



Committee for Justice

# OFFICIAL REPORT (Hansard)

Victims and Witnesses of Crime Bill:  
Department of Justice

25 June 2026

# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

Victims and Witnesses of Crime Bill: Department of Justice

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**Members present for all or part of the proceedings:**

Mr Paul Frew (Chairperson)  
Ms Emma Sheerin (Deputy Chairperson)  
Mr Doug Beattie  
Mr Maurice Bradley  
Ms Connie Egan  
Mrs Ciara Ferguson  
Ms Aoife Finnegan  
Mr Brian Kingston  
Mr Patsy McGlone

**Witnesses:**

|                        |                       |
|------------------------|-----------------------|
| Ms Lesley Cowan        | Department of Justice |
| Ms Emma Crozier        | Department of Justice |
| Mr Christopher McElwee | Department of Justice |
| Ms Wendy Murray        | Department of Justice |
| Ms Julie Wilson        | Department of Justice |

**The Chairperson (Mr Frew):** The officials from the Department of Justice who are providing evidence today are Julie Wilson, director of the victim support division in the access to justice directorate; Emma Crozier, Bill manager and head of the victims and witnesses branch of the access to justice directorate; Christopher McElwee, head of the hate crime branch of the community safety division in the safer communities directorate; Lesley Cowan, from the victims and witnesses branch of the access to justice directorate; and Wendy Murray, from the victims and witnesses branch of the access to justice directorate. You are, as always, very welcome to the Committee.

Julie, you will kick off with a presentation, so, without further ado, I will hand over to you.

**Ms Julie Wilson (Department of Justice):** Thank you very much, Chair, and thanks for the opportunity to present to the Committee today on the Victims and Witnesses of Crime Bill. The Bill is focused on a small number of significant measures that, we believe, will effect real and necessary change for victims and witnesses of crime. At its core, the Bill reflects the Minister of Justice's commitment to a criminal justice system that is more transparent, more protective and more centred on the needs of victims and witnesses, ensuring that they are supported, represented and safeguarded throughout their journey.

We are deeply grateful to the victims and witnesses who shared their experiences of the criminal justice system, to victim representatives to justice partners. Their insights were instrumental in shaping

the proposals in the Bill. The Bill contains 30 clauses across three Parts and has two schedules. With your permission, I will quickly take the Committee through the provisions.

Part 1 provides for the establishment and functions of a statutory commissioner, with a schedule setting out the governance and operational arrangements. That was informed by extensive scoping work, by other commissioner models and by learning and experience that was shared by the current Commissioner Designate for Victims of Crime. The statutory commissioner's principal aim will be to promote the interests of victims and witnesses. The Bill has been drafted to be deliberately broad to allow for flexibility and enable the commissioner to respond to evolving changes. The role is intended to be strategic in nature. It is not intended that the role will become involved in criminal cases or intervene in criminal or related proceedings but rather that it will strengthen the system as a whole in order to drive improvements for victims and witnesses.

The commissioner will be required to review the operation and effectiveness of the Victim Charter and Witness Charter at least every three years and to prepare and publish a report on their review. They will also have the power to issue guidance on best practice in relation to the interests of victims and witnesses, and any person exercising public functions should have regard to that guidance. The commissioner will also be able to establish advisory groups to inform the exercise of their functions. In particular, clauses 16 to 19 require the commissioner to prepare a strategic plan, an annual business plan and an annual report. They will have scope to set objectives and priorities and must specify the groups of victims or witnesses to which they will have particular regard. That approach broadly reflects the model that is already in place in respect of the commissioner designate, which, we believe, has been effective. It seeks to balance independence with accountability and allows the commissioner to respond dynamically to changing needs without the need for further legislative change.

Clauses 9 to 15 strengthen justice system accountability by requiring the commissioner to monitor compliance with the Victim Charter. They place requirements on charter service providers in respect of requests for information and responses to recommendations made in the annual report. However, we have identified a gap around recommendations that are made in other reports by the commissioner, and we plan to work with the Office of the Legislative Counsel (OLC) to draft an amendment to fix that oversight.

I turn to the hate crime provisions, Judge Marrinan's review highlighted serious concerns that victims might be discouraged from giving evidence if special measures were not considered and if defendants chose to exercise a right to cross-examine their victims in person. The Bill therefore makes provision for automatic eligibility for special measures in hate crime cases, should witnesses wish to avail themselves of them, recognising the fear and distress that are often involved. It also prohibits anyone charged with offences under the new statutory aggravation model in the Criminal Justice (Sentencing etc) Bill from personally cross-examining the victim of a hate crime. Those measures aim to give victims and witnesses greater confidence and protection when engaging with the criminal justice system.

