

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of  
**Justice**

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

[www.justice-ni.gov.uk](http://www.justice-ni.gov.uk)

Minister's Office  
Castle Buildings Block C  
Stormont Estate  
Ballymiscaw  
Belfast  
BT4 3SG

Kathy O'Hanlon  
Clerk to the Committee for Justice  
Room 242  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast BT4 3XX

02 June 2025

Dear Kathy,

### **Justice Bill – NICCY and CLC written evidence**

Thank you for your letters of 4 April 2025 in which you forwarded a copy of NICCY's and CLC's written submissions to the Committee on the Justice Bill and asked the Department to respond to the points contained therein.

#### **Response to issues raised by NICCY**

##### **Part 1 - Biometrics**

NICCY has raised a number of queries relating to the DNA and fingerprints provisions contained in Part 1 of the Justice Bill. Responses to the queries raised are provided below.

##### **75/50/25 retention model**

NICCY, in its submission to the Committee, has enquired as to why the 75/50/25 model has been chosen for Northern Ireland. The Department's aim is to put in place a legislative framework on the retention of fingerprints and DNA that addresses the issues identified by the European Court of Human Rights. The Department developed the proposed model of statutory maximum retention periods, with a review mechanism, after taking account of the following factors:

- The need to move away from blanket indefinite retention;



## FROM THE OFFICE OF THE JUSTICE MINISTER

- The key findings of the Gaughran judgment and legal advice as to how the Department should address its findings;
- The Sunita Mason review of criminal records in Northern Ireland;
- The limited information available on retention regimes in place in other jurisdictions;
- The value of retaining DNA and fingerprints for use in investigating offences (particularly the most serious offences), preventing offending and protecting the public; and
- The benefit in putting in place a framework that is not overly complex for the public to understand or the police to administer.

### 75/50/25 model detail

- The Sunita Mason review of criminal records in Northern Ireland,<sup>1</sup> recommended that criminal record information should be kept until the subject reached the age of 100.
- There is limited information available regarding retention regimes across Europe, with no standout country setting the standard for good practice. As part of the Department's policy development in 2020, consideration was given to a 2014 report (updated in 2016) by Kristiina Reed and Denise Synderdome Court entitled "*A comparative audit of legislative frameworks within the EU for the collection, retention and use of forensic DNA profiles*"<sup>2</sup> ("the report").
- The report sets out that Estonia, Finland and Luxembourg hold biometric material until the offender has passed away, with various timelines also factored in for retention after death. Slovakia and Latvia hold material for at least 75 years and Denmark holds material until the offender reaches the age of 80.
- The Netherlands retain the DNA profiles of convicted individuals for 20, 30, 50 or 80 years depending on the seriousness of the offence and the conviction i.e. a sentence of less than six years results in a 20 year retention period, a sentence of 6-20 years results in a 30 year retention period, a sentence of 20-40 years results in a 50 year retention period and a sentence of more than 40 years results in a 80 year retention period.

---

<sup>1</sup> [Review of the criminal records regime in northern Ireland | Department of Justice](#)

<sup>2</sup> [https://web.archive.org/web/20181111035454/https://www.euroforgen.eu/fileadmin/websites/euroforgen/image/s/Dissemination\\_Documents/WP4/Reed\\_and\\_Syndercombe\\_Court\\_2016\\_Legal\\_Audit.pdf](https://web.archive.org/web/20181111035454/https://www.euroforgen.eu/fileadmin/websites/euroforgen/image/s/Dissemination_Documents/WP4/Reed_and_Syndercombe_Court_2016_Legal_Audit.pdf)

- A further review of retention arrangements in Scotland in October 2024<sup>3</sup> concluded that there was no gold standard of retention that Scotland should seek to emulate.
- The Department settled on numbers that could be integrated into a model based on the severity of the offence as well as age and wanted to provide for a graduated approach that was not overly complex to administer. This was a judgement call taken by the Department that resulted in the proposed 75/50/25 model. This was based on the conclusion that the 75/50/25 model, together with a review mechanism, reflected the guidance provided by European Court of Human Rights judgments and the good practice from the various frameworks across Europe.
- The retention periods represent the upper legal limit material can be held for, and it is important to note that the legislative framework also provides for a review of the need for ongoing retention of long-term retained material after an initial period of time has elapsed. Work is continuing on the review proposals and the details, including the initial period after which a review is to be carried out, will be subject to public consultation in due course.

It is important to note that the 75/50/25 retention model relates to the retention of DNA profiles rather than the physical DNA sample. The legislation requires all DNA samples to be destroyed within six months of being taken unless the sample is needed for court proceedings. It is the DNA sample that contains an individual's biological material, containing their genetic material.

The Department is of the view that the destruction of the DNA samples will go some way to minimising any stigmatisation that individuals may feel. The six-month period allows time for the DNA profile to be produced and to be added to the database.

### **Current retention regime for DNA and fingerprints taken from under 18s**

Article 64 of PACE NI is the existing legislative provision governing the retention of DNA and fingerprints in Northern Ireland. Article 64 states that the police may retain DNA and fingerprints taken by the police (after they have fulfilled the purposes for which they were taken) in connection with a recordable offence irrespective of whether it results in a conviction.

The Department believes that the proposed new retention framework will be a significant improvement on the PSNI's current policy of indefinite retention.

---

<sup>3</sup> <https://www.gov.scot/publications/report-review-retention-biometric-data-provided-under-sections-18-19c-criminal-procedure-scotland-act-1995-scottish-government-scottish-biometrics-commissioner/pages/1/>

## Retention framework for under 18s

NICCY has raised queries regarding the retention proposals for under 18s. It is the Department's view that there is a need to retain the DNA profiles and fingerprints of under 18s for a period of time, both to assist with solving future crimes and to act as a deterrent against future offending.

The 2021/22 adult and youth reoffending statistics from the Northern Ireland Statistics and Research Agency<sup>4</sup> confirm that the highest reoffending rates were found among those aged 13 at the time of their first recorded offence, while the lowest reoffending rates were found among those aged 60 or over at first recorded offence.

The Department has incorporated special provisions within Part 1 of the Justice Bill to lessen the impact on under 18s. Depending on the nature of the offence and the sentence imposed, DNA profiles and fingerprints relating to under 18s will be subject to shorter retention periods than adults.

