



Committee for Justice

OFFICIAL REPORT (Hansard)

Criminal Justice (Sentencing etc) Bill: Mrs
Naomi Long MLA, Minister of Justice

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:

Mrs Long	Minister of Justice
Mr Andrew Dawson	Department of Justice
Ms Lorraine Ferguson-Coote	Department of Justice

The Chairperson (Mr Frew): The Committee is receiving oral evidence from the Minister of Justice and departmental officials on the proposed deepfake amendment to the Criminal Justice (Sentencing etc) Bill.

Mrs Long (The Minister of Justice): Good afternoon.

The Chairperson (Mr Frew): Good afternoon, Minister. Thank you for your attendance. I am sorry if you were waiting outside for a long time.

Mrs Long: Not at all, Mr Chairman. We are very appreciative of the Committee's showing flexibility and letting me come later today, so I was happy to wait. I did not want to let you down, having promised to come to discuss this. I knew that this was the last Committee session before recess. I did not want to inconvenience you, but I appreciate your accommodating us.

The Chairperson (Mr Frew): OK, Minister. Just for the record, we have with us Naomi Long, the Minister of Justice; Andrew Dawson, the director of the criminal justice and legislation division; and Lorraine Ferguson-Coote, head of the criminal policy unit. You are all very welcome to the Committee. I invite you to make an opening statement, Minister.

Mrs Long: Thank you for the opportunity to meet today to discuss the provision for criminalising non-consensual sexually explicit deepfake images. I am very grateful for the Committee's continued

support on the issue and its commitment to work constructively with the Department to progress legislation in this area. I hope that our discussions today will also be helpful when it comes to being able to move forward positively.

As members know, it was my original intention to table relevant provisions as an amendment at Consideration Stage of the Justice Bill. Regrettably, however, the time needed to work through the complexities that were thrown up by the Office of the Legislative Counsel (OLC) once it started drafting this in order to ensure that there was a sound legal and ethical basis for the new offences, meant that that could not be done. The only way in which we could have done so would have been to delay the Consideration Stage of the Justice Bill until the autumn term. Given that that took up, I think, a record eight days in the Assembly, that is unlikely to have been afforded to us had we waited, so the right decision was to proceed. I want to ensure that protections for victims, who are predominantly women and girls, from these behaviours are provided in the current mandate.

I think that we are all aware that online abuse, particularly the use of these kinds of despicable images, increases year on year at quite an alarming rate. Although it is not the victim but their image that appears in such videos, the impact on them is absolutely devastating. Some people just do not recover from the shame attached to those images being circulated. It is another form of sexual abuse that needs to be tackled. As I indicated in my most recent correspondence to the Chair, I aim to table clauses to that effect as an amendment at Consideration Stage of the Criminal Justice (Sentencing etc) Bill. As you know, it might have been possible to do that at Further Consideration Stage of the Justice Bill via an exceptional Consideration Stage at the end, but that would have denied the Committee an opportunity to look at these clauses at all. From a departmental point of view, I would welcome the Committee's reflections on the legislation, given its complexities, and so I do not believe that that would have been a good way forward. The Sentencing Bill still offers not only timely provision of the protections but allows for more effective scrutiny by the Committee than the alternatives. As you highlighted, inclusion of that provision in the Sentencing Bill is a matter for the Speaker at the appropriate point, and he will determine whether it falls within scope. I am hopeful that it does, and I believe that I can make a strong case in that regard. I realise that there are some uncertainties, and I am happy to discuss the proposed approach and legislative alternatives with members. I hope, however, that you agree that the issue is significant enough to warrant legislating in this mandate by whatever means we can.

You will be aware that another alternative is to progress a stand-alone Bill. Having discussed that with the Chair and Deputy Chair, I would prefer to do it as an amendment to the Sentencing Bill, purely because I believe that, given the amount of work in front of the Committee over the next while, having to take on a Sentencing Bill with all those stages separately would be quite a challenge when it comes to Committee time, but we can fall back on that, should it be necessary.

I turn to the complexities. As outlined in my letter of 11 May to the Chair, the complexities relate to core issues at this very early stage: the scope of the definition of the images that would be captured and the proposals to criminalise the creation of images, particularly the proposal to provide for a consent-based offence of creation without the need to prove motivation. That concept is novel to the existing Northern Ireland legislative framework. Issues relating to the definition mainly focus on the type of image to be captured beyond a photograph or video and its composition, and on the scope or extent of the related behaviour to be criminalised, that is, what is harmful about the behaviour and to what level is realism a factor in the determination of harm.

