

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Mánnystrie O tha Laa

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Kathy O'Hanlon
Committee Clerk
Committee for Justice
Parliament Buildings
Stormont
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21 October 2026

Our reference: JCP\26\258

Dear Kathy,

**Re: CRIMINAL JUSTICE (SENTENCING ETC) BILL – DEPARTMENT OF JUSTICE
ORAL EVIDENCE**

Thank you for your email dated 12 October 2026 regarding the oral evidence session about the Criminal Justice (Sentencing etc) Bill ('the Bill') on 8 October, requesting further information relating to matters discussed during the session, and sharing the additional paper submitted by the Public Prosecution Service (PPS) about the vulnerability aggravator within Part 6 of the Bill for departmental consideration.

Sentencing Council for Northern Ireland

The Department most recently considered the issue of a sentencing council for Northern Ireland as part of the last Sentencing Review, which was commissioned in 2016 and reported in 2021. The Review concluded that there was insufficient available evidence to support the case for a sentencing guideline body akin to those established in Scotland or England and Wales. The findings of the Review also noted that the creation of such an organisation would be accompanied by a significant cost.

The consultation document for the Review was published on 28 October 2019 and is available at the following link –

<https://www.justice-ni.gov.uk/consultations/sentencing-review-northern-ireland>

The summary of response to the consultation was published on 29 September 2020 and is available at the following link –

<https://www.justice-ni.gov.uk/publications/sentencing-policy-review-consultation-responses>

The policy way forward arising from the Review was published on 21 April 2021 and is available at the following link –

<https://www.justice-ni.gov.uk/publications/sentencing-review-policy-way-forward>

The Department also previously consulted on a Sentencing Guidelines Mechanism for Northern Ireland in October 2010, with a summary of responses document published in March 2011. The consultation was issued in response to a commitment made in the Hillsborough Castle Agreement that the establishment of a Sentencing Guidelines Council would be considered for Northern Ireland. It considered existing sentencing arrangements, identified possible drivers for change in those arrangements and the role a sentencing guidelines mechanism might have in addressing those issues.

Three policy options were put forward as part of this consultation:

- Option 1 - a Sentencing Guidelines Council with responsibility for producing guidelines;
- Option 2 - a Sentencing Advisory Panel with responsibility for drafting guidelines for the Court of Appeal; and
- Option 3 - a mechanism based on the measures being introduced by the Lord Chief Justice to enhance procedures for monitoring and developing sentencing guidance.

Responses to the consultation were broadly supportive of the need for greater consistency, transparency and community engagement in sentencing, and acknowledgment of the impact of these issues on public confidence. Whilst the majority of respondent favoured a Sentencing Guidelines Council, only a minority considered that a Council represented value for money. Furthermore, concerns were also raised that there was little evidence of the direct impact of any sentencing guidelines mechanism might have on public confidence, noting that the existence of a Sentencing Council in England and Wales had not appeared to improve public confidence in sentencing, or impact positively on the debate on sentencing issues.

In June 2012, in response to the public consultation, the Justice Minister announced a way forward aimed at increasing public confidence in sentencing, based on strengthening the measures introduced by the Lord Chief Justice through his Sentencing Group. This included the appointment of two lay members to the Lord Chief Justice's Sentencing Group, one of whom would represent the views of victims. The Minister also announced the development of a Community Engagement strategy to ensure a two-way flow of information on sentencing issues.

Finally, the Committee may also wish to note that sentencing guidelines mechanisms is one of the issues included within the Department's current Review of Sentencing policy, announced on 14 January 2026. As part of this work, the Review will consider the need for, and potential utility of, an independent Sentencing Council to provide sentencing guidelines in Northern Ireland. It is the Department's intention that the Review will publish policy proposals for public consultation in 2027, subject to competing priorities and resources, with a view to developing legislative proposals for the next Assembly mandate.

Sentencing Guidelines

Part 1 of the Sentencing Bill does not make provision for how, and by whom, the application of sentencing guidelines will be monitored. The development and implementation of sentencing Guidelines are a matter for the independent judiciary, and

the Department does not propose to amend the oversight arrangements that are currently in place.

Clause 18 – Duty to give reasons when determining a tariff

The Committee has asked whether, in reference to Clause 18 of the Bill, an amendment could be made to compel an offender to attend in open court to hear the reasons for deciding on the order.

The Department notes that, in subsequent correspondence dated 20 October 2026, the Committee has again sought the Department's views on such an amendment and asked if the Minister would be content to bring forward such an amendment at Consideration Stage.

Clause 18 has not been drafted with the intention of compelling an offender to attend in open court to hear reasons for deciding on the order, and the Department has not given consideration to introducing legislation of this nature, either within this Bill or any other developed for this mandate. Therefore, it is not the Department's intention to amend Clause 18, or introduce a stand-alone amendment, as proposed by the Committee. However, the Department is willing to engage with the Committee should it decide to take forward such an amendment, and in this regard would highlight the example of Olivia's Law in England & Wales, which was given legislative effect in section 1 of the Victims and Courts Act 2026.

Clause 36 - "Aggravation by reason of vulnerability"

The Department notes the further paper submitted by the PPS in respect of Clause 36. The Department will engage with the PPS directly to discuss the issues raised therein and will provide the Committee a substantive response on this topic once that engagement has concluded.

You will appreciate that the Department is responding to a large amount of correspondence from the Committee in relation to this Bill and that officials are providing responses as quickly as they can in challenging circumstances.

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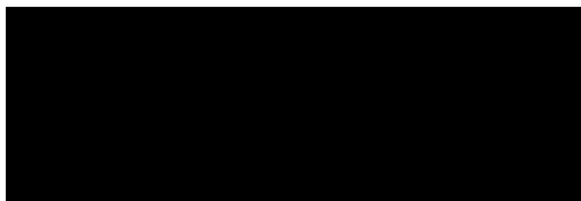
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I trust that the Committee will find this information of assistance.

Yours sincerely



Department Assembly Liaison Officer