



Commissioner for Older People
for Northern Ireland

05 October 2026

Kathy O'Hanlon,
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By email: committee.justice@niassembly.gov.uk

Dear Kathy,

Re: Criminal Justice (Sentencing etc) Bill – oral evidence

Thank you for your letter of 29 September. I was pleased to note that the Committee for Justice has requested further information after our oral evidence session, particularly on age-based hostility in Scotland. As set out in my written and oral evidence submissions,¹ my office considers Scotland to be a particularly relevant comparator to Northern Ireland in relation to hate crime law because of our similar constitutional, cultural and socio-economic contexts. Thus, I welcome the opportunity to provide additional context and clarity on the issues raised and hope that the below information will assist the Committee in their consideration of adding age to Clause 33 of the Criminal Justice (Sentencing etc) Bill.

In 2017, Lord Bracadale independently reviewed Scotland's hate crime legislation. He concluded that there is "sufficient evidence of hostility-based offences against the elderly" to warrant the inclusion of age as a protected characteristic.² In April 2024, Scotland's Hate Crime and Public Order (Scotland) Act 2021 was implemented and age as a protected characteristic came into force.³ Section 1 of the Order states:

*"(1) An offence is aggravated by **prejudice** if –*

(a) where there is a specific victim of the offence-

- (i) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates **malice and ill-will** towards the victim, and*
- (ii) the **malice and ill-will** is based on the victim's membership or presumed membership of a group defined by reference to a characteristic mentioned in subsection (2), or*

*(b) whether or not there is a specific victim of the offence, the offence is motivated (wholly or partly) by **malice and ill-will** towards a group of persons based on the group being defined by reference to a characteristic mentioned in subsection (2).*

¹ COPNI (2026) '[Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice \(Sentencing etc\) Bill from the Commissioner for Older People for Northern Ireland \(COPNI\)](#)'.

² Lord Bracadale (2018) '[Independent Review of Hate Crime Legislation in Scotland](#)'.

³ [Hate Crime and Public Order \(Scotland\) Act 2021](#).

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(2) *The characteristics are:*

- (a) *age,*
- (b) *disability,*
- (c) *race, colour, nationality (including citizenship), or ethnic or national origins,*
- (d) *religion or, in the case of a social or cultural group, perceived religious affiliation,*
- (e) *sexual orientation,*
- (f) *transgender identity,*
- (g) *variations in sex characteristics.”*

Chair Mr Paul Frew MLA asked us at our oral evidence session whether vulnerability was an aggravating factor in Scotland’s hate crime law. The above confirms it is not.

In Judge Marrinan’s independent review of hate crime legislation in Northern Ireland, Recommendation 5 states: “While I am content to retain the notion of “hostility”, I am satisfied that the introduction of a wider range of attitudes such as “bias, prejudice, bigotry and contempt” may well prove beneficial, particularly as there is no standard legal definition of “hostility”.”⁴

Clause 33(4) of the Criminal Justice (Sentencing etc) Bill provides useful definitions of terms contained within the Bill. However, it is worth noting that there is no definition offered for ‘hostility’. As raised at the oral evidence session, COPNI feels consideration should be given to the definition of hostility to ensure Clause 33 of the Bill is interpreted in a manner capable of achieving the goals of government to tackle offences aggravated by hostility. We would welcome clarity on the meaning of ‘hostility’ in accordance with this Bill. In particular, whether the definition of hostility is to include a range of issues such as prejudice, malice and ill-will.

Chair Mr Paul Frew MLA also questioned whether Northern Ireland’s legislation, as currently drafted, is “more advanced” than other jurisdictions in that it includes aggravation by reason of the victim’s vulnerability. As per my written and oral submissions, I welcome the vulnerability aggravator at Clause 36 of the Bill and the fact that it will address crimes against some vulnerable older people. However, my submissions also note that a reliance solely on the vulnerability aggravator is insufficient. First, it implies that all offences committed against older people are due to a vulnerability. Second, the vulnerability aggravator requires proof that the victim was vulnerable and that the offender knew, or ought to have known of that vulnerability. As such, not all older victims will fall within its scope. Third, reliance on the vulnerability aggravator leaves unaddressed the wrongness of targeting an older person due to their age or demonstrating hostility towards them due to their age. To the Committee, my team noted that we consider targeting a group due to an actual or perceived weakness or vulnerability is a form of contempt or hatred for that group. For instance, an individual who commits an offence against an older person “wholly or partly” because they consider that person to be an ‘easy target’ on the basis of their age is evidence of an attitude of hostility based on active disdain for members of that group. Likewise, vulnerability and hostility can both be present in the one offence. Take, for example, a care worker who assaults a resident of a care home and, while doing so, demonstrates hostility through the use of ageist verbal abuse. The law should be