I turn now to the protection of complainants in sexual offence cases. Clause 26 contains measures intended to protect complainants in serious sexual offence cases and to improve their confidence in and experience of the criminal justice system. Evidence from the Gillen review showed that many complainants felt exposed and disadvantaged during proceedings. They spoke of a perceived imbalance because the defendant alone had a solicitor and a barrister to advise them and because the complainant also faces the prospect of having their sensitive personal information shared with the court. In response, the Bill allows complainants in serious sexual offence cases to make oral or written representations, to be legally represented and to attend hearings concerning applications to disclose their sensitive personal material. Similar protections apply to applications involving previous sexual history. New court rules will also specify when a notice of the pretrial application must be served and the manner in which it must be served, as well as how sensitive or confidential information is to be treated. That will ensure that the complainant receives timely notification so that they can seek independent legal advice on their rights. The measures are based on the existing non-statutory judicial practice direction. They provide for greater regulation of the disclosure process, balancing the rights to privacy with rights to a fair trial, while strengthening confidence in the system.

Finally, the Bill includes a legal technical fix to future-proof the no bill procedure in light of consequential changes as a result of direct committal. The specific measure in the Victims and Witnesses of Crime Bill is needed because, when direct committal is implemented, the wording of a no bill application will change to an "application to dismiss". The technical provision is, in effect, to rename the application to ensure that the process is future-proofed.

With regard to financial impact, the costs have been carefully considered, and the Department of Finance has confirmed that it is content with the proposals, noting that the establishment of the office of the statutory commissioner will be subject to an approved business case and affordability considerations. We are working with our finance team to finalise the business case. Our intention is that, in all but the most exceptional cases, legal representations for complainants in serious sexual offence cases will be provided by extending the role of the sexual offences legal advisers scheme, which DOJ funds. Our assessment is that minimal additional resource will be required.

I hope that that overview has been helpful. We are happy to assist with your questions. Thank you for your time.

**The Chairperson (Mr Frew):** Thank you, Julie, for that succinct presentation.

**Mr Kingston:** Thank you for your presentation. How long has the commissioner designate been in post?

**Ms Wilson:** Lesley will have the detail on that.

**Ms Lesley Cowan (Department of Justice):** They came into post in 2022.

**Mr Kingston:** OK. That is four years ago.

I am interested in the practical outworking of clause 8. You explained that the commissioner:

*"may not exercise any function in relation to an individual case".*

Many people, I am sure, will approach the commissioner, particularly if they are dissatisfied with the outcome of a case. When the commissioner is identifying an issue affecting victims and witnesses, that will be exemplified by individual cases. There will be times when they will want to examine individual cases to see what can be learnt. How do they get the balance right? They are not an appeal mechanism, but they will want to examine individual cases and draw lessons from them.

**Ms Wilson:** Exactly. Nothing in the Bill prevents that. That is the current situation with the commissioner designate, who has that ability. We want the commissioner role to be at a strategic level, identifying strategic issues and driving improvements on them but recognising that the exemplars of those will be in individual cases. It is not supposed to be an advocacy role, but that does not prevent the commissioner from learning from individual cases.

**Ms Emma Crozier (Department of Justice):** The role is to have a system-wide oversight of the issues affecting victims. One of the clauses encourages the commissioner to meet victims and get their views, so they will not be stopped from doing that. The purpose of clause 8 is to prevent them from getting involved in the outcomes of cases or investigations. As you said, the commissioner's office is not an appeal mechanism or a complaints body, but the commissioner can still engage with victims to get a sense of what the issues are and any trends impacting on victims. They can then bring those forward and shine a light on them, if that makes sense.

**Mr Kingston:** I hoped that there would be a willingness at least to engage with people, rather than say, "Sorry. You will have to go somewhere else". It is important that people do not feel rebuffed. It can be explained that, yes, the office will not get involved as an appeal-type mechanism, but the commissioner or her staff will listen to people's concerns.

**Ms Crozier:** Definitely. Clause 3 contains a duty on the commissioner to encourage victims to engage and communicate with them and to be involved in giving views on how those functions are exercised.

