



JUSTICE BILL

- EVIDENCE TO COMMITTEE -

JUNE 2025

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1. Voice of Young People In Care (VOYPIC), welcomes the opportunity to provide evidence and insight to the Committee for Justice on the Justice Bill in advance of attending the Committee's meeting on Thursday 26 June 2025.
2. This legislation is a key enabler for the implementation of the Department of Justice's Strategic Framework for Youth Justice and the full implementation of the Youth Justice Review 2011, helping to ensure that the youth justice system delivers improved outcomes for children, families, victims and communities impacted by crime.
3. VOYPIC is the regional children's charity for children and young people living in and leaving care, promoting their rights and voice in all matters important to them. Our vision is that every child in care feels safe, valued, and loved; and that every young person leaving care does so with dignity and respect, and thrives into adulthood.

4. Our core programmes include:

Our **Independent Advocacy services**, prelegal services, support children to exercise their rights to participate in decision made about their life in care, voice concerns and find resolution, access information, or to identify available support options. Advocacy services are provided to children living in or leaving care, and to those placed in Beechcroft Child and Adolescent Mental Health Unit.

We help young people **make connections through participative youth work** helping them to find their voice and set their own agenda for change.

We **create change through our Policy Advocacy Work**: We help young people develop skills, knowledge and confidence to engage directly with decision/policy makers and professionals; and acknowledge this committee's commitment and plans to talk directly to children and young people in care as part of their consideration of the bill.

Last year we supported 777 children and young people in children's homes, secure care, Beechcroft Inpatient hospital, foster & kinship families, and young adults preparing to leave or who have left care across Northern Ireland.

Introduction

5. VOYPIC’s advocacy services are pre-legal services. These services afford us a unique insight into, and expertise in, the lived experiences of children in and leaving care and the impact the law and its processes have upon children and young people’s lives and its ongoing impact as they reach independence and adulthood.
6. This paper aims to; provide committee members with an insight into how children from care interface with the youth justice system; refer committee members to obligations within international standards for children’s rights; and provide some commentary into specific aspects of the bill as it relates to children in care.

7. Summary Table Youth Justice Statistics 2021-2024:

Year	Admissions to JJC (PACE, Remand Sentence)	Admissions of Children from care (%)	Children in custody	Children from care in custody (%)	Movement within JJC	Movement of children in care (%)
2021-22	207	92 (44.4%)	106	36 (34%)	288	121 (42%)
2022-23	224	113 (50.4%)	110	46 (41.8)	314	154 (49%)
2023-24	214	125 (58.4%)	104	45 (43.3%)	301	169 (56%)

(Northern Ireland Youth Justice Agency Annual Workload Statistics 2023/24 (DoJ/NISRA September 2024)

Children from Care and Youth Justice

8. The proportion of admissions to the JJC involving children subject to care orders or in voluntary accommodation has increased by fourteen percentage points since 2021/22, from 44.4% to 58.4% in 2023/24.
9. Similarly, the proportion of movements within the JJC attributed to looked after children increased by fourteen percentage points to 56.1% in 2023/24, from 42.0% in 2021/22.
10. The number of individuals in custody decreased, while the proportion of children in custody by their looked after status over the past five years has increased.
11. In 2023/24, 43.3% of children in custody were from care, representing the highest rate in the five-year period. The proportion of children in custody who were not in care (56.7%) decreased on the previous year (58.2%).
12. A significant number of care-experienced children are placed on remand and later do not receive a custodial sentence. This suggests that custody is frequently used for care-experienced children due to systemic gaps, rather than the nature of their offences
13. Most of the referrals to Youth Justice Services are for children from residential care. The smallest cohort of children within the looked after population. As of September 2024, there were 4,173 children and young people in care. Of these, 218 children and young people were placed in residential care. **Children from residential care are disproportionately represented across the most formal aspects of the youth justice system eg the use of PACE, remand, and custody.**
14. Where children from care are not overrepresented, however, is in the earlier diversionary services, including the Children's Diversion Forums. The DoJ's Strategic Framework for Youth Justice, is underpinned by a set of key principles, including that children should be diverted from the criminal justice system at the earliest possible stage, with appropriate support; and a child should only ever be placed in custody as a last resort.
15. Children from care are not being afforded the opportunity to be diverted from the criminal justice system. There is no specific diversionary route without a criminal record for looked-after children.

