

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

www.justice-ni.gov.uk

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

JCP\25\339

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

22 December 2025

Dear Kathy,

JUSTICE BILL: TABLE OF EVIDENCE

Thank you for your letter dated 26 November 2025, in which you provided a summary table of the key issues raised and comments made in written and oral evidence received by the Committee on the Justice Bill and the planned Departmental amendments.

You advised that the Committee staff populated the table with information already provided by the Department at the appropriate points and requested that the Department's position on each of the remaining issues be added in writing to the table.

I am happy to provide the information requested in the attached completed table of responses, with the Department's additions to the table identifiable by the use of *italic* text.

AccessNI Filtering Scheme amendment: Delegated Powers

I am also happy to provide the Committee with the revised text for new Clause 29A – the planned Departmental amendment relating to the AccessNI filtering scheme changes - where the Committee, upon the advice of the Examiner of Statutory Rules, requested that Schedule 8ZA be amendable via the draft affirmative procedure, rather than the negative resolution procedure contained in the original draft provision.

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I trust that this is helpful and will be of benefit to the Committee.

Yours sincerely,



**CAOIMHE MCKEOWN
DALO**

ENC. Completed table of evidence

Revised text of draft Clause 29A

Justice Bill (07/22-27) Table of Issues

Clause 1 - Biometric Data Retention etc

Clause 1 relates to the retention of Fingerprints and DNA Profiles and the regime for the destruction or retention of such material under the instruction of the Chief Constable and the Northern Ireland Commissioner for the Retention of Biometric Material. This Clause is in 24 subsections and covers the application of standard timescales for the retention of material in relation to consensual and non-consensual material, the various stages of police investigation up to and including custody, the differing arrangement for collecting and retaining biometric material from children and young people and the circumstances under which exceptions to those arrangements can be made.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
CVOCNI	Wishes to consider what happens to the biometric data of someone who initially engages with the police as a suspect but, on further investigation, is believed to be a victim and is keen to ensure that any such victims do not have their data held unnecessarily.	<i>The general rule under the new DNA and fingerprints retention framework for Northern Ireland is that material obtained under the powers set out in Part 6 of PACE NI must be deleted where there is no conviction (there are limited exceptions to this rule e.g. Article 63G introduces specific provisions for the retention of material from individuals who have been charged but not convicted, or arrested but not charged, in relation to a qualifying offence).</i>
CVOCNI	Also wish to consider the merit of the proposed biometric commissioner role having included in its remit a requirement to consider the views of, and impacts on, victims of crime.	<i>The role of the Biometrics Commissioner is to keep under review the acquisition, use and retention of fingerprints and DNA, and of new and emerging technologies. In doing so, it is envisaged that the Commissioner will want to consider the impact on victims e.g. the benefits of using fingerprints and DNA appropriately in investigating offences and protecting the public. This will have a particular relevance when considering applications under Article 63G. In addition, it is expected that the Commissioner will want to engage with stakeholders, including the CVOCNI, in carrying out their statutory functions.</i>

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Law Society Northern Ireland	To consider the fact that retention of DNA and other biometric material commences at the point of conviction, with regard to some of the provisions, and reflect on whether that it should commence from the point at which it is obtained.	Response dated 3 June 2025 - The retention periods contained in Articles 63J – 63M commence from the point of conviction to ensure consistency of approach with Article 63N (persons convicted of an offence outside Northern Ireland), where the conviction date is the only date available to the PSNI from which the retention period can be commenced. Furthermore, the retention periods contained in Articles 63J – 63M commence from the point of conviction in order to ensure a fair approach for individuals recalled by the PSNI for the purpose of taking DNA and fingerprints. Where an individual has been convicted of an offence and DNA and fingerprints have not previously been taken, the PSNI will have the power on foot of Schedule 2A of the Police and Criminal Evidence (NI) Order 1989 to recall that individual to a police station for DNA and fingerprints to be taken. The Department considers that the retention period commencing from the date of conviction, rather than the later date of material being taken, is a fair approach. It is also important to note the general policy of the PSNI is to take a DNA sample only once from an individual, with the DNA profile then generated from the DNA sample. In circumstances where an individual has had their DNA taken for a first offence before going on to commit multiple offences (and is convicted for those offences), the date of material taken would not be an appropriate commencement date for the calculation of retention periods for later offences. Therefore, the Department is of the view that the retention periods contained in Articles 63J – 63M commencing from the date of conviction is the most logical, fair and consistent approach for the purposes of the operation of the new DNA and retention framework for Northern Ireland.
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NIHRC	Raised a concern about the need for delegated powers in article 63G and is not clear why this is not in the primary legislation.	<p><i>The Department considered that secondary legislation would be preferable as it provides more flexibility, when compared to the lengthy primary legislation process, should an urgent amendment to the prescribed circumstances arrangements be required in the interests of public protection. It is important to note that the regulations will be subject to approval by the Assembly under the affirmative resolution procedure.</i></p>
NIHRC	Raised concerns about the retention of data for a three-year period and the lack of distinction in this article between retention periods for young people and those for adults.	<p>Response dated 20 February 2025 – The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - a 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions.</p> <p>Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p> <p>Response dated 02 June 2025 - 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.</p> <p>The 2021/22 adult and youth reoffending statistics from the Northern Ireland Statistics and Research Agency 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.</p>

