording started in 2014.⁴⁹
34. In New Zealand, Section 9(1)(h) of the Sentencing Act 2002 states that "in sentencing or otherwise dealing with an offender the court must take into account the following aggravating factors to the extent that they are applicable in the case: ...that the offender committed the offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability".⁵⁰ In New Zealand, from 1st August 2019 to 30th June 2024, there were 172 offences flagged for perceived hate motivation by age.⁵¹

⁴⁵ OSCE Office for Democratic Institutions and Human Rights (n.d.) '[Hate crime legislation in Austria, Criminal Code of Austria \(1974, as amended 2020\) \(excerpts related to Hate Crimes\)](#)'.

⁴⁶ OSCE Office for Democratic Institutions and Human Rights (2024) '[Hate Crime Reporting, Austria](#)'.

⁴⁷ Government of Canada (n.d.) '[Criminal Code \(R.S.C., 1985, c. C-46\)](#)'.

⁴⁸ Government of Canada (n.d.) '[Definition of Hate Crime](#)'.

⁴⁹ The highest recorded number of hate crimes with an age motivation in Canada was 14 in 2021. Statistics Canada (2025) '[Police-reported hate crime, by type of motivation, selected regions and Canada \(selected police services\)](#)'.

⁵⁰ [Sentencing Act 2002](#).

⁵¹ New Zealand Police (n.d.) '[NIA data on offences and non-criminal incidents flagged for perceived hate-motivation](#)'.

35. Several states in the United States of America protect age through hate crime legislation. In the state of Florida, 'advanced age' is one of the protected characteristics. Section 775.085, Florida Statutes states: "(1)(a) The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, or advanced age of the victim...".⁵² In 2022, Florida reported one hate crime where anti-advanced age was the motivation for the hate crime.⁵³ In 2023, they reported two, accounting for 0.6% of all hate crimes recorded in the State.⁵⁴ In general, hate crime reporting is low in Florida with only 229 hate crimes reported in 2022⁵⁵ and 311 in 2023.⁵⁶ By comparison, in August 2024 alone, there were 535 hate crimes recorded by the Police Service of Northern Ireland (PSNI).⁵⁷

Northern Ireland-Specific Evidence of Age-Based Hate Crimes

36. While the above paragraphs outline evidence that age-based hostility and age-based hate crime exists, the underreporting of crimes in general by older people remains a significant issue in Northern Ireland.
37. Many older people experience barriers to reporting. Some may feel embarrassment or shame. Others may fear the consequences of reporting, like losing their independence or their support network. Some older people may lack confidence in the justice system or believe the incident to be too minor to report. Physical barriers such as living with a disability and experiencing limited access to reporting mechanisms can also discourage reporting. Considering this, COPNI reiterates Age UK's point that the underreporting of crimes by older people should be a key factor when considering the inclusion of age as a protected characteristic in hate crime legislation.⁵⁸
38. There is a lack of reliable research on older victims of crime. In our publications, COPNI has called on criminal justice agencies to improve the consistency of their data collection and analytics.⁵⁹ Without improved, robust statistical information, we will continue to struggle to understand the nature and extent of offending against older people.

⁵² Online Sunshine (n.d.) '[The 2025 Florida Statutes, Section 775.085, Evidencing prejudice while committing offense: reclassification](#)'.

⁵³ Florida Attorney General Ashley Moody (2023) '[Hate Crimes in Florida, January 1, 2022 – December 31, 2022](#)'.

⁵⁴ Florida Attorney General Ashley Moody (2024) '[Hate Crimes in Florida, January 1, 2023 – December 31, 2023](#)'.

⁵⁵ Florida Attorney General Ashley Moody (2023) '[Hate Crimes in Florida, January 1, 2022 – December 31, 2022](#)'.

⁵⁶ Florida Attorney General Ashley Moody (2024) '[Hate Crimes in Florida, January 1, 2023 – December 31, 2023](#)'.

⁵⁷ PSNI (2025) '[Hate Motivations in Northern Ireland by month 2004 05 to 2024 25 pivot tables](#)'.

⁵⁸ AgeUK (2021) '[Law Commission, Hate crime laws: a consultation](#)'.

⁵⁹ COPNI (2024) '[Growing Concern: Older Victims of Domestic Abuse in Northern Ireland](#)'.

