FROM THE OFFICE OF THE JUSTICE MINISTER

Department of Justice
An Roinn Dlí agus Cirt
Männystrie O tha Laa
www.justice-ni.gov.uk

Minister's Office
Castle Buildings Block C
Stormont Estate
Ballymiscaw
Belfast
BT4 3SG
[redacted]

Kathy O'Hanlon
Committee Clerk
Committee for Justice
Parliament Buildings
Stormont
Belfast BT4 3XX

02 November 2026

Our reference: JCP\26\275

Dear Kathy,

Re: CRIMINAL JUSTICE (SENTENCING ETC) BILL – FURTHER DELIBERATIONS

Thank you for your correspondence dated 23 October 2026 following the Committee's deliberations on the sentencing bill at its meeting on 22 October.

The Department's response is as follows.

Clause 1 – Purposes and principles of sentencing – televising sentencing remarks

With a view to increasing the transparency and understanding of sentencing, the Committee seeks the Department's views on an amendment to legislate for the televising of sentencing remarks, and asks whether the Minister would be content to bring forward such an amendment at Consideration Stage.

Members will recall the Department's consultation on broadcasting of courts and the next steps set out in the Report on Responses. The Minister's intention (subject to the views of an incoming Executive) is to bring forward legislation in the next mandate to enable broadcasting in circumstances to be prescribed. It is intended that the first tranche of proceedings to be broadcast under this power would include the handing down of judgments of the Court of Appeal, and the submissions of legal representatives and

exchanges between legal representatives and the Court, and sentencing remarks in the Crown Court.

Would the Minister be content to bring forward such an amendment at Consideration Stage?

The approach envisaged by the Department involves the creation of a power that would enable broadcasting more widely. While scope is a matter for the Speaker, it is considered likely that, for an amendment to be technically competent, it would have to be restricted solely to sentencing matters. This would mean that further legislation would be required in the new mandate to allow an expansion of the powers. As this would represent a piecemeal approach to enabling broadcasting of courts the Minister does not propose to bring forward such an amendment. However, should the Committee seek to bring forward an amendment that was considered by the Speaker to be within scope of the Bill, and which allowed for broadcasting more widely, the Minister would be happy to consider it.

Part 5 – Failure to disclose information about a victim's remains

The Committee seeks the Department's views on increasing the additional custodial period percentage in Clause 24(5) and increasing the proposed percentage reduction to sentence in Clause 29(3).

The Department considers that the figure set out in clause 24(5) represents a careful balance designed to provide a significant incentive to making a disclosure, while at the same time allowing the Court to impose a sentence that reflects the failure to disclose but also is proportionate to the overall offence. It is critical that the provision specifies that the Court must increase the sentence or tariff by a minimum of 30%. This allows the Court the flexibility to reflect on a range of circumstances, using its discretion as is appropriate in each case, to increase the sentence by 30% or more.

The provisions have been developed as a result of campaigning by the Murray and Dorrian families, and their circumstances have been our focus. The proposal for an increase in sentence and possible sentence reduction have been driven by the awful

experiences of the two families, and their despair at not knowing what happened to their loved ones or having remains to lay to rest.

When developing these proposals consideration also had to be given to the very different circumstances which might arise. For example, there may be circumstances where the victim had no family grieving for them and suffering the pain of not knowing what happened. It is considered important to set a minimum increase which will be proportionate for cases at the lower end of this spectrum, and allow the Court the discretion then to reflect properly on the individual facts of each case, imposing a higher increase where appropriate.

As regards the reduction in sentence at clause 29(3), the figure of 50% of the additional period was chosen to ensure a strong incentive make a pre-sentence disclosure. In cases which have not yet come before the Courts it is important that the reduction is not such a large proportion of the additional period as to encourage the offender to take their chances by waiting until they have been sentenced before making a decision to make a disclosure (if that is their intention). It is the Department's view that this is the prime consideration in choosing the level of reduction.

Clause 33 – Aggravation by hostility

Department's views inclusion of misogyny as a standalone aggravator.

The Committee seeks the Department's views on an amendment to legislate for the inclusion of misogyny as a standalone aggravator, and asks if the Minister would be content to bring forward such an amendment at Consideration Stage.

The Department acknowledges the misogynistic abuse of women and girls is a serious societal problem and shares the deep concern about the high levels of gender-based violence and abuse in NI. We recognise the need across all Departments to do all we can to support victims of domestic and sexual abuse and misogynistic behaviour.

