FROM THE OFFICE OF THE JUSTICE MINISTER

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Kathy O'Hanlon
Clerk to the Committee for Justice
Room 345
Parliament Buildings
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Stormont
Belfast BT4 3XX

4 November 2026

Dear Kathy,

CRIMINAL JUSTICE (SENTENCING ETC BILL) – COMMITTEE DELIBERATIONS

Thank you for your email dated 20 October 2026 regarding the Committee for Justice continued deliberations on the Criminal Justice (Sentencing etc) Bill.

The Department's response to the questions raised is as follows.

Clause 1- purposes and principles of sentencing

The Department is grateful to the Committee for sharing Professor Kevin Brown's additional submission regarding clause 1(4). Having given the points he makes detailed consideration, the Minister's view is that it would be preferable to omit clause 1(4) rather than to amend it by adding further text which could potentially give way to further interpretation. The Minister would prefer the naturally understood meaning of the terms utilised within clause 1 to apply without being overly prescriptive, and is content to bring forward such an amendment at Consideration Stage.

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Clause 18 - duty to give reasons when determining a tariff

Clause 18 creates a new duty to ensure that Court, when determining a life sentence tariff, states in open court, in ordinary language, its reasons for deciding on the order; and to explain to the offender in ordinary language the effect of the order.

The Minister does not consider it appropriate or necessary to impose a duty on the Court to also explain the effect of a life sentence order to victims and potentially to witnesses.

When a life sentence order is imposed it is common practice for the Court to explain the order at the sentencing hearing. By way of illustration, in his sentencing remarks in Natalie McNally's case, Kinney J said:

> "The term I am about to impose is the minimum term that you must serve in custody before you can be considered for release by the Parole Commissioners. It will be for the Parole Commissioners to consider whether it is safe and appropriate to release you. Otherwise, you will remain in custody. If you are released from custody, you will remain subject to the life sentence already imposed upon you for the remainder of your life which means that if necessary you can be returned to custody at any time.
>
> Balancing all factors together, I am satisfied that the tariff I must impose in this case is one of 31 years."

Using this case as an example, we cannot envisage how the Court would explain the effect of a life sentence to a victim or witness in any different terms to how it would explain the effect to the offender, and accordingly we consider there is nothing to be gained, in terms of understanding, from the Court repeating what has just been said.

Creating a duty for the court to explain to victims the effect of a life sentence order would add a further step to what is already a lengthy and complex sentencing hearing. This would need to be discussed with the Lady Chief Justice's Office and would involve understanding issues relating to the purpose and effectiveness of such a requirement such as:

- If there was a duty to explain the effect of the order to the victim, then there would have to be a definition of who the 'victim' is. This may not be immediately clear.
- If the 'victims' were not in court would there then be a duty to provide a written explanation? Questions about how the information would be shared would need to be considered, including obtaining victim contact details. Victim confidentiality issues would have to be considered.
- Extending the duty to witnesses would be more onerous as the same issues as those above would have to be considered. In a case with numerous witnesses, would the court have to contact each one individually?

The Department would be keen to understand the Committee's intent with respect to the above, as any legislative change in this space is not necessarily as simple as it may seem.

Non-legislative solutions may be more effective. As the Committee is aware, work is ongoing to provide copies of sentencing remarks to victims. The Department considers this work, together with the support provided to victims through Victim Support and other mechanisms will address victims' needs, and does not require legislation. We would again draw the Committee's attention to the Victim Charter for NI under which victims already have the right to be informed of the verdict and the sentence handed down by the court.

The Department is aware that victims may not understand the nature of a life sentence generally. Whether the problem is a general lack of awareness or confusion over a particular sentence, the Department considers such issues should be addressed through advice from Victim Support etc. who have expertise in dealing with victims and understanding their needs, and provide this function as one of their core roles. Administrative solutions such as the provision and, where necessary, the updating of existing publicly accessible information about the types of sentence that can be imposed will also be helpful.

Compelling an offender to attend court for sentencing

When seeking Executive approval to draft the Sentencing Bill, the Minister undertook that no new additions to the Bill would be brought unless there was an identified pressing urgent need.

We are not satisfied that a pressing urgent need has been identified for a provision requiring the offender to attend court for sentencing and to be subject to sanction if they fail to attend or are disruptive during sentencing.

Measures of this nature would represent new policy, the careful consideration of which would be essential. It is the Department's view that it would be important to devote resource to policy development and to consult formally on any such proposals if the need was established, and that there is not sufficient time to complete such work during this mandate. It is perhaps of note that the legislation introduced in England and Wales under the Victims and Courts Act 2026 has not yet been commenced.

Accordingly, the Minister does not intend to bring forward an amendment, however, she would not necessarily oppose such an amendment and would be content to consider any amendment the Committee may seek to bring in this regard.