Officials are working on a detailed consideration of the varying behaviours involved and the levels of associated harm. That has to be carefully thought through to ensure that there is a sound legal and ethical basis on which to allow the new law to proceed. It is important that we avoid any unintentional consequences and ensure compliance with European Convention on Human Rights (ECHR) guidance. Those engaged so far include article 8 rights concerning the right to respect for private and family life and article 10 rights concerning freedom of expression.

On the creation offence, of course, we want to be able to deal with those who create the images on a commercial scale. However, the availability of nudification apps and the ease with which they can be downloaded create a situation where that kind of behaviour is no longer a niche activity. That type of offence, which was convincingly argued for in responses to the consultation, will ensure that the scope of protections from associated behaviours is as comprehensive as possible. The reach of the offence is wide, and the consequential interference with human rights that are engaged has to be proportionate to the harm caused and within the competence of the Assembly.

I have been asked why we did not simply replicate the approach that has already been taken in England and Wales. The reason is that I want to ensure that victims have no less protection than that which is available for victims in England and Wales, but it is not simply a matter of replicating the provisions that are available there. It is important that the legislation is specific to the Northern Ireland context and fits appropriately in the existing legislative framework. While the England and Wales approach provides a very good basis on which to consider our legislative approach, its legislative structure around intimate images has changed over the course of the past few years, as dedicated offences, such as those to do with upskirting and revenge porn, have been repealed and replaced by more generic intimate image-based offences to deal with the breadth of associated behaviours. Prior to legislating for the creation of deepfake images, England and Wales already had a different framework in place against sharing and threatening to share intimate images in a more general sense. Our legislation does not have similar provisions. Their definition of intimate images, for example, covers a broader range of behaviour than simply deepfakes.

During the progression of the creation offence proposals in the then Data (Use and Access) Bill, ECHR concerns were raised that were allayed by the inclusion of a "reasonable excuse" defence. My proposals will also include a reasonable excuse defence in the consent-based offences. However, it is important to ensure that our provisions are proportionate and within the competence of the Assembly.

I realise that I have given a brief summary of the issues, but I hope that our discussions today will help to clarify some of those complexities. Before I finish, I express my regret that members have not yet been provided with a report on the summary of the consultation responses and the next steps. Following initial analysis by officials of the consultation responses, my intention was to table an amendment at Consideration Stage of the Justice Bill. With very limited time and staff resources available, work at that stage focused on developing legislative instructions. Following the drafters' consideration of the instructions, resources have been and continue to be focused on working through those complexities. However, it is intended that a confirmed position and a workable draft of the provisions will be available for the Committee's consideration in September and that a draft summary of responses and a next steps report will accompany the draft provisions, so members will have sight of them at the same time. I hope that that will help the Committee.

I am happy to take questions.

The Chairperson (Mr Frew): Thank you for that information, Minister. The end of your opening statement led to the question that I was going to ask, which was when we would see the full report on the outcome of the consultation. You explained that in some detail, but the Committee's ability to scrutinise your amendment will depend on how soon we get it. We will definitely need it for the beginning of September. If you could furnish us with the full report on the outcome of the consultation before that, in August, that would give members something to read up on before the Committee meets in September. If we could be furnished with that even a couple of weeks beforehand, that would be something.

Mrs Long: We will be happy to try to do that, Mr Chairman. The challenge for me is that, as you have seen, with all these Bills, it is often the same people who sit before you answering questions. The Department has a very small legislative team, and focusing on getting this Bill drafted as quickly as possible meant pulling away people who would otherwise have been working on that report for you. However, we are now, I hope, at the stage at which it is mainly OLC that is working on drafting, and that creates a little bit of space in which we can perhaps accelerate the report. If the report becomes available before the draft clauses, we will furnish you with the report then, but the latest point at which we will do so is with the draft clauses when OLC has finished drafting them.

The Chairperson (Mr Frew): I suspect that you are trying to legislate in what is now a very fast-moving world. Deepfake provisions will be only one aspect of the measures that we will have to put in legislation to defend our people, especially young, vulnerable females. There is no doubt about that. No matter who the Minister will be in the next mandate, are you and your Department working not only on the amendment providing for specific offences relating to the creation of deepfakes and everything that goes with that but on a broader, larger piece of work on all things digital that may form a complete Bill?

Mrs Long: It is interesting. I mentioned the issues raised by Caoimhe's law during the Second Stage debate on the Victims and Witnesses Bill. That is another area in which policy is moving very quickly not just in GB and in the South but across Europe, where novel approaches are being taken. I see the

draft provisions as very much a starting point for dealing with these images, which are the most harmful that we are aware currently exist.