**Mr Kingston:** I see that in clause 3(4)(b). Thank you.

**Ms Sheerin:** Thanks to you all for coming in. I have a couple of points of clarification to ask.

As a member of the Justice Committee, I should put it on record that the commissioner designate is doing a really good job; that view is probably unanimous. She is definitely putting victims' voices forward. I have found her to be really easy to work with. She presented to the Committee and was

really powerful in representing the views and voices of victims. I want to ask about her powers. The commissioner:

*"must advise a ... department or ... Executive Committee of the Assembly on matters concerning the interests of victims and witnesses—  
(a) as soon as reasonably practicable after receipt of a request for advice, and  
(b) on such other occasions as the Commissioner thinks appropriate."*

Correct me if I am misinterpreting this. I assume from that, when the commissioner, when the role is statutory, identifies an issue, it is not that it always has to be initiated by a victim or a group of victims and that the commissioner will have the power to do it.

**Ms Wilson:** Yes.

**Ms Sheerin:** So the commissioner can do that on their own steam if they think that there is —.

**Ms Wilson:** Yes, they have powers around commissioning research and drawing on evidence bases. Obviously, they will want to be informed by lived experiences as well. There are a number of ways in which the commissioner will want to identify issues, including the clause about oversight of the complaints that come in to criminal justice agencies. That is another route of identifying trends and issues.

**Ms Crozier:** It works both ways in relation to government advice, so a Department could request advice, or the commissioner could decide to give that advice. There are a few clauses that work together to make sure that the commissioner has the powers that they need. There is the one that we have mentioned, and the commissioner can give advice to any body. That is factual, explanatory-type advice rather than government advice. There is another one about making recommendations and representations, and that is more about influence in being able to make recommendations. They are not binding, but we think that they will carry weight as coming from a statutory office holder. Those are the three powers that work together.

**Ms Sheerin:** OK. And the commissioner does not have to have an evidence base to show where victims have brought an issue to their attention. They can initiate that themselves.

**Ms Crozier:** Yes, they are totally independent to identify issues and trends that they want to shine a spotlight on and bring forward as advice or guidance.

**Ms Sheerin:** You pointed to independence: what measures will be in place to ensure that they are independent from the Department?

**Ms Crozier:** The commissioner will be appointed by the Department and the Minister, and their office will then become an arm's-length body of the Department, but they will be completely independent in the exercise of their functions. The Department will not be involved in interfering in or influencing reports or recommendations or anything like that. The commissioner is free to scrutinise, challenge and criticise the Department if necessary. The Department's role is in appointment and, I suppose, in governance and accountability, but the separation is there so that the commissioner and their office are independent.

**Ms Wilson:** It broadly mirrors what is in place with other commissioners. We have looked at how other commissioners do that, and that has helped to inform this. It is fairly standard.

**The Chairperson (Mr Frew):** Thank you, Emma.

No other member has notified me that they want to ask a question. That leaves me to ask questions on this, Julie. You have mentioned your intention that you may propose amendments around the removal of the commissioner, the suspension of the commissioner and on responding to recommendations from the commissioner. There is one about sharing personal data in urgent or emergency situations. On those first two — removal and suspension of the commissioner — did you always intend to do that but you needed first to get the Bill out the door and into process? Is it something that has come to light since the Bill has been written?

**Ms Wilson:** The possible amendment on suspension is in response to some thinking that TEO is doing around commissioners more widely; it is to align with that. That has come to light subsequently.

**Ms Crozier:** Exactly, yes. We knew that work was ongoing with TEO for other commissioners, so we were reluctant to put anything in the Bill that would be at odds with what comes through as a result of that work. We thought it better to wait until the amending stage so that we could be in line with arrangements for other commissioners on suspension.

**The Chairperson (Mr Frew):** Given the range of commissioners that we have in situ in Northern Ireland, will it be TEO that leads on that work on generalisation and trying to get those into sync, or are you doing that because you do not want to be behind the scene when launching the Bill? Are there other commissioners or posts in the Justice purview that need to be considered at this stage? If the answer is yes, is there a possibility that they could be included in the Bill, or would that be out of scope?

**Ms Wilson:** I will put myself at risk here: I am not aware of other justice commissioners.

**The Chairperson (Mr Frew):** Well, there might not be any.

**Ms Wilson:** I think that this is specifically on commissioners. However, we can clarify that for you.

**The Chairperson (Mr Frew):** It might be that TEO will do it for the whole purview of every Department. I do not know whether it has the vires to do that or whether that would require a big, all-embracing, cross-departmental Bill. I just do not know. I just picked up on it because it seems obvious now that we would have powers of removal and suspension.