⁴ Judge Marrinan (2020) ‘[Hate crime legislation in Northern Ireland, Independent Review](#)’.

capable of recognising that vulnerability and hostility are not mutually exclusive. Scotland's use of prejudice, ill-will and malice, in COPNI's view, therefore, provides a broader framework within which age-related offending can be recognised under its aggravator model. Thus, I would welcome a similar framework of 'hostility' under this Criminal Justice (Sentencing etc) Bill.

Also, during our oral evidence session, we discussed some members' concerns on how including age as a protected characteristic includes all individuals, given everyone has an age. I think it is important to note that the Scottish Government, in the Hate Crime and Public Order (Scotland) Act 2021, describe age as a protected characteristic at Clause 11(2) as "reference to an age range".⁵ The Information Note on the Order states that "although we expect age related prejudice to make up a relatively small proportion of crimes, we want to ensure that these crimes are treated in the same way as other hate crimes. The characteristic of age covers persons of any age. Therefore [this] means that it does not apply only to a particular age group such as elderly persons or children and young people."⁶ Judge Marrinan adopted a similar approach in his review of Northern Ireland's hate crime law. He stated that including age would "protect all age groups, although one would imagine that the majority of such cases are likely to involve crimes against older people. Recommending older age as a characteristic would probably mean including an agreed age...Although I have seen very little evidence to suggest that offences are being committed against young people because they are young people, it is of course possible that such behaviour does occur. It is therefore preferable to adopt an approach where a protected characteristic of age generally is introduced rather than an elder specific protection."⁷

Early Scottish police data already confirms that hostility-based offending against older people occurs and that, once the legislative framework is in place, offences aggravated by age-based hostility can be recognised, prosecuted and recorded. In 2024/25, the first reporting year of age being included as a protected characteristic, there were 48 hate crimes with an aggravation of age recorded by Scottish police. 86% of these victims were aged 60 plus. The prevalence of age-based hate crimes among other age groups was too low to allow for separate recording (between 0% and 5%). The median age of victims was 70. 69% of victims were male, while 31% were female. 22% of victims were police officers/staff. 83% of hate crimes involving an aggravation of age related to threatening or abusive behaviour, while 13% were common assaults. In relation to the perpetrators of these offences, 30% were aged under 16, 41% were aged between 25 and 44, and 22% were aged between 45 and 59.⁸ The issue of age-based hostility thus becomes visible when legislation allows it to be recognised.

I trust this information will be helpful for the Committee's deliberations on the Criminal Justice (Sentencing etc) Bill and age as a protected characteristic in Northern Ireland's hate crime law. Thank you for taking the time to follow-up on this matter. I would welcome any further engagement with the Committee for Justice and look forward to hearing from you in this regard as appropriate.

⁵ [Hate Crime and Public Order \(Scotland\) Act 2021](#).

⁶ [Hate Crime and Public Order \(Scotland\) Act 2021: information note](#).

⁷ Judge Marrinan (2020) '[Hate crime legislation in Northern Ireland, Independent Review](#)'.

⁸ Scottish Government (2026) '[Hate crimes recorded by the police in Scotland, 2024-25, Tables 3, 5, 6, 7, and 8](#)'.

Yours sincerely,



Commissioner for Older People for NI



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29 September 2026

Dear Siobhan

Criminal Justice (Sentencing etc) Bill –oral evidence

On behalf of the Committee for Justice, I wish to thank you and your colleagues for attending the meeting on 24 September 2026 to give oral evidence on the Criminal Justice (Sentencing etc) Bill.

During the meeting, you agreed to provide the Committee with further information on how the provisions in Scotland relating to age as an aggravator by hostility are framed.

I would appreciate a response by 9 October 2026.

Yours sincerely

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Kathy O'Hanlon
Clerk to the Committee for Justice