For example, if an under 18 is convicted of a first minor offence and there is no custodial sentence the retention period will be five years. It is anticipated that there will also be special consideration given to under 18s within the review mechanism that may take account of the impact of ongoing retention on the individual and the need to continue to retain their material. The less stringent retention periods for under 18s are as follows:

- Under 18 convicted of a first minor offence and sentence other than custodial – five-year retention period;
- Under 18 convicted of a first minor offence and custodial sentence less than five years – length of custodial sentence plus five-year retention period;
- Under 18 convicted of a minor offence with custodial sentence of less than five years but has previous conviction – 25-year retention period;
- Under 18 caution (including restorative cautions and informed warnings) – five-year retention period;
- Under 18 diversionary youth conference – five-year retention period; and
- Under 18 Community Based Restorative Justice programme – five-year-retention period

---

<sup>4</sup> <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Adult%20and%20Youth%20Reoffending%20in%20Northern%20Ireland%20%28202122%20Cohort%29.pdf>

In terms of qualifying offences, which are referred to in the submission from NICCY, as these offences are the most serious offences, it is considered that the 75-year maximum retention period should apply to both adults and under 18s.

However, it is anticipated that the review mechanism will require a statutory review after a shorter period of time for under 18s convicted of a qualifying offence compared to adults convicted of a qualifying offence.

The Department believes that the special arrangements for under 18s strike an appropriate balance between children's rights and also respect for victims and public protection.

### **Diversionsary disposals**

NICCY has raised a query regarding the retention of DNA and fingerprints based on diversionsary disposals.

Further information is provided below on the retention proposals for various diversionsary disposals.

#### Community Resolution Notices

Community Resolution Notices (CRNs) can only be given to individuals by police officers with no involvement from the PPS. CRNs will therefore not attract any retention period which is consistent with the approach in England and Wales.

#### Diversionsary Youth Conferences

Diversionsary Youth Conferences are directed by the PPS and are also considered to be a step up from CRNs.

The five-year retention provision for Diversionsary Youth Conferences was carried over from the DNA and fingerprints provisions contained in the Criminal Justice Act (NI) 2013, which was approved by the Northern Ireland Assembly but never commenced.

#### Community Based Restorative Justice Schemes

Community Based Restorative Justice Schemes (CBRJ) are directed by the PPS and are considered to be a step up from CRNs. CBRJ are considered to be on a similar level to a caution. The Department's view is that any stand alone CBRJ should attract the same retention period as a caution i.e. five years for under 18s. Where a CBRJ is not a PPS disposal but forms part of a court disposal, the retention period will be determined by the most serious part of the sentence.



## FROM THE OFFICE OF THE JUSTICE MINISTER

An amendment is proposed for Consideration Stage to clarify that CBRJs attract the same retention period as a caution for adults (25 years for a minor recordable offence or 75 years for a qualifying offence).

### Cautions

Cautions will be treated in the same way as convictions for the purposes of the new retention framework. This is because cautions involve an individual admitting the offence. It is considered that guilt should be treated the same way, whether by conviction or an admission by the individual.

It is important to note that shorter retention periods apply in relation to cautions given to under 18s. Restorative cautions and informed warnings will be treated the same way as cautions.

### Penalty Notices

NICCY have raised a query regarding the extension of penalty notices to under 18s which the Department believes may have arisen from the consultation on proposals to amend anti-social behaviour legislation. The retention provisions for penalty notices in the Justice Bill (which would insert new Article 63Q into the Police and Criminal Evidence (NI) Order 1989) only relate to a penalty notice given under section 60 of the Justice Act (Northern Ireland) 2011. The Department is not aware of any plans to amend section 60 of the Justice Act (Northern Ireland) 2011.

Article 63Q would provide for a two-year retention period for penalty notices given for the following offences:

- Indecent behaviour (S9 of the Criminal Justice (Miscellaneous Provisions) Act (NI) 1968)
- Shoplifting (S1 of the Theft Act (NI) 1969)
- Criminal damage (Article 3(1) of the Criminal Damage (NI) Order 1977)
- Disorderly behaviour (Article 18(1)(a) of the Public Order (NI) Order 1987)
- Behaviour likely to cause a breach of the peace (Article 18(1)(b) of the Public Order (NI) Order 1987)
- Resisting / obstructing / impeding a Constable (Section 66(1) of the Police (NI) Act 1998)

**New Article 63G and 63H (arrested not charged / charged not convicted with a qualifying offence)**



In its submission to the Committee, NICCY also raised queries regarding the retention provisions contained in new Article 63G and 63H.

New 63G contains provision for the retention of DNA and fingerprints from individuals who are arrested but not charged with a qualifying offence. This arrangement is aimed at protecting some of the most vulnerable members of our society.

There may be cases where it has not been possible to bring charges, particularly in cases involving sexual offences or domestic violence, e.g. due to the intimidation of a victim or a witness and police have a strong suspicion that the suspect is a risk to the victim and others.

The retention of the DNA profiles and fingerprints in such cases will be beneficial on grounds of public protection should the suspect go on to commit other crimes.

It is important to note that DNA and fingerprints will only be retained for three years if prescribed circumstances apply and the retention is approved by the independent Biometrics Commissioner.

The PSNI may apply for a two-year extension, which will be the subject of judicial scrutiny. Multiple court applications by the PSNI will not be permitted, with the maximum possible retention period being five years (i.e. three years approved by the Biometrics Commissioner and two years approved by the court).

The prescribed circumstances that will apply to this process will be set out in future regulations to provide the flexibility to amend them by subordinate legislation, if necessary, in light of operating the new framework. However, to allow adequate scrutiny, the regulations will be the subject of a debate in the Assembly and will require the approval of the Assembly to proceed.

It is the view of the Department that, as Article 63G only relates to qualifying offences, it is appropriate that it extends to under 18s due to the seriousness of the offences involved. The Department believes that the Biometrics Commissioner would report on the number of applications considered (similar to the Biometrics Commissioner in England and Wales) with the format of that reporting to be decided upon by the Biometrics Commissioner once in post.

Similar arrangements to Article 63G, including the court extension process, are currently in force in England and Wales for both adults and under 18s. This process has been operating in England and Wales since 31 October 2013 without challenge.

### **Retention of custody images**

NICCY, in its submission to the Committee, has indicated that custody images are to be included in the new legislative framework. Whilst an amendment relating to custody images is proposed for Consideration Stage, this relates to the recall powers of the PSNI rather than retention powers.

The proposed amendment will put custody images on the same footing as DNA and fingerprints in terms of recall power once the new regime is commenced.

The Department will not be legislating at this time regarding the retention of custody images.

This is because the task of the Department is to provide a resolution to the compliance issues associated with the amendments to PACE NI made by the uncommenced Criminal Justice Act 2013, which related to DNA and fingerprints only. Furthermore, facial matching processes and technology in this area is still evolving and will require detailed consideration.

The consideration of policy and the need for legislation regarding the retention of images will be a priority issue for the Department once capacity allows and once the position on this technology is clearer. In the interim, the PSNI has in place a Service Instruction<sup>5</sup> that provides for the retention of images in accordance with the retention of fingerprints and DNA.