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		<p>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.</p>
NIHRC	<p>Advised that the proposed article 63U should set out a time frame for periodic reviews of biometric material.</p>	<p><i>The statutory review dates will be set out in regulations.</i></p> <p><i>The Department considered that secondary legislation would be preferable as it has the same effect in law but provides more flexibility, when compared to the lengthy primary legislation process, should the statutory review dates require adjustment in the future.</i></p> <p><i>It is important to note that the regulations will require approval by the Assembly under the affirmative resolution procedure.</i></p>
NIHRC	<p>The NIHRC also proposed that the Biometric Commissioner should have a role in considering individual applications under Article 63Z.</p>	<p><i>If an individual applies to the PSNI for deletion of their material, it is the view of the Department that the application, including any request for reconsideration, should be considered by the PSNI as data controllers.</i></p> <p><i>For individuals dissatisfied with the continued retention of their DNA and fingerprints upon review by the PSNI, the individual will have the right to make a complaint to the Northern Ireland Biometrics Commissioner who will determine the lawfulness of retention and procedural fairness. T</i></p> <p><i>The Commissioner will specifically consider whether the retention of the individual's material by the PSNI is lawful and complies with both Part 6 of PACE NI and any Review Regulations introduced by the Department.</i></p>

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<p>NIHRC</p>	<p>Ask to explore whether to include in the proposed Article 63U(3) a duty on the Chief Constable to consider the proportionality of the retention, the individual circumstances of the person and the right for a person to appeal.</p>	<p>Response dated 21 March 2025 - The proposed review mechanism will provide an important safeguard by ensuring that long-term retained material is subject to a statutory scheduled review to assess the continuing need to retain DNA profiles and fingerprints in each individual case. The Department believes this reflects the guidance provided by ECtHR judgments and takes into account good practice from the various frameworks across Europe.</p> <p>Response dated 11 June 2025– The Department confirmed that proposals for a suitable review mechanism are still being developed and they are working with the PSNI, ICO, NICCY and DSO on this</p>
<p>BASW NI</p>	<p>The Association is particularly concerned that in the case of young people aged under 18, data can be retained for five years following the commission of a first non-serious / minor offence and 25 years following a second non-serious / minor offence. It is vital consideration is given to what constitutes a non-serious / minor offence.</p> <p>Recognition must also be given to the fact that many children living in care have experienced significant Adverse Childhood Experiences (ACEs). Offences of damage to property or assault in these settings is often borne out of trauma and when children are acting outside of themselves. These children are already at a disadvantage because of their family situations. A criminal record deters many from realising their true ability because they are hampered by labels and lack of confidence developed through a disrupted and difficult childhood. Retaining biometrics will see many of these children into adulthood feeling labelled by the very fact that the state, which has been unable to protect them, now views them as a future offender.</p>	<p>Response dated 11 June 2025– The Department confirmed that proposals for a suitable review mechanism are still being developed and they are working with the PSNI, ICO, NICCY and DSO on this.</p>

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ICO (NI)	<p>The ICO welcomed the move away from indefinite retention periods and stated this goes some way to ensuring compliance with the fifth data protection principle. They asked that assurances are sought that the retention periods proposed within the Bill are justified based on the age of the offender, the severity of the offence, and disposal/sentence, and that they meet the requirements of strict necessity and proportionality set out in the Data Protection Act 2018.</p>	<p>Response dated 20 February 2025 - The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p>
ICO (NI)	<p>When the Department expects to commence the biometrics provisions and how it will ensure that the necessary systems and processes are in place;</p>	<p>Response dated 28 March 2025 - It is anticipated that commencement of the new retention framework will not take place until 18-24 months after Royal Assent to allow time for the PSNI and other criminal justice organisations to develop, test and implement appropriate software systems. The PSNI is setting up the Justice Bill (Biometric Retention) Project Board to manage their preparations for implementation. Officials from the Department, along with other criminal justice organisations, will attend meetings in an observer capacity to ensure that there is a co-ordinated implementation plan.</p>
ICO (NI)	<p>Whether there has been North-South co-operation in relation to international databases and the exchange of information; and</p> <p>Details of any protocols regarding the deletion of data from databases across jurisdictions, including clarification of which jurisdiction will take precedence where retention periods vary across jurisdictions, either nationally or internationally.</p>	<p>Response dated 28 March 2025 - there are no specific arrangements between the Department and the Republic of Ireland.</p> <p>However, there is a law enforcement treaty, entitled the Prüm Convention, which enables participating countries to exchange biometric data, including anonymised DNA and fingerprint data, certain vehicle registration data, and associated policing information for the prevention and investigation of criminal offences.</p>