39. Currently, the PSNI does not include age in their hate motivated crime statistics. This significantly limits the available evidence on the prevalence of such crimes against older people. This approach is also inconsistent with that of transgender identity hate crimes. The PSNI collect and publish data on the prevalence of transgender identity hate crimes despite that group also being omitted from those protected under this Criminal Justice (Sentencing etc) Bill.⁶⁰
40. The absence of official statistical evidence in Northern Ireland of hate crimes based on hostility towards someone's age does not mean that such crimes do not exist. Rather, it reflects limitations in data collection. Despite anecdotal reporting that people have been targeted in part or wholly because they are older, our justice agencies do not gather statistics on hate motivated crime against older people. Likewise, in response to the Law Commission's consultation on reforms to hate crime law in England and Wales, the Magistrates Association agreed that evidence of hostility towards older people because of their age may be difficult to find but argued that "this did not necessarily mean that older people should not enjoy hate crime protection".⁶¹ Highlighting the absence of official statistical evidence is merely a commentary on the PSNI's decision to not record instances of age-based hate. Likewise, the exclusion of age from the protected characteristics at Clause 33 means that courts would be unable to formally state that an offence was aggravated by age-based hostility, even where such hostility was demonstrated. If the Bill does not include age as a protected characteristic, the courts will continue to not recognise, not record and not sentence on the basis of age-based hostility, reinforcing the existing absence of statistical evidence.
41. COPNI is concerned by a fundamental inconsistency in the DoJ's approach. While age is excluded from the list of protected characteristics at Clause 33 on the basis of insufficient evidence, the Bill separately introduces an aggravator by reason of vulnerability at Clause 36. Even without official statistical evidence, Clause 36 expressly recognises "old age" as a factor which may render a person vulnerable. The vulnerability aggravator is distinct in both purpose and effect from the hostility-based aggravator. It does not recognise or capture hostility directed towards older people as a group but rather focuses on an individual's capacity to protect themselves from harm. That said, the inclusion of "old age" in the vulnerability aggravator provisions of the Bill indicates the Department's acceptance, and in fact acceptance of Judge Marrinan's view that age is a relevant factor in the offending against, and victimisation of older

⁶⁰ PSNI (n.d.) '[Hate Motivation Statistics](#)'.

⁶¹ Law Commission (2021) '[Hate crime laws: Final report](#)'.

people, even in the absence of statistical information. It is difficult to reconcile that acceptance with a refusal to recognise age as a protected characteristic, particularly where the absence of statistical evidence is itself a consequence of age not being recorded as a motivation for hostility or hate. The current drafting indicates acceptance that age matters, but only in a limited and partial way. Further, the Department cannot reasonably rely on an absence of statistical evidence while maintaining a recording framework that does not capture age-based hostility. The current approach risks creating a circular position in which the absence of evidence is, in part, a consequence of the decision not to recognise or record age as a motivating factor. It is therefore inconsistent to argue that there is insufficient evidence to justify age being included as a protected characteristic in the Bill.

Motivation Test and Demonstration of Hostility Test

42. DoJ officials, when briefing members of the Justice Committee, indicated that a hate crime must be motivated by hostility or hatred towards a person's group identity. Officials, on 27th November 2025, said that the Department had considered including sex as a protected characteristic in the Bill but that "there was not a lot of evidence that people were motivated to assault or attack someone purely out of hostility or hatred driven by the fact that they are a woman or because they are a man".⁶²
43. Applying this reasoning to age suggests that the Department has concluded there is insufficient evidence of crimes motivated by age-based hostility or hatred in Northern Ireland to justify its inclusion as a protected characteristic in the Bill.
44. However, the Criminal Justice (Sentencing etc) Bill, as currently drafted, goes beyond motive alone. Clause 33(2) of the Bill expressly includes situations in which hostility towards a protected group is demonstrated before, during or after committing an offence.

"33.-(2) An offence committed by A is aggravated by hostility by one of the kinds mentioned in subsection (1) if-

*(a) at the time of committing the offence, or immediately before or after doing so, A demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of [the protected groups]."*⁶³

45. The Bill therefore makes a clear distinction between a demonstration of hostility (Clause 33(2)(a)), and a motivation based on hostility (Clause 33(2)(b)). COPNI is of the view that the inclusion of the 'demonstration test' broadens the scope of

⁶² Northern Ireland Assembly YouTube (2025) '[Committee for Justice – Thursday 27 November 2025](#)'.