### **Facial recognition technology**

Regarding the concerns raised by NICCY in relation to the future use of technologies, including facial recognition technology, the PSNI has advised the Department that they are aware of a Home Office project to develop a national facial recognition database and are considering the possibility of using this technology.

This project is not focused on live facial recognition but rather retrospective facial recognition, with the database, on which searching will take place, composed of images that have been taken in custody suites in the same environment as DNA and fingerprints.

---

<sup>5</sup> [https://www.psnipolice.uk/sites/default/files/2023-11/Retention%20and%20Deletion%20of%20PACE%20Biometrics%207%20November%202023\\_3.pdf](https://www.psnipolice.uk/sites/default/files/2023-11/Retention%20and%20Deletion%20of%20PACE%20Biometrics%207%20November%202023_3.pdf)



## FROM THE OFFICE OF THE JUSTICE MINISTER

The project remains in development stage only and is not operational for the PSNI at present.

The Home Office has also provided the Department with details on the project which involves the development of a new Strategic Facial Matcher service which will provide a national service to policing to support the use of facial recognition. The system will enable the linking of custody images to corresponding arrest/conviction records, enabling an automated retention regime for images, should it be decided that the retention regime for custody images be similar to that which exists for fingerprints and DNA.

There may also be a role for the Northern Ireland Biometrics Commissioner, who will have responsibility for keeping under review the use and development of existing and new biometric technologies used by, or capable of being used by the police for the prevention and detection of crime.

### **Access to information and guidance**

NICCY has also raised matters relating to appropriate access to information and guidance regarding the taking and retention of DNA and fingerprints.

The PSNI will be the main point of contact for providing individuals with information regarding what will happen to their DNA and fingerprints, including how long they may be kept for and how they will be used. The PSNI has advised that they recognise the need for individuals to be made aware of what will happen to their DNA and fingerprints, and how long they will be retained and appeal options.

Consideration of how this will be achieved will form part of the PSNI project to implement the new DNA and fingerprints retention regime. The Department also anticipates that 'child friendly' versions of published guidance would be available.

Furthermore, vulnerable adults and juveniles are supported in police custody by an Appropriate Adult (AA). The role of the AA is to safeguard the rights, entitlements and welfare of vulnerable adults and juveniles. The role includes making sure the person understands what is happening to them and why.

There will also be a role for the Biometrics Commissioner in raising awareness of the new retention framework to ensure that the public are aware of their rights and the

circumstances in which a complaint can be made to the Commissioner, and the process for making a complaint.

The Department notes the suggestion from NICCY on ensuring that children subject to having their DNA and fingerprints taken and retained, consent to doing so. Such an approach would not be feasible as Part 6 of PACE NI contains specific police powers for individuals arrested, charged or convicted of an offence to have their DNA and fingerprints taken.

Material provided by consent is only applicable in scenarios such as an intelligence led screen or samples taken from people presumed innocent to eliminate themselves from an enquiry.

### **Biometrics Commissioner**

Regarding the queries raised by NICCY on the Biometrics Commissioner's proposed oversight role, the Commissioner will be required to undertake an independent oversight and scrutiny role regarding the taking, retention and use of DNA and fingerprints in Northern Ireland.

It is anticipated that the Commissioner undertaking this role will increase public confidence and transparency in ensuring that the PSNI are operating in compliance with the new retention framework for Northern Ireland.

The Biometrics Commissioner will be independent and there will be no interference from the Department in the conduct of their oversight role. The Department anticipates that the Commissioner will monitor, assess and advise on both how the legislation is working in practice and any issues that need to be addressed or recommend areas that would benefit from legislation.

This may involve identifying trends from complaints they receive and engagement with key stakeholders. For example, a new Commissioner may carry out visits to locations such as Forensic Science NI, and PSNI custody suites, to understand, advise and report on issues such as compliance on the taking of DNA and fingerprints from individuals, retention, and also the destruction of DNA and fingerprints, in line with the statutory framework contained in Part 6 of PACE NI.

This may also include the Commissioner monitoring how DNA and fingerprints from vulnerable persons and young people are being taken and retained.



NICCY have also enquired as to whether a code of practice, similar to the approach in Scotland, is intended for Northern Ireland. Whilst a code of practice is not expected, new Article 63Z provides that the Commissioner may issue guidance about the acquisition of DNA and fingerprint material under new Article 63B, to include guidance regarding the new retention framework in terms of the handling, retention and destruction of DNA and fingerprint material.

There is also a statutory requirement that any person exercising powers in relation to DNA and fingerprints, such as the Chief Constable, must have regard to any guidance issued by the Commissioner.

NICCY enquired as to the role of the Commissioner in overseeing biometric technologies. The Commissioner will be required to undertake an independent oversight role regarding the use and development of existing and new biometric technologies. This may involve keeping abreast of the latest developments and providing advice to the Minister and guidance to the PSNI on any amendments needed to legislation and the appropriate use of new technologies.

NICCY has also suggested a role for the Commissioner in the consideration of individual applications for deletion. If an individual applies to the PSNI for deletion of their material, it is the view of the Department that the application including any reconsideration should be considered by the PSNI as the data controllers.

The Department is currently developing working on the review mechanism and has shared draft proposals with stakeholders, including the PSNI, NIHRC, ICO, and NICCY.

The Department is of the view that the role of the Commissioner should relate to the consideration of complaints to ascertain the lawfulness of retention by the PSNI and procedural fairness. The proposed complaint function of the Commissioner is in line with the model offered by the Scottish Biometrics Commissioner.

The Department is considering the feedback and recommendations received. The Department will engage further as work continues to develop proposals for consideration by the Minister, and in due course public consultation, subject to approval for the Justice Bill.

## Part 2 - Children

### **International standards and rights**

There are two sets of youth justice provisions in the Justice Bill, both of which address the use of custody for children in order to enhance compliance with international standards and children's rights, in particular Article 37 of the United Nations Convention on the Rights of the Child (UNCRC), to make custody a last resort for children.

The provisions also amend the current custodial sentencing framework for children to ensure that where custody is necessary, children are never held in adult facilities.

### **'Serious threat to public order'**

As previously indicated in correspondence with the Committee, when asked whether an individual's release on bail potentially leading to a "serious threat to public order" relate to a perceived threat arising from the individual themselves, or from the community, the answer is both – we are not being prescriptive about its application.

Following a large-scale consultation, the NI Law Commission report on [Bail in Criminal Proceedings](#) identified this as being an acceptable ground for a court to consider refusing bail, or imposing bail conditions. The European Court of Human Rights has also recognised the preservation of public order as a ground for refusing bail and we are therefore updating the legislation to reflect that.

We agree that there would be human rights implications should any decision not to release an individual on bail be based solely on any perceived threat to public order.

