

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of

Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Kathy O'Hanlon
Clerk to the Committee for Justice
Room 242
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6 October 2026

Dear Kathy,

CRIMINAL JUSTICE (SENTENCING ETC) BILL – USE OF “IMMEDIATELY” IN CLAUSE 33

Thank you for your letter of 25 September 2026 seeking clarity from the Department on how the term “immediately” is to be interpreted and the rationale for its inclusion at Clause 33(2)(a).

The Department notes the Committee's concern that the inclusion of “immediately” may mean that behaviour or actions leading up to or after an offence, which could be relevant, may not be taken into consideration.

The “immediately” qualifier is currently in operation in legislation relating to hate crime in Northern Ireland via the Criminal Justice (No. 2) (Northern Ireland) Order 2004 (the 2004 Order) and has been copied forward. The Department is not aware of any concerns from partners around the inclusion of “immediately” in the Criminal Justice (Sentencing etc.) Bill, or around its operation to date in the 2004 Order.

The inclusion of “immediately” is to ensure that hostility demonstrated around the actual time of the criminal event is taken into consideration. Part (b) of the clause i.e. “the offence

is motivated, wholly or partly, by hostility towards members of a group referred to in paragraph (a) based on their membership of that group” seeks to capture that longer term hostility that may be evidenced around an event.

It is important to note that a similar qualifier is included in legislation across the UK and Ireland, details of which are included below: -

England and Wales

[Section 28 of the Crime and Disorder Act 1998](#)

- (1) An offence is racially or religiously aggravated for the purposes of sections 29 to 32 below if—
- (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim’s membership (or presumed membership) of a racial or religious group; or
 - (b) the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.

[Section 66 of the Sentencing Act 2020](#)

- (4) For the purposes of this section, an offence is aggravated by hostility of one of the kinds mentioned in subsection (1) if—
- (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on—
 - (i) the victim's membership (or presumed membership) of a racial group,
 - (ii) the victim's membership (or presumed membership) of a religious group,
 - (iii) a disability (or presumed disability) of the victim,
 - (iv) the sexual orientation (or presumed sexual orientation) of the victim, or (as the case may be)
 - (v) the victim being (or being presumed to be) transgender, or



(b) the offence was motivated (wholly or partly)

by—

- (i) hostility towards members of a racial group based on their membership of that group,
- (ii) hostility towards members of a religious group based on their membership of that group,
- (iii) hostility towards persons who have a disability or a particular disability,
- (iv) hostility towards persons who are of a particular sexual orientation, or (as the case may be)
- (v) hostility towards persons who are transgender

Scotland

[Section 1 of the Hate Crime and Public Order \(Scotland\) Act 2021](#)

(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).

Ireland

[Section 7 of the Criminal Justice \(Hate Offences\) Act 2024](#)

(1) An offence committed by a person is aggravated by hatred for the purposes of sections 2A, 3B, 4B, 5A, 9A, 10B and 13A if—

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



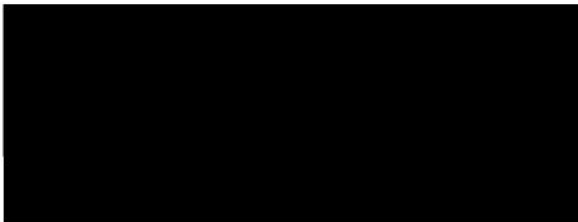
(i) at the time of committing the offence,
or immediately before or after doing so, the person demonstrates
hatred towards the victim, and

(ii) the hatred is on account of the victim's membership or presumed
membership of a group defined by reference to a protected
characteristic,

or

(b) whether or not there is a specific victim of the offence, the offence is
motivated (wholly or partly) by hatred towards a group of persons on
account of the group being defined by reference to a protected
characteristic.

We hope this response is of assistance to the Committee in its consideration of Clause
33.



DALO



**Northern Ireland Assembly
Committee for Justice**

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Department of Justice
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25 September 2026

Dear ██████████

Criminal Justice (Sentencing etc) Bill – Use of “immediately” in Clause 33

At its meeting on 17 September 2026, the Committee heard oral evidence from various stakeholders on the Criminal Justice (Sentencing etc) Bill and this included discussion around Part 6 - Aggravation by Hostility.

Concerns were expressed that the inclusion of the word “immediately” at Clause 33 (2)(a) may mean that behaviour or actions leading up to or after an offence, which could be relevant, may not be taken into consideration. The Committee agreed to request clarity from the Department on how the term “immediately” is to be interpreted and the rationale for its inclusion at Clause 33(2)(a).

I would be grateful if the Committee might receive a response by 8 October 2026.

Yours sincerely

████████████████████

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