⁶³ [Criminal Justice \(Sentencing etc\) Bill, as introduced](#).

characteristics that may appropriately be protected by the Bill. While motive may be more difficult to evidence, demonstrations of hostility can be more easily evidenced through language, actions or patterns of behaviour before, during or after a crime. COPNI's *Are You Ageist* report found that almost half of older people in Northern Ireland have experienced some form of ageism.⁶⁴ There can be no doubt that older people are experiencing demonstrations of hostility towards their age, whether that be in the form of verbal abuse, ageist remarks, or threatening and intimidating behaviour. This is especially concerning given the underreporting of crimes by older people, as noted in the section above, as well as the fact that some older people may not always recognise these incidents as criminal ones and thus not report them as such.

46. The argument that there is a lack of official statistical evidence of crimes motivated by age-based hostility or hate is insufficient to justify the decision to exclude age from the list of protected characteristics in the Bill, particularly in light of the 'demonstration test' at Clause 33(2). The lack of statistical records should not be treated as evidence that age-based hostility is rare or insignificant. Rather, the relatively low evidential threshold of the 'demonstration test' means that such hostility need only be expressed at any point before, during or after the offence, rather than proven as a motivating factor. The fact these incidents may go unrecognised, unreported and underrepresented in data speaks to older people's limited awareness that these experiences could constitute a crime. The hate crime section of the PSNI website states that "evidence is NOT the determining factor in defining a hate crime. The perception of the victim or any person is the determining factor".⁶⁵ If older people do not perceive a demonstration of hostility, such as a verbal abuse or threatening behaviour, as a crime or consider it too minor to report, such incidents will continue to be omitted from official data.
47. The state routinely enacts laws that address grave social ills, and would not consider dispensing with them, even where prosecutions are limited in number. Take, for example, Female Genital Mutilation (FGM). In England and Wales, between 2018 and 2025, only four defendants were brought to court under the FGM Act 2003. Of these, two were convicted in 2019 and 2024 and two were sentenced in 2019 and 2024.⁶⁶ This is despite police recording 440 FGM offences from the year ending March 2020 to year ending March 2025.⁶⁷ From April 2015 to March 2024, NHS England also identified over 37,000 individuals where FGM was identified, or a procedure was

⁶⁴ COPNI (2024) '[Are You Ageist: Older people's perception of ageism in Northern Ireland](#)'.

⁶⁵ PSNI (n.d.) '[Hate Crime](#)'.

⁶⁶ Ministry of Justice (2026) '[Outcomes by Offence data tool: December 2025](#)'.

⁶⁷ Home Office (2025) '[Statistics on so called 'honour based' abuse offences, England and Wales, year ending March 2025: data tables, Table 2](#)'.

carried out.⁶⁸ As such, prosecutions of FGM remain low due to challenges in gathering evidence and perhaps the reluctance of victims to testify against family members. This reflects the reality that certain forms of offending are difficult to detect, evidence and prosecute. The continued existence of such legislation is nevertheless considered necessary as a matter of principle and protection. In the same way, the inclusion of age as a protected characteristic in this Criminal Justice (Sentencing etc) Bill should not be contingent solely on prosecution rates or statistical visibility, but on the need to ensure that age-based hostility and demonstrations of it are recognised and addressed within the legal framework.

Vulnerability Aggravator

48. Clause 36 of the Criminal Justice (Sentencing etc) Bill introduces a new aggravator by reason of the victim being vulnerable.

“36.-(1) It may be specified as an allegation alongside a charge of an offence against a person (“A”) that the offence is aggravated by reason of the victim’s vulnerability, but this is subject to subsection (6).”⁶⁹

49. Clause 36(7) expressly includes some older people. When defining a vulnerable person, the Bill recognises “old age” as a factor that may inhibit a person’s ability to protect themselves.

“(7) In this section, “vulnerable person” means –

- (a) a person under the age of 18, or*
- (b) a person whose ability to protect himself or herself from violence, abuse, neglect or exploitation is significantly impaired through physical or mental disability or illness, old age or for any other reason.”⁷⁰*

50. Considering this, COPNI welcomes the inclusion of a statutory vulnerability aggravator. It may provide protections for vulnerable older people viewed as ‘easy targets’ for hate crime offending. The vulnerability aggravator signals the Department’s recognition that harming vulnerable older people should not be tolerated.

