



Committee for Justice

OFFICIAL REPORT (Hansard)

Criminal Justice (Sentencing etc) Bill: Law
Society of Northern Ireland

2 July 2026

NORTHERN IRELAND ASSEMBLY

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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:

Mr Eoghan McKenna	Law Society of Northern Ireland
Ms Ann McMahon	Law Society of Northern Ireland
Mr Joe McVeigh	Law Society of Northern Ireland

The Chairperson (Mr Frew): I inform members that the witnesses are Joe McVeigh, solicitor, council member and chair of the Law Society criminal law committee; Eoghan McKenna, solicitor, junior vice president of the society and criminal law committee member; and Ann McMahon, head of practice and procedure at the society and criminal law committee secretary. You are welcome to the Committee; thank you very much for your attendance.

Members, we are stuck for time today, because, after this session, the Minister of Justice will, hopefully sooner rather than later, come to give her presentation. I ask members to be concise and to keep to asking questions rather than commenting on thoughts and processes, and I ask the witnesses to be concise in their answers.

Mr Joe McVeigh (Law Society of Northern Ireland): You must know me.

The Chairperson (Mr Frew): Thank you very much, Joe.

You have an opening statement, I am sure.

Mr Eoghan McKenna (Law Society of Northern Ireland): Thank you, Chair and colleagues. I am the junior vice president of the Law Society. I am accompanied by the chair of the society's criminal law committee, Mr Joe McVeigh, and Ann McMahon, head of practice and procedure at the society. We were to be joined by Emma Lyons, a solicitor in private practice, who was to give her personal experience of being a victim, having been threatened by the former partner of one of her clients, but —

we apologise — she has been held up in court on a family case. Thankfully, we have a statement from Emma Lyons that Mr McVeigh will read out in due course.

I will hand over to Joe McVeigh.

Mr McVeigh: Thank you, Chair and members, for the opportunity to provide evidence on the issue of the Criminal Justice (Sentencing etc) Bill. The Law Society of Northern Ireland welcomes the opportunity to assist the Committee in its scrutiny of the Bill and to offer the perspective of the solicitors' profession on the proposed reforms.

At the outset, the society recognises the importance of a sentencing framework that is clear, fair, proportionate and transparent. Sentencing must command public confidence, protect the public, support victims and promote rehabilitation, where appropriate. At the same time, the society considers it essential that the independence and discretion of the judiciary are preserved so that courts can take full account of the particular facts and circumstances of each case.

The central theme running through the society's response is the need to avoid an overly mechanistic approach to sentencing. While guidance and statutory provisions have an important role, they should not unduly fetter the courts' ability to achieve a just outcome. The society therefore emphasises the importance of flexibility and proportionality, particularly where not only aggravating but mitigating factors arise.

The society is supportive of measures that encourage rehabilitation and reducing offending, including the effective use of community-based requirements, and enhanced combination approaches, where properly resourced. However, such requirements must be realistic, fair and capable of review where an offender's circumstances change or compliance becomes impracticable for reasons beyond their control.

The society also welcomes the Bill's focus on transparency and plain-language explanations of sentencing decisions. That is particularly important where offenders may not have English as a first language or may otherwise require assistance to understand the effect of orders imposed by the courts. Access to independent legal advice and appropriate interpretive support remains fundamental to the interests of justice.

On offences against public workers, the society strongly supports measures designed to protect those delivering public services, including legal professionals who perform an essential role in the administration of justice and the maintenance of the rule of law. Eoghan will address that issue. The society's response highlights the serious and growing concern about threats and abuse directed at solicitors in the course of their work and the need for robust, consistently applied protections.

Overall, the society's position is one of constructive engagement. The society supports the objectives of clarity, public protection, rehabilitation and confidence in the justice system while urging caution where proposals may restrict judicial discretion, create unintended unfairness or require additional training, guidance and resources to operate effectively in practice. Those are my opening remarks.

Mr McKenna: I will deal with the specific issue of solicitor safety. We very much welcome the opportunity to meet the Committee and the opportunity it represents to bring to your attention an issue that has been hiding in plain sight and risks undermining the rule of law. The scale of the problem is significant. The Law Society recently conducted a survey of its members in order to try to find out just how widespread the problem of attacks on solicitors has become. We were, frankly, taken aback by what we found.

Solicitors have told us that the problem is widespread and far more common than we may have imagined. Of the 480 solicitors who responded to our survey, two thirds told us that they had personal experience of being subjected to threats or abuse in the course of their work. The attacks take many forms, from physical assaults and criminal damage to property to online abuse and stalking. It seems that nowhere is safe. While many attacks occur online or at a solicitor's office, others occur at or close to courthouses. Most concerning of all, some take place at a solicitor's home.

What is the Law Society doing about the issue? One of the most concerning aspects of the problem — this is one of the reasons for our being anxious to meet you today — is just how disappointing the response of the criminal justice system to those attacks has been. I am not pointing the finger at any one part of the criminal justice system, as, sadly, all the justice agencies need to do much better.

From what I have observed, I can say that, when a solicitor reports an attack to the police, the response — if indeed there is a response — is often very disappointing and very disjointed. When the Public Prosecution Service (PPS) charges an offender, sometimes, the wrong offence is charged. Many of those cases amount to stalking, yet only three stalking prevention orders have been issued. When a case goes to court and a conviction is secured, all too often, the outcome is a suspended sentence.

The Law Society has taken a number of steps to support its members who face those situations. We have established a solicitor safety group, which is developing a range of support measures, including a solicitor safety toolkit, giving practical advice to our members on how to keep themselves safe at work and at home. We are working with the Suzy Lamplugh Trust to develop personal safety measures for lone workers or solicitors making domiciliary and other calls away from the office. Together with the Bar, we have persuaded the PSNI to establish a lawyer safety liaison group to better coordinate the justice system's response to attacks on lawyers.

We have a specific ask of the Committee. The Sentencing Bill contains a new criminal offence of assaulting a person delivering a public service. We are asking you to help make that new law even stronger. We ask you to support an amendment to the Bill that would introduce a statutory presumption against suspending a sentence where the victim is an officer of the court, such as a solicitor or a barrister. Attacks on officers of the court risk undermining the rule of law and confidence in the justice system. The situation really is that serious. Therefore, we are asking for your support to strengthen the new offence by introducing the statutory presumption that a sentence will only ever be suspended in exceptional circumstances.

