

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of

Justice

An Roinn Dlí agus Cirt

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Kathy O'Hanlon
Clerk to the Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT4 3XX

6 August 2026

Dear Kathy,

**CRIMINAL JUSTICE (SENTENCING ETC) BILL – PUBLIC PROSECUTION SERVICE
EVIDENCE**

Thank you for your letter of 25 June 2026 seeking the Department's views on observations made by the PPS in relation to Part 3 of and Schedule 3 to the Sentencing Bill (Life sentences) in its addendum paper dated 15 June.

The PPS open their paper with a statement that, rather than replicating the law as set out in the Court of Appeal case of *R-v-Whitla* in 2024, the Bill amends the tariffs that will apply in murder cases in 'significant respects'. The paper goes on to set out the existing case-law as established in the 2004 case of *R-v-McCandless* and the 're-branding' of starting points as expounded in *R-v-Whitla*. It then recites the provisions of the Sentencing Bill and highlights, at paragraphs 7 to 9, where these depart from the existing case-law, and goes on to pose a number of questions for the Committee's consideration.

The issues noted by PPS centre around the following:



- the fact that cases currently attracting the 15/16-year starting point will under the bill attract a 20-year starting point (paragraph 7 of the addendum paper);
- the fact that murder of a police, fire, prison officer is listed, but public worker is not specified either as normally attracting one of the specified starting points or as a named aggravating factor (paragraph 8);
- the inclusion of factors not currently identified in case law, and the connection between these (paragraphs 9-12);
- the status afforded to cruel and violent behaviour over a period of time as an aggravating factor, and its coherence in the context of factors normally attracting the 20-year starting point (paragraph 13); and
- the PPS lack of awareness of the Department's intention to make changes to the starting points as currently set out in case-law (paragraph 14).

The Department's response, taking these in turn, is as follows.

- Higher starting points

As the Committee is aware, the provisions of the bill largely derive from decisions made by the Minister on foot of responses to its 2019/20 consultation: [Sentencing Review Northern Ireland | Department of Justice](#).

Chapter 4 of the consultation dealt with tariff setting for murder and sought views on current starting points. Having taken responses into consideration, the Way Forward report sets out the Minister's intention to provide for a 15-year starting point where there are no aggravating factors and a 20-year starting point for murders with identified exceptional culpability. Exceptional culpability was to encompass factors already identified in Northern Ireland case law. While some adjustments have evolved over the period since the Way Forward report was published, the Department has consistently worked towards provisions aligning with those published decisions.

To this end, Schedule 3 to the Bill sets out a list of factors which will normally attract a 20-year starting point. This list largely combines the factors as set out in case law (primarily the McCandless and Whitla judgments) which currently attract either the 15/16-year or the 20-year starting point, and includes the additions highlighted at paragraph 9 of the PPS addendum paper, to take account of particular current societal concerns. Schedule 3 to the Bill goes on to provide that 15 years will normally be the starting point in all other cases (which will include cases currently falling within the 12-year starting point).

The Department is conscious that every murder case is unique and turns on very specific circumstances. It is important to note, therefore, that the Sentencing Bill leaves what the Department considers an appropriate level of discretion to the judiciary in choosing the starting point, and that the factors listed in Schedule 3 to the Bill are deliberately cast as being 'general principles' to which the court must have regard, and are illustrative rather than exclusive and directory.

- Public workers

The PPS notes that the Bill identifies murder of a police officer, prison officer or fire and rescue officer as factor attracting the 20-year starting point, but that no provision is made in relation to the broader category of victims providing a public service.

Detailed consideration was given to the factors to be included in the lists at Schedule 3 of the Bill. It was a deliberate choice to restrict the provisions as drafted on the basis that police, fire and rescue and prison officers are, by virtue of their occupation, expected to advance into dangerous, potentially life-threatening situations and may be targeted specifically because of their occupation even while off-duty.