**Ms Wilson:** On the removal one, it is for us to clarify whether the catch-all already exists and whether the provision is necessary. There obviously needs to be a power. We are just trying to clarify whether there is an existing power that we can rely on.

**Ms Crozier:** That is right. In schedule 1, we have a list of instances where the commissioner could be removed. However, we just wanted to do a bit more thinking about whether a catch-all is needed or whether that is too broad and what we already have suffices. It was a bit more thinking on that.

**The Chairperson (Mr Frew):** With regard to data sharing, how are your conversations with the Information Commissioner's Office (ICO) coming on? Are they at an advanced stage? Do we know yet how comfortable we are?

**Ms Crozier:** The ICO has been helpful. It has come back with correspondence in the past week or so. We will now ask it about the potential amendment. I suppose that the policy decision has not changed. If somebody comes to the commissioner with a particular concern about them, we still want the commissioner to be able to make a referral. Obviously, there is the GDPR and the Data Protection Act 2018 (DPA), which already provide for that. We just do not want to put anything in the Bill that may cut across that and limit what we are trying to do. We are just seeking their advice. It is a potential amendment. At the minute, however, we think that what is already in GDPR and DPA will suffice.

**The Chairperson (Mr Frew):** OK. Thank you.

Brian, do you want to come in on that issue?

**Mr Kingston:** No.

**The Chairperson (Mr Frew):** It is a different issue. I will bring you in at the end.

I will ask you about Part 2 on criminal evidence and procedure. We all understand how and why we have got here and the long processes, consultations and reports that we have had. Can you assure the Committee that the balance is maintained and the scales are not tipped one way or the other when it comes to protecting victims and the rights of the defendant?

**Ms Wilson:** At a high level, the Bill enhances protections that are already there. It does not seek to remove rights from the defendant; it is about enhancing protection rights.

Emma or Wendy, do you want to say a bit more about that?

**Ms Wendy Murray (Department of Justice):** Yes. First of all, the new disclosure process will not change the investigatory stages, the police investigation stage or the prosecution's disclosure management document. Anything that points either towards the defendant or away from the defendant will still be shared in that document. The defence will still be able to make disclosure applications, depending on what third-party material, it thinks, is available to support its case.

All applications will be overseen by a judge. The complainant will be notified of the application and will be given the opportunity to make oral representations to the court. If they do not wish to make representations, the judge will consider the application on the papers. If the complainant wishes to make oral representations to the court, a pretrial hearing before a judge will be listed, and the judge will consider and balance the article 6 and article 8 rights of the complainant and the defendant. Judicial oversight will make sure that the rights are balanced. It will not tip the balance in favour of one or the other.

**The Chairperson (Mr Frew):** What safeguards are in place to ensure that all exculpatory evidence is disclosed, even if, for one reason or another, it is not requested by the defence? It could change everything, so how can we be assured that that will still happen?

**Ms Murray:** That will be the judicial oversight again. At the investigatory stage, the prosecution will assess that material and share it in a disclosure management document with the defence. If the defence thinks that there is still something missing — maybe the complainant had given a list of their GP records, GPs have attended or there are counselling records, and maybe there is something that they have missed — the defence is still able to make an application to the court for that. I cannot say with my hand on my heart that every scrap of evidence will always be found, but, if it is there, the judge will oversee it and make sure that everything is there that, they think, needs to be. If there is exculpatory evidence, even if is not specifically requested by the defence, and the judge thinks that maybe there is something missing, they will make an order for it to be disclosed.

**The Chairperson (Mr Frew):** OK. I know that we could ask a similar question about every law that we create, but how can we ensure that the new disclosure processes will be applied consistently across court settings?

**Ms Wilson:** Again, it will be for judges to manage that. As Wendy said, the disclosure management document will always be made available, so there is a safeguard. This is about allowing complainants to have notice of the applications being made so that they can have their interests represented. Ultimately, it will come down to a judge, who will use their judicial discretion and independence to assess what is before them.

**The Chairperson (Mr Frew):** Is the Department minded to put any sort of review mechanism in the Bill to have at least a review of it in three, five or 10 years?

**Ms Wilson:** Not at this point, although we are open to looking at that. We also want to engage with the Lady Chief Justice's office and the judiciary on how that could be done, just to inform our thinking in that regard. We are definitely open to that.