United Nations Convention on the Rights of the Child (UNCRC)

16. The general principles of the United Nations Convention on the Rights of the Child (UNCRC) underpin how the Convention is interpreted and applied in practice. These general principles set out that all children and young people:

- Have the right to enjoy their rights without discrimination **and to be protected from all forms of discrimination** (Article 2, UNCRC)
- Have the right to have their **best interests as the primary consideration** in all actions and decisions taken in relation to them (Article 3, UNCRC)
- Have the right to life and to the **highest possible level of survival and development** (Article 6, UNCRC)

17. We must ask ourselves if our approach to youth justice in Northern Ireland upholds the rights of all children, and consider if the implementation of this proposed bill discriminates against children and young people in care, particularly those in residential care?

Bill Specific comments:

18. We recognise and welcome the intention of the department to modernise some of the framework for youth justice and the protections around bail, remand, and the separation of children from adults. However, there some clauses or aspect of the bill which are of concern to VOYPIC.

Language:

19. Language is important. VOYPIC works every day with children and young people in care, not 'LAC kids', not 'juveniles'. We have worked hard to change the language of care over the past number of years. We believe it is important that where the term 'juvenile' is used in the Bill that it should be replaced with child. The term juvenile is stigmatising, and associated with delinquency. Reframing the language and using 'Child' is reflective of the legal status of a person under 18, and the protections to which they are entitled.

Bail, Remand and Use of Custody

20. VOYPIC has been concerned for some time about the overuse of remand and the placement of children from care into custody under Police and Criminal Evidence PACE provisions. Although the number of young people in custody has declined, children from care remain disproportionately represented.
21. In 2011, the Department of Justice published its Youth Justice Review which contained 31 recommendations for change in the youth justice system. The review recommended that a looked after child should:
- 'No longer be placed in custody, either through PACE, on remand or sentenced, where this would not have been an outcome for children in the general population'*
22. One of the provisions in the Bill aims to prevent the courts or police from refusing bail for children on account of there being no suitable alternative accommodation. We understand that this provision will not be commenced until there are alternative options available. This will likely result in children remaining in the Woodlands Centre potentially for periods of time more than what they might receive if they are sentenced for the offence. This is clearly unacceptable and a significant breach of the rights of these children. We advocate that the bill should be implemented in full at the earliest opportunity.
23. Committee members will be aware of the Bail Fostering programme that has been piloted in the Southern HSCT. This initiative aims to provide short-term therapeutic foster placements for children remanded to Woodlands Juvenile Justice Centre who could not perfect bail due to lack of suitable accommodation being available. An initial review of the pilot has indicated that, while the numbers have been low, the bail placements to date have been successfully managed and the concept shown to be viable. The Youth Justice Agency is keen to explore the expansion of the bail fostering pilot to other Trust areas, which could provide part of the solution to the accommodation issue.

Retention of DNA and biometric data

24. The Bill introduces a '75/50/25-year model' for retention of DNA and biometric data based on age, severity of the offence, and the outcome of the case, replacing indefinite retention. We welcome the end of the indefinite period for retention. However, we are concerned about the proportionality, necessity and best interests of children in relation to the retention of DNA and biometric data. Retention periods for children's data remain excessive.
25. The proposal that biometric data would be retained for diversionary disposals is disproportionate. The purpose of a diversionary disposal is to divert, rather than bring people into the system. We advocate that biometric data not be held for diversionary disposals.
26. The Bill proposes that for non-custodial sentences that biometric data is retained for five years. We do not believe this is necessary or proportionate. If a child's conviction is to be spent on completion of the order, we can see no justification for their biometric data to be held for five years following the completion of the sentence. Furthermore, we believe it is disproportionate for the data of children who have non-serious convictions that do not involve a custodial sentence of more than five years, will be retained for 25 years.
27. The Committee should satisfy themselves that the data retention periods in the Bill for children aged under 18 serve a legitimate purpose, uphold the principle of data minimisation, are proportionate, and observe the best interests of the child in relation to the requirements under the UNCRC

Youth custody and supervision order

28. The Bill introduces a new youth custody and supervision order, replacing juvenile justice orders for children aged 14+ for less serious offences. These legislative changes align with the Department of Justice's Strategic Framework for Youth Justice 2022-2027, ensuring that children should only be placed in custody as a last resort.

Part 3: Use of live links in police custody.

29. The Bill enables the PSNI to use live video links for various custody functions. The use of live links should not undermine a child's right to a fair trial. An appearance before a judge is sometimes preferred by children and young people. It can often aid their understanding of proceedings and processes. Children must always be supported to meaningfully participate in proceedings and be able to make an informed choice about the most appropriate method for that.