That is why this new ground for refusing bail must be applied in conjunction with the other conditions and considerations being introduced in the Bill. Detention for this reason may be justified in exceptional cases, if the gravity of the alleged offence and the public response are such that the release of the individual is likely to lead to a public disturbance.

We believe that any offence committed by a child which causes such a community reaction is likely to be so serious that the court would have to consider a remand into custody in any case.

In all cases, the court would have to fully consider the actual threat posed, and all other options available. This could include the child being released on bail on the condition that they live elsewhere, to prevent such a scenario occurring.

Our legal system, and our compliance with international human rights, should not be dictated to by the threat of public disorder.

### **Custodial Orders and best interests**

As the NICCY correspondence notes, the Department is removing two existing custodial orders as they apply to children and replacing them with a new Youth Custody and Supervision Order. This new order has been developed to be in children's best interests and must be served in a Juvenile Justice Centre.

In creating this new order, and the flexibility it provides in terms of duration, custody/community split and breach arrangements, it is intended that it will become the most commonly used sentence for the small numbers of children who are sentenced to custody in Northern Ireland.

The other existing custodial orders to which NICCY refers have also been considered as part of this comprehensive piece of work. The provisions in the Justice Bill intend to change the legislation underpinning them to ensure that they, too, must be served in a Juvenile Justice Centre for as long as the child remains under 18.

In terms of adequate provision of community supervision, the fact that all these orders will be served in the Juvenile Justice Centre will enable the Youth Justice Agency to deliver an end-to-end service for these children, working with them whilst in custody and through their return to the community.

Staff from the Agency's Youth Justice Services, who provide community support and supervision, will engage with these children whilst they are serving their custodial element of the order, so that they can be better prepared for release and reintegration.

As the Agency is a province-wide service, there is no issue in relation to the provision of supervision, regardless of where a child may be released to.

### **Monitoring processes and guidance**

The Youth Justice Agency produces annual published workload statistics which include detailed information on the number of custodial orders that are served at the Juvenile Justice Centre. Once introduced, Youth Custody and Supervision Orders will be included in these monitoring and reporting arrangements.

The Department is content should the Committee wish to make explicit in the Bill or EFM that the use of such orders should be a measure of last resort. Any guidance produced for stakeholders will make this point.

### **Suitable accommodation**



## FROM THE OFFICE OF THE JUSTICE MINISTER

Recommendations 5, 9, 10, 11 and 12 all deal with issues around the provision of alternative accommodation for children, where the use of custody is not justified by the nature of their offending.

We welcome NICCY's support for Clause 8, which prohibits a child from being remanded into custody solely due to a lack of suitable accommodation.

We also understand their frustration with the fact that this provision will not be commenced on Royal Assent. However, in practical terms, we would not wish to commence this provision knowing that there was a lack of accommodation available, thereby setting it up to fail.

As recommendation 9 notes, it is not the responsibility of the justice system to provide accommodation for children on bail. To do so runs the risk of such accommodation becoming a de facto justice centre for children who have not had a finding of guilt, contrary to our intentions in the Bill.

Neither should a Justice Bill be used to impose a statutory duty on another Department. A statutory duty already exists in the Children (NI) Order 1995 for the Department of Health to provide suitable accommodation for children in need.

We do recognise, however, that there needs to be increased provision of alternative accommodation in the community, and that we have a role to work with the Department of Health to address this issue.

The Children's Services Co-operation Act (NI) 2015 is one mechanism by which this cross-departmental work can be justified, as can the fact that a significant proportion of children who experience custody are already in the care system.

Officials are engaged with the Department of Health on a number of working groups aimed at improving outcomes for children, including those in the justice system, and will continue to use these opportunities to explore options for those children who, for whatever reason, cannot be safely returned home when given bail.

However, there is no simple fix, given the often-complex nature of these children's backgrounds, the pressure on budgets, and the limited availability of provision, and the decision to commence Clause 8 by future order is a reflection on these issues.

### **Designation of Woodlands JJC as a 'safe place'**

Currently the Police and Criminal Evidence (NI) Order 1989 (PACE) allows an arrested child to be held in a place of safety overnight, or until their first court appearance, if a police custody officer decides that they cannot be released either with or without bail.

The Order defines a place of safety as “*any juvenile justice centre, any hospital or surgery, or any other suitable place, the occupier of which is willing temporarily to receive the arrested juvenile*”. Despite these options being available in statute, in practice, it is only Woodlands JJC which is used for accommodation purposes as a place of safety under PACE.

We recognise NICCY’s concerns, given that a significant number of children each year can be held at the JJC under this PACE legislation. However, to remove it as a place of safety would be tying the hands of police, who often spend considerable time trying to source alternative accommodation in the community to enable bail to be granted, rather than holding a child in custody overnight. This goes back to the issue of lack of suitable community accommodation discussed above.

It is hoped that as and when there is increased availability of suitable accommodation in the community, the numbers of children being held at the JJC under PACE will decrease. At that point, there may be an opportunity to review the definition of a place of safety, with a view to considering the status of the JJC. We would, however, need to be assured that sufficient secure accommodation was available to meet police needs before considering its removal.

In the meantime, as with court remands, the accommodation clause proposed in the Justice Bill will prevent a custody officer refusing to release a child on police bail solely because of a lack of adequate accommodation. It will be commenced by order, for the reasons discussed above.

### **References to ‘best interests’**

During the drafting process, officials had requested that an express reference to the best interests of the child be included in the clauses in Part 2 but were informed by OLC that this was neither necessary nor appropriate.

Their reasoning was that section 53 of the Justice (Northern Ireland) Act 2002 already provides that all persons and bodies exercising functions in relation to the youth justice system (which will include the new provisions) must have the best interests of the child as a primary consideration.

They therefore felt additional references were an unnecessary duplication of this overarching statutory principle.

The Department is content should the Committee wish to make explicit references to the last resort principle in the Bill, as recommended by NICCY.

### **Reasons for refusing bail**

The bail and remand provisions in the Bill include a requirement for courts to provide reasons for not only remanding a child in custody for more than three months (Clause 14 as mentioned above) but also for any remand in custody (Article 10I(2) as inserted by Clause 6).

These are not new requirements; they repeat what currently exists in Article 13 of the Criminal Justice (Children)(NI) Order 1998, which is being repealed and replaced by the new provisions. In addition, the Bill contains a requirement that courts should do so in a way that is “appropriate to the age, maturity and understanding of the child” (Article 10I(3) as inserted by Clause 6).

Therefore, while it is not a new requirement, the purpose and effectiveness of the action is emphasised by the additional provision, with the aim of ensuring children and their families/carers have a greater understanding of what is happening and why. Any guidance produced for stakeholders, including the judiciary, will emphasise this point.