51. COPNI emphasises the need for the DoJ to work collaboratively with the Department of Health (DoH) in taking forward a cross-departmental approach that prioritises the protection of vulnerable older people. The Adult Protection Bill has “the potential to reshape the entire safeguarding landscape, better protecting adults from abuse and harm...The Bill would provide a framework for prevention, protection and

⁶⁸ NHS England (2024) ‘Female Genital Mutilation, January-March 2024 – Supporting Data, Figure 1’.

⁶⁹ Criminal Justice (Sentencing etc) Bill, as introduced.

⁷⁰ Criminal Justice (Sentencing etc) Bill, as introduced.

accountability across the board”.⁷¹ Together, both the vulnerability aggravator under this Criminal Justice (Sentencing etc) Bill and the provisions of the Adult Protection Bill, if implemented properly and resourced fully, could better protect vulnerable adults and hold perpetrators to account.

52. That said, while COPNI welcomes the introduction of the statutory vulnerability aggravator, we do not consider that Clause 36 provides equivalent protection to the hostility-based aggravator at Clause 33. The two provisions are distinct in both purpose and effect. Clause 36 focuses on an individual victim’s vulnerability and capacity to protect themselves from harm. It does not recognise or address hostility directed or demonstrated towards older people as a group, nor does it capture offending motivated wholly or partly by prejudice, hostility or discriminatory attitudes related to age.
53. A reliance solely on the vulnerability aggravator would imply that all older people are vulnerable. COPNI’s response to the DoJ’s Victims and Witnesses of Crime Strategy emphasised how “older people are not a homogenous group” in that they embody multiple identities relating to gender, race, ethnicity and sexuality, while also having differing backgrounds, experiences, health needs and living situations.⁷² Older people also represent a wide age range from 60 to over 100.⁷³ A reliance solely on the vulnerability aggravator therefore would fail to capture offences against older people not characterised as vulnerable, but who may nevertheless be targeted because of age or experience demonstrations of age-based hostility.
54. Many older people themselves are reluctant to be labelled as vulnerable. In COPNI’s 2019 study, *Crime and Justice*, we found that older people “rejected the idea that as a group they should be generally classed as vulnerable”.⁷⁴ Moreover, in our *A Different Crime* study, COPNI noted how it may be “counter-cultural” to discuss the proposition that older people are at an increased risk of being acutely impacted by crime and that “addressing the increased vulnerabilities of a particular demographic could be interpreted as an act of disempowering that same grouping”.⁷⁵ In this manner, the Criminal Justice (Sentencing etc) Bill’s reliance on vulnerability alone could be argued to disempower older people experiencing hate crimes motivated by or demonstrations of a hostility towards their age.
55. As older people are a diverse group including people who are robust and resilient, the vulnerability aggravator will not offer all older people protection. Hence, Clause 36 of

⁷¹ COPNI (2025) ‘[Beyond Good Intentions: A Review of the Adult Protection Bill as Introduced](#)’.

⁷² COPNI (2025) ‘[Response to Consultation on Draft Victims and Witnesses of Crime Strategy 2025-2030](#)’.

⁷³ The Commissioner for Older People Act (Northern Ireland) 2011, for the purpose of clarifying the Commissioner’s remit, defines an older person as 60 plus. See [Commissioner for Older People Act \(Northern Ireland\) 2011](#).

⁷⁴ COPNI (2019) ‘[Crime and Justice: The Experience of Older People in Northern Ireland](#)’.

⁷⁵ COPNI (2023) ‘[A Different Crime: Offending Against Older People](#)’.

the Criminal Justice (Sentencing etc) Bill as currently drafted is inadequate as it fails to address hate incidents experienced by older people deemed (by whatever criteria) non-vulnerable.