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		<p>Different retention regimes are already operating across the other UK jurisdictions. Officials are liaising with Home Office colleagues regarding the content of the new provisions and the estimated timelines for commencement.</p> <p>No significant difficulties are expected when the new retention framework for Northern Ireland is commenced.</p>
ICO (NI)	<p>Recommend that article 63U should set out time limits for the periodic review of biometric material and failing this, we would recommend that clarification be sought by the Committee on the interim position between the enactment of the Justice Bill and the making of regulations regarding the review mechanism, and how PSNI will ensure full compliance with the fifth data protection principle during this time including rights of erasure under Part 3 of the DPA.</p>	<p><i>The statutory review dates will be set out in regulations.</i></p> <p><i>The Department considered that secondary legislation would be preferable as it has the same effect in law, but provides more flexibility, when compared to the lengthy primary legislation process, should the statutory review dates require adjustment in the future.</i></p> <p><i>It is important to note that the regulations will require approval by the Assembly under the affirmative resolution procedure.</i></p> <p><i>It is anticipated that commencement of the new retention framework will not take place until 18-24 months after Royal Assent to allow for various pieces of legislation to be completed and to allow time for the PSNI and other criminal justice organisations (such as Causeway, Forensic Services NI) to develop, test and implement appropriate software systems.</i></p> <p><i>All required primary and subordinate legislation will be commenced on a single agreed date. This will ensure that no gaps will exist, as all the elements of the new retention framework will be commenced together.</i></p>

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ICO (NI)	Seek additional information from the DoJ as to what is meant by “keep under review” in the context of the Biometrics Commissioner’s proposed functions.	<p><i>“Keep under review” in the context of the Biometrics Commissioner’s proposed functions relates to the independent oversight and scrutiny role the Commissioner will undertake regarding the taking, retention and use of DNA and fingerprints in Northern Ireland.</i></p> <p><i>It is anticipated that the Northern Ireland 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.</i></p>
Northern Ireland Commissioner for Children and Young People (NICCY)	NICCY is most concerned however, that human rights principles of proportionality, necessity and presumption of innocence, alongside the child’s ‘best interests’ principle’ should strongly underpin the legislative provisions and therefore impose strict limits on data retention. At this stage, we are unclear as to why the ‘75/50/25’ model has been chosen for NI and for the timeframes proposed under the Bill regarding children and young people. Whilst recognizing the value of biometric data and DNA profiles as intelligence and evidence tools, this should be balanced against the extremely personal nature of the information retained. Consideration must be given to the potentially negative implications of retention, particularly where it impacts on a child or young person’s privacy and safety or when it results in them coming into contact with the criminal justice system.	<p>Response dated 02 June 2025 –</p> <p>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:</p> <ul style="list-style-type: none"> • The need to move away from blanket indefinite retention; • the Key findings of the Gaughran judgement and how the Department should address those 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.

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		<p>75/50/25 model detail</p> <ul style="list-style-type: none">• The Sunita Mason review of criminal records in Northern Ireland,¹ 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 "<i>A comparative audit of legislative frameworks within the EU for the collection, retention and use of forensic DNA profiles</i>"² ("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 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.
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		<p>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.</p>
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY has initial concerns over some cases of proportionality, the review and appeal process, the role of the Biometrics Commissioner, access to information and guidance for children and young people, potential issues with Access NI and criminal record checks and the balance of rights in retention periods proposed for children and young people.</p>	<p>Response dated 20 February 2025 – The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p> <p>Response dated 20 February 2025 – The Commissioner will be an independent statutory office holder. The Department will have a sponsorship role in relation to corporate governance matters.</p>
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY also understands that the Bill, under Article 63P and 63E proposes that biometrics of a child are retained for five years after the completion of a court ordered diversionary youth conference or Community Restorative Justice Scheme, but that this does not appear to apply to those which are not court-ordered. It is unclear if the two currently accredited Restorative Justice Schemes have been involved with this or what the current arrangements for data retention are when a child enters a scheme under current processes outside that which are court ordered and would welcome further information on this and what the current system of</p>	<p>Response dated 20 February 2025 – The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p>