We have prepared a new clause that, if introduced to the Bill, would achieve the desired result. It would not tie the judge's hands. A sentence could still be suspended where the judge considers that it is the right thing to do in the circumstances of that individual case. However, before doing so, the judge would have to explain why exceptionally setting aside the statutory presumption is necessary and appropriate.

Colleagues, if you support the rule of law, as, I know, you do, you should support that change in the law so that lawyers can go about their work without fear for their own safety and the safety of their staff and families.

That concludes my opening remarks. I will ask my colleague Mr McVeigh to articulate the experience of Emma Lyons, please.

Mr McVeigh: Forgive me, but I have not seen the statement. Emma has been delayed, but I will read it and try to do a good job on her behalf.

"My name is Emma Lyons and I have been a solicitor for the last 18 years. During the last 11 years, I have been operating my own practice on the Falls Road, Belfast, which specialises in Family Law.

Unfortunately, my area of practice within a Family Law context carries inherent risks. It is often the case that disgruntled ex partners or parents will demonize the legal representatives. For over ten years, I have been subjected to a sustained campaign of harassment and stalking by an unhinged former partner of a client. This behaviour has had a profound and terrifying impact not only on my own life, but also on my eldest child's life.

The common features of the stalking behaviours I had to endure would have been as follows:

- Repeatedly attending outside our home unannounced, causing fear and distress with my young daughter able to identify on certain occasions when playing outside. Neighbours would have made contact alerting me to his attendance and there were occasions he would have stood for hours outside my home waiting on my arrival after work.*
- Following myself and my children during visits to our holiday home in Waterfoot, including approaching us in shops, on the beach, and during daily walks.*
- Taking photographs of myself and my children while we were traveling in our vehicle.*
- Approaching myself and my children when we were in local parks, family fun days, and at local festivals in Belfast.*

- Regularly standing outside my office or parking directly outside the entrance while awaiting my departure, sometimes this was in the early evenings when it was dark and he knew I was likely to be on my own.
- Bombarding me with threatening emails, often timed when I was alone or lodging various complaints against me or my firm to outside agencies.
- On five occasions, he had caused damage to vehicle tyres belonging to myself or staff members by slashing the tyres with a knife or sharp object or hammering nails into them.
- On two occasions, there had been smashing of windows at my office late at night, which required Police attendance and my presence in the early hours of the night. I always suspected that he was behind this but it could not be proved.
- Being observed lingering near the entrance/exit of my children's primary school during morning drop-off times, causing my children so much upset and fear.

After enduring years of psychological warfare whereby I was in a constant state of Hypervigilance and ultimately, being made to feel completely unsafe in my home due to all my stalker's behaviours, I was forced to sell and move home in 2024 to try to protect my children and myself.

After countless occasions in which the above matters were reported to police, I applied to the County Court for a Civil Injunction against my stalker, only for it to be breached within days. Eventually, Harrassment criminal proceedings were commenced in the Magistrate's Court. He was found guilty in March 2024 but appealed same. His conviction was upheld by the Appeal Court in May 2025 and a Suspended Sentence was made with a 5 year Restraining Order.

Despite the above, my stalker went on to torment another legal professional which resulted in her leaving the firm she had worked in for several years. There are criminal matters ongoing that I cannot discuss at this juncture.

Whilst I was disappointed with the Suspended Sentence and felt that it did not act as a deterrent, I have never hesitated in sharing my story as I strongly feel that this case highlighted the need to ensure that those working in areas of high risk need to have better protection and stronger deterrents.

A frequent question that I am asked is why I did not withdraw from the case that involved my stalker when I was being targeted, so much. The fact is my client had been continually let down by the police and the criminal justice system. She had, herself, endured years of abuse by my stalker. She required numerous Non Molestation Orders throughout the 10 years and had to defend at least 7 private law children applications lodged by the father. This was all whilst she battled Stage 4 Breast Cancer, which eventually took her life at the age of 41. I never felt that it was fair or just, that she should lose her lawyer on top of all that she was battling and remained committed to her until the end.

Since the conclusion of the criminal case, I have received formal apologies from police and the PPS in respect of how my case was mishandled. It was a clear case of stalking but yet, this was not what my stalker was prosecuted for.

I share my story to highlight the risks posed for practitioners and the impact that such behaviours can have on our day to day lives. My fear is, that as these cases, become more prevalent, that it will have a chilling effect on our professional independence. It will act as a deterrent for young solicitor's specialising in areas that carry greater risk, such as Family Law and will cause a hesitation in firms taking on certain cases, moving forward. This weakens the Rule of Law and all efforts should be made to avoid such a scenario unfolding."

She has added a footnote that states:

"The stalker was successfully prosecuted on 2 May 2025, resulting in:

- *A five-year Restraining Order (the maximum available), and*
- *A four-month custodial sentence suspended for two years."*

The Chairperson (Mr Frew): Thank you very much for that, Joe, and thank you very much, Eoghan, for your presentation.

I want to ask about your suggestions on amendments to clause 37, "Assaults on public workers etc". Why did you go down the route of a statutory presumption against a suspended sentence rather than a tougher sentence?

Mr McKenna: All sentencing options would be open to a court, but, in practice, to date, we have found that that is frequently, if not always, the outcome. If one imagines the criminal sanctions available, rarely would an offence such as that attract an absolute discharge or conditional discharge. Sometimes, there would be debates around probation orders or community service. More often than not, however, it is a debate around immediate custody or a suspended sentence. Given that we have found that it is normally a suspended sentence, we do not feel that that is a strong enough message to date. With this opportunity, we would like to have a stronger message that would help to develop a better culture to protect those people.

Mr McVeigh: It also involves other court officers. We are not singling out solicitors. Other court officers, including members of the judiciary, find themselves being threatened. There was one occasion, just after we reopened after lockdown, when someone was found to be bringing in a bag of weapons to assault the district judge in Belfast. I cannot recall the outcome, but I remember there being a debate as to whether that should go to the Crown Court or the Magistrates' Court. I do not think that it went to the Crown Court, yet that was someone planning an assault on a member of the judiciary. That is the real concern.

