29 September 2026

Mr Paul Frew MLA
Chair of the Committee for Justice
Northern Ireland Assembly

Via email: committee.justice@niassembly.gov.uk;
paul.frew@mla.niassembly.gov.uk

Criminal Justice (Sentencing, etc.) Bill - Committee Evidence Session

Dear Paul,

I am writing further to the correspondence issued by the Committee Clerk on 28 September 2026 regarding matters arising from the Committee's consideration of the Criminal Justice (Sentencing etc.) Bill. I also wish to provide clarification on one aspect of my oral evidence relating to the hostility aggravator provisions contained within the Bill.

In relation to the Committee's request for information concerning trends in hate crime and levels of under-reporting, I note that the Independent Review of Hate Crime Legislation in Northern Ireland, led by Judge Desmond Marrinan, identified under-reporting as a significant challenge and highlighted the need to improve confidence in reporting and the collection of data relating to hate crime. I understand that Victim Support NI may provide further information from its own operational experience and service delivery perspective.

During our exchange, a question was raised as to whether the use of the word "immediately" within the demonstration limb of the aggravation test may be unduly restrictive and potentially exclude some cases where evidence of hostility exists. In responding, I indicated that there may be merit in considering whether the wording should be amended or clarified.

Following the evidence session, I discussed this issue with Professor Kevin Brown of Queen's University Belfast, who has particular expertise in criminal law and hate crime legislation. Professor Brown highlighted that the existing legal framework contains two alternative routes by which the aggravation can be established: where hostility is demonstrated at, or immediately before or after, the commission of the offence; or where the offence is motivated, wholly or partly, by hostility towards a protected characteristic.

Professor Brown's view was that the reference to "immediately" performs an important function within the demonstration limb by maintaining the temporal and contextual connection between the hostile conduct and the offence itself. He also highlighted that evidence such as previous social media activity, where relevant and attributable to the offender, may be capable of supporting the separate motivation limb of the test. Professor Brown further noted that this distinction is reflected in wider hate crime jurisprudence and commentary. As such, concerns about evidencing hostility in those circumstances do not necessarily require the demonstration limb to be broadened.

Having reflected on that advice, I consider that it is important to draw the Committee's attention to it. While my overriding interest remains in ensuring that the legislation operates effectively

for victims, I would not wish to support any amendment that could inadvertently create legal uncertainty or undermine the stability of the provision.

I therefore wished to clarify my earlier comments and place on record that there is an important distinction between concerns regarding proof of motivation and the purpose served by the existing wording of the demonstration test.

I hope that this clarification is of assistance to the Committee in its consideration of the Bill. Should you wish to discuss further, please let me know.

Yours sincerely,

Geraldine Hanna
Commissioner Designate for Victims of Crime

Block 1 | Knockview Buildings | Belfast | BT4 3SJ
Tel: 028 9052 6607
Email: office@cvocni.org

Northern Ireland Assembly
Committee for Justice

Janice Bunting,
Victim Support NI
Geraldine Hanna,
Commissioner for Victims of Crime (Designate)
Via email

28 September 2026

Dear Janice and Geraldine,

Oral evidence on the Criminal Justice (Sentencing etc) Bill – follow up

On behalf of the Committee for Justice, I wish to thank you for attending the meeting on 22 September 2026 to give oral evidence on behalf of your organisations on the Criminal Justice (Sentencing etc) Bill.

During the meeting, you agreed to provide the Committee with a number of points of further information, including:

- Information on evaluations conducted in relation to post-court support for victims of crime; and
- Data or information in relation to trends in hate crime, including levels of non-reporting of such crimes.

The Committee would be content to receive joint or separate responses on these matters.

The Committee also requested your views on whether Schedule 2 makes any provision for a custodial sentence if suspended sentence orders are breached. A response on this matter has already been received from the Commissioner

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

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

Designate, and the Committee would welcome any comments that Victim Support may also wish to make.

I would be grateful if the Committee might receive a response by 9 October 2026.

Yours sincerely

[redacted]

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