Murder is a significantly different offence to those listed at clause 38 of the Bill where the fact that the victim is a public worker will be an aggravating factor. While there is an abundance of evidence of all kinds of public workers being the target of attack, there is

no evidence of public workers other than police, prison and fire officers in this jurisdiction being targeted for murder because of their occupation, or being the first line of responders expected to confront volatile and potentially life-threatening situations.

It is the Minister's preference not to create a hierarchy of victims where there is no supporting evidence. This does not mean that, if the particular circumstances of a case demand, the court will not be able to select the 20-year starting point. As highlighted above a significant measure of discretion remains with the court under the provisions of the Bill, and the lists in Schedule 3 are not exhaustive.

- Issues with inclusion of factors not previously identified in case-law

The PPS note the inclusion of two 'new' factors in the list of factors normally attracting the 20-year starting point set out at Schedule 3. These are: murder where the victim and the offender were personally connected; and murder where the offender had repeatedly or continuously engaged in behaviour towards the victim that was controlling or coercive. They highlight the definition of 'personal connection' and ask:

- (i) Whether the existence of any of these relationships alone is enough to merit attracting a 20-year starting point; and
- (ii) Whether these two factors should be combined?

As with the public worker issue above, the inclusion of these factors was the matter of extended consideration by the Department. Our conclusion was that it was important to reflect the serious abuse of trust when an offender murders their partner/former partner or a member of their family, regardless of whether there had been any previous warning of violence or controlling or coercive behaviour.

As regards whether the two factors should be combined, it is the Department's view that they should not, as examples can be imagined of coercive or controlling behaviour without a personal connection as defined under the Bill, and these should be considered equally as serious as where a personal connection is also present.

Situations might include where a victim had been trafficked and forced into prostitution or other unlawful or undesired behaviours; or where the victim and offender may have a friendship or “caring” relationship which involved an element of coercive or controlling behaviour.

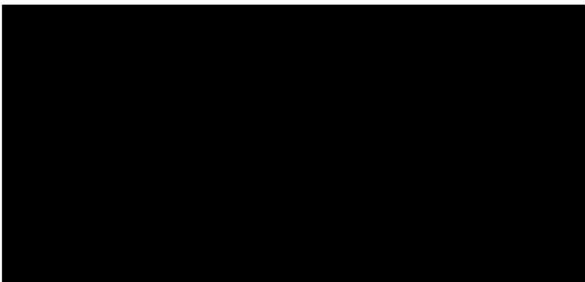
- Cruel and violent behaviour as an aggravating factor

The PPS query whether there is a coherence issue in the inclusion of the fact that the murder was the culmination of cruel and violent behaviour as an aggravating factor rather than a matter attracting the 20-year starting point, in contrast with the approach to controlling and coercive behaviour.

The Committee will see that this approach mirrors the current treatment of a pattern of cruel and violent behaviour under the *McCandless* guidance. The Department’s view is that controlling and coercive behaviour may be more nuanced and insidious than cruel and violent behaviour. As outlined above, this does not preclude the court from choosing the starting point it considers appropriate in any given case. The Department does not consider that this difference of treatment of these factors in Schedule 3 is likely to present a difficulty for the courts.

- The Department’s intentions

The Department refutes any suggestion that it has failed to make clear the intention to update the approach to tariff-setting. As outlined above, the proposed way forward, published in 2021, clearly set out the Department’s plans.



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25 June 2026

Dear [REDACTED]

Criminal Justice (Sentencing etc) Bill – Public Prosecution Service evidence

At its meeting on 18 June 2026, the Committee for Justice received an oral briefing from the Public Prosecution Service for Northern Ireland (PPS) on the Criminal Justice (Sentencing etc) Bill.

An addendum to their original submission was provided by the PPS, which raises a number of queries regarding the provisions at Part 3 of the Bill relating to life sentences for murder cases. The Committee agreed to forward the paper to the Department of Justice for response to the points raised.

I should appreciate a response by 28 August 2026.

Yours sincerely

[REDACTED]
Kathy O'Hanlon
Clerk to the Committee for Justice

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