On a separate note, the Department is working with a number of partners, including the Lady Chief Justice’s Office and NI Courts and Tribunals Service, on a range of measures aimed at improving a child’s experience, understanding of, and participation in, youth court proceedings.

### **Secure Care Centres and Independent Review of Children’s Social Care.**

Recommendations 6 and 7 are beyond the scope of this Justice Bill, and do not comment on the provisions within it.

Separate to its consideration of the Bill, should the Justice Committee wish for further information on either of these recommendations, they can write to the Department and the Department of Health.

### **Part 3 – Use of Live Links**

#### **Best interests**

The Department’s view is that there is sufficient detail within the provisions to protect the best interests of the child.

The amendments made by Clause 21 include the mandatory requirement for the custody officer to consider that the use of the live link is **appropriate**. The Department is of the view that this would encompass whether the live link is in the best interests of the child. The determination by the custody officer must also be made in a manner that must be compliant with Section 6 of the Human Rights Act.

In addition, for new Article 46ZB there is a further mandatory requirement inserted that court hearing is not contrary to the **interests of justice**. The 'interests of justice' test is wide ranging and must take into account any judgment, decision, declaration or advisory opinion of the European Court of Human Rights. This would include various Human Rights issues including the best interest of the child.

Furthermore, the Department is of the view that there are protections in place within the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI), and the proposed amendment to ensure that an appropriate adult (AA) should be with the young person within police custody.

The role of the AA is to safeguard the rights, entitlements and welfare of the young person in custody, together with helping to explain the custody proceedings. There is also an explicit requirement within the provisions for the young person to have received legal advice regarding the use of the live link.

### **Codes of Practice**

The Codes will enhance the procedural protections provided for in the primary legislation. PACE Code C already contains significant procedural protections for children and for any person who may be suffering from a physical or mental disability or with significant communication difficulties.

Code updates will provide a statutory basis for the proposed safeguards. These safeguards will be similar to those that have already been introduced in England and Wales and their purpose is to ensure that the detainee has had the advice of a solicitor on the use of live links; that circumstances in relation to age, vulnerability and ability to communicate effectively have been considered before the use of live links is authorised.

Code amendments are secondary legislation, which means changes can only be made once the primary legislation has been agreed. The provisions in the Bill will be commenced by order of the Department following Royal Assent, and it is planned to publicly consult on the Code amendments in advance of commencement to ensure that the primary and secondary legislation come into effect simultaneously.

It will be necessary to update PACE Code C, which deals with the detention, treatment and questioning of persons by police officers, and PACE Code E which deals with the audio recording of interviews with suspects. Live links have been in use in England & Wales for police detention and interviews since 2018.

It is intended that the Codes of Practice will closely mirror the safeguards and live link provisions as set out in the England and Wales Codes of Practice, which are currently available [here](#).

Children and young people will be informed about the live link process by the custody officer; be given independent advice from solicitors; and an AA will be available to safeguard their welfare and rights and to ensure they fully understand the process.

### **Competency to understand proceedings**

As part of the consultation exercise, there were concerns raised around the proposals for the use of live links, and the ability of the detainees to understand the proceedings and participate effectively. The Department is of the view that the Code amendments will address those concerns.

Amendments to the PACE Codes will be subject to a separate consultation process prior to commencement of the live link provisions.

The issue of mandatory training on Adverse Childhood Experiences (ACE) and trauma-informed practice and children's rights would be wider than the use of live links. It would also require consideration by relevant bodies and professionals and NICCY may therefore wish to raise this issue separately.

### **Consent**

Appropriate consent is defined within the live link provisions (Article 46ZA(2)) as:

*“the appropriate consent” means—*

*(a) in relation to a person who has attained the age of 18, the consent of the person;*

*(b) in relation to a person who has not attained the age of 18 but has attained the age of 14, the consent of the person and of the person's parent or guardian;*

*(c) in relation to a person who has not attained the age of 14, the consent of the person's parent or guardian.*

This is in keeping with the definition that is already contained in PACE NI Part VI Article 53. This is also consistent with the definition of appropriate consent used within the Police and Criminal Evidence Act 1984.

The conditions for the use of live links are as follows:

- (a) a custody officer considers that the use of the live link is appropriate,*
- (b) the arrested person has had advice from a solicitor on the use of the live link,*  
*and*
- (c) the appropriate consent to the use of the live link has been given.”*

The appropriate consent conditions are conjunctive which means that all three conditions need to be met in order for the appropriate consent to be obtained. If any one of the three conditions is not met, then live links must not be used.

If the young person has reached the age of 14 but has not reached the age of 18, or their parent or guardian object to the use of live links, the ‘appropriate consent’ condition will not be met, and live links cannot be used. In relation to a child who has not reached the age of 14, then the parent or guardian will be able to act in their best interest.

### **Access to Justice**

In order for live links to be used, appropriate consent must be given. This confers a high degree of procedural protection ensuring that the relevant functions using live links may only be used in strictly limited and highly controlled circumstances.

The ‘interests of justice’ test is wide ranging and must take into account any judgement, decision, declaration or advisory opinion of the European Court of Human Rights. This would comprise various Human Rights issues including the best interest of the child. The decision by the custody officer must also be made in a manner that must be compliant with Section 6 of the Human Rights Act.

Children and young people who are in custody will be accompanied by an AA, who will help by explaining the proceedings and ensure that they understand the process. Solicitors will ensure they receive advice on the use of live links and how the process works in order to help them make an informed decision.

### **Vulnerable people**

There will be safeguards in place to ensure that children, young people and other vulnerable groups are considered on a case-by-case basis by the custody officer, to identify their ability to understand and effectively communicate and participate during live links proceedings. Their individual needs will be taken into consideration.

Live links in detention can be of benefit for defendants (both young or vulnerable) who are unable to travel, such as those in custody or those with mobility issues. They could also help reduce travel time for children and young people travelling long distances and may be less intimidating. Additionally, the use of live links may help with speeding up the custody process, which would benefit both the detained person and PSNI resources. This would also apply to vulnerable people.

#### **Part 4 – Administration of Justice**

##### **Clause 26: Examination in criminal proceedings through intermediary**

The Department notes and welcomes that NICCY is in favour of the proposed legislative change contained in clause 26 of the Bill.

We also note comments in relation to the growing need for Registered Intermediaries and can advise that over the past year we have conducted training / awareness sessions with the judiciary, legal profession and PSNI in relation to the RI scheme.

The Department will continue to work with criminal justice partners to ensure that every witness who requires RI support will receive it.

##### **Clause 29: Automatic review of certain criminal record certificates**

Clause 29 has a single and narrow purpose in seeking to extend the role of the Independent Reviewer (IR) of Criminal Records Certificates to include the review of **all** Youth Non-Court Disposals (NCDs) before a AccessNI disclosure certificate issues – essentially putting on a legal footing the administrative arrangement that has been in place in AccessNI since March 2020.