There are other things that need to be considered, and we will have to look at whether they would fall within the legislative competence of the Assembly, but novel approaches are being taken in other jurisdictions. For example, what is, in essence, the copyright of a person's image — the degree to which it can be tampered with or used without the person's consent — is being looked at. That would cover some of the deepfake stuff and some aspects of the broadcasting of images of people involved in car accidents, having seizures or whatever it might be. The exemptions in such cases that other jurisdictions are looking at include what is done in the public interest, which would allow news programmes and so on to do that. The other thing is satirical purposes. We all know that none of us would necessarily consent to our being laughed at, although it may sometimes be appropriate that we are. I am not looking at you in particular, Doug.

Mr Beattie: But you were. *[Laughter.]*

Mrs Long: Sorry about that; we just made eye contact at that point.

A wider piece of work will need to be done, be it here or at Westminster, on how we manage the digital space. Online communications are a reserved matter. We are trying to fill a gap in provision about the creation and sharing of images. That effort falls short of our regulating the online space but is about behaviours: that is where we are drawing the line. It may be that provision for more comprehensive offences will be introduced in future, because our relationship with the online world is changing dramatically. We have seen that whether it is catfishing, the theft of people's images to commit fraud, deepfakes or other things. There is a new space around people's personal data and images being used in ways to which they did not consent. That is a violation of their privacy and rights, but the question is where to draw the boundaries around that so as not to interfere with normal scrutiny of politicians, normal accountability and things such as public interest when images of an incident are broadcast more generally.

That will need to be navigated. The Department of Justice is not looking at that specifically at the moment, but I suspect that it is being looked at at national level. Banning certain platforms for under-16s is already being considered, and a whole range of other things will have to be looked at in a lot more detail in the next few years. We will certainly play our part in feeding into that if colleagues in England and Wales are taking that forward at Westminster.

The Chairperson (Mr Frew): Thank you, Minister.

Ms Egan: Thank you, Minister for coming in today, and I thank you and your Department for all the work that you have been doing on this issue. It is an incredibly complex but important policy area. What is the Department doing to draw on the expertise of other jurisdictions?

Mr Andrew Dawson (Department of Justice): We have started to look at legislation in England and Wales. Essentially, we are taking our base offences from England and Wales, and there is a lot to learn from there. There is a slightly different scenario in Scotland, I think, Lorraine, whereby —

Ms Lorraine Ferguson-Coote (Department of Justice): I am happy to take that. We looked at a range of jurisdictions. This is not unique to the United Kingdom. New Zealand, Canada, Australia and the United States are criminalising that behaviour. Locally, Scotland has had a sharing offence for some time. The Republic of Ireland also has sharing offences in place. There has been a particular interest in England and Wales since the Minister proposed extending the provision of the creation offence to the Crime and Policing Act 2026. There has been a lot of interest in that jurisdiction also because our framework has been closely aligned with theirs prior to a significant change that they made to their framework more recently, which they had been doing in stages.

We have considered those. We are looking at the England and Wales model because that has that unique consent-based creation offence only without motivation. That is where we are focusing our attention at the moment. However, we are also looking at other jurisdictions because, as the Minister said, this is not about just replicating the legislation in England and Wales but making sure that it is tailored to Northern Ireland.

The definition in the England and Wales legislation is wide — unintentionally so, we think. Their definition incorporates other behaviours such as revenge porn, upskirting, downblousing and now

deepfakes. We have to look at that critically to make sure that behaviour that we are seeking to criminalise is proportionate. Our original consultation set out to look at the inclusion of the motivations. There is some sharing on a consent basis in the Republic of Ireland, but the creation offence is unique to England and Wales, and that is where we are focusing our attention.

Mrs Long: Scotland had a consultation, which closed earlier this year, on the creation offence but has not reached a conclusion on how to take the creation offence forward. Therefore, the only comparator in these islands is the England and Wales law, although we are, obviously, looking more widely to see what is happening in other jurisdictions. It makes sense for us to look at England and Wales and the South because our legal systems are based on the same common-law principles but nobody else has yet legislated for a creation offence other than England and Wales, so that is what we have been relying on most.

Mr Dawson: We get additional reassurance when we look at European jurisdictions because their laws need to comply with the ECHR, so it is going to be important for us to make sure that the legislation is within the competence of the Assembly too, and we get additional reassurance from that as well.

Ms Egan: Thank you very much.