The Department also recognises that there is a broad level of stakeholder and political support for the introduction of a standalone misogyny aggravator in the Criminal Justice

(Sentencing etc.) Bill. The aggravator has the potential to act as a mechanism to increase protection for women and girls generally.

The Department used its Phase One Consultation and Call for Views on Hate Crime Legislation to seek views on the merits of including misogyny protections within hate crime law as an alternative proposal to including sex/gender as a protected characteristic. Findings from this limited consideration were inconclusive. These responses were collected as part of a Call for Views on the understanding that any views will be considered in the development of the Phase Two hate crime policy proposals and consultation. Policy development and analysis of evidence on sex/ gender/misogyny related offending is ongoing.

The Department acknowledges the valuable evidence base and findings from analysis undertaken in other jurisdictions, particularly the work undertaken by the Scottish Government and findings from Baroness Kennedy's Working Group on Misogyny, published in 2022. (Appendix A outlines some of the key findings from the Working Group's report and a link to the draft provisions consulted on).

The Department would, however, caution against the automatic replication of misogyny provisions from other jurisdictions – such as those currently being progressed by the Scottish Government. The Scottish Government undertook a public consultation on proposals for inclusion in legislative provisions, following the findings of the Working Group. Following the consultation in 2023, the Scottish government intended to progress the introduction of legislation to tackle misogynistic offending. This did not take place within the last Scottish Parliamentary mandate but is now planned for year one of the new Scottish Governments legislative timetable. The proposed Misogyny (Criminal Law) (Scotland) Bill contains four new separate offences alongside a misogyny aggravation[1], recognising misogyny as a distinct form of prejudice and abuse. The aggravator would

[1] Baroness Kennedy's report made four specific recommendations for reform of the criminal law. However, the Scottish government's consultation proposed five new criminal laws to respond to these recommendations. The four offences in the Misogyny (Criminal Law) (Scotland) Bill are: misogynistic harassment: misogynistic behaviour; threatening or abusive communications to women or girls that reference rape, sexual assault or disfigurement; and, stirring up hatred against women and girls. The Bill also includes a statutory misogyny aggravation.

only be available for offences which are not misogynistic by definition, i.e. offences which are not inherently grounded in misogyny. The new aggravation would be available for all other crime like assault, criminal damage and offences such as threatening behaviour.

The Department is not opposed to the introduction of a misogyny aggravator but has a number of observations on its inclusion in the Criminal Justice (Sentencing etc.) Bill at this stage of the policy development process. The is based on a number of factors:

- Proposals have not been subject to public consultation, which is scheduled for the next mandate and will inform this work going forward.
- Policy development and analysis of evidence on sex/ gender/misogyny related offences is incomplete. The Department would argue that further preparatory / investigative work is required to adequately assess the nature of misogyny related provisions needed within the Northern Ireland legislative framework.

In particular a number of core issues need careful consideration:

- **Range of offences required** – is a standalone misogyny aggravator the most effective mechanism to address the nature of misogynistic harassment, and abuse?
- **Definition** – does a definition of misogyny need to be agreed to reflect the scope of misogyny offences included in provisions?
- **Threshold** - what threshold should be applied to misogyny related offences? Scotland's proposed provisions use malice / ill will (similar to that applied in their hate crime provisions).
- **Interaction of Misogyny Aggravator provisions with the wider legislative, policy and operational frameworks for gender-based violence** – engagement and consultation with DoJ branches, TEO (responsible for leading on the Executive EVAWG strategy) and criminal justice partners would be necessary to explore the impact of the introduction of a misogyny aggravator and ensure the smooth implementation and operation of any new provision.

Would the Minister be content to bring forward such an amendment at Consideration Stage?

The Minister recognises the importance of protections from misogyny-related offending and is not opposed to the introduction of a stand-alone aggravator in principle. At this stage, however, the Minister would advocate that the introduction of a standalone misogyny aggravator requires further scrutiny and a full policy assessment, which should be informed by public consultation.

However, the Minister also is willing to work with the Committee in its consideration of the Bill including any proposals on misogyny-related offending.

Work undertaken or any draft Clauses prepared by the Department on the inclusion of transgender identity as a protected characteristic

The Committee asks if the Department could share the work undertaken or any draft clauses prepared on the inclusion of transgender as a protected characteristic. We note that the Committee also agreed to write separately to the Rainbow Project on this matter.