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	<p>biometric data of children involved in these orders and schemes are, what the changes propose, and if the provisions in the Bill may lead to a difference in retention regimes. Furthermore, we question the necessity of retention of biometric data of children who have received a diversionary youth conference, or Community Restorative Justice Scheme given they are to be diversionary, are non-custodial, and have not been issued through a trial, but because there is an admission of guilt and a reasonable chance at conviction.</p>	
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY seeks additional information from the Department on the inclusion of cautions and diversionary disposals here, given their inherent nature of being diversionary. We would also welcome clarification if the proposed biometric regime applies to informed warnings for minor offences, as well as any difference the proposed legislation would have on the retention regimes between orders and notices issued by different parts of the justice system (for example, PPS and Youth Justice Agency, and the PSNI).</p>	<p>Response dated 2 June 2025 –</p> <p>Community Resolution Notices</p> <p>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.</p> <p>Diversionary Youth Conferences</p> <p>Diversionary Youth Conferences are directed by the PPS and are also considered to be a step up from CRNs. The five-year retention provision for Diversionary 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.</p> <p>Community Based Restorative Justice Schemes</p> <p>Community Based Restorative Justice Schemes (CBRJs) are directed by the PPS and are considered to be a step up from CRNs. CBRJs are considered to be on a similar level to a caution.</p>

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		<p>The Department's view is that any stand alone CBRJs should attract the same retention period as a caution i.e. five years for under 18s.</p> <p>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.</p> <p>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).</p> <p>Cautions</p> <p>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.</p> <p>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.</p> <p>Penalty Notices</p> <p>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.</p> <p>The retention provisions for penalty notices in the Justice Bill (which would insert new Article 63Q into</p>
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		<p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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)
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>Finally, Article 63G proposes the retention period of three years from a person arrested but not charged with a qualifying offence, dependent on certain circumstances. These, according to the Department will be prescribed in future regulations/amendments. NICCY is unclear why these are not on the ‘face of the Bill’ for adequate scrutiny, given that this Article seems to apply to both children and adults, therefore, no difference in the regime seems to exist. NICCY questions the proposed period of retention of DNA for a child arrested and not convicted and would welcome further information on the Department’s rationale. As highlighted by the NI Human Rights Commission, in the</p>	<p>Response dated 20 February 2025 –</p> <p>The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p>

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	<p>case of S and Marper v UK, the European Court of Human Rights specifically mentioned the risk of stigmatisation for people whose biometrics were retained who were not convicted of any offence and are entitled to the presumption of innocence.</p>	<p>Response dated 21 March 2025– The Department, in consultation with the Departmental Solicitor’s Office, has completed its work in considering the European Convention on Human Rights (ECHR) implications, along with the legislative competence, of the planned Departmental amendments to the Justice Bill and the Department is satisfied that all proposed amendments to the Justice Bill are fully compliant with the ECHR.</p> <p>Response dated 2 June 2025 – 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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
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<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY notes that what is proposed in Part 1 (and in the associated Schedule) appears to be in line with the Scottish model in that their Commissioner’s general function is to support and promote the adoption of lawful, effective and ethical practices in relation to the acquisition, retention and use of biometric data, as well as the power to issue guidance about the acquisition of biometric material and the handling, retention and destruction of it. It is unclear whether the Commissioner would have a role in reviewing material held ‘short’ or ‘medium’ term. Whilst this may follow in regulations, or in further amendment, NICCY encourages the Committee confer powers to the Commissioner to consider individual applications for review of retention of their biometric material for children and young people. Furthermore, the Commissioner could oversee any extension applications made about children and young people, to ensure oversight and monitoring of such. NICCY would also welcome further information on the duties and powers of the Commissioner’s office, particularly on the oversight of the new biometrics’ regime and any such monitoring of it which would be an important safeguard.</p>	<p>Response dated 20 February 2025 - The Department believes that the new 75/50/25 retention framework, along with the new review process, will address the findings of the Marper and Gaughran judgments.</p> <p>Response dated 20 February 2025 – The Home Office has advised that they are seeking to recruit a post-holder to fill the role of the Biometrics Commissioner in England and Wales. The UK Minister of State for Policing has said publicly that the UK Government is taking time to consider the legal framework for the use of facial recognition. This could include the oversight arrangements for facial recognition, including oversight of biometrics, which could impact on the future role of the UK Biometrics Commissioner. The UK Minister of State for Policing is listening carefully to stakeholders and partners and has met with the police, regulators, civil society groups and others.</p> <p>Response dated 20 February 2025 – The Commissioner will be an independent statutory office holder. The Department will have a sponsorship role in relation to corporate governance matters.</p>
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>Advise that the Department and PSNI ensure that community and voluntary sector organisations working with children and young people in and with youth justice have the adequate information and resources and ensure that professionals working with children and young people in the criminal justice system have continuous and systematic training in their rights. NICCY notes that the Department has provided the Committee with information on how the Bill engages with the European Convention on Human Rights.</p>	<p>Response dated 2 June 2025 – 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.</p>