Let me put it this way: protecting the integrity of the rule of law requires all court officers. Sometimes barristers are not officers of the court, and junior counsel are not, but we include them in it. It is to prevent the chilling effect that begins to occur. People are fearful of working in certain areas of work because they know that they will face aggression from people. That has significant implications for the rule of law, and we do not want circumstances in which a light touch is taken to sentencing people who make it very difficult to operate in the criminal justice system or the wider justice system, including family law.

The Chairperson (Mr Frew): Let me take you back to suspended sentencing and the statutory assumption against that. I am asking this purely because of my ignorance: is there a danger that, if a judge cannot use a suspended sentence, he might give a lesser sentence in years?

Mr McKenna: We are suggesting that the suspended sentence stay there as an option but that there is an extra safeguard in place, namely that the judge has to explain why they are suspending the sentence in those circumstances rather than automatically moving to that.

The Chairperson (Mr Frew): In your eyes, what is a good explanation?

Mr McKenna: When it comes to sentencing principles, exceptionality is there already throughout the Magistrates' Court/Crown Court and into the Court of Appeal. Effectively, we are attaching that label to this situation, which is that there must be exceptionality in terms of the case or the circumstances of the defendant to justify that sentence being suspended. There is a list of those that are throughout the cases.

The Chairperson (Mr Frew): Could you produce that for us?

Mr McKenna: We could put together a number of cases from the Court of Appeal that set it out very helpfully. It is very difficult to be precise about it, but there is that headline, which is an impressive starting point. When it comes to the detail of that, you would never want to close the doors to any aspect, but we could certainly put together a list of cases that will help explain it.

The Chairperson (Mr Frew): Joe, you went into the definition of an officer of the court. Are we in danger of leaving out other people who are involved in law enforcement, such as the Probation Board and —?

Mr McVeigh: Sorry to cut across you. Our view is that anybody who is conducting their work in the justice system falls within that. You are right to raise the issue. I do not want to give you a nailed-on answer, but probation officers are officers of the court, as far as I can recall, and should have those

types of protections. Probation officers are often in a very vulnerable position because they are one on one with someone who may have been convicted of violence, and they have to work with people on a one-on-one basis. That is what the public demand of probation officers. Yes, the Law Society will say that that protection should extend to probation officers.

The Chairperson (Mr Frew): My questions have centred on clause 37, which is about assaults on public workers. Do you think that, as regards the general thrust of that clause, we have got it right by having a catch-all, or do you think, like I do, that we may need some sort of hierarchy with regard to blue-light services — people who are out there working for the public by saving lives as opposed to selling goods?

Mr McVeigh: It has always been said that there is a zero tolerance approach to the assault of nurses, doctors and ambulance workers, yet there are examples of people not being sent directly to custody for doing that. There is probably a consensus in the community that there should be a presumption in favour of custody in cases where people have assaulted those who have come to assist them, such as ambulance workers. However, there should always be a back door to such a presumption, because, in truth, a lot of the people who are picked up by ambulance crews have profound psychiatric problems, addiction issues or housing insecurity. They may have lived on the streets for a very long time. They do not know help when they see it. We can all agree that people like that exist. Therefore, whilst it is easy to make bold statements about a presumption in favour of custody, it is harder to apply that. That is why the Law Society does not say that there cannot be another type of outcome in those cases, but there should be exceptional circumstances.

Front-line workers are also members of the public, and the public need to have confidence in how the courts deal with front-line workers. That is why the Law Society does not stand in the way of any proposal to have a "hierarchy of victims". That phrase has been used in other circumstances in this jurisdiction, but the public will recognise the need for tougher sentencing in cases where people who are working on the street to deliver a service have been assaulted. We always pick out nurses and doctors, but many other categories of worker are on the front line.

Clause 38(3) of the Bill sets out a list of offences. Unless someone has a cogent reason for it, I cannot understand why section 42 assault is not on that list. For those who do not know, I say that section 42 assault is what we used to call "common assault". The most common offending behaviour faced by front-line workers, including solicitors, is common assault. It may have been left out of the Bill because it is so common that the courts would be inundated with section 42 cases with the aggravation for assaults on public workers. However, in my respectful submission, the legislation should target that type of offending to put it out of people's minds. Most doctors, nurses, ambulance crews and teachers — whoever it may be — face low-level assaults. If someone's nose is broken, that is covered by section 47 assault in clause 38(3)(c)(vii), but I respectfully suggest that curtailing common assaults on public workers should be at the forefront of everyone's mind. That is one reflection that I have on that paragraph.

The Chairperson (Mr Frew): Thank you.

Ms Egan: Thank you very much for coming in today. I really appreciate your evidence and submission. We heard Emma's story at the all-party group, and it was horrendous. What are the wider implications of not having protections in place for your profession? Might there be an attrition of solicitors, especially young women, who are subjected to abuse, as Emma was, and an impact on access to justice for the victims of domestic abuse who are also embroiled in disputes in the family court?

Mr McKenna: The Law Society, as the Committee is aware, has been dealing with a considerable number of issues in that area anyway. The Committee is familiar with the Justice Bill, with the reform of taxation in the mix. It is also very much aware of the different issues around legal aid remuneration, the criminal legal aid review and associated developments. A massive part of the Law Society focus in that respect was on how we refresh the available solicitors. A generation of solicitors working in legal aid has been lost because of the attacks in that area of access to justice. We have made some progress in trying to attract newly qualified solicitors back into criminal law, in particular, and family law because of the improvements in legal aid remuneration on an interim basis. We hope that there will be more positive developments in that regard to come in this mandate and the next.

This is another, more dramatic, challenge, because, if the supply of available solicitors is undermined on this basis, we will move backward with access to justice. Criminal law and family law already has a

supply issue. That massively undermines access to justice and the rule of law. If we are taking one step forward on one front, it would be terrible to be taking one or two steps back elsewhere. We are very worried about that. That is why the Law Society is putting such a massive emphasis on solicitor safety.

Ms Egan: Thank you. My next question is about your submitted evidence. You commented on aggravation by hostility. I am interested in your position on including gender. I think that you said that that may be best dealt with by a separate offence of misogynistic harassment. Will you expand a bit on your thinking behind that?

Mr McVeigh: On that issue, I reflect on the concept of protected characteristics. Our society is well used to the concept of specific protected characteristics in employment law, for example. I do not know why gender is missing from the Bill. There may be a facility to introduce bespoke legislation on that, but it is fair to say that an opportunity has been missed here. It has been said repeatedly that this is a very unsafe place in which to be a woman. It would take a brave person to argue against that. The statistics clearly show that that is the case, and there has been a particular unravelling since COVID. This is an opportunity to deal with that specific issue.