The provisions will enable the Department to demonstrate that it is complying with the ruling made by the Supreme Court in 2019 regarding the disclosure of Youth NCDs.

A fundamental principle for the IR, in considering matters for removal from a disclosure certificate is that information must not be removed if it is considered that it might pose a risk to safeguarding or public protection.

In reviewing all youth NCDs, the IR must consider: -

- Must not remove details of an offence unless satisfied this would **not undermine safeguarding or pose a risk of harm to the public.**

- The IR must give regard to the **relevancy** of the disposal (in relation to the role they are seeking to undertake).
- The disclosure of information must be **proportionate** (including as assessment of the 'currency' of the offence).
- IR must afford opportunity for **representations** prior to deciding to retain offence on a disclosure.

The statistics published by the IR in 2023/24 show that the IR concluded that it was appropriate, in a very small number of instances (ie, 6 of 165 cases, or 3.6%), to retain the youth non-court disposals on the disclosure certificate so that due consideration could be given by employers or voluntary / community organisations.

The Department considers this practical outcome affirms the position that a blanket non-disclosure policy for youth non-court disposal is inappropriate and could present risks to safeguarding and public protection.

Examples of the youth NCDs retained by the IR in 2023/24 include:-

**Case 1:**

An 18 year-old sought an Enhanced check to commence a course in a Regional College that would have involved placement roles caring for children and vulnerable adults.

The disclosure included a Youth Caution in 2022 in relation to multiple offences including, Disorderly Behaviour, Assault on Police, Criminal Damage and Possession of a blade in a public place.

**IR Rationale to disclose:** Offences are all recent and demonstrate a propensity to engage in criminal and violent behaviour. Relevant in terms of seriousness, age and the position applied for.

**Case 2:**

A 23 year-old sought an Enhanced check for the position of Healthcare Assistant. The disclosure included a Youth Caution in 2018 for Criminal Damage, Assault on Police, Resisting Police and Possession of Class A and Class B controlled drugs.



**IR Rationale to disclose:** The applicant has a history of offending. Offences should be disclosed so that the applicant's propensity to engage in criminal behaviour is brought to the attention of the prospective employer.

**Case 3:**

A 19 year-old sought an Enhanced check for a position of Nursery Assistant. The disclosure included a Youth Conference Plan in 2021 for Theft.

**IR Rationale to disclose:** Offence relates to a breach of trust where an employee stole money from her employer on a number of dates. Offence is relevant in terms of seriousness, age and to the position applied for.

The Department considers that the other comments / recommendations from NICCY in relation to Clause 29 go beyond the narrow and immediate policy matter the Department is seeking to address with this clause and are therefore outside the scope of the content of this Justice Bill.

As such, the Department is not in a position to comment further on other matters raised in the NICCY briefing as part of this correspondence.

**Minors Out of Court settlements**

The Committee will be aware that the Department wrote to them on 24 May last year to advise that – after careful and lengthy consideration of how any new statutory requirement for court approval of compensation settlements for children reached before issue of legal proceedings, could be implemented in practice and enforced – the Minister had decided not to bring forward legislation in relation to court approval of compensation settlements for children in the current mandate.

However, the Minister remains open to legislating on this issue in future if an effective, coherent and proportionate legislative solution can be identified.

The point about legislative reform in relation to untraced drivers in the NICCY submission is a matter for the Department for Infrastructure.

**Abuse of trust**



The Committee will recall that this was an area that was legislated for further as part of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 - 'the SOTV Act', whereby section 5 of this Act extended the four abuse of position of trust offences contained in Articles 23 to 26 of the Sexual Offences (Northern Ireland) Order 2008 ('the 2008 Order'), to the areas of sport and religion.

The abuse of position of trust offences are applicable to young persons under the age of 18 (though mainly focus on 16- and 17-year-olds) and their main purpose is to capture those relationships where there is an imbalance in the power held by the child and adult, and, therefore, scope for that position of trust to be abused. Further to this recent legislative change, the Minister carried out a 'Call for Evidence' on this area in October 2022, encouraging the public and interested parties to provide relevant information of any gaps in the law on this issue. This fulfilled her commitment, made to address particular issues raised by some members of the Justice Committee regarding whether the extension of the abuse of position of trust offences to sport and religious settings went far enough in protecting young people.

Following an analysis of the responses to this exercise, the Minister did not propose a further extension to the law at that time. A copy of the summary responses to the 'Call for Evidence' review and way forward was provided to the Committee for its information on 4 November 2024.

The Minister is acutely aware that predatory behaviour can occur in any environment where an adult has significant influence or power over a young person in their care and while it is important to ensure that there are no gaps in our legislation, we must also ensure that we consider and carefully balance any resultant human rights impacts.

The legal age to engage in consensual sex in Northern Ireland is 16 years old and therefore we must ensure that any changes aimed at protecting our young people also recognise and respect their fundamental right to engage in lawful consensual relations from the age of 16.

This is a complex area where Article 8 rights are specifically engaged. The abuse of position of trust offences criminalise behaviour between individuals over the age of sexual consent that would otherwise be lawful (where there is no position of trust), impacting upon their Article 8 ECHR Right.

This qualified right of privacy includes protection for every individual's private sexual life - including the private sexual life of a young person aged 16 or 17 in Northern who is over the age of consent. Significant consultation, engagement and scrutiny have already been



applied to this area, to ensure that a proportionate balanced approach is taken to legislative change.

It should also be noted that in terms of protecting young people, the abuse of position of trust offences are only one element of a wider comprehensive legislative framework which provides extensive and significant protections to young people from the harm caused by sexual offending.

Further, where an offender in a case is in a position of trust, this would be treated as a significant aggravating factor by the courts at the point of sentencing.

It should be noted that the Act already contains provision (Article 29A(5)) to extend the areas beyond those already provided, by way of secondary legislation. This was included specifically by the SOTV Act, to avoid the need for inclusion of any amendments in a primary legislative vehicle.

The Minister remains open to extending the law where appropriate. Article 29A(6) of the 2008 Order, as provided for in the SOTV Act, requires that the Department carries out a review of this area on an annual basis and a further review is already underway with preparation being made for a further engagement exercise with relevant stakeholders.

### **Response to issues raised by CLC**

#### **Overarching Recommendations**

Before their detailed commentary on each of the clauses within Part 2 of the Bill, CLC asked the Committee to consider two overarching recommendations.