Mr Beattie: Minister, thanks very much for your information. It is really important that we deal with the issue, and it will be fast-paced. I have two questions, although the first is really an observation, but I ask you to look at it if you can, Minister. It is about terminology. I have never liked the term "deepfake", because it was coined by an individual who was a perpetrator of image-based sexual abuse. We are promoting something that he started on Reddit. He opened a deepfake subreddit, and we now use that term. I have spoken with representatives from some organisations, who said that "sexual digital forgeries" might be an alternative term. You have probably heard that already. Minister, I ask that you might look at changing the terminology. It may be too late for us, because we use it as a simple descriptor, but it might be useful if we could change the terminology.

Mr Dawson: Yes. That point could come out of the drafting process. When we speak to the drafters, they could come to a form of words that might not use the term "deepfake", because it might not fit the result that we are ultimately trying to get.

Mr Beattie: Other jurisdictions certainly use different terms.

Ms Ferguson-Coote: We are working with the drafters on that. It is not a particular title that we are looking to use; it is just one that is commonly known across the world; it is how people know it. It is like "revenge porn".

Mrs Long: We have not used that phrase either in the legislation.

Ms Ferguson-Coote: No.

Mrs Long: We understand that the terminology is common parlance. I imagine that we will describe people's behaviours and actions rather than giving them a name. We can certainly look at the drafting. Whether it uses "image-based sexual digital forgeries" or whatever, we are more than happy to look at the language around that, because I take the point that, on some level, the term "deepfake" sounds a bit trivial, given the issues that we are actually dealing with. Recognising that it is image-based abuse is quite important, even if digitally forged images are being used. Yes, we will definitely look at that.

Mr Beattie: Thanks, Minister.

My second point is about getting your thoughts on the intent piece again, because I did not quite pick up on that. In the proposed legislation, there has to be

"intention of causing humiliation, alarm or distress"

to the person depicted in the image. However, simply creating the image does that automatically, whether or not the person has that intent. Will you look at that, or is there particular difficulty with that issue?

Mrs Long: There has to be a defence. In other areas, we have found that, in order to be proportionate, we have to allow people to have a reasonable defence that they can use. I think that that happened in the England and Wales situation. If we do not allow for that, it brings us into potential conflict with the scope of legislation and our competence to do it. The inclusion of the two motivations in the sharing and creation offences enables a distinction to be made between the nature of offending. One reason that that is important is so that it matches Northern Ireland's sexual image offences regime more widely. Take, for example, voyeurism. That will be dealt with — *[Interruption.]*

Ms Sheerin: I thought Ciara was going to break into song.

Ms Ferguson: Apologies, it was my phone.

Mrs Long: You are fine. Those motivations are well recognised across jurisdictions, and they have been tried and tested by police, prosecutors and the courts. There is an important rationale for including sexual motivation from a public protection point of view so that it falls within the provisions relating to future sexual harm. Such a person can then be dealt with under the public protection arrangements, unlike those who might have done it to embarrass or humiliate somebody. The motivation is important in two senses: so that someone can have a defence and so that, where sexual motivation is proven, they can be put on the sex offenders register and be subject to other things.

From our perspective, it is about making sure that it is proportionate. What we do not want to do is criminalise somebody who is messing around and doing something on an app and suddenly finds that they have committed a very serious offence when they had no intent to share or to frighten or humiliate the person, who, if they were to become aware of it, would be frightened or humiliated. The creation offence is the one that OLC has more concern about because it is saying that that offence is a much more clear-cut issue: you either create the image or you do not. That is why the creation offence has been more difficult in needing that balance to be brought. The sharing offence is, in some ways, more straightforward because, once you share it, you are essentially doing something that you know will cause fear, distress and all of those other things. The creation offence is more complex, and that is what OLC is particularly keen to work through to make sure that it is proportionate and does not criminalise inadvertently activity that does not require to be criminalised. It is about that balance.

Mr Dawson: The creation offence is where the proposal engages most with articles 8 and 10 of the ECHR. Those go to the competence considerations that we are having to work through.

Mr Beattie: One of the concerns — I think that the Law Commission mentioned this as a concern — is with the fact that people might use the defence that it was just a joke.

Ms Ferguson-Coote: Yes. The Minister is proposing, as informed by the consultation, that we widen out the creation offence so that it is not limited to the two motivations, so we would have a base creation offence, as in the England and Wales model. We are not replicating that, but we are taking a similar approach whereby the offence would be based on consent only. That would bring in other motivations such as coercion, financial gain and doing it for a joke. Some individuals responded to the consultation, including Professor Clare McGlynn, with whom you may be familiar, who gave evidence to the previous Justice Committee on upskirting and downblousing. She favours a consent-based-only offence, but she also did not oppose including the other motivations for the reasons that the Minister has highlighted. The offences of causing humiliation, alarm and distress and with the purpose of sexual gratification are well rehearsed across law and across other jurisdictions, so that is not new, but that consent-based-solely offence is, and that is where we need to be careful with the proportionality because, at its most basic level, you could have a person sitting in their room creating a deepfake, which the victim does not know exists, and the person who created it has no intention of sharing it. Professor McGlynn's view is that that normalises that behaviour and that the proliferation of its use and the easy access to the apps means that it can be accessed by anybody, with schoolchildren using it very widely. That is where the creation offence is, which is quite novel.