Our laws on assault go back to the Offences against the Person Act 1861. Section 42 covers common assault, and section 43 covers assault on a woman or child. The law acknowledges that there is a difference between assaulting a man and assaulting a woman. That may have come from a different mindset in 1861, but the acknowledgement is there that it is a different type of offending. Women are vulnerable. The offending is so often done, by men, in a woman's house, in front of their children. The Bill could present an opportunity for the legislature to say very clearly, "We're not tolerating that type of offending on women". There are pre-existing issues, such as aggravation, for assault on a woman that the courts have already used in sentencing, but we have isolated different characteristics that need to be protected in the Sentencing Bill because we suspect that the application of those principles is patchy. It needs to be specified in legislation to remind judges that they need to reflect the characteristics of certain victims in their sentencing. I respectfully submit that gender should be one of those characteristics. We already have it from 1861 in some regard, but we have also had it in our employment legislation for a very long time. This is not a culture war issue or about creating another protected characteristic; it is a protected characteristic that already exists.

Ms Egan: Thank you for your work on this. I totally agree with you that Northern Ireland is a really dangerous place to be a women.

I will make a final point, with the Chair's indulgence. I note that your chief executive, David Lavery, was invited to Committee today but is not here. I was extremely disappointed to see the reference that he provided for someone who was convicted of assaulting girls. Someone in his position should have known better than to do that. I cannot imagine what it was like for the victims to read that the chief executive of the Law Society had described someone who had been convicted of those crimes as a "family man", a Christian and:

"a person of sound judgement and good character".

That is highly inappropriate and disappointing, and it also overshadows the good work that you and your colleagues do and the evidence that you have brought here today.

Mr McVeigh: Connie, thank you for that. The position is that, whilst you might want us to respond in some way to those comments, there is still a process ongoing within the Law Society that means that we cannot comment on what you have said. We are not closing the debate down; we are just saying that, at the moment, we cannot discuss that.

Ms Egan: I appreciate that.

Mr McKenna: We indicated previously that, as soon as the current process has concluded, the Law Society's personnel committee will consider the issue of senior officers providing testimonial statements and the impact on victims. We would like to work collaboratively with everyone on that.

The Chairperson (Mr Frew): Thank you for your candour.

Mr Beattie: Joe, Eoghan and Ann, thank you for coming along. I look at you as subject matter experts, so excuse me for any clumsy questions that I ask. My first is about clause 2 on the duty to follow sentencing guidelines, pretty much as laid out by the Lady Chief Justice's sentencing group. Joe, you said that public confidence in sentencing needs to be maintained. The reality is that public confidence in sentencing is lacking. It is waning, because the public do not understand how sentencing works. The very fact that sentencing uses case law leaves people absolutely flummoxed by the whole thing. The language does not work for people. If a layperson were to look at your response document, they would not have a clue what you are talking about. Why would a sentencing council for Northern Ireland not work? It works in England and Wales and Scotland — each one is slightly different — but they are there, and that makes it far more transparent: people can see how sentencing works and how a sentence is formulated. Why could that not work for Northern Ireland?

Mr McVeigh: Maybe, Doug, it is not that it would not work but a question of whether it is the best alternative. When we look at sentencing guidelines and principles, our focus is on cases that emanate from our Court of Appeal, but, obviously, we also look at cases from England and Wales. I would need to be persuaded that there is evidence that people in England and Wales understand sentencing any better than they do in Northern Ireland, and there is a Sentencing Council for England and Wales. In England and Wales, they have a sort of hotline for asking for referrals to the Court of Appeal. My respectful submission is that most of those phone calls are made in the heat of the moment by people who are very angry about a result of a case. They are not based on how the guidelines were applied, with box A going to box B and then C being taken into account, ending up with the result, which is D. The public in England and Wales do not approach sentencing in that way.

This is not to patronise people, because I am a member of the public, and I, too, see things on the news and ask, "How did that happen?". As a criminal practitioner who, on 10 July, will have been around the courts for 31 years, I also react to what I see, but the truth is that people look at the headline figure and react to that; they do not react to its building blocks. The building blocks are in the guidance, but no one rushes to that to see how sentencing was done. The public look at the top line and ask why. That "why?" — the explanation of what was taken into account in getting to that sentence — needs to be addressed. Televising courts, which is due to happen, will assist that, because people will be able to see sentencing as it happens. That will assist people. It assists all of us when we watch the television and see sentences being handed down in England and Wales.

The judiciary have taken steps to address it. For example, the Lady Chief Justice wants to work with the Courts and Tribunals Service to provide transcripts of sentencing to people who are involved in the case. For example, the victim would receive a transcript, or that is the plan. That is a great idea. It may sound like moving the furniture around, but it is not, because it marks a distinct move that has happened in the course of my career: victims were, in essence, sidelined, but they are now genuinely at the centre of the criminal justice system. At times, that can be frustrating for criminal defence lawyers. We say, "Hold on. It's my client who's accused; it's my client who'll go to prison if they lose this case and are convicted. Why are they not nearer the centre of the discussion?". Those who sit in courtrooms every day see the measures that have been taken and understand that, at times, the defendant is not at the centre of everyone's focus despite the fact that they are the person who is on trial. There have been improvements, and improvement will always be needed, because our thoughts and approaches will always evolve.

Our judges are all exceptionally capable — that is the basis on which they are appointed — but, sometimes, the public feel that our judges get it wrong, and judges sometimes do get it wrong. Judicial training has been introduced, however. There will be another week of mandatory judicial training in the week before Christmas this year; that training has happened for the past number of years. The issues are addressed. For example, the Lady Chief Justice specified that there should be training on non-fatal strangulation cases. The Court of Appeal put down a marker on what sentencing is expected in that type of case, and it has upgraded the starting sentence in murder cases. That all reflects the input not only of you guys, who make your positions on these things very clear, but of the wider public. The judiciary is not immune to the wider public: I have seen sentences creep up. I do not say that the solution is always to increase sentences, which is why some of the steps that are involved in the Criminal Justice (Sentencing etc) Bill, such as suspended sentence orders, are innovative and welcome. Some people may feel that suspended sentences are a bit of a free hit, but the orders would allow them not to be, by ensuring that someone has to work through a suspended sentence.