First, they recommend the inclusion of an overarching provision at the beginning of the Bill to emphasise that the best interests of the child should be a primary consideration in all matters relating to children. During the drafting process, officials had requested that such a reference to the best interests of the child be included in the clauses in Part 2 but were informed by OLC that this was neither necessary nor appropriate. Their reasoning was that section 53 of the Justice (Northern Ireland) Act 2002 already provides that all persons and bodies exercising functions in relation to the youth justice system (which will include the new provisions) must have the best interests of the child as a primary consideration. They therefore felt additional references were an unnecessary duplication of this overarching statutory principle, but we would be supportive should the Committee wish to include such a principle in the Bill.

Secondly, they recommend consistency of language within the Bill, noting that both the words children and juvenile are used within the provisions, and that the latter tends to have negative connotations (juvenile delinquent'). We recognise this issue and agree with the Children's Law Centre that the language of child and children is important, particularly given the Youth Justice Agency's Child First model of practice. However, all the provisions in Part 2 of the Justice Bill deliver amendments or additional content to existing Acts and Orders; it does not create a new, stand-alone piece of legislation. Therefore, the differences in the language used across the provisions was necessary to reflect that already being used within those existing Acts and Orders, for consistency. For example, the Police and Criminal Evidence (NI) Order 1989 consistently uses the word juvenile throughout; the Office of the Legislative Counsel advised that it would not be appropriate to change this language when introducing amendments, as it would introduce confusion and inconsistency.

#### Comments on Clauses

**Clause 4:** we welcome CLC's support for the general intention of clause 4 and would have no objection to the inclusion of the word 'vulnerabilities' should the Committee wish – this same point is also made in their comments under Clause 5. No definition of the word 'needs' has been provided, as it should be interpreted in its widest possible form. It is not aligned to the definition in the Children (NI) Order 1995 as this has a specific focus on health and development, and may not, for example, consider underlying causes of offending behaviour.

**Clause 5:** Article 39 of the Police and Criminal Evidence (NI) Order 1989 (PACE Order) already states that custody officers shall order a child's release on bail except in defined circumstances. The 'shall' is equivalent to the 'must' which Children's Law Centre are seeking. Likewise, the wording at sub-paragraph (2) which they are expressing concerns over already appear in the PACE Order in Article 39(2A) when considering a release on bail. The new provision merely repeats these same considerations which a custody officer must have regard to when deciding whether to impose bail conditions, for consistency. They are not new.

They also raise the issue of including a new ground for refusal of bail if there is a serious threat to public order, which is contained in Clause 5 and elsewhere in the provisions. As previously indicated in correspondence with the Committee, following a large-scale consultation, the NI Law Commission report on Bail in Criminal Proceedings identified this as being an acceptable ground for a court to consider refusing bail, or imposing bail conditions. The European Court of Human Rights has also recognised the preservation

of public order as a ground for refusing bail and we are therefore updating the legislation to reflect that.

We agree that there would be human rights implications should any decision not to release an individual on bail be based solely on any perceived threat to public order. That is why this new ground for refusing bail must be applied in conjunction with the other conditions and considerations being introduced in the Bill. Detention for this reason may be justified in exceptional cases, if the gravity of the alleged offence and the public response are such that the release of the individual is likely to lead to a public disturbance. We believe that any offence committed by a child which causes such a community reaction is likely to be so serious that the court would have to consider a remand into custody in any case.

**Clause 6:** we welcome CLC's support for this clause. They state that they wish to see a presumption of bail without conditions attached – this is already inherent in the provisions. New Article 10G (2) which is being inserted by Clause 6 states that "The court must not impose a condition of bail" unless it is satisfied that it is absolutely necessary to do so to prevent four specific issues i.e. interfering with witnesses, committing further offences etc.

CLC express concerns over new paragraphs 10E(3)-(5), and in particular para (4). These have been drafted by OLC specifically to cover those circumstances where the right to bail does not apply, namely where the child is already on remand or has been sentenced on other offences (meaning they are already being held in custody and should remain so), or where they have been convicted of the current offence. Paragraph (4) provides a definition of what constitutes a conviction and in doing so, largely replicates provisions included within Article 3(3) in the Criminal Justice (Northern Ireland) Order 2003, in order to ensure consistency and transparency. Such a conviction means their status has changed and they are no longer on remand for the offence. Therefore, whilst CLC are concerned that this allows disapplication of the presumption of bail, the entire premise of Clause 6 is to apply where a child is arrested for or charged with – but not convicted of – an offence. It cannot apply on conviction, hence the inclusion of these paragraphs.

In relation to Clause 6, the CLC also suggests an amendment to paragraph (2)(c) in Art 10I which would require the court to provide a copy of the reasons for bail being refused to each child, whether they request it or not. We do not believe that this is necessary, for two reasons. First, given that the child and their legal representative will be in court and will hear the Judge outline the reasons for bail being refused. Second, and more importantly, each child who has bail refused will be admitted to Woodlands, where YJA workers will further explain the decision and the reasons behind it, and will consider what bail support could be put in place to mitigate against those risks to enable release on bail



at the next court hearing. Given this, and the fact that we do not want to place unnecessary burdens on court processes, we therefore believe that the provision as drafted - i.e. a requirement that a copy of the reasons to be provided on request - is sufficient.

**Clause 7:** the Department would have no objections to the amendment being suggested by the Children's Law Centre, should the Committee wish to consider it.

**Clause 8:** we recognise the work that CLC have undertaken in relation to the accommodation needs of children in the justice system, and welcome their confirmation that both the Children (NI) Order 1995 and the Regional Good Practice Guidance (relating to children aged 16 and above) to which they refer both place statutory responsibility on the Department of Health and local Trusts to provide bail addresses for children who cannot return home. Their proposal to make the attendance of Trust personnel an obligation through the Justice Bill is one for the Committee to consider, and something which they may wish to engage with the Health Committee on. The CLC states that this does not create a new duty on Trusts but strengthens existing guidance and while we have no strong objections, we would have a concern that it would be unworkable in practice due to resourcing issues within Health and Social Care Trusts. This could also have the unintended consequences of increasing delay in the youth justice system, particularly if Trust personnel were unavailable to attend court.

We note that CLC query the inclusion of consideration of a child's accommodation needs at all as part of a bail decision, when this has not been included as a reason to refuse bail. We understand this position but believe that the provision – or lack of – accommodation for a child accused of an offence may be a contributory or exacerbating factor to one or more of the four grounds for refusing bail and should therefore play a role in the decision. It is for this reason that we have included the word 'solely' in the provisions; it should not be the sole reason but could be a factor when the conditions for refusing bail are being considered.

**Clauses 9, 10, 11, 13, 16 & 17:** we welcome CLC's support for these clauses which, as they note, underpin in statute what currently happens on an administrative basis. The Department is aware that PSNI current practice is to hold children separate from adults in police custody wherever that is practical and possible. However, to legislate to ensure this is always the case would place undue pressure on police resources and potentially mean that children would have to be transferred away from local facilities in order to comply. We do not, therefore, believe that such an amendment as is being suggested is appropriate.