Minimum Age of Criminal Responsibility (MACR) in Northern Ireland.

30. A key issue relating to children and young people in the criminal justice system is the Minimum Age of Criminal Responsibility which is currently set at age 10 in Northern Ireland. The Department of Justice consulted on raising the minimum age of criminal responsibility from age 10 to 14 in 2022. The results of the consultation showed clear support for increasing the minimum age to 14. This is not addressed in the Bill

31. The current MACR in Northern Ireland at 10 years of age is among the lowest in Europe. The UN Committee on the Rights of the Child has repeatedly expressed concern about the low age of criminal responsibility, urging the UK to align with international standards.

32. Despite repeated calls from the international children's rights community and many organisations working with children and young people here in Northern Ireland over the years, no progress on raising the age of criminal responsibility has been made.

33. In compliance with international children's rights standards we advocate for the minimum age of criminal responsibility to be raised to 16 years, based on the following reasons.

34. It does not comply with international children's rights standards

- a) The United Nations Committee on the Rights of the Child has repeatedly said that the minimum age of criminal responsibility in the UK is not compatible with the government's obligations under international standards of juvenile justice and the United Nations Convention on the Rights of the Child (UNCRC).¹

¹ UN Committee on the Rights of the Child, (2008), Concluding Observations: United Kingdom of Great Britain and Northern Ireland, Geneva: United Nations, paragraph 78; UN Committee on the Rights of the Child (2016), Concluding Observations: United Kingdom of Great Britain and Northern Ireland, Geneva: United Nations; UN Committee on the Rights of the Child (2010) General Comment No. 24 on Children's Rights in Juvenile Justice, United Nations.

- b) The UN Committee on the Rights of the Child recommend that the minimum age of criminal responsibility should be 16 years.

35. Children at risk of coming into contact with the justice system have complex needs

- a) Children in areas of high deprivation are more likely to be at risk of coming into contact with the criminal justice system and in NI this is particularly true of communities affected by the conflict. The 2011 Youth Justice Review made specific reference to several groups of young people that are over-represented in the youth justice system. These included young people with speech and language difficulties, mental health problems and care experienced children.²
- b) There is no shortage of research linking the higher risks of young people living with poverty, mental ill health, having experience of being in care or experiencing neglect/abuse, misusing drugs or alcohol, and having learning and behavioural difficulties, coming into contact with the criminal justice system.³
- c) Children in care are particularly over-represented in figures of children in custody in Northern Ireland.
- d) A low age of criminal responsibility that seeks a criminal justice solution to welfare issues, poverty and adverse childhood experiences, simply accelerates already vulnerable children further into the system and ultimately custody.

36. The age of criminal responsibility is out of line with other age-related legislation

- a) The age of criminal responsibility is out of step with other legal age limits.
- b) Below the age of 18 children cannot vote; sit on a jury; buy alcohol, tobacco or fireworks; get a tattoo or open their own bank account.
- c) Below the age of 16 children cannot consent to sex, leave school, play the lottery or buy a pet.
- d) How we treat children within the criminal justice system is starkly different to how we treat them in other areas of social policy.

² Youth Justice Review, page 86.

³ Howard League for Penal Reform (2011), 'Response to Breaking the Cycle: Effective Punishment, rehabilitation and sentencing of offenders', London: The Howard League for Penal Reform; Prison Reform Trust, (2009), 'Seen and Heard, supporting vulnerable children in the youth justice system'.

37. Children’s brains are still developing

- a) To apply the same standards of criminal responsibility to a 10-year-old as we would to an adult is to ignore large amounts of evidence about the immaturity of children at that age.⁴
- b) Children do not have the emotional maturity to be responsible by law for their actions.
- c) Neuroscience data has found that there are developmental differences in the brain’s biochemistry and anatomy that may limit adolescents’ ability to perceive risks, control impulses, understand consequences and control emotions.⁵
- d) Evidence on children’s understanding of the criminal justice process suggests that 13 years old and younger are impaired in their ability to understand criminal proceedings and only begin to understand what it means to appear before a judge at around 14 or 15 years of age.⁶
- e) Evidence also suggests that children who have experienced trauma, abuse or neglect are ‘particularly poorly developed in the required capacities for criminal responsibility and are much more likely to come into conflict with the law’.⁷

38. Criminalising children doesn’t work – it does more harm than good

- a) Research demonstrates that criminalisation of children tends to increase their risk of engaging in offending behaviour.⁸
- b) It also stigmatises the child and alienates them from society, creates problems of self-esteem and creates barriers in the way of return to education or future employment, not least in the form of acquiring a criminal record.
- c) Punitive measures increase the likelihood of reoffending.