It is my respectful submission that flexibility and the ability to respond are baked into a small jurisdiction such as this where feedback comes fast. There is very little in the way of a circuit breaker when it comes to feedback: if you guys are not happy — if the public are not happy — everybody knows and the judiciary listens. That seems very clear.

Mr Beattie: Joe, I accept everything that you have said, but two things stand out, one of which is that victims may get a transcript of the sentencing. Victims will not understand those transcripts. Unless the language changes, you can send them whatever you want, but they will not understand it. I do not understand the language: I read your submission; I do not understand it. Whether or not you send transcripts, the language needs to change. The great difference in having a sentencing council, compared with what we have in Northern Ireland, is that you can simply go online. If I go online and look at the Sentencing Council for England and Wales, it will give me everything. It will go into the sentencing guidelines, research, common information and resources — everything. I will get all that at the press of a button. I cannot get that here. That is a concern. There is no public confidence. Respectfully, Joe: it is not just about increasing sentences — I do not think that that is the answer all the time; it is about understanding the sentence. The public does not have that confidence at the minute.

Mr McVeigh: I actually agree with you on that. I do not think that you would get very much pushback from lawyers on that. There are always two processes going on in a case. There is the legalistic process that involves discussion and debate between all the lawyers who are involved, including the judge. That invariably means legalistic language being used, which is important because that language has to be precise. We have to operate at a certain — often academic — level in order to ensure that we come to the right decision. However, as any criminal defence solicitor will tell you, there is a job to be done afterwards to explain, for example, to the client all that went on in that courtroom. Practitioners, if I may say so, are very good at doing that. They make things clear for their clients. The Court of Appeal and some of the Crown Courts have started to issue summaries of judgements, which are very useful because they take a, perhaps, 30-page judgement and condense it down to a couple of pages. That is clearer, but maybe it could be in plain English as well. I have to say, Doug, that I accept that criticism.

I do not think, however, that having a sentencing guideline council would solve that. As I said, I do not think that, in England and Wales, anybody is running to the Sentencing Council to work out how a sentence was applied and to see whether they are happy with the result in that context. They look at the facts of the case. If they were particularly appalling, they ask, "How did that sentence happen?". That is how cases end up in the headlines and why there is criticism of the judiciary. In actual fact, as I said, no one is looking at the guidelines. Our judges go to a lot of trouble to explain their decisions. Yes, they are legalistic and, yes, because I have been reading such decisions since I was 18 years old, I can sit back and, weirdly, enjoy them. I need a life. However, the truth is that the public need to understand what was going on. The Lady Chief Justice, in her opening remarks at the legal new year, in September 2025, made it clear that she is working towards making things clearer and more transparent. Those steps are being taken behind the scenes.

Mr Beattie: I have one more question, Joe. A short answer would be really useful. On clauses 20 to 23, you have pretty much agreed that all Crown Court sentences should be open to appeal for being unduly lenient. What are your thoughts on hybrid offences? The Bill does not include hybrid offences. For example, non-fatal strangulation is a hybrid offence. If such a case is heard in the Magistrates' Court, the sentence cannot be appealed as being unduly lenient. Would it not make more sense to stick with where you are now but include hybrid offences?

Mr McVeigh: One of the difficulties with hybrid offences is that it is not, for example, the defence lawyers who decide where a hybrid offence goes. The decision to take a hybrid offence to the Crown Court, for example, is made by the Public Prosecution Service. In fact, we could not even judicially review that decision. I would bat that across to the Public Prosecution Service and say, "You make that decision". I think that there is consensus that Magistrates' Court cases should not be open to referral, which, in my respectful submission, would be an intelligent decision, because our Court of Appeal could not deal with the number of cases that might end up being referred to it from the Magistrates' Court. There are practicalities around that, and, also, the Magistrates' Court is meant to be summary.

When it comes to hybrid offences, in one way, it is very easy. You could legislate and say, "That offence is no longer to be hybrid; it is to be indictable only". That would take it out of the discussion entirely.

Mr Beattie: It would. I used the example of non-fatal strangulation. Before that offence moved to the Crown Court, 300 of those cases were heard in the Magistrates' Court, which meant that not a single one of them could be appealed. Only 15 cases involving non-fatal strangulation were heard in the Crown Court. Case law — funnily enough — has changed that, and those cases are mostly heard in

the Crown Court. However, in a Crown Court, a person can still get six months for non-fatal strangulation and then appeal that. If, in a Magistrates' Court, they get six months for non-fatal strangulation, they cannot appeal it. I do not need an answer, Joe, but that is why, I think, hybrid offences should be considered.

The Chairperson (Mr Frew): Before I bring in Patsy, I remind everybody — members and you, Joe — to be concise. You are competing with the Justice Minister, who is coming in after you, and she can talk too. That is what the Committee is up against today.

Mr Beattie: I was moving you along, Joe.

Mr McGlone: Thank you for your presentation. I will return to the definition of a "public worker". I have listened carefully to what you said and looked at your suggested amendment regarding specific officers of the court. You have introduced and repeated the concept or phrase:

"protecting the integrity of the rule of law".

In your amendment, you specified people who are associated with the courts in the amendment, but, then, you went on to mention the PPS and social workers. As regards those who are protecting the rule of law, how would you deal with a policeman who is assaulted while defending people from racist attacks?

Mr McKenna: There are already separate offences for assault on a police officer.

Mr McGlone: I get that.

Mr McKenna: Over the years, those offences have been extended to include assaults on designated persons, such as civilian officers who deal with detention duties for the police in a custody suite. Thankfully, there are some offences that bring particular attention to those situations. In the circumstances of a police officer being assaulted, or more generally, the offence will go up the criminal ladder, as dictated by the injuries from the assault, to become a section 47 or section 20 assault or grievous bodily harm, which is at section 18. There are protections and specific offences for a lot of that.

Mr McGlone: But they do not apply to a judge, a district judge or someone else associated with the court?

Mr McKenna: Those offences could apply if they are at a higher level. It goes back to the point about the —.