56. Conversely, COPNI found that there is a reluctance among justice agency professionals and offenders to “recognise increases in physical, mental, social, and financial challenges as aspects of older age” meaning they are often “inclined to attribute the targeting of a particular victim to a perceived vulnerability rather than age per se”.⁷⁶ In other words, justice agencies, professionals in the justice system and offenders use terminology such as ‘old’, ‘older’ and ‘advanced age’ on a regular basis about specific victims but simultaneously do not comprehend that these cases of specific victimhood constitute a deep-rooted trend of hostility to all people considered ‘older’.
57. There is clear evidence that, as a group, older people are more vulnerable than other sections of society in terms of physical, mental, social, financial and other circumstances. This creates a conceptual difficulty within the Bill. If vulnerability is interpreted narrowly, many older people targeted because of age will fall outside the protection afforded by Clause 36. If interpreted broadly, the word ‘vulnerable’ in the term “vulnerable older person” risks becoming redundant, as many older people could fall within that description simply by virtue of age-related circumstances.
58. Moreover, Clause 36 would leave unaddressed the intrinsic wrongness of targeting an older person because they are older by shifting focus from the perpetrator’s hostility to the victim’s vulnerability. Clause 36(2) creates an evidential hurdle in that an older person may experience a crime motivated by hostility towards their age or a demonstration of hostility towards their age but not meet the threshold of a “vulnerable person”. In other words, an older person could experience any crime, motivated by hostility towards their age, but due to the absence of age at Clause 33 of this Bill, the offence will not be recognised as aggravated by age. Similarly, if the older victim is not identifiably vulnerable, the offence will also not be recognised as aggravated by reason of the victim’s vulnerability. Clause 36 requires proof, not only that the victim was vulnerable but that the offender knew or ought reasonably to have known the victim was vulnerable. As such, the protection afforded by the vulnerability aggravator is conditional and subject to a defined legal threshold. As a result, not all older victims will fall within the scope of Clause 36, particularly those who are independent, physically able or not readily identifiable as vulnerable. The vulnerability aggravator

⁷⁶ COPNI (2023) ‘[A Different Crime: Offending Against Older People](#)’.

therefore operates selectively rather than as a general protection for older people as a group.

59. Clause 36(6) further narrows the scope of the vulnerability aggravator. It prevents the vulnerability aggravator from being applied where the victim's vulnerability already forms part of the underlying offence. In practice, this means in certain offences involving older victims, vulnerability cannot be relied upon twice, both as an element of the offence and again as an aggravating factor at sentencing. For example, where an offence already specifically relates to the exploitation, neglect or abuse of a vulnerable person, the prosecution may be unable to rely upon Clause 36 to aggravate a sentence on the basis of that same vulnerability. As such, some older people may fall outside the scope of the aggravator altogether. This reinforces the need for a separate hostility-based framework capable of recognising and addressing offending directed towards older people because of their age, rather than solely because of vulnerability.
60. These factors and the sole reliance on the vulnerability aggravator may, in turn, mean many older people will not see themselves or their needs reflected in the justice system and the services available. Consequently, this will discourage many older people from reporting and engaging in criminal justice processes. This also means trends in offending against older people may continue to go unrecognised and unaddressed, contributing to the cycle in which absence of evidence reinforces itself.
61. COPNI maintains that it is entirely consistent to recognise both that older people are a diverse group, many of whom are robust, independent and resilient, and that older people as a group experience increased risk to certain forms of harm, exploitation and victimisation. These propositions are not contradictory. However, they demonstrate why vulnerability alone cannot substitute for the inclusion of age as a protected characteristic. The vulnerability aggravator addresses impairment and susceptibility to harm. The hostility aggravator addresses prejudice, discriminatory attitudes and targeting linked to group identity. The two concepts are legally and conceptually distinct.
62. Further, the aggravation by reason of hostility under Clause 33 will likely represent the primary and most publicly recognisable hate crime framework within the Bill. By contrast, the vulnerability aggravator under Clause 36 will likely only be used in a narrower category of cases where the statutory threshold can be established. Indeed, justice agencies in Northern Ireland have already been criticised by CJINI for failures to recognise and appropriately respond to the needs of older victims within the justice

process.⁷⁷ There is therefore a real risk that the practical effect of the Bill will be to afford greater visibility, recognition and protection to groups protected under Clause 33 than to older people addressed only through Clause 36.