39. There are better ways to deal with it – better for children and better for communities

- a) Our reoffending rates demonstrate that the criminalisation of children does not offer the best chance of success if we aim to prevent reoffending, and to encourage rehabilitation and reintegration of the child into playing a constructive role in society.

⁴ Michael E Lamb and Megan PY Sim, (2013), Developmental Factors Affecting Children in Legal Contexts, *Youth Justice*, 2013 13: 131

⁵ Enys Delmage, (2013), The Minimum Age of Criminal Responsibility: A Medico Legal Perspective, *Youth Justice*, 2013 13:102.

⁶ Children and Young People’s Commissioner for Scotland, Age of Criminal Responsibility(Scotland) Bill, Evidence to the Equalities and Human Rights Committee, 2018.

⁷ *ibid*

⁸ McAra L and McVie S, (2007) Youth Justice? The impact of system contact on patterns of desistance from offending, *European Journal of Criminology* 4(3): 315-345.

- b) Rather the focus should be on assessing the child's problems and needs and attempting to meet those needs. In a child's rights compliant approach, children in conflict with the law are defined as 'children in need' and the response to these needs the responsibility of children's services (e.g. education, health, social care).
- c) The emphasis is on care, protection and diversion from the criminal justice system through providing support to families and helping them to access services and support. In a rights-based environment the emotional and mental health issues can be addressed without labelling the child as criminal or putting an already vulnerable child through the justice system.
- d) Young people were particularly concerned to discuss alternative responses to children who are in conflict with the law, making clear that increasing the minimum age of criminal responsibility does not equate to ignoring offending behaviour.

40. The call for change is growing

- a) There are increasing calls for and growing evidence to support an increase in the minimum age of criminal responsibility in NI.
- b) We asked young people involved with VOYPIC to tell us what they thought the minimum age of criminal responsibility should be.
- c) The average age suggested was 15.8 years.
- d) Over 80% of respondents supported increasing the MACR to 16 years or older.
- e) All young people we spoke to in the VOYPIC participation groups supported raising the MACR, with most suggesting 16 years as a suitable age.

41. Alternatives to Criminalisation

- a) In our discussions with young people the alternatives to criminalisation of young people was raised as a key area of concern. While the majority of young people supported raising the minimum age of criminal responsibility to 16, they were clear that this should not mean that offending behaviour, which would have previously been considered criminal, be ignored or go unchallenged.
- b) However, the young people all agreed that responses to such behaviour should be based on the best interests of the child and seek to break the cycle of reoffending that has become evident over recent years. Diverting young people from the criminal

justice system, and meeting their needs through social care approaches, is critical for reducing offending and building safer communities.

- c) Alternative processes and supports, co-designed by young people with lived experience of the system, must be fully developed and properly funded on a cross-departmental basis.
- d) While VOYPIC supports raising the minimum age of criminal responsibility in Northern Ireland to 16 years, with no exceptions for serious or grave offences, we recognise that it is sometimes necessary for young people's liberty to be restricted in order to maintain their safety and/or the safety of others. We believe that, where necessary, this can be done without the need to criminalise children.

42. Alternative Measures in the Pursuit of Justice

The pursuit of justice in response to risky, harmful, or criminal behaviour can be secured by a range of means.

Article 40 of UNCRC asserts that States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- a. The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- b. Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

43. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner *appropriate to their well-being and proportionate both to their circumstances and the offence.*

44. We see the use of alternative responses across Europe, eg Luxemburg, Norway, Belgium. Early interventions and more therapeutic response to children's behaviour and circumstances work.

45. **Luxembourg** is an example globally for its minimum age of criminal responsibility (MACR), which is set at 18 years old. This progressive approach reflects a strong commitment to

treating young individuals as children in need of care and rehabilitation, rather than as criminals.

46. The main arguments for dealing with youth justice in the context of child protection are that young offenders need also to be protected, that they should be educated rather than punished. Luxembourg does not consider children as young as 18 to have committed crimes but rather "acts qualified as crimes."

47. **Recent Reforms:** Luxembourg is advancing long-delayed reforms to separate child protection from youth justice, and the protection of underage victims of crime and witnesses, introducing clearer legal frameworks, strengthening preventive roles and expanding alternative measures for young people who offend, all aimed at creating a more coherent, child-centred system. Under the reform, authorities will have a more focused role, dealing exclusively with young people who offend. It will also be responsible for the supervision of alternative measures, previously referred to as "diversion measures".