Mr McGlone: Do you get where I am going? The case for blue-light workers has been made to the Committee. You know what I am talking about. On a Friday or Saturday evening in an ED, police officers may have to deal with people who have addictions and are occasioning actual bodily harm to other members of the public, a police officer or a health worker. I understand and empathise entirely with the situation that your colleague was in, but it is not just solicitors who come to us with experience of such situations. How would you sentence those people when they come before the courts?

Mr McKenna: We are not trying to restrict this opportunity to change the law. More generally, there are significant protections in place. I was involved, representing the Law Society, in Judge Marrinan's review, which dealt with hate crime. The debate that we are having now was at the heart of that review. Does the situation need a specific offence, or is using the arsenal that is available to the criminal justice system, as is or as could be developed, a better way of approaching it? If I am told that my client has been arrested for disorderly behaviour and taken to Musgrave police station or wherever, I will think that that is an offence at a certain level. However, if, in the next line, I am told that it happened at the Mater Hospital, the Royal or the hospital in Enniskillen, Omagh or wherever, I would say, "Oh, no. This person's in a lot of trouble". As is, for disorderly behaviour, which is the most frequently encountered offence, that person's starting point in a court and with a judge will be that they are going to jail.

Mr McGlone: To be clear, Eoghan: the location is one thing; who was involved, or who the potential victim is, is quite another. What case are you making there?

Mr McKenna: That disorderly behaviour would often be in tandem with an assault on a doctor, nurse or ambulance driver. The most gentle starting point of disorderly behaviour might be shouting. However, from there, the courts are very strong that any offences that involve a front-line worker would be treated very seriously.

Mr McGlone: Forgive me: I am just from up the country and trying to grapple with this; OK? How do the courts treat the likes of the court workers whom you are referring to?

Mr McKenna: They would be dealt with under the current legislation, so that would be treated as an assault, be it physical interaction or fear of an assault, and the different levels of that. Then, if somebody pleads guilty or is found guilty, the courts would have to decide whether to engage the Probation Service for a report. The courts have to look at the personal circumstances of the defendant as well as the circumstances of the offence. When it comes to those type of offences that have to be dealt with, there are guidelines already, for the Magistrates' Court even, to help judges, who, in this jurisdiction, are all full-time lawyers, which is very different to England and Wales. The starting point would be to ask, "Do I have to send this person to custody?". The answer would most likely be yes in those circumstances. They would use the information that is available to the court to look holistically at that and at whether there is an alternative to custody. Would they be better doing community service, which is a direct alternative to custody, or probation, which has a more direct focus on rehabilitation? What would be to society's benefit? That is the complexity of the judge's role, I suppose.

Mr McGlone: I am being very specific to the amendment that you have proposed. I will take you back to that. Take an instance involving a judge, deputy judge, lay magistrate or barrister-at-law, etc, as you have set out: how would the courts deal with that? I am trying to get that into my head. How would the courts deal with it at present, and how do you propose that it should be dealt with?

Mr McKenna: In our experience of the cases that we have encountered, the normal way in which that has been approached has been by suspended sentence. What we are saying is that, if that is going to be the normal approach, let us force the courts to look at it again with foundational legislation that says to them, "Actually, hold on a minute. If you are not going to send that defendant to custody, you've got to articulate and explain why". If the court is going to give a suspended sentence, it will have to work a little harder to explain that.

Mr McGlone: I am just trying to get this into my head. Forgive me, Chairman. It says here that the amendments relate to a:

"statutory presumption against suspending a sentence where an officer of the court is the victim of an attack."

Are you telling me that, in the predominance of cases where an officer of the court is the victim of an attack, the outcome is just a suspended sentence — a rap across the knuckles?

Mr McKenna: That is what we are seeing.

Mr McGlone: Chair, if we could get some evidence in support of that, that would be helpful. Perhaps the Law Society can provide that.

Ms Ann McMahon (Law Society of Northern Ireland): I will intercede there. We are basing that on the experience of our solicitors — our members.

Mr McGlone: Yes. If you have numbers and factual information on when that has happened, how it happened, the actual cases that came before the court, the type of cases, assaults, offences and attacks — to my mind, "attack" is very specific — and whether those resulted in suspended sentences, we need to have it. We would need to know the quality of justice that is being dispensed in instances that involve officers of the court. Thank you very much for that.

Mr Kingston: As was mentioned earlier, Emma Lyons spoke at the all-party group on access to justice, and it was a harrowing account to hear. Thank you for reading a summary of what happened to her and putting that in the public domain. We thank her for being willing for that to happen.

Looking at clauses 37, 38 and 39, my first concern is about whether the wording would capture what happened to Emma. Perhaps, you can keep me right. Clause 37 creates the specific new offence of

assaults on public workers. Clause 38 talks about "specified offences", including manslaughter, kidnapping, threats to kill, wounding, administering poison and using explosives. Clause 39 seems to refer back to that list. A lot of what Emma experienced — I am not sure that she was actually physically attacked. It was severe harassment, stalking and intimidation. She literally had to move house. Her family was affected, as were the other solicitors in her practice. My first concern is whether the wording here would capture what happened to her, given that that is more common.

Mr McVeigh: Thank you for raising that, Brian, because you have reminded me to say something that I forgot to say. I spoke to Emma by telephone before I came here, and she raised the very point that you raised, which is that those types of offences are not included. While I was focusing on section 42 because I see it so often for front-line workers, she raised the issue of the specific offences that you have just mentioned not being included.

In truth, a GP is probably as vulnerable to that type of offending, but an A&E doctor might not be, because you would not know them, and you would not know where they were located etc. Therefore, a GP or a nurse in a local health clinic might need that protection. Emma raised it in the context of it clearly being an offence of which she was the victim, but I can imagine other workers being victims of exactly that offence because people know where they can get them and where they are going to be, so harassing and stalking them is a very definite possibility.

Mr Kingston: You might want to have a look at that to see if you have any suggestions. Maybe the person made a point of not physically assaulting her, but they did a great deal of harm through harassment and intimidation — although, as you said, there were attacks on cars and property as well.

I will refer back to clause 2 on sentencing. It seems quite laudable. It states that:

"A court must, in sentencing an offender, follow any sentencing guidance which is relevant to the offender's case",

but it also gives the caveat

"unless the court is satisfied that it would be contrary to the interests of justice to do so."