The Department has highlighted the clear evidence base demonstrating the need that transgender persons require protection in law. This has been drawn from the findings from Judge Marrinan's public consultation and 10 years' worth of evidence from PSNI showing transgender people are victims of hate crime.

In addition to protection for transgender people who are victims of hate crime, these provisions would deliver a range of benefits in terms of increased public safety; provide parity of protection against hate crimes across LBGTQI+ communities; and, address the current gap in equality for protection of LBGTQI+ victims in the criminal justice system across these islands.

Policy development on proposals for the inclusion of transgender protections is well progressed. Work on refining a definition of transgender identity for inclusion in legislation is ongoing.

Department of Justice
An Roinn Dlí agus Cirt
Männystrie O tha Laa
www.justice-ni.gov.uk

Draft provisions for the Criminal Justice (Sentencing etc.) Bill prepared for consideration by the Executive in January 2026 included provisions for the protection for victims of transgender hate crime and a definition of transgender identity. The lack of consensus within the Executive to support transgender protections resulted in the subsequent removal of transgender identity as a protected group from the hostility aggravator provisions.

Definition of transgender identity

There is no set definition in legislation of what transgender identity means. The Department has been considering options for a definition of transgender identity. The definition included in the draft provisions for the Criminal Justice (Sentencing etc.) Bill for consideration by the Executive in January 2026 was:

> *"transgender identity group" means a group of persons defined by reference to being—*
> *(a) a female-to-male transgender person,*
> *(b) a male-to-female transgender person,*
> *(c) a non-binary person,*
> *(d) a person who cross-dresses,*
> *(e) a person undergoing or proposing to undergo a process or part of a process of gender reassignment. (Definition 1).*

This definition above is an amalgamation of the definition of transgender identity in the Hate Crime and Public Order (Scotland) Act 2021 (sections (a) to (d)) and the Sentencing Act 2020 (section (e)), which provides the basis for enhanced sentencing for hate crime in England and Wales.

The Department subsequently sought guidance from DSO, drawing on a number of potential definitions. Having considered that legal advice, the Department is mindful of the need to ensure that any definition adopted is neither unduly narrow nor unclear, overly prescriptive or unnecessarily complex. In particular, such an approach could risk unintended adverse consequences for the victims of crime whom the provision is

intended to protect and, potentially, for the effective operation of the statutory aggravator in practice.

Against that background, the Department's current view is that the definition below strikes an appropriate balance between providing sufficient breadth and making specific reference to the process of gender reassignment. The Department is therefore content for this definition to be included going forward, subject to any further consideration that may be required:

"'transgender identity group' includes a person who is undergoing, proposing to undergo or having undergone a process or part of a process of gender reassignment, transsexual and non-binary persons."

Part 6 – Particular persons or groups

How 'assault' is defined in relation to Clause 37.

The commonly understood meaning of assault will apply in clause 37. An assault occurs where a person perceives that they are going to be attacked. It does not have to involve an actual physical attack.

Why Clause 38 only applies to specified offences and how other offences such as, for example, prolonged harassment or stalking directly as a result of someone's work, will be captured.

The aggravation provided for in clause 38 only applies where the offence is committed against a public worker who is acting in the exercise of functions as such a worker. It is intended to recognise harm done to people while they are carrying out their jobs.

The offences specified in clause 38 reflect those specified in section 67 of the Sentencing Act 2020 for the purposes of assaults on emergency workers. The offences can be characterised as ones which have an immediate physical impact on the victim, or create a fear of death, and would be likely to immediately stop them from continuing in their role. The examples of harassment or stalking represent patterns of behaviour, arguably without the same immediate physical impact on the victim. Where any offence which is

not listed in clause 38 is committed, if the occupation of the victim is a relevant factor, this will be reflected in the sentence imposed.

What legislation or powers currently exist which allow a retail outlet to prevent entry to its premises.

Retail premises are private property. Under the common law relating to possession and trespass, a retailer may generally refuse an individual permission to enter its premises or it may withdraw permission previously given. This enables a retailer, for example, to prohibit an individual whose previous conduct has caused concern from entering the store. The exercise of that right is subject to relevant legal restrictions, including Northern Ireland legislation prohibiting discrimination in the provision of goods, facilities and services. A breach of such a prohibition on entry would not, of itself, necessarily constitute a criminal offence, although other criminal offences may arise depending on the person's conduct.

