

British Association of Social Workers Northern Ireland (BASW NI) Comments on the Department of Justice Proposed Amendments to the Justice Bill

20 March 2025

Biometrics

The new Article 63P provides for a 5-year retention period for any person who has completed a community-based restorative justice scheme (CBRJ) for an offence. The Department's guidance indicates that following the finalising of the provisions, it became apparent that stand-alone CBRJs are available for both adults and under 18s and that they are directed by the PPS and considered to be on a similar level as a caution.

An amendment is being made to distinguish that stand-alone CBRJs attract the same retention period as a caution for adults (i.e. 75 years or 25 years) and 5 years for an under 18.

BASW NI, in written and oral evidence previously provided to the Justice Committee has stressed the stigmatising effects on young people who offend associated with the retention of biometric data. In line with the views expressed previously by the Association, BASW NI would oppose the retention of biometric data for under 18s who have committed an offence for any period, particularly in instances of a first-time offence.

Restorative Justice

BASW NI supports the amendment which would remove the need for the temporary administrative Agency arrangements and allow the Minister of Justice to take decisions around the accreditation of organisations and individuals providing restorative justice services. Given the Minister is accountable to the NI Assembly, the proposal will enhance democratic scrutiny at the devolved level.

BASW NI notes the provisions will allow the Department to determine the necessary requirements for accreditation purposes. It is essential the accreditation process requires individuals who wish to provide restorative justice services to have met a robust set of criteria in order to practice. This includes evidence of regular high-quality training, experience and supervision, along with enhanced Access NI checks.

Accreditation will assure those who enter this process—both victims and offenders—that they will be supported by practitioners who are competent, trauma-informed and highly skilled at facilitation so that their needs are met within a safe and protective intervention.

Repeal of Vagrancy

BASW NI supports the proposals for legislative change intended to repeal section 4 of the Vagrancy Act 1824 and section 3 of the Vagrancy (Ireland) Act 1847. It is unconscionable that people rough sleeping or begging as a result of destitution should be criminalised. These individuals are some of the most at-risk members of our society and their needs require support informed by person-centred, human rights-based approaches.

Live Links (Courts and Tribunals)

BASW NI supports the wider use of live links as outlined in the Association's response to the Department of Justice 2022 consultation on Audio and Video links (Live Links) for Northern Ireland Court and Tribunal Hearings.

Prior to the Covid-19 pandemic, BASW NI engaged with members to identify the impacts on social work caseloads associated with participation in court proceedings. Members highlighted that significant amounts of Children's Services social workers' time is lost as a result of inefficient court processes which often require social workers to wait for long periods in court buildings prior to being called to attend hearings. This time cannot be used for other social work tasks as there is a lack of privacy in court buildings, preventing social workers from conducting casework.

This inefficient use of social workers' time comes amidst a workforce crisis. Figures shared with BASW NI by Directors of Children's Services indicate Gateway, Family Intervention teams and Looked After Children's teams continue to experience stubbornly high vacancy levels of up to 40%.

BASW NI members have suggested a wider roll out of the use of video links to enable social workers to participate in hearings remotely from designated regional sites. This would reduce travel time as well as time lost waiting to attend court.

As well as benefits for social workers, there are advantages for witnesses, particularly vulnerable witnesses. Appearing via live links has the potential to make it easier for vulnerable witnesses to provide evidence by minimising the formality and unfamiliarity of the process.

BASW NI also recognises participation in court hearings via live links could support young people in secure accommodation and Woodlands Juvenile Justice Centre by enabling them to attend at an allotted time, ensuring they do not have to spend all day in a holding cell waiting to be heard.

The Department's guidance notes the amendment would require the court or tribunal to "satisfy itself that 'live links' enable the person giving evidence (P) 'to see and hear all other persons participating in the proceedings who were not in the same location as P, although not necessarily any members of the public attending the hearing; and allow all

them to see and hear P before determining the statutory test is met, accompanied by a caveat addressing those who are unable to hear and see by reason of impairment of hearing.”

In addition, it is vital screening is undertaken to identify all relevant information pertaining to physical and mental health, physical disability and intellectual disability, with recognition that defendants and witnesses may present with hidden disabilities, for example, learning difficulties, neurodiversity or mental health issues. They are arguably at greater risk of unfair trials in instances where trial proceedings are conducted remotely as opportunities to identify impairments and opportunities to make adjustments can be lost or reduced, as non-verbal cues may be missed.

The screening of the needs of defendants is vital to ensure a fair process, with potential barriers removed for every case—including identifying up to date health and mental health needs information. This is critical to guaranteeing the right to a fair trial under the European Convention on Human Rights. Upholding this right is fundamental in terms of commitment to ethical social work practice.

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