It goes on to talk about the guidance. To be clear, do you object to the wording in clause 2? People within the court system might want to have more discretion. I know that you are not judges, but legal officers act within —. Is there a difference between sentencing guidance and the sentencing framework? Who sets the sentencing guidance and framework? Is that done by the Department, by case law or by the Lady Chief Justice?

Mr McVeigh: Thank you for asking that. You get the prize for asking the toughest question of the afternoon. Sentencing frameworks tend to be what Doug talked about earlier, which is that you go through a number of boxes and you apply the contents of each box to the circumstances of the offence and the offender, and you come out with a decision. That is a sentencing framework. It sounds like what it is, which is rigid. Even with inbuilt flexibility in each box, you are within a framework. We often say that that is when guidelines become tramlines. Whereas, if you have guidelines in place — this is what I would commend to the Committee. The approach of the judiciary has been one where they have built up a set of guidelines over the years. That particular clause refers to sentencing guidelines emanating from a number of sources. For the most part, they are traditional sources: cases and judgements that have been handed down in the past where there has been an evolution of thinking, often in response to modern thinking and circumstances.

Look at the offence of indecent assault in modern legislation. The sentence for that has moved over the years. In the early seventies, the sentence was 12 months, but that has moved. In step with legislators, the judiciary has also changed its guidance and guidelines to accommodate new legislation. Proportionality, fairness and public confidence have always been reflected in the guidelines, but maybe the public's approach is what has moved most radically. In my experience, the judiciary has tried to reflect that. The Lady Chief Justice's sentencing group is in itself a significant move towards sentencing guidelines, and it feeds into the training of the judiciary.

Mr Kingston: The first clause of the Bill sets out the principles and purposes of sentencing. Having that down in black and white is helpful, and, when I read it, I imagine that it more or less reflects current practice, but is it radically different from what currently happens? Sentencing has to be able to

stand up to scrutiny and any appeal or challenge. It has to be appropriate and consistent to command public confidence.

Mr McVeigh: I agree with you. Clause 1(2) effectively reflects current practice.

Mr Kingston: I am talking about clause 2: "Duty to follow and give reasons in relation to sentencing guidance".

Mr McVeigh: Yes. That is where Doug's point comes in. While it provides a duty, one suspects that there is also a duty to be clear. Maybe that is not a duty that is currently imposed on the judiciary. That empowers the public to say, "This isn't clear enough. You have an obligation to make things clear to us, and we need to understand the reasoning behind some of these decisions. Whether it is the Crown Court or the Court of Appeal, we need to understand sentences". I respectfully submit that that might be the change, and it is no bad thing.

Mr Kingston: OK.

Ms McMahon: Many judges give reasons and explanations as to why they have reached the decision that they have. When Mr Dolan was before you last week, he confirmed that, when the sentence was passed, the judge explained how it was reached and why the tariff was what it was. It is happening already and is just a thing that is being done now. I think section 2 does cover that.

Mr Kingston: OK. I thought that you had difficulties with clause 2.

Mr McVeigh: Not at all.

Mr Kingston: OK. Maybe I picked you up wrong.

Mr Bradley: Thank you very much for your presentation. I would like to tease out some of the concerns that you have with the Bill, rather than its separate clauses. Significant emphasis is placed on rehabilitation through suspended sentence orders and community requirements. Are the Probation Board and community rehabilitation services sufficiently funded to cope with that?

Mr McKenna: Sadly, so much of this comes down to resources as well as aspirational efforts to improve systems. I appear in the Magistrates' Court and the Crown Court every day and, particularly given the strains in the criminal justice system as we deal with backlogs, one of the situations that has already been flagged is whether the probation services are well enough resourced. My view is that it does not have enough resources. A number of other innovations that are in the mix to put a focus on rehabilitation, which we all welcome for benefit of society as well as of the individuals involved, be they victims or defendants, but the probation services will, without doubt, need additional resources. Some of the commentary today made me think of the police and the Public Prosecution Service needing extra resources to make sure that some of these efforts have an impactful and positive outcome. Probation, I am sure, will fight its own corner, but when we champion investment in legal aid, for example, it would be entirely wrong of us not to look to our partners elsewhere in probation and criminal justice, which play a crucial role and should get additional resources. An all-party group event on collaboration in the criminal justice system was held at Stormont, so we are working as best we can with everyone, and we urge the proper resourcing of all parties.

Mr Bradley: Something I find up here is that we correct something that is wrong without looking at the outcomes of that correction and what it will cost. We might be able to do something in the Criminal Justice (Sentencing etc) Bill etc, but we are not taking into account the long-term effect of what we have decided. That concerns me, and it concerns me about a lot of Bills going through here.

I want to pick up a point about assaults on public workers. If any blue-light person, including members of the judiciary, get assaulted, the sentencing should be severe, because the sentence does not just address the offence but is a deterrent to somebody else repeating that offence, and we are losing sight of that. What are we doing to deter people from repeat offences such as assaults on the judiciary, stalking and a whole range of issues? The deterrent is not there, and most complaints I get are not about the judiciary but the PPS. Why are people who have committed serious crimes not prosecuted because the PPS does not recommend prosecution? That is a frustration for a lot of police officers too. A lot of things go on in the background before we get to the sentencing itself, even getting people to court. What are your thoughts on that?

Mr McKenna: That is one of the reasons behind what we are urging the Committee to look at today. We want to send the strongest possible message on deterrence, which has always been a significant part of sentencing principles. It is about improving cultures and awareness, which is very much part of our submissions. If there is a headline piece of legislation with components that shine a light on certain areas, hopefully that will be a deterrence in itself but if those need to be triggered in court, that then has a follow-on deterrence for people who did not listen in the first place, so we absolutely welcome strong messages being sent out where they can be. The Bill is a foundational opportunity for that, because after the event judges can, of course, factor in deterrence, as they do every day of the week. We have an opportunity here, however, to shine a light at an earlier stage on how we can say, "These types of offences must be deterred".

Mr Bradley: Fair enough. If I read your evidence correctly, you think that the Department should do more to improve prosecution practice, judicial recording and data collection so that laws already on the statute books are used effectively. You are suggesting that some laws are not being used properly. Did I pick that up right?

Mr McKenna: Going back to earlier discussions, of course there is a delicate decision-making process for prosecutors on whether they prosecute or where they prosecute, if they decide to prosecute. You will have heard from Public Prosecution Service representatives about the evidential test and the public interest test. There is no taking away from the fact that those decisions are difficult, and the prosecution has significant duties in that regard.