The Minister is also proposing a base offence for sharing. We have those motivations, which we consulted on, and that additional offence will incorporate other motivations. The draughtsperson's concern is with getting the right balance between interference and engagement with articles 8 and 10. On the one hand is the victim's right to the protection of their identity and to their privacy, and, on the other hand, is a person's right to freely express themselves. The Human Rights Commission also proposed the consent-based offence, as did Cara Hunter, the Victims' Commissioner and so on. That is what was proposed.

Mrs Long: Doug, you mentioned that people might do it as a prank or a joke or a laugh, and I think that the consent issue covers that because you would have to have the consent of the individual to use their image in that context. There is a concern, which I think is valid and to which we need to be sensitive, and it is why this has ended up being much more complicated than it appeared at first glance. The proliferation of nudification apps, with millions of people accessing them worldwide, is now rife. The apps are advertised on social media, from TikTok to Instagram, and right through to LinkedIn and more. One of the apps on the Apple Store last year, for example, actually had "prank" in its title. People would have been thinking that that was something fun and would have been downloading it. Another was referred to as a "simulator joke app". That language is very much sowing the seeds for somebody who is downloading it to view it as a prank or a joke. There was some concern, I think, from those who responded about the capturing of young people who see apps described as "prank" and "simulator joke app" and, because those apps are being advertised widely online in that way and are available, will think that using them is funny and may not recognise how serious it is. The converse is the deep-fake porn websites and nudification apps that use the motive requirement as a get-out clause when they are held accountable and say, "It is just fun; it is a laugh; it is only a joke". There is a balance to be struck between consenting to being part of the joke — that is up to the individual and is not a criminal offence — and someone using your image without your consent to prepare images. That is a concern. We look at that separately to determine whether it is sexual. If so, we must determine how to deal with the person because there may be other sexual offences. If the image is not sexual but is about coercion or intimidation, we will deal with that as we would deal with other cases of intimidation.

It has become more complicated because we do not want to over-criminalise people who, naively, think that it is fun, but neither do we want to normalise such behaviour and make it OK to use other people's images in that way. It is a bit like downblousing and upskirting; we were concerned that people would say that it was only a prank to get a laugh and use that as a defence. We wanted to be certain that that defence could not be used because as soon as a prank is allowed to be used as a defence or protection, the person has admitted that they wanted to humiliate somebody, because that, in effect, is the joke. It is important not to allow that to happen.

Mr Beattie: Minister, it is fascinating and more complicated than people realise. In England and Wales, the Sexual Offences Act 2003 was amended, which means that if you use AI to create a sexualised image without permission, even if you request it and do not share it, you are committing a criminal offence. That is outside our competency in Northern Ireland.

Mrs Long: I believe that it is because it ties into AI distribution.

Mr Beattie: Can we adopt that? Can we bring it in?

Ms Ferguson-Coote: We are looking at that as part of the provision. We have stripped apart the definition and the offences that were brought in by England and Wales. England and Wales had dedicated offences, such as upskirting and revenge porn; they did not have downblousing, although they do now. Following a report by the Law Commission, England and Wales overhauled the dedicated offences, and they have the offence of intimate image creation, sharing, requesting creation and threatening to share. However, the definition used across the intimate image provision is standard, and that is the definition that we are taking apart. We are looking at those things as part of the Bill.

Mr Beattie: Supplying the tools to create an image is also an offence.

Ms Ferguson-Coote: That would be outside our competence.

Mrs Long: That would be outside our competence. The tools are telecoms, and that is the responsibility of the Department for Science, Innovation and Technology (DSIT) in London. We can deal only with the use of the apps, not their production. Sadly, people with the know-how can modify an app that is not designed for that purpose. I will show my age dreadfully: some of you will remember the pens with a lady in a bikini when we were children. If the pen was turned upside down, there was no bikini. It is a reflection of society that we have found more sophisticated ways of doing the same thing, but with the images of real people who have not consented.

Mr McGlone: I do not remember that.

Mrs Long: Och, Patsy.