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	<p>We would welcome a further assessment to be undertaken by the Department, through conducting a Child’s Rights Impact Assessment (CRIA) for all of the relevant articles of the Justice Bill, including Part 1, that relate to children and young people, including the planned amendments for Consideration Stage.</p>	<p>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.</p>
<p>Children in Northern Ireland (CiNI)</p>	<p>Raised serious issues around proportionality, privacy, and the presumption of innocence relating to article 63G and the fact that the Bill allows for retention of biometrics from children not convicted or charged with an offence, as well as extended periods following a diversionary disposal (e.g. Community Restorative Justice Scheme), which is seen as violating the UN Beijing Rules (Rule21) and the best interests of the child.</p>	<p>Response dated 20 February 2025 – The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p>
<p>NI Youth Assembly</p>	<p>Feel that the 75:50:25 model is unfair for children, and that it does not align with the United Nations Convention on the Rights of the Child in particular Article 3, Article 12, and Article 16. Expressed concern that there are insufficient safeguards for children and young people with this model and that no consideration has been given to age and maturity in relation to retention periods and no inference has been given to desistance rates.</p>	<p>Response dated 20 February 2025 – The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p>

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		<p>Further response dated 17 April 2025 - the Department arrived at the proposed maximum retention periods after considering examples of retention periods used elsewhere in Europe, as detailed in the letter of 21 March.</p> <p>The Department settled on numbers that could be integrated into a model based on severity of offence and age and provide for a graduated approach that was not overly complex to administer.</p> <p>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.</p> <p>The Department also took account of the responses to the consultation. The consultation responses mostly fit into one of two groups. The first was that material should be retained for as long as possible (most in favour of indefinite retention) for public safety and crime prevention. The second was that material should only be retained for as long as absolutely necessary. The Department considers that 75/50/25 retention model strikes a fair balance between the two groups.</p>
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<p>NI Youth Assembly</p>	<p>Expressed concern that the current Bill does not allow for new technologies such as those developed with Artificial Intelligence or specifically mention live facial recognition technology which is commonly deployed across the United Kingdom.</p>	<p>Response dated 20 February 2025 – The UK Minister of State for Policing has said publicly that the UK Government is taking time to consider the legal framework for the use of facial recognition. This could include the oversight arrangements for facial recognition, including oversight of biometrics, which could impact on the future role of the UK Biometrics Commissioner. The UK Minister of State for Policing is listening carefully to stakeholders and partners and has met with the police, regulators, civil society groups and others.</p>
<p>Victim Support NI</p>	<p>We would recommend introducing modified retention rules for children and young people who have a single minor conviction or caution as is the case in England and Wales that consider their specific circumstances and vulnerabilities. We are concerned that the proposal does not contain specific enough information about the age range. We believe that the proposal should distinguish between the retention periods for adults and children and young people. We would contend that children and young people should be considered separately within the proposal and that retention periods should be reviewed with greater regularity and should take account of a child's specific circumstances at the time of the offence.</p>	<p>Response dated 20 February 2025 – The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p>
<p>Victim Support NI</p>	<p>We acknowledge the proposal to establish a Northern Ireland Commissioner for the Retention of Biometric Material and the proposed duties of that office. However, we are concerned that given the existing pressures on the public purse - and in Justice in particular - if this should be considered a priority at this time. This could be an extra function added for one of the existing Commissioners, at least for a period, rather than a standalone office.</p>	<p>Response dated 20 February 2025 – The Commissioner will be an independent statutory office holder. The Department will have a sponsorship role in relation to corporate governance matters.</p>

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<p>Voice of Young People in Care (VOYPIC)</p>	<p>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. 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.</p>	<p>Response dated 20 February 2025 - The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders</p>
<p>Include Youth</p>	<p>While we support the move away from retaining data for an indefinite period, we are concerned that for young people under the age of 18, data can be retained for a period of 5 years following the commission of a first non-serious minor offence and 25 years for a second non serious minor offence. It is also worrying that fingerprints and DNA of children can be retained without charge or conviction. We are also not supportive of retention of data for children who have received a diversionary disposal – it is our understanding that the proposal is to retain biometrics data of a child who has been given a diversionary disposal. We note that while there are a number of alterations and safeguards within the Bill for children convicted of an offence, we still believe that the proposals within the Bill are not child's rights compliant. They do not align with the principles of international children's rights standards such as the UNCRC Article 40 which clearly state that children should be treated differently and that all attempts should be made to prevent stigmatisation, to not label them but to rather afford every opportunity for children to reintegrate</p>	<p>Response dated 20 February 2025 - The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders</p>