Of course we are encouraging everyone to please do their job properly. A lot of Law Society solicitors work in the Public Prosecution Service or in criminal defence, so there is a mixed membership. We urge everyone as officers of the court, be they on the prosecution or defence side, to come to the right decision. As bodies, we urge the likes of the Public Prosecution Service, as we do, to fulfil their significant duties to the criminal justice system correctly. They will, I am sure, answer for their actions themselves, but we can encourage them in certain directions.

Mr Bradley: Your evidence certainly opens up a lot of questions.

Ms Sheerin: Thanks to you all for the response that you have provided. Following on from Connie's question about gender or sex as a protected characteristic — there have been various interpretations of it — you seemed to indicate that you are supportive of that, whereas, in the response to the consultation, unless I have misunderstood it, I took it that you thought that protecting gender would dilute the current position.

Mr McVeigh: Of course it could. That is why I talked about creating bespoke legislation if it were required. However, by the same token, this legislation provides an opportunity to do something now. Minds much smarter than mine could sit down and create bespoke legislation to deal with what women are facing at the minute.

Ms Sheerin: In Scotland, the way that they got around that was to include an aggravator for misogyny. Is that something that you would support?

Mr McVeigh: Yes, as long as the definition of misogyny is clear in the definitions in the legislation. I would like to think that it would be given its plain meaning and that it would not be over-legalistic or anything like that. The fact of the matter is that there is a problem that is not going away, no matter how hard people are currently operating the levers to try to deal with it. There are insufficient levers to deal with what you might want to refer to as misogynistic crime, so we need to create new levers.

Ms Sheerin: That is something that we agree on. I was a bit confused, so it is helpful that you have clarified that. I am similarly confused about how you dealt with adding vulnerability to the protected characteristics in hate crime. You thought that would blur the lines, but a separate aggravator on the basis of vulnerability, as long as the legislation is clear, is something that you would support.

Mr McVeigh: Exactly. One of the things about legislation is that we have been talking about how, at the sentencing end, we need clarity, but, when I sit down to advise a client who has been accused of one of those offences, I also need clarity. I need it to be straightforward for that person. Why? Because one of the things that criminal defence lawyers do, which the public do not always get, is that we help a person to make the most significant decision they will probably ever make in their life, which is to accept responsibility for something that is very likely to send them to prison, potentially for a very

long time. Part of our job is not always to win cases but to help people come to terms with the facts of the case and the case against them. Knowing clearly what the law is helps us, and it helps them, particularly when it comes to accepting responsibility. Clarity in the law is something that I always welcome. Therefore, you need to be clear about what misogyny is, and you need to be clear about what vulnerability is, because we have an obligation to sit down with a client, often in a police station, between the charge and court, to try to explain to them what that law means. The clearer it is, the easier it is for them to understand.

Ms Ferguson: I have two quick ones, because obviously we have covered a lot. Specifically in relation to clause 19, you cautioned against the over-mechanistic approach to tariffs while guarding against double counting. Can you explain that further and explain the alternatives that you would suggest to avoid that?

Mr McVeigh: Guess what? I had included double counting in my opening remarks, and I took it out, not that I am editing the Law Society's response on the hoof.

Double counting occurs when, for example, there is a drink-driving offence, maybe a significant one where the person is going to prison. A judge may say that the fact that they were intoxicated is an aggravating feature. Well, no, it is not. It is an inherent part of the offence. We avoid double counting where we call something an aggravating feature when it is not but is actually a part of the offence itself. The powers of sentence were created for that offence, so we do not then say that we are going to add additional time on for something that is already part of the offence. That is how we avoid double counting in sentencing people, if that makes sense.

Ms Ferguson: Secondly, what concerns do you have about potential human rights breaches on the application of a 30% uplift applied to no-body cases?

Mr McVeigh: The legislation is admirable in its intent. If someone is bereaved and they do not know where their family member has been left, that is devastating and can be devastating for the rest of their natural life. So I understand the purpose behind it, but we suggest that there needs to be caution and that we do not unfairly treat people who have been convicted of, for example, murder because the body has not been recovered. There are a number of things that are to be taken into account in the legislation as well. It is not as if no one has thought about the procedure going from A to B to C to try to come to a correct additional period of time on top of their sentence. What we are really saying is that, if it is operated correctly, there may not necessarily be any great concern. We are waving a flag to say that there is the potential for this to be used in a way that is unfair. I do not have a crystal ball, but it is about saying that this particular piece of the legislation needs to be considered very carefully to make it human rights-compliant — for example, to ensure that there is a fair trial. There is an assumption abroad that a fair trial ends at the point at which a person is convicted, and that is not true. Your entitlement to a fair trial runs all the way through to the point at which you are sentenced, in the same way that your right to a fair trial started the minute you were arrested by the police. So it must be ensured that the trial process is fair, including that essential part of it, sentencing, in those particular cases with the really controversial aspect that remains have not been found. That is where we are maybe concerned about double counting. It could lead to someone being sentenced for an offence where a body has not been recovered and that being part of, let us say, the standard sentence imposed, and then having that additional bit added to it. That is the concern, in essence, that I am trying to explain. I hope that I am clear about it.

Ms Ferguson: Yes.

Mr McVeigh: The judiciary needs to say very clearly, "I am sentencing you for the murder and not for the fact that the remains have not been found. I am moving on to the next part, which is the fact that the remains have not been found". It needs to be very clear. Lawyers will know, when they look at the tariff that has been put in place, whether or not that has happened. Experienced defence lawyers will say, "You said that you were not taking that into account, but your starting point seems high, and then you added more". That is the type of case that will end up back in the Court of Appeal. It is about ensuring that the judiciary gets that aspect of it right. As experienced as our judges who deal with murders are — they are the top tier of the judiciary — it will require significant training for them to ensure that they get that right. Or what is going to happen is that it will be tested in the Court of Appeal and that is where we will get a definite position on how it is all to be handled. Hopefully, Ciara, I have answered that.

Ms Ferguson: That is fine. Thank you.

The Chairperson (Mr Frew): Joe, Eoghan and Ann, thank you very much for your presentation today and your time with us here. It has been a very good, informative session. I am sure that you will keep an eye on our deliberations on this Bill. Thank you for coming.