In relation to the comments on Clause 13 paragraph 10J(4), the interpretation and advice provided by OLC differs to CLC's understanding, and we felt that the exception noted under Section 152 of the Criminal Justice Act 1988 should be included to ensure that we were not amending or affecting UK legislation on a reserved matter as a consequence of our provisions in the Bill.

**Clause 12:** the introduction of a new Youth Custody and Supervision Order is not intended as an alternative to raising the minimum age of criminal responsibility, but to provide a flexible new order for those children for whom community sentences are either not appropriate or have been exhausted. The increase in age to 14 years reflects what is currently happening in practice as the number of children under this age who receive custodial sentences is negligible. We recognise CLC's comments regarding the imposition of a minimum duration, however it remains our position that this new order should reflect the current provision where the minimum order is six months, with a current minimum of three months in custody. There are two main reasons for this. Firstly, research shows that "short, sharp shock" sentences have limited effect at changing offending behaviour, with community disposals being much more effective; and secondly, to give effect to the policy aim of custody being used as a last resort and for the shortest appropriate period of time. This latter rationale may on the face of it seem oxymoronic, however placing a child into custody should be seen as a significant event. If their offending is not sufficiently severe or persistent to warrant at least three months in custody, it should not result in any custodial disposal. In other words, the shortest appropriate period of time in custody, in our view, is three months.

Regarding their comment on the custody/community split of the new order, CLC appear to have misunderstood the provisions, which already provide a flexible split to enable a greater period of the order to be spent under supervision in the community.

**Clause 14:** we understand why CLC would want to strengthen this clause through the addition of suggested new paragraph (3). However, this is essentially asking a court to pre-empt what length of sentence might be given on a finding of guilt before a contest is heard. The use of the word 'ensure' is therefore, we believe, too binding on the court; it would also lead to the question of what consequences there would be if this was not complied with. The construction of the provisions as drafted ensures that a court must think about how long a child has spent on remand, and what their sentence might potentially be before extending their remand beyond three months, but without the absolute position being proposed by CLC.

**Clause 15:** the Department would have no objections to the amendment being suggested by Children's Law Centre, should the Committee wish to consider it.

**Combined response to amendments that both NICCY & CLC would wish the Committee to consider**

Minimum Age of Criminal Responsibility (MACR) and Equal Protection (reasonable chastisement)

Both NICCY and CLC support two amendments to the Justice Bill which they wish the Justice Committee to consider. These relate to raising the Minimum Age of Criminal Responsibility in Northern Ireland and repealing the legal defence of 'reasonable chastisement' to provide equal protection from physical punishment for children to that which exists for adults.

The Minister's support for raising the Minimum Age of Criminal Responsibility has been well documented, and the Department would welcome the Justice Committee's consideration of the points raised by CLC and NICCY in support of an increase in MACR.

The Justice Minister is also fully supportive of removing the defence of reasonable chastisement in Northern Ireland. However, the issues are broader than criminal justice alone, and any change to the law will require Executive agreement, particularly in areas such as health and family law.

In 2024 the Minister circulated a draft Executive paper which included proposals to repeal the defence of reasonable chastisement and which also sought views on increasing the Minimum Age of Criminal Responsibility. The paper received support from some Ministers but did not achieve a consensus within the Executive and so the Minister was unable to proceed.

The Committee may wish to consider whether to bring forward an amendment to the Justice Bill, as called for by NICCY and CLC.

England is currently considering the repeal of the defence, however they are awaiting publication of a report by the Welsh government which will contain data on the effect of the repeal of the defence in Wales in 2022 - the report is due to be published by the end of this year. Scotland repealed their offence in 2020 and the Republic of Ireland did so in 2015.

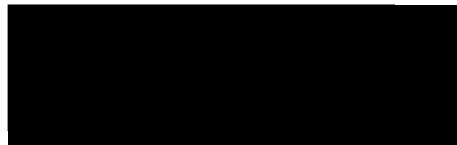
If proposals to repeal the defence of reasonable chastisement are brought forward it is important that time for implementation is given for others, including criminal justice



partners and other departments, to make plans for the change in the law and to raise public awareness of the change well in advance of it becoming law.

**Committee consideration of the Justice Bill generally**

Finally, I have been asked to raise the Minister's concern with the Committee's approach to the evidence received from some consultees, where it appears that the Committee is forwarding this evidence in full to the Department for both analysis and comment. In the past, it has not been normal practice for the Department to analyse and comment in detail on every submission that the Committee receives. Rather, it is for the Committee to analyse the evidence, reach its own view with respect to the points raised and then come to the Department with any remaining concerns or points of clarification. To be clear, the Department is happy to endeavour to answer specific questions raised by the Committee, but unfortunately simply does not have the capacity to analyse every point made by every consultee as part of the Committee's evidence-gathering, nor is that the Department's role. I would be grateful if the Committee could consider the Minister's concerns.



**DAVID GRAHAM  
DALO**



**Northern Ireland Assembly  
Committee for Justice**

David Graham  
DALO  
Department of Justice  
Castle Buildings  
Stormont Estate  
Belfast  
BT4 3SQ

4 April 2025

**Justice Bill – NICCY written evidence**

Dear David

At its meeting on 27 March 2025, the Committee for Justice received oral evidence from the Northern Ireland Commissioner for Children and Young People (NICCY) on the Justice Bill.

In its written submission, NICCY has raised a number of issues and recommendations. Following the oral evidence session, the Committee agreed to forward NICCY's submission to the Department for a response to the points raised.

I should appreciate a response by 30 April 2025.

Yours sincerely,

*Kathy O'Hanlon*

**Kathy O'Hanlon  
Clerk to the Committee for Justice**

**Enc.**



**Northern Ireland Assembly  
Committee for Justice**

David Graham  
DALO  
Department of Justice  
Castle Buildings  
Stormont Estate  
Belfast  
BT4 3SQ

4 April 2025

**Justice Bill – Children’s Law Centre written evidence**

Dear David

At its meeting on 27 March 2025, the Committee for Justice received oral evidence from the Children’s Law Centre (CLC) on the Justice Bill.

In its written submission, the Children’s Law Centre has raised a number of issues and recommendations in relation to Part 2 of the Bill. Following the oral evidence session, the Committee agreed to forward the CLC submission to the Department for a response to the points raised.

I should appreciate a response by 30 April 2025.

Yours sincerely

*Kathy O’Hanlon*

**Kathy O’Hanlon  
Clerk to the Committee for Justice**

**Enc.**

Room 345, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX  
Telephone: (028) 905 21033

E-mail: [committee.justice@niassembly.gov.uk](mailto:committee.justice@niassembly.gov.uk)