Clause 19 - mandatory life sentences for adults: further provision

The Committee seeks the Department's views on an amendment to include the presence of a child at the time of a murder as an aggravating factor at paragraph 5(1) of the new Schedule A1 at Schedule 3, and whether the Minister would be content to bring forward such an amendment.

Paragraph 5(1) lists a number of aggravating factors additional to those which will help the court determine the appropriate starting point for a murder tariff. It is not an exhaustive list but replicates a number of significant aggravating factors currently identified in case law. While the Minister does not consider such an amendment to be essential, she does nonetheless appreciate the important message such an inclusion would send out.

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Accordingly, the Minister would be content to consider any amendment the Committee may seek to bring in this regard.

Clause 21 - review of sentencing

The Committee seeks the Department's views on a proposal to amend Clause 21 to include a duty to inform victims of their right to request a review under the unduly lenient sentencing provisions. We note that the Committee has also written separately to the Public Prosecution Service to request its views on this matter.

While there are existing mechanisms and resources in place to ensure victims have all the information they need, including understanding their options in the event that they consider an unduly lenient sentence has been imposed, we appreciate that PPS will have a helpful insight.

The Department has had a preliminary discussion with PPS and there are a number of concerns around a requirement of this nature. These include questions around:

i. who would be under the duty to advise the victim;
ii. when would the duty arise;
iii. would it be a duty in every Crown Court case;
iv. using a trauma-informed approach, how would such a duty balance the intention behind this suggestion with the real likelihood of raising expectations. Given the high legal threshold, the numbers of requests considered by the DPP far outstrip the number of referrals that are taken forward.

In light of the above the Department is not convinced there is a need for a statutory duty or a clear understanding of how such a duty would operate, and would instead recommend that any issues in this regard could be considered outside of legislation. The Department would defer to PPS on this matter.

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Clause 29 – reduction to sentence

The Committee seeks clarification around the level of sentence reduction available when a post-sentence disclosure is made under the formula included at clause 29 (Charlotte's Law).

A reduction of 50% of the additional period imposed at the point of sentence is available immediately the sentence is imposed in every case. Thereafter the available reduction reduces in direct proportion to the period which is left to serve in custody. If it can be assumed that the amount of the additional period reduces proportionately to the whole custodial sentence as time goes by, then the available reduction will always be 50% of whatever proportion of the additional period remains to be served at any point.

The wording at clause 29(3) refers to the maximum possible value of the reduction by reference to the full additional period imposed by the court. The available reduction will be 50% of this value at the very start of the sentence, but will reduce relative to this value as time goes by.

I trust the Committee finds this information helpful.

Yours sincerely,

[redacted]

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20 October 2026

Dear [redacted]

Criminal Justice (Sentencing etc) Bill – Committee Deliberations

At its meeting on 20 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

Members considered an additional submission from Professor Kevin Brown regarding Clause 1(4) and proportionate sentencing, which includes the text of a draft clause that would include 'harm' and 'culpability' at Clause 1(4). A copy of Professor Brown's submission is attached. The Committee agreed to request the Department's views on the draft amendment and to ask if the Minister of Justice would be content to bring forward such an amendment at Consideration Stage.

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The Committee also noted Professor Brown's position that it may be better not to have a statutory definition of 'proportionality' included in the Bill than one which, in his view, is unsatisfactory. The Committee agreed to seek the Department's view on the proposal to remove Clause 1(4) from the Bill, should an amendment to include 'harm' and 'culpability' not be acceptable to the Minister.

Clause 18 – Duty to give reasons when determining a tariff

Members agreed to ask if the Minister would be content to bring forward an amendment to insert new article 3A(c) to provide that the court must explain to victims, in ordinary language, the effect of a life sentence order. Members also asked about the implications of this being extended to also include witnesses.

The Committee also agreed to explore an amendment to compel an offender to attend court for sentencing, and to be subject to sanction if they fail to attend or are disruptive during sentencing proceedings. 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.

Clause 19 – Mandatory life sentences for adults: further provision

The Committee agreed to seek the Department's views on an amendment to include the presence of a child at the time of a murder as an aggravating factor at paragraph 5(1) of the new Schedule A1 at Schedule 3, and to ask if the Minister would be content to bring forward such an amendment at Consideration Stage.

Clause 21 – Review of Sentencing

Members discussed a proposal to amend Clause 21 to include a statutory duty to inform victims of their right to request a review under the unduly lenient sentencing provisions. The Committee agreed to ask the Department for its views on an amendment to impose such a duty. The Committee has also

written separately to the Public Prosecution Service to request its views on this matter.

Clause 29 – Reduction to Sentence

With regard to the calculation of the reduction in sentence if a relevant disclosure is made and accepted, the Committee agreed to seek clarification as to whether the inclusion of (AP/2) in the formula at subsection (5) automatically applies a reduction of 50% in every case, and how that sits with the provision at subsection (3) that the reduction "may be *up to* 50 per cent of the additional custodial period."

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 29 October 2026.

Yours sincerely

[redacted]

Kathy O'Hanlon
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