At the time, it was seen as bawdy seaside humour, whereas now it is seen as a form of exploitation if the person has not consented to their image being used in that way. Sometimes, we are more concerned about the intent behind the image. The creation offence allows us to say that it is not normal to take someone's image without their consent, strip it bare and create a fake naked image. Even if the image is not shared, it is a degrading experience for the individual, as their image has been used in a way that they would not have consented to.

There is a wider piece about how places, such as Denmark and Germany, are considering copyrighting a person's image and identity to prevent fake images from happening for any purpose other than certain exceptions. It will be interesting to see how that sits in the European framework of human rights. You could make lots of arguments about whether that is acceptable. There have been debates about whether the images have to be lifelike or whether they can be manga cartoons that are recognisable as a particular person, if they are used for sexual purposes. That is being looked at in other places. It is a complex and fast-evolving area. We are trying to ensure that there is not any legislative loophole here in the interim. However, a more comprehensive approach to how we deal with image-based abuse more generally will have to be taken down the line in order to give wider protections to members of the public.

Mr Beattie: Thank you. That is fascinating.

Ms Sheerin: Thanks, Minister and team, for coming in. You have given a pretty good overview of how complicated the issue is. I misunderstood you, Lorraine, when you spoke about the very clear intent behind the proposal. I thought that you had taken on board the advice of Professor McGlynn and others about trying to broaden it out, but you have provided rationale as to why you would want to have that clear motivation. I am sure that we will suss it out, but the clear reason for that is the need to provide people with the means to defend themselves.

What engagement have you had with the Department of Education? You talked about the use of apps and the sharing of images. I am sure that everybody around the table has dealt with victims of such behaviour by perpetrators who did not understand that they were doing anything wrong because it was not something about which they had had conversations or discussions.

Mrs Long: We have not engaged very directly with the Department of Education to date, but we will do so as part of our preparatory work when we bring forward amendments. We will want to engage with a number of people, including our justice partners when it comes to preparatory work on the interpretation of the law and its commencement.

We will also want to spend time educating the public, particularly young people, about the apps and the fact that just because they say that they are prank apps does not mean that such behaviour is funny. We do not want to over-criminalise young people, who may be foolish and reckless and may not understand fully the consequences of their actions. We are taking a layered approach: the creation offence would be one offence, but, if there were a sexual motivation or something else, that would be additional. It is about proportionality.

We have raised the issue at the Executive, so the Minister of Education is aware of our intention in that space. If it were to be implemented, we would need to do more detailed work around public awareness-raising and so on.

Ms Ferguson-Coote: As the Minister said, we have not yet engaged with the Department of Education because it is quite early in the process, but we fully intend to. Promotion and awareness will be critical, as will be engagement with the Education Authority and the wider comms strategy. We had a particular communication strategy for the work on the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022, when upskirting, downblousing and cyberflashing came in. We did that mostly on social media, and it involved an independent promotional agency. It is critical.

Ms Sheerin: It strikes me that there is an obvious gap. If you preface the offence with there having to be a stated intention to humiliate or to use the image for sexual gratification or whatever the case may be, Professor McGlynn has outlined that she feels that that would leave you with a threshold that is very difficult to meet when it comes to proving that. However, you think that that is necessary in order that you do not criminalise people who were not trying to do any harm. If it is clear that everyone understands the harm involved, you would close that loophole, which would leave it easier to —.

Mrs Long: There are a number of places where that is probably relevant. As such legislation goes through, upskirting and downblousing get coverage. That tends to spark a wider public conversation, and even a conversation between parents and their kids, which is important. A similar thing happened when we talked about the creation of child sexual images, and the risk that children can create child sexual images whilst sending messages between themselves that can run foul of the law. I know a number of parents who have sat their kids down at 12 or 13 to say to them that if they create an image and send it to someone, and they pass that on to other people and it is found, they could be breaking the law and could be charged with creating a graphic or sexual image. Many children will not see that if they feel that they are sexting a boyfriend or somebody whom they trust. It is about trying to create more awareness of that.

That this one of the areas where good relationships and sexuality education (RSE) matters, when we talk to kids about what are becoming normalised behaviours in society, such as digital footprints, people meeting or engaging online or even dating online for a while before they meet in person. That can create risks for people's long-term digital footprint. Work will be required on that with regard to child protection, understanding the law and where young people sit within the law. It is about understanding when they are a victim but also the risk of their becoming a perpetrator if they cross over to the other side. I agree with you. We want to raise those issues through the work that we do with the Department of Health and the Department of Education to protect children from harm. It would be good to have a coordinated approach to education.

Ms Ferguson-Coote: May I highlight one other minor point? The purpose of the Bill is to close a gap in the law concerning deepfakes of adults, where a child over the minimum age of criminal responsibility creates a deepfake — it could be a pupil on a teacher, for example. However, there is existing law, whereby —.