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<p>Citizen Space Responses</p>	<p>Not only do you not clearly define biometric data but there is no limitation to the use of it. This is problematic as much of the biometric data commercially being used is not being done with active consent. It is carried out via tacit consent. It includes our children, invades our privacy, monitors our gait, facial recognition and is not 100% proof. I personally object to this data being taken and I also object to it being used by the Justice department. We are rapidly running into a surveillance state where we are seen as guilty without any just cause.</p> <hr/> <p>I don't believe anyone with a fixed penalty notice should have records kept. During lockdown we were threatened with fixed fines for going out. We were threatened that we would loose our jobs if we didn't get vaccinated. The New Health Bill would make us criminals and fixed penalty notices would be issued if we do not comply despite much of the legislation being immoral and untested against. I resent that I might have received a fixed penalty notice and then been further subjected to you storing my data for two more years. Just because I do not consent to Government overreach does not make me a criminal. To further extend holding my biometric data for another 2 years because of possible disorder caused by me protesting said over-reach is unethical and unjust.</p>	<p><i>New Article 63X sets out restrictions on the use of fingerprints, DNA and other samples, and DNA profiles. Such material may only be used for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or for identification purposes, including of a deceased person.</i></p> <p><i>New Article 63Q (Persons given a penalty notice) provides for a two-year retention period for penalty notices issued under Section 60 of the Justice Act (Northern Ireland) 2011, given for the following offences:</i></p> <ul style="list-style-type: none"> • <i>Indecent behaviour (S9 of the Criminal Justice (Miscellaneous Provisions) Act (NI) 1968)</i> • <i>Shoplifting (S1 of the Theft Act (NI) 1969)</i> • <i>Criminal damage (Article 3(1) of the Criminal Damage (NI) Order 1977)</i> • <i>Disorderly behaviour (Article 18(1)(a) of the Public Order (NI) Order 1987)</i> • <i>Behaviour likely to cause a breach of the peace (Article 18(1)(b) of the Public Order (NI) Order 1987)</i> • <i>Resisting / obstructing / impeding a Constable (S66(1) of the Police (NI) Act 1998)</i> <p><i>A two-year retention provision for penalty notices under Section 60 of the Justice Act (NI) 2011 was included in Schedule 2 of the Criminal Justice Act (NI) 2013 which was never commenced.</i></p>
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	<p>While it does not provide a clear definition, the text mentions forms of biometric data such as DNA and fingerprints. A definitive reference definition could promote accurate interpretation and understanding.</p> <hr/> <p>Ethical Concerns Surveillance State: The use of biometric data in certain contexts—like police forces or border control agencies—can contribute to the creation of a surveillance state, where individuals' movements and actions are constantly monitored. Re-identification Risk: Even when data is anonymized, there is still the risk that biometric data can be re-identified, especially with advances in artificial intelligence, making it possible to track people across different platforms or datasets.</p>	<p><i>A two-year retention period is considered to be appropriate and proportionate for this type of offending and corresponds with the approach in England and Wales.</i></p> <p><i>Part 1 of the Justice Bill relates to DNA and fingerprints only. This is because the Department considers that the task at the present time is to provide a resolution to the compliance issues associated with the amendments to PACE NI made by the Criminal Justice Act (NI) 2013, which was never commenced and which related to DNA and fingerprints only.</i></p> <p><i>New Article 63X sets out restrictions on the use of fingerprints, DNA and other samples, and DNA profiles. Such material may only be used for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or for identification purposes, including of a deceased person.</i></p>
<p>Fraser Sampson (Former Biometrics and Surveillance Camera Commissioner for England and Wales)</p>	<p>Clarity is important for the consistent operation of biometric frameworks within the rule of law; it is also important in maintaining public confidence in the arrangements for oversight of the biometrics framework. Mirroring the legislation from England and Wales, the Bill refers to 'material' being retained but there should be absolute clarity when making the important distinction between DNA samples and DNA profiles/fingerprints.</p>	<p>The Department presumes that the applicable provision relating to this query is Part 2 of Schedule 2 of the Justice Bill.</p> <p>Part 1 of the Justice Bill clarifies that "Article 63B material" refers to fingerprints and DNA profiles. The reference to "material" for the purposes of the definition of a DNA sample (to be included in Article 53 of PACE NI) refers to biological material rather than Article 63B material.</p>