Where the statutory conditions concerning anti-social behaviour are met, the PSNI may apply to a magistrates' court for an Anti-Social Behaviour Order under the Anti-social Behaviour (Northern Ireland) Order 2004. Such an order may prohibit an individual from entering specified places, with breach of the order constituting a criminal offence.

The Belfast Crime Reduction Partnership (BCRP) was launched in April 2026, building on the previous Retail Crimewatch Scheme, which was operated by retailers in partnership with Belfast City Centre Management and the PSNI.

The BCRP aims to reduce crime and antisocial behaviour targeting city centre businesses. It enables real-time information sharing, collective identification of repeat offenders (post-conviction) and coordinated enforcement action.

A core feature of the initiative is the introduction of the Alert by Shopsafe platform – a 24/7 reporting and intelligence-sharing tool available free to city centre businesses which allows businesses to report incidents quickly and securely, receive alerts on crime trends and stay informed about potential disruptions such as protests or parades.

Duty to monitor and report

The Committee seeks the Department's views on an amendment to place a duty on the Department to monitor and report on the categories of offences and aggravators contained within Part 6, to ensure its efficacy and operation, and whether the Minister would be content to bring forward such an amendment at Consideration Stage?

In relation to aggravation by hostility and aggravation by vulnerability, the Bill as drafted is designed to ensure that information about offences aggravated on these grounds is recorded in such a way that data can be collated. These requirements ensure that the application of the aggravators will be captured, and this information can be interrogated to ascertain their effect, as required.

It is the Department's intention as part of implementation work, to put mechanisms in place to allow the recording of offences against the main groups of public workers. Being able to monitor the offences in these ways will be helpful in terms of identifying the prevalence of offending against these workers.

Would the Minister be content to bring forward such an amendment at Consideration Stage?

The Minister is not persuaded of the purpose of or need for a duty to monitor and report on these provisions and does not intend to introduce an amendment to place such a duty on the Department, as part of the purpose of the proposals is to assist with such monitoring.

Part 7 – Road Traffic Offences

The Committee seeks the Department's views on whether the maximum tariff at Clause 41 should be increased to a life sentence, rather than 20 years and its views on the provision of minimum tariffs for serious road traffic offences.

Based on the experience of the previous uplift when the maximum penalty for these offences rose from 10 to 14 years, the Department remains of the view that increasing the maximum determinate sentence will result in the imposition of longer custodial

Department of Justice
An Roinn Dlí agus Cirt
Männystrie O tha Laa
www.justice-ni.gov.uk

periods. The same result could not be assumed to flow from the introduction of a life sentence, where the tariff imposed by the judge would not necessarily be increased over the current length of sentence.

However, in light of the evidence Peter Dolan gave to the Committee, we do understand the strength of support for an increase to a life sentence, and the Minister would therefore not oppose such a change if a workable amendment is tabled by the Committee.

The Department would, however, urge extreme caution before considering the introduction of a minimum tariff: this is something that the Department considers carries significant risk of unintended consequences and a high risk of challenge. It is only the judge hearing the individual details of each unique case who should decide what the appropriate sentence ought to be. Such an amendment, which significantly impacts judicial discretion also carries a high risk of challenge, particularly when it has not been subjected to full policy development and public consultation. The Minister would, for these reasons, strongly oppose any such amendment.

I trust the Committee finds this information helpful.

Yours sincerely,

[redacted]

Department of Justice
An Roinn Dlí agus Cirt
Männystrie O tha Laa
www.justice-ni.gov.uk

Appendix A
Working Group on Misogyny and Criminal Justice

- The Working Group on Misogyny and Criminal Justice led by Baroness Kennedy examined a large body of oral and written evidence and reviewed extensive research into women's experience of misogynistic conduct. **The research findings concluded a misogyny aggravator should be created outside hate crime**.

- The Working Group argued that **Misogyny is prejudice, malice and/or contempt for women, going beyond a simple hatred to encompass attitudes and behaviours that relegate women to a subordinate position and maintain the power imbalance which characterises male/female relations.**

- **The Working Group was very clear that the new Misogyny Aggravation should only be available for offences which are not misogynistic by definition**, i.e. offences which are not inherently grounded in misogyny. The new Aggravation should be available for all other crime like **assault, criminal damage and offences such as threatening behaviour.**

- The Aggravation should not apply to rape, other sexual offences or domestic abuse which are offences by their nature imbued with misogyny. T**he Scottish group argued that sexual offences needed separate treatment and laws which recognise their gendered and misogynistic nature. It would be invidious if one rape case drew down the Aggravation and another did not.**

Misogyny Aggravator Provisions

The 2023 Public Consultation on the Bill outlined provisions for a Misogyny Aggravator (p.39) Reforming the criminal law to address misogyny

Misogyny (Criminal Law) (Scotland) Bill.