**The Chairperson (Mr Frew):** I bring you on to hostility. I get the whole hostility piece, including aggravation by hostility and the fact that we do not really want someone to be cross-examined by the person who could well have been hostile towards them. I get that, and I see the direction of travel. There is no issue in that respect. However, what defines "hostility", if the test is currently about only perception?

**Mr Christopher McElwee (Department of Justice):** "Hostility" is a well-understood word among our policing and Public Prosecution Service (PPS) colleagues. They will only bring that case within the Sentencing Bill. An offence aggravated by hostility is defined in that Bill.

**The Chairperson (Mr Frew):** We have a copy of the Bill ready here. It is defined in the Sentencing Bill, which will then relate to Part 2 of this Bill.

**Mr McElwee:** They are, if you like, accompanying pieces of legislation.

**The Chairperson (Mr Frew):** OK. That is really interesting. I was not aware of that, even though I have read the Sentencing Bill. I thought that the work on hostility was maybe a longer piece of work.

**Mr McElwee:** The issue of aggravation by hostility is in the Sentencing Bill, and there are special measures for charges brought under that.

**The Chairperson (Mr Frew):** You are clear that the definition of "hostility" comes from the Sentencing Bill and no earlier period? OK. That is interesting. Will it be perception, then?

**Mr McElwee:** Hostility is — I am trying to think back to the Sentencing Bill — motivated or demonstrated by hostility towards your race, sexuality, disability or religion.

**The Chairperson (Mr Frew):** Will it purely be down to the victim?

**Mr McElwee:** I need to check that. I will get back to you on that.

**The Chairperson (Mr Frew):** That is fine. If it is purely down to the victim, serious as it may be — obviously, we believe the victims — the victims may not know all the details of a certain case or investigation. The perpetrator might have had multiple victims that day, and it may not be down to hate crime or hostility, if you know what I mean. That is my worry. We should not create a two-tier system.

**Mr McElwee:** On the point about a two-tier system, what we propose here is nothing new or unusual. It is maybe identifying hate crime victims as vulnerable victims in line with the likes of domestic abuse. The application will have to be made. Sorry, to rewind, we are saying that hate crime victims are eligible for special measures but that it is still up to the judge to decide whether they get them and what the measures might be.

**The Chairperson (Mr Frew):** OK. I will read up a wee bit more about that. That will be my weekend reading, because we have the Bill's Second Reading on Tuesday.

**Mr Kingston:** That is what I was going to ask about, Chair.

Christopher, you have answered my question and Paul's question: how do you define "hostility"? The Bill states:

*"in accordance with section 33(1) of the Criminal Justice (Sentencing etc) Act 2027."*

That is very confident that it will pass. It is a bit strange that it refers to something that has not been enacted, but it is there at clause 24(2) of the Victims and Witnesses of Crime Bill.

We have had the debate many times about the definition of "hostility". Clause 33(1) of the Criminal Justice (Sentencing etc) Bill talks about hostility that is racial or religious or related to sexual orientation or disability. We have had debates about vulnerabilities, which is in clause 36 of the same Bill. That is not referenced. We have had a debate about the vagueness around what counts as vulnerability, whether that involves someone being under 18, in old age or having a significant impairment through physical or mental disability or illness. Do you have a view on how the wording does not capture vulnerabilities?

**Mr McElwee:** There are special measures in this Bill that just refer to the hostility aggravator, not vulnerability.

**Mr Kingston:** For example, it does not include sex or sectarianism.

**Mr McElwee:** No, just the protected characteristics in the Sentencing Bill: race, religion, disability and sexuality.

**Mr Kingston:** Right.

The Bill includes reference to sexual offences. The Criminal Evidence (Northern Ireland) Order 1999 means that somebody charged with a sexual offence cannot cross-examine their accuser. That was the original —

**Mr McElwee:** Yes, I think that that was the original. Since then, a few more charges have been added to that, so we are adding to the list. Someone charged with a crime aggravated by hostility will not be able to do that.

**Mr Kingston:** But the current wording will not include vulnerabilities.

**Mr McElwee:** There are no plans to do that.

**Mr Kingston:** OK. Thank you.

**The Chairperson (Mr Frew):** I think that is all. No other member has indicated that they wish to ask a question, so thank you very much for that. It was useful. We wish the Bill all the best in its journey through the various stages, including the Committee Stage, when it gets there. Thank you very much for your time.