63. The draft Bill's approach to age is also inconsistent with the treatment of disability as a protected characteristic. The Bill recognises that disabled people can be targeted because of their vulnerability or perceived vulnerability, but also because of hostility towards them due to their group identity. COPNI considers that a similar approach should apply to age. In response to the Law Commission's consultation on hate crime reforms in England and Wales, the similarity between age and disability was mentioned: "motivation cannot be explained on the basis of vulnerability alone. Vulnerability may create dependency circumstances, but it cannot explain premeditated cruelty with regard to some crimes against older people, any more than it can in relation to disability hate crime".⁷⁸ While vulnerability may increase exposure to harm for many older people, it does not in itself account for the deliberate or discriminatory nature of hate crimes or demonstrations of hostility experienced by older people.
64. In sum, Clause 36 does not provide automatic protection for all older people. The aggravator applies only where the victim's ability to protect themselves is "significantly impaired" and where the offender knew, or ought reasonably to have known, of that vulnerability. This creates both an evidential and legal threshold which will not be met in many cases involving older victims. Older people who are independent, physically mobile or not outwardly identifiable as vulnerable may therefore fall outside the scope of the provision, even where they are targeted because of their age. A person can be targeted because they are older without being significantly impaired. Likewise, a hate crime may be aggravated by both hostility and vulnerability. The two are not mutually exclusive. An older person's vulnerability may coexist with hostility directed or demonstrated towards them because of their age.
65. The inclusion of age as a protected characteristic alongside the vulnerability aggravator would therefore provide a more coherent and effective framework for recognising and responding to harm experienced by older people.

⁷⁷ Criminal Justice Inspection Northern Ireland (2023) '[Vulnerable Older People: An Inspection of the Criminal Justice System's Approach to Vulnerable Older People in Northern Ireland](#)'.

⁷⁸ Law Commission (2021) '[Hate crime laws: Final report](#)'.

Secondary Legislation

66. Clause 35 of the Criminal Justice (Sentencing etc) Bill gives the DoJ power to add other kinds of hostility by which an offence may be aggravated. In other words, power to add other protected characteristics.

“35.-(1) The Department may by regulations amend section 33 so as to-

(a) add further kinds of hostility by which an offence may be aggravated;

(b) specify the circumstances in which an offence is aggravated by hostility of a kind added;

(c) specify one or more offences in respect of which an allegation that the offence is aggravated by hostility of the kind added may not be made under section 33(1).”⁷⁹

67. COPNI understands a final decision on whether to include age among the protected characteristics will be informed by findings from Phase 2 of the Hate Crime Consultation, to be undertaken after the Criminal Justice (Sentencing etc) Bill has passed through the Assembly.

68. COPNI welcomes the possibility of including age among the protected characteristics. That possibility reflects the Department’s acknowledgement of the significance of including age as a protected characteristic in hate crime legislation.

69. However, COPNI remains concerned that reliance on including age through secondary legislation risks delaying the introduction of such protections. There is no clear timeline for when Phase 2 of the DoJ’s consultation will conclude or when regulations may be brought forward. In the context of the forthcoming election in 2027, there is a real risk that this issue may be deferred for a significant period, an approach which would represent a choice to leave older people without protections for a more extended period of time than necessary. The inclusion of protected characteristics through primary legislation also provides greater legal certainty and scrutiny than reliance on secondary legislation, which is subject to a more limited form of Assembly oversight.

70. By way of context, older people in Northern Ireland continue to face age discrimination in the provision of goods, facilities and services. Despite calls from COPNI, among other bodies, since 2014, there has been no legislative change.⁸⁰ Northern Ireland remains the only region in the UK and Ireland that does not have protections of this type in place. This remains a significant gap in Northern Ireland’s equality legislation, a decade on from when such legislation was promised in the 2011-2015 Programme

⁷⁹ [Criminal Justice \(Sentencing etc\) Bill, as introduced.](#)

⁸⁰ COPNI (2013) [‘Hope, Certainty, Confidence: Corporate Plan 2013-2015’](#).

for Government.⁸¹ The Criminal Justice (Sentencing etc) Bill should not represent another example of slow legislative change for older people.

71. Against that backdrop, COPNI urges the Committee to consider the substantial implications of delaying the inclusion of age within the Criminal Justice (Sentencing etc) Bill. Deferring this issue to secondary legislation leaves older people without the protections afforded to other groups for an indeterminate period. COPNI therefore considers that, where the case for inclusion of age among the protected characteristics has already been established, it should be addressed on the face of the Bill.