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	<p>While DNA samples carry significant personal information about the donor, very limited information is produced from a forensic profile derived from it. In respect of 63G retentions, it is the latter not the DNA sample that is being retained. While article 63B is clear on this, Part 2 of the Bill and the wording of the Police and Criminal Evidence (Northern Ireland) Order 1989, article 4(1) definitions of 'material' are confusing as the term material does not apply to a DNA profile.</p>	<p>England and Wales adopt the same approach to these definitions (see section 63D and section 65(1) of the Police and Criminal Evidence Act 1984).</p>
<p>Fraser Sampson (Former Biometrics and Surveillance Camera Commissioner for England and Wales)</p>	<p>I would encourage the PSNI to view the 63G power not only through a data management lens, but also through a crime detection/prevention lens. When a suspect – who will often have come to police attention on one or more previous occasions before the application is made - knows that their fingerprints and DNA profile are being retained by the police, that retention inherently holds a deterrent factor that may prevent potential future offending. While this effect will be difficult to measure, it is a point that those forces using the retention power in England and Wales believe is borne out by experience. Experience in England and Wales also shows how the near identical statutory provisions remain underutilised after their introduction more than ten years ago. One perceived shortcoming is the time limits for retention which begin to run from the moment of application. The extension of the grace period from 14 to 28 days under Article 63E(5) of the Bill, to allow adequate time for PSNI systems to be updated following the conclusion of an investigation and for DNA and fingerprints to be deleted from the databases, is a pragmatic, enabling approach to the legislation. The statutory period for retention of biometrics on National Security grounds was recently extended from two years to five years in the UK and the provisions for the maximum retention period being extended/renewable under Article 63G might benefit from further review.</p>	<p>The detailed arrangements for the prescribed circumstances provisions (new Article 63G) is policy work in progress. The Department notes the potential benefits of these provisions and will give consideration to the input provided by Professor Fraser Sampson.</p>

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	<p>A key feature of the process in England and Wales is the legal entitlement for the subject to make representations, either directly or through a representative, parent or guardian. Having received such representations – particularly from parents or carers of subjects under 18 – I am convinced that this is an essential element in balancing the competing considerations and taking account of the specific human rights issues engaged by retention. The power of the court to extend the retention period as proposed by Article 63H has only been used on one occasion to my knowledge in England and Wales since its introduction over a decade ago; its Scottish equivalent has, I understand, never been utilised. In this regard it is worth noting that the availability of a statutory power alone is no assurance that the gravamen against which it was intended to operate has been addressed.</p>	
<p>Dr Aaron Amankwaa</p>	<p>There appears to be no clear definition of biometric data in the bill. The bill mainly restricts biometric data to DNA profiles and fingerprints, which is very narrow. To ensure that the bill is future proof, the IAG's definition of biometric data should be adopted with stipulations covering the future regulation and uses of "new & emerging biometrics" for investigative purposes: "Biometric data are any physical, biological, physiological or behavioural data, derived from human subjects, which have the potential to identify an individual" (IAG, 2018). This is crucial because emerging genetics techniques are not covered by legislation, such as use of Forensic DNA phenotyping (Phenotypic - External Visible Characteristics (EVC) data), DNA Methylation data (with potential for age and behavioural predictions), Investigative Genetic Genealogy (use of more sensitive and comprehensive SNP data). The regulation of forensic genetics/ genomics techniques is covered extensively in our policy paper (Wienroth et al., 2022). We recommend that the legislative, regulatory and operational frameworks for</p>	<p>Part 1 of the Justice Bill relates to DNA and fingerprints only. This is because the Department considers that the task at the present time is to provide a resolution to the compliance issues associated with the amendments to PACE NI made by the Criminal Justice Act (NI) 2013, which was never commenced and which related to DNA and fingerprints only.</p> <p>The Department is cognisant of the continuing debate regarding emerging biometric technologies. The Department is of the opinion that these important matters should be afforded the appropriate time and space, to allow for engagement with key stakeholders and to take forward a public consultation. Furthermore, the Justice Bill provides for the appointment of a new Northern Ireland Commissioner for the Retention of Biometric Material with the Commissioner having a role (new Article 63Z) in</p>

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	<p>the use of genetic/ genomic data should be underpinned by the core principles of integrity, trustworthiness and effectiveness.</p>	<p>keeping new areas of biometric technologies under review and providing advice to the Department on future legislation. The Department would want to involve the Biometrics Commissioner in its policy development work</p>
<p>Dr Aaron Amankwaa</p>	<p>Whilst the model is generally consistent with UK practice and within the “margin of appreciation” across the EU, for convicted individuals, the model does not consider rehabilitation factors and where a conviction becomes spent (see Amankwaa & McCartney, 2020). Further, retention periods seem arbitrary and debatable whether consistent with proportionality principles (IAG, 2018, para 8.2). To address this issue, ensure compliance with ECHR rulings and in consideration of evidence on the effectiveness of biometric data retention (Amankwaa & McCartney, 2019), the bill should consider a "proportionality model" where retention is based on length of sentence plus average recidivism rate. At the minimum, the proportionality model may be adopted for recordable offences other than qualifying offences, which is generally supported by evidence from surveys carried out in the UK (Amankwaa, 2019, Chapter 8).</p>	<p>Response dated 20 February 2025 - The 75/50/25 model was developed to address the Gaughran judgment following consideration of the Sunita Mason review of criminal records in Northern Ireland - A 3-year retention period is the standard retention period for individuals not convicted of serious offences in the other UK jurisdictions. Some of the retention periods set out in the legislation are lower for under 18s than those for adults. All have been arrived at following consideration of other UK regimes and following consultation with stakeholders.</p> <p>Response dated 21 March 2025– The Department, in consultation with the Departmental Solicitor’s Office, has completed its work in considering the European Convention on Human Rights (ECHR) implications, along with the legislative competence, of the planned Departmental amendments to the Justice Bill and the Department is satisfied that all proposed amendments to the Justice Bill are fully compliant with the ECHR.</p> <p>Further response dated 17 April 2025 – the information provided in the Department’s response dated 21 March, the Department arrived at the proposed maximum retention periods after considering examples of retention periods used elsewhere in Europe, as detailed in the letter of 21 March.</p>