Mrs Long: It is about deepfakes of children.

Ms Ferguson-Coote: Yes, deepfakes of children and indecent images. That existing legislation covers children creating images of other children who are under 18. It is the Protection of Children (Northern Ireland) Order 1978. It is not novel. That is comprehensive legislation. What we are doing with the Bill is to align as best we can so that we do not have protections across the ages either. Children can already be criminalised. However, I agree absolutely that we have to create a wider awareness of all that.

Mr McGlone: There is just one thing I want to ask you, Minister. As you said, there are people who are knowledgeable about these things and can adapt apps and all that sort of stuff. What enabling power can you factor into any future legislation? We are really talking about future-proofing because, as we know, AI is developing at a pace that none of us can keep up with, even those who specialise in that field. What facilitation powers can you incorporate into the Bill to mitigate that sort of stuff? We do not know what shape or form it might take, as we have seen with AI. We go through a long process of developing legislation for one thing and then, all of a sudden, we are into a new era, with new apps and software or whatever it might be. What provision can you factor in for that?

Mrs Long: It is very difficult. I had hoped, during the engagement with UKG on a number of new measures for extension to Northern Ireland as part of what was the Crime and Policing Bill, to extend to Northern Ireland the new purported intimate image-generator offence, which is now section 99 of the Crime and Policing Act 2026. That offence criminalises those who make, adapt, supply or offer to supply — so it covers adaptation — something for use as a generator of such an image. That includes, for example, easy access to nudification apps.

Kate Nicholl has said that she hopes to bring forward a provision similar to section 99 in Northern Ireland. She has suggested that when we move our amendment, she will table an amendment to deal with those apps, which would cover the same ground. The offence is very much around making and adapting and image modification. I think that we need both, because we would not have had the capacity to cover both issues, to be frank. Kate met me to talk about that, because she has been doing a lot of work on AI and apps more generally.

Having the provisions that we are bringing forward plus, potentially, that amendment on top of them, should close any gaps. Section 73 of the 2026 Act is relevant here, and I was able to extend it to Northern Ireland by way of the legislative consent of the Assembly. That applies to child sexual abuse. It criminalises those who provide the means to make the images. If you make, adapt, possess, supply or offer to supply the generator or the image, you can be held accountable. Kate said that if we were

bringing it at the Justice Bill stage, she was going to introduce it there, so I imagine that she has already done some preparatory work on it. She suggested that she would bring that across and that it would apply to nudification apps as well.

That would close, for now at least, all the gaps. It would become illegal to get an app, amend it and change it into an image generator or change what the images generated can be. Just so that you know, on indictment, it is five years' imprisonment, a fine or both, so there are reasonably stiff penalties for doing that.

Mr McGlone: I am thinking out loud. Is there a mechanism that could exist between the Government and the private sector, which is developing all this stuff — the big computer companies, such as Apple — to make sure that one is keeping pace with the other? I do not suggest that it will be for your Department. It will be for the UK Government.

Mrs Long: No, it will be for DSIT and telecoms, because it will be for them to negotiate with the providers of the apps and the companies. Ofcom also has a role. It will look at the publication of stuff online, and, if it is aware that the generating tools are being made available by those companies, it can highlight that. There are possibilities for us to do joined-up work with the Home Office and DSIT, but we are not able to legislate for whether or not they can create the apps or keep pace with that. It is really for us to say that, if anybody does that in this jurisdiction and tries to amend it to do things or make it an app to do things, they will be liable here. If they happen outside this jurisdiction and are shared on the internet, we cannot do much about that.

Ms Ferguson-Coote: We are bringing the offences within the scope of the priority offences in the Online Safety Act, which means that they are caught and the organisations and service providers have to take account of their actions and do more to bring it down. The Crime and Policing Act also reinforced the Online Safety Act, which applies across the UK, when it comes to bringing images down within 48 hours.

Mr Dawson: The need to try to future-proof this legislation as much as possible has been one of the reasons for the delay in getting the response out. We have tried to grasp this at the most optimal point. The only other thing about keeping in contact with the private sector is that I have no doubt that we will be back here with a need to update the legislation, because it might not even be the private sector that creates a new app; it might be someone in their bedroom. It moves so fast, so I have no doubt that we will be back at some point.

Ms Ferguson-Coote: There is something else that we want to do. When looking at the definition, an issue that came up is that it is not just AI-generated images. The majority of it will be, because that is what young people use, but there could be gaps in the legislation — someone could create a hard copy of something, such as a poster or post a photograph to someone. We covered that pretty much with the cyberflashing offence, where someone could set it down for someone to pick up, for example. There are other ways in which perpetrators can get out of it, so we want to future-proof it as much as possible and keep it as comprehensive as possible when it comes to addressing the harm. The harm, and the level of harm, is very important. We are working through all the various scenarios.