- The Scottish Government previously shelved a standalone misogyny bill in May 2025 due to legal and parliamentary constraints, proposing instead to amend the Hate Crime and Public Order (Scotland) Act 2021 to include sex as a protected characteristic.

- New legislation to tackle misogyny in Scotland will be brought forward in the 2026-2031 parliament and will recognise misogyny as a distinct form of prejudice and abuse and includes the following offences: Misogynistic Harassment; Misogynistic Behaviour; Threatening or Abusive Communications to women or girls; and, Stirring up Hatred against women and girls.

Provisions for a Statutory Misogyny Aggravator would be used where an offence had a misogynistic motive or a person demonstrated misogyny whilst committing a crime. The statutory aggravation would ensure that this motive is recorded and taken into account when sentencing.

Northern Ireland Assembly
Committee for Justice

[redacted]
DALO
Department of Justice
Castle Buildings
Stormont Estate
Belfast
BT4 3SQ

23 October 2026

Dear [redacted]

Criminal Justice (Sentencing etc) Bill – Committee Deliberations

At its meeting on 22 October 2026, the Committee for Justice continued deliberations on the Criminal Justice (Sentencing etc) Bill. The Committee agreed to write to the Department on several matters discussed during the deliberations, as outlined below.

Clause 1 – Purposes and principles of sentencing – adults

The Committee heard from several respondents about the need to increase the transparency and understanding of sentencing, and Members agreed to explore an amendment to legislate for the televising of sentencing remarks. The Committee agreed to request the Department's views on this and to ask if the Minister of Justice would be content to bring forward such an amendment at Consideration Stage.

Part 5 – Failure to disclose information about a victim's remains

After hearing evidence from the Murray and Dorrian families, the Committee agreed to ask the Department for its views on increasing the additional

Room 345, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX
Telephone: (028) 905 21033

E-mail: committee.justice@niassembly.gov.uk

custodial period percentage in Clause 24 (5) and increasing the proposed percentage reduction to sentence in Clause 29 (3).

Clause 33 – Aggravation by hostility

The Committee explored the list of aggravators contained within the Clause and agreed to consider the inclusion of misogyny as a standalone aggravator. The Committee agreed to seek the Department's views on this and to ask if the Minister would be content to bring forward such an amendment at Consideration Stage.

The Committee also explored the inclusion of transgender identity as a protected characteristic in the list at 33 (1). Members are aware that the Department had intended to include transgender in the Bill at an earlier stage and agreed to ask if the Department could share the work undertaken or any draft Clauses prepared at that time with the Committee. The Committee also agreed to write separately to the Rainbow Project on this matter.

Part 6 – Particular persons or groups

The Committee agreed to seek information on a range of matters at Part 6 of the Bill:

- How 'assault' is defined in relation to Clause 37.
- Why Clause 38 only applies to specified offences and how other offences such as, for example, prolonged harassment or stalking directly as a result of someone's work, will be captured.
- What legislation or powers currently exist which allow a retail outlet to prevent entry to its premises.

The Committee also discussed how to ensure the efficacy and operation of Part 6 of the Bill and agreed to explore an amendment to place a duty on the Department to monitor and report on the categories of offences and aggravators contained within this Part. The Committee agreed to seek the views of the Department on this and to ask if the Minister would be content to bring forward such an amendment at Consideration Stage.

Part 7 – Road Traffic Offences

The Committee agreed to ask the Department for its views on whether the maximum tariff at Clause 41 should be increased to a life sentence, rather than 20 years.

Members also noted their concern that, while the current maximum sentence is 14 years, the sentences imposed tend to be towards the lower end of the scale and questioned whether the increase in the maximum sentence will therefore have a significant impact on sentencing. The Committee agreed to consider amendments to provide for minimum tariffs for serious road traffic offences and agreed to seek the Department's views on this.

In order to enable the Committee to reach its final position on these matters within the limited time remaining, I would appreciate a response, including an indication of whether the Minister intends to proceed with any of the amendments requested by the Committee, by 30 October 2026.

Yours sincerely



Kathy O'Hanlon
Clerk to the Committee for Justice

Room 345, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX
Telephone: (028) 905 21033

E-mail: committee.justice@niassembly.gov.uk