⁸¹ Northern Ireland Executive (n.d.) '[Programme for Government 2011-15](#)'.

Conclusions

72. COPNI recommends the Criminal Justice (Sentencing etc) Bill be amended to include age as a protected characteristic in its new hate crime aggravator model at Clause 33.
73. COPNI maintains that older people in Northern Ireland “are a section of society that urgently requires protection from hate crime. The development of hate crime laws to protect older people in Northern Ireland must not simply represent a symbolic effort but instead, must manifest a profound commitment by legislators and criminal justice agencies to tackle a pernicious, divisive and increasing type of offending”.⁸²
74. The Bill affords protection to just some older people through the introduction of the vulnerability aggravator. The vulnerability aggravator applies where “old age” significantly impairs a person’s ability to protect themselves. Clause 36 thus does not protect older people as a group. By contrast, the inclusion of age among the protected characteristics at Clause 33 would extend legal protection to a much larger proportion of older people.
75. Ultimately, the issue is whether Government is prepared to take steps to reduce both the frequency of crimes against older people and the impact of crime on them. The presence or absence of interventions indicates “the type of value system and society in which citizens choose to live”.⁸³ The OSCE highlights that “laws – especially criminal laws – are an expression of society’s values. Hate crime laws both express the social value of equality and foster the development of those values”.^{84 85}
76. In the context of including age as a protected characteristic in Northern Ireland’s hate crime law, the question is not how often age-based hostility occurs or is demonstrated, but whether the law is capable of recognising and responding to such incidents when they do arise.
77. OSCE further state that “where a prosecution and sentence takes account of the bias motive, such public acknowledgment reassures the victim that his or her experience has been fully recognised. This in turn can inspire trust in other members of the community that hate crimes will not go unpunished”.⁸⁶ As currently drafted, the requirement under Clause 34 to formally recognise and record hostility-based aggravation provides both public acknowledgement and data visibility. The exclusion of age prevents this mechanism from operating in respect of older victims. Since older people often do not see themselves or their needs reflected in the criminal justice

⁸² COPNI (2022) [‘Improving the Effectiveness of Hate Crime Legislation in Northern Ireland, Response from the Commissioner for Older People for Northern Ireland’](#).

⁸³ COPNI (2023) [‘A Different Crime: Offending Against Older People’](#).

⁸⁴ COPNI (2023) [‘A Different Crime: Offending Against Older People’](#).

⁸⁵ OSCE (2009) [‘Hate Crime Laws, A Practical Guide’](#).

⁸⁶ OSCE (2009) [‘Hate Crime Laws, A Practical Guide’](#).

system, including age as a protected characteristic in the new hate crime aggravator model would send a message that the targeting of older people and demonstrations of hostility towards them will not be tolerated and will be dealt with accordingly.

78. The Criminal Justice (Sentencing etc) Bill as introduced already contains the legal architecture necessary to recognise age-based hostility. The omission of age as a protected characteristic is therefore not a matter of feasibility, but a policy choice. COPNI maintains that a hate crime against an older person may involve mixed motives, including vulnerability, opportunity and hostility. Thus, the aggravation by hostility and the aggravation by reason of vulnerability are not mutually exclusive and can operate together, particularly given that the law recognises offences may be driven “wholly or partly” by hostility.⁸⁷ The existing draft of Clause 33 already accommodates offences where hostility operates alongside other factors, including vulnerability or perceived vulnerability. The inclusion of age would therefore not require any structural change to the aggravator model but would simply allow the framework to operate as intended in respect of older people.
79. Thus, the inclusion of age as a protected characteristic, alongside the vulnerability aggravator would provide a more complete and effective framework for recognising and addressing harm experienced by older people. Age also clearly falls within the type of characteristic contemplated by Clause 35(2), which reinforces that its inclusion within Clause 33 is legally and structurally workable. As such, the Department have an opportunity to strengthen legal protections for older people across Northern Ireland.
80. In conclusion, COPNI maintains that the inclusion of age in the list of protected characteristics in the hate crime provisions of the Criminal Justice (Sentencing etc) Bill is justified. The Commissioner respectfully invites the Justice Committee to give this matter careful consideration and to recognise the importance of urgently addressing the proposed omission of older citizens from vital legal protections.

⁸⁷ [Criminal Justice \(Sentencing etc\) Bill, as introduced.](#)