

Mukesh Sharma MBE DL
Chair

Date: 21 March 2025

Ms Kathy O'Hanlon
Clerk to the Committee for Justice
NI Assembly
Parliament Buildings
Stormont

Via email committee.justice@niassembly.gov.uk

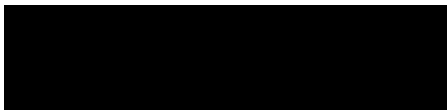
Dear Kathy

RE: Policing Board's response on the Justice Bill

You wrote to me on 11th February 2025 requesting the Policing Board's views and comments on the content of the Justice Bill. Members have had a discussion on this Bill in the Performance Committee meeting of 13 March and I enclose the Board's position on the most relevant elements of the Bill for policing.

I understand you have invited officials to the Justice Committee on 1st May 2025 to provide further information on Clauses 22 and 23 of the Bill.

Yours sincerely



Mukesh Sharma MBE DL
Chair

CM - 614349

Northern Ireland Policing Board

James House, Block D, 2-4 Cromac Avenue, The Gasworks, Belfast BT7 2JA

 028 9040 8500

 information@nipolicingboard.org.uk

 www.nipolicingboard.org.uk

 [policingboard](https://www.facebook.com/policingboard)

 [@nipolicingboard](https://twitter.com/nipolicingboard)

 [nipolicingboard](https://www.youtube.com/nipolicingboard)

 [Northernirelandpolicingboard](https://www.linkedin.com/company/northernirelandpolicingboard)

Policing Board's Response to the Justice Bill

Justice Bill Part 1 (1-3) Biometric Data: Retention Etc - Provisions to amend retention periods for DNA and biometric material.

It is acknowledged that the proposals for biometrics retention represent considerable advancements over the existing framework, however, they continue to exhibit a high degree of complexity. The Board has previously expressed concerns about the legality of the biometric profile retention system in its Human Rights Annual Reports for the years 2019/20, 2020/21, and 2021/22, as well as in its report on the Human Rights of Privacy in Policing and the latest 5 Year Review of Human Rights and Policing.

Appointing a Biometric Commissioner

In the Human Rights Review of Privacy and Policing (July 2023) the Board made the following recommendations:

Recommendation 6(e) - 'In view of the fundamental issues of ECHR compliance with the continued retention of biometric samples by the PSNI it is essential that the Assembly and the Department of Justice act on the appointment of a Biometric Commissioner for Northern Ireland. This would also be an opportunity to appoint an Investigatory Powers Commissioner for Northern Ireland.'

And;

Recommendation 6(f) - 'Given the fact that there is almost no public information available on how to challenge the retention of DNA and other identity data held by the PSNI, the PSNI should consider how to increase public awareness of the procedures.'

The Board, therefore, strongly supports the incorporation of provisions which are compliant with human rights standards, as well as the appointment of a Biometrics Commissioner.

Justice Bill Part 2 (4-19) Children - Bail, Custody on sentencing, Custody on remand or committal, Supplementary.

The Board supports the introduction of these provisions to make changes to bail and custody arrangements for children and young people.

Justice Bill Part 3 (20-21) Use of Live Links - Interviews and Detention.

The Board supports and recognises the need for change and the potential impact that the introduction of Live Links could bring to the efficiency and effectiveness of the criminal justice system.

However, the Board also notes the issues and concerns that have been raised as part of the consultation on this issue. These have included:

- Consent - A general concern regarding the issue of consent, both in terms of who might provide consent and the ability of children and those with vulnerabilities to understand what they were consenting to;
- Consult in private - The continued right of the detainee to be advised by and consult in private with their legal representative;
- Police Interviews - the ability of the detainee to understand the proceedings and participate effectively; and
- Children and Young People – the impact of the proposals on children and young people and other vulnerable groups;

The Policing Board recognises the need for change and modernisation, however, support for the Live Links changes would be subject to effectively addressing the issues and concerns raised above.

Justice Bill Part 4 (22-30) Administration of Justice - Functions relating to the police, Criminal proceedings, Legal aid, Criminal records certificates and Court security.

Clause 22 - The Board discussed Clause 22 at the recent Board meeting on 6 March 2025. The Board has agreed to develop a scheme of delegations to complement this provision. This will be developed and agreed with the Board over the coming months. Overall, the Board would anticipate any delegation to officials to be minimal. In addition, Board officials have been invited to give evidence to the Justice Committee on this clause and clause 23 below on 1st May 2025.

Clause 23 - The Board were consulted as part of the Minister's stock take in 2022 in relation to Clause 23. The Comptroller and Auditor General included a request to remove the requirement for an assessment of continuous improvement in his reports from 2017 to 2021 and the Department have accepted this request. The Board welcomes the inclusion of Clauses 23 in the Bill.

Planned Department of Justice Amendments to the Justice Bill

Rehabilitation of Offenders

The Board supports the additional amendments set out in the Department of Justice's note in relation to the reform of the rehabilitation periods.

Repeal of Vagrancy - Board Position:

The Board supports the repeal of the law that criminalises rough sleeping for the reasons set out in the Department of Justice's note in relation to the additional amendment.

Serious Organised Crime - Board Position:

The Board supports the additional amendments set out in the Department of Justice's note in relation to Serious and Organised Crime.

Additional Amendments

Policing Misconduct Regulations

Although not currently part of this Bill, the Board would also welcome a review of the current Policing Misconduct Regulations in order to identify improvements in the use of existing legislation provision which would enable Police misconduct cases to be progressed expeditiously, mindful of situation in the rest of the UK, and explore the possibility of making legislative change in the following areas:

- Criminal Proceedings;
- Vetting;
- Chairing of Misconduct Hearings;
- Misconduct Hearings in Public; and
- The Use of Regulation 13 (dismissal during probation).

Independent Custody Visitors Scheme

The Board has also been experiencing issues in the delivery and operation of the Independent Custody Visting (ICV) Scheme specifically, around the legislative remit of Independent Custody Visitors (ICVs) to access custody records for those detainees who are unavailable and/or unable to give consent. The Board sought independent legal advice around this issue which concluded that a legislative change would be required to Section 73 of the Police (NI) Act 2000 (specifically sub section 73 (5)) in order to help address the issue and ensure the ongoing effective implementation of the scheme. As such, the Board are seeking that consideration is given to amending to Section 73 of the Police (NI) Act 2000 in order to allow ICVs access to custody records in instances where detainees are unavailable and/or unable to give consent.

It is also noted that Section 73 subsection 5 is specific to Northern Ireland and the custody record access restrictions are not included in legislative provisions for ICVs in England and Wales (Police Reform Act 2002, Section 51) or in Scotland (Police and Fire Reform (Scotland) Act 2012, Section 94). It is therefore in this context that the Board are requesting consideration is given to making an amendment to this section of the Police Act in order to bring the Northern Ireland ICV Scheme in line with the provisions in place across all other jurisdictions of the UK and to ensure the ongoing

effective implementation of the scheme for which the Board has a statutory duty to deliver.

CM613982