Mr McGlone: Thanks very much.

The Chairperson (Mr Frew): Ciara, you can put your soundtrack on now if you want. I suggest something more dramatic. Go on ahead.

Ms Ferguson: Once again, I apologise. My phone is on silent too.

Mrs Long: Was it 'Little House on the Prairie'?

The Chairperson (Mr Frew): No, it was 'Last of the Summer Wine'. *[Laughter.]*

Ms Sheerin: Was that what it was?

The Chairperson (Mr Frew): Before you start your questions, Ciara. Doug would be Blamire because he was a retired army officer, and I would be Clegg because I am the most level-headed person here. I will allow the Minister to choose whether Patsy, Brian, or Maurice is Compo. *[Laughter.]*

Mrs Long: I would have had you as Compo.

Mr McGlone: Be careful.

Mrs Long: I would have had him as Compo to be fair.

The Chairperson (Mr Frew): Go ahead, Ciara. Look at what you have started.

Ms Ferguson: No. Once again—.

Mrs Long: I thought you were going to ask me who was Nora Batty.

Ms Ferguson: I clicked on it, and there was the video. My phone is on silent. Apologies.

You have already highlighted the two areas that I was going to ask about. There is a proliferation of images, and the changes urgently need to happen. I appreciate the work you have done, and I hope that the Bill is in scope.

Mrs Long: We are doing our best.

Ms Ferguson: The education piece was key for me, particularly RSE. It is important to ensure that young people are educated about the use of AI, not necessarily just the apps. You mentioned the penalty or sentences for the proposed offences. Can you give us an understanding of the penalties? Will they be proportionate? You mentioned five years or more.

Mrs Long: That was five years, a fine or both on indictment. No. It was two years for indictment, and a summary conviction of six months.

Mr Dawson: It is worth going through the various stages. We are proposing a creation offence that will include a summary-only base offence of intentionally creating, or intentionally requesting, the creation of a sexually explicit deepfake image without consent or a reasonable belief in consent. Under the creation offence, there will also be a hybrid offence of intentionally creating or requesting the creation of a deepfake image with the intention of causing humiliation, alarm or distress, and a further hybrid offence, under creation, of intentionally creating or requesting the creation of a deepfake image for the purposes of sexual gratification. That falls under the creation offence.

Under the sharing offence, there will be four further offences. The penalty for summary-only offences will be a maximum of up to six months' imprisonment or a fine for a summary offence. There will be a maximum penalty on indictment of up to two years' imprisonment for hybrid offences.

The other safeguard is the departmental screening of all Departments' and, indeed, Members', Bills if a penalty or offence is created in order to make sure that they are proportionate and consistent with the existing legislative framework. That function sits with the Department of Justice. The Department will make sure that anything created will be within the overall framework.

Ms Ferguson-Coote: We based it on our consultation and the penalties for upskirting, downblousing and cyberflashing because that is the level at which the penalties are set in the Sexual Offences (Northern Ireland) Order. The consultation specifically covered that area, and Mr Beattie raised it when we gave evidence prior to the consultation. Mr Beattie responded to the consultation, but there was nothing in the responses that suggested any sort of lever to go outside that particular threshold.

Ms Ferguson: Thank you.

The Chairperson (Mr Frew): Everyone has asked their questions. I thank the Minister for coming to our last session before recess. It was good to have you here to discuss this very important issue. Thank you. I wish you and your officials all the best in the coming months as they try to get a form of words to the Committee as quickly as they can. Thank you.

Mrs Long: Mr Chairman, it would be remiss of me not to thank the Committee and the Committee staff. It has been an incredibly busy few months, notwithstanding all the other business, as you were

going through the Committee Stage of the Justice Bill. There will be more legislation with the Victims and Witnesses of Crime Bill. Thank you for all the work over the last year, and the collaborative way the Committee and the Department have worked together, which has been helpful and productive.

We will get as much as we can to the Committee as early as we can. I value the Committee's scrutiny of the Bill, which is why I did not want to add something at the Further Consideration Stage that would have restricted our ability to get the Committee's feedback. The Committee may have concerns that we or the Office of the Legislative Counsel have not considered. If that is the case, it is important to respond. Thank you. I hope that you all enjoy recess. You have earned it after what has been a busy few weeks, even in the Chamber. Thank you very much.

The Chairperson (Mr Frew): Thank you, Minister.