48. These alternatives are to be strengthened and applied more widely. The idea is to offer non-punitive interventions that can be agreed upon between the young person and the public prosecutor.

49. If a young person accepts the measure, the case can be closed without a criminal conviction. Such measures might include continuing therapy, cutting off contact with accomplices or victims, or performing community service.
(<https://today.rtl.lu/news/luxembourg/a/2305698.html>)

50. Children in Luxembourg will no longer be subject to criminal law proceedings, and the country is strengthening support for families and children in difficult circumstances. These cases are handled by a specialized juvenile and guardianship court, which focuses on applying measures of protection, care, or education.

51. Why Luxembourg's Model Is a Strong Example for Northern Ireland?

a) **Alignment with International Standards:** Luxembourg's MACR of 18 aligns with the United Nations' recommendations, which advocate for higher ages of criminal responsibility to protect children's rights.

- b) **Focus on Rehabilitation:** By treating young individuals as children in need of care, Luxembourg emphasises rehabilitation over punishment, aiming to reintegrate them into society positively.
- c) **Clear Legal Processes:** The reforms ensure that children are informed about their legal situation and have access to legal representation, promoting fairness and transparency in the justice system.
- d) **Protective and educational responses to children:**
- Placement in youth care facilities, including secure care
 - Therapeutic support (mental health, addiction, trauma)
 - Compulsory education or training programmes
 - Supervision by appropriate agencies/professionals
 - For serious offences, these measures could continue up to age 21 or 25 but still focus on rehabilitation.
 - No criminal trials for under-18s.
 - Cases are handled by a Youth and Guardianship Court, which:
 - Does not convict children of crimes
 - Applies protective measures based on the child's needs, behaviour, and environment
 - Involves psychologists, social workers, educators
 - Children are viewed as vulnerable individuals rather than offenders.
- e) **Luxembourg DNA Swabs and Forensic Evidence:**
- Since there is no criminal prosecution for under-18s, DNA swabs are not routinely taken for under-18s. **Any forensic procedures require:**
 - Strict justification (e.g. for public safety)
 - Parental or guardian consent
 - Oversight by child welfare authorities
 - DNA databases would not include children's profiles unless in exceptional, court-approved cases.

Concluding Comments

52. I urge the committee to scrutinise this bill through a children's rights lens whilst recognising the evolution of our understanding of, and good practice in working with, marginalised children, young people, and families living in vulnerable and sometimes harmful circumstances.
53. We must also be mindful of the emerging insight and our developing understanding of the criminal exploitation of children and young people, and how the system responds to these victims of coercion and exploitation.
54. A failure to adopt a whole government strategic approach to the investment and delivery of early intervention or preventative measures to support those families most in need and experiencing a range of disadvantages has resulted in children experiencing more adverse childhood experiences, increasing unmet psychological and therapeutic needs, increasing number of and families requiring crisis led interventions and as a result a growing number of children requiring state care.
55. In Northern Ireland, the annual cost of late intervention is estimated at £536 million. Earlier preventive work and support not only reduces costs but significantly improves life outcomes for children, families, and communities.
56. The independent review of children's social care services was published almost exactly two years ago. The report highlighted Northern Ireland's toxic trio;
- a) Firstly, the legacy of 'troubles' related personal trauma and its societal symptoms ie poor mental health, misuse of alcohol and drugs, and domestic violence.
 - b) Second, the contemporary threat, fear and trauma being created within Northern Ireland's communities today.
 - c) The impact of the recent political vacuum created by no functioning Assembly.
57. The review recommended bringing together some key services from health and social care, youth justice and education into one single agency to better meet the needs of children and young people and families most in need in of early help and support.
58. This recommendation offers a practical and transformative opportunity to address long-standing structural failings. It enables a shift from crisis-driven responses toward early intervention, prevention and stronger collaboration with those that provide services to

children and families. It ensures public funding is used more effectively, reduces duplication and delivers services fairly, regardless of where a child lives.

59. The Minister for Justice has already indicated her support for the implementation of this independent review and has committed to working partnership with DoH colleagues to best meet the needs of relevant children and families.

60. Our focus must be on prevention and early intervention, to minimise children and young people's contact with the justice system. Where contact does occur, we must aim to divert them from further offending. Criminalising children increases the likelihood of adult offending. A preventative, supportive approach ultimately leads to safer communities and makes better use of limited public funds.