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		<p>The Department settled on numbers that could be integrated into a model based on severity of offence and age and 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.</p> <p>The Department also took account of the responses to the consultation. The consultation responses mostly fit into one of two groups. The first was that material should be retained for as long as possible (most in favour of indefinite retention) for public safety and crime prevention. The second was that material should only be retained for as long as absolutely necessary. The Department considers that 75/50/25 retention model strikes a fair balance between the two groups.</p>
<p>Dr Aaron Amankwaa</p>	<p>The Biometrics Commissioner role in England/Wales has been subject to controversy with its amalgamation with the Surveillance Camera Commissioner role in 2022 and subsequent proposals to abolish the role via the now withdrawn Data Protection and Digital Information Bill (replaced by the Data (Use and Access) bill).</p> <p>In my opinion, this role is redundant considering the overlap of functions with other agencies/ bodies, such as the Information Commissioner's Office and the Forensic Information Database Strategy (FIND) Board.</p>	<p><i>The Department considers that a local Biometrics Commissioner with an understanding of the Northern Ireland context as well as a local presence is the optimum approach.</i></p> <p><i>The establishment of a Commissioner, with a specific focus on fingerprints and DNA, is one of the actions being taken in response to the ECHR's Gaughran judgment and is intended to provide an important independent safeguard. The Commissioner will be able to have a dedicated focus on the legislative provisions relating to the retention of DNA and fingerprints in Northern Ireland.</i></p>

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	<p>To streamline the regulatory process, oversight of biometric information and review of the acquisition, use, retention and destruction of biometric material, the Information Commission (Northern Ireland) and the FIND Board (Northern Ireland) should assume the functions of the Commissioner proposed in the bill. A multi-stakeholder independent oversight board or commission may be a more comprehensive governance arrangement for biometrics.</p>	<p><i>A local Biometrics Commissioner will also be able to work closely with relevant bodies such as the PSNI, the NI Policing Board, the NI Human Rights Commission in fulfilling their role. The preference is to have a local body considering local matters in order to protect public confidence in how DNA and fingerprint material is used.</i></p> <p><i>It is anticipated that the Biometrics Commissioner will work closely with other bodies. A number of memoranda of understanding will be required to ensure there is a clear understanding of respective roles and responsibilities and to reduce duplication of effort between relevant oversight bodies.</i></p> <p><i>These may include memoranda between the Northern Ireland Biometrics Commissioner and bodies such as the Information Commissioner.</i></p>
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Clause 2 Biometric Data Retention etc		
Clause 2 makes amendments to the retention of fingerprints and DNA profiles relating to certain sentencing proposals.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

Clause 3 Biometric Data Retention etc		
Clause 3 makes further supplementary amendments.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

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Clause 4 Children
Clause 4 relates to the duties of a custody officer after charge and inserts duties for juveniles who have been charged

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
CVOCNI	There is an issue when it comes to children being denied bail because there is no safe place to which they can go. It is not right that they should go back to custody just because there is not a safe place for them. To make sure that there is somewhere safe for them to go, there needs to be much better working between our health and justice systems.	<p><i>The Department agrees with this, and YJA staff have developed strong links with Health and Social Care staff to minimise a child's stay in custody when bail has been granted.</i></p> <p><i>The Department and YJA are also engaged with the Department of Health, SPPG and HSC Trusts across a range of groups and fora with a common aim of 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.</i></p> <p><i>However, we recognise that all aspects of health are already under considerable resource pressures, which makes the provision of community accommodation extremely difficult to provide</i></p>
Children's Law Centre	To amend Clause 4 (e) (i) to include "vulnerabilities" so it reads: <i>the juvenile's age, maturity, needs and vulnerabilities.</i>	Response dated 2 June 2025 - 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.

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<p>Children’s Law Centre</p>	<p>Whether the Department has set out the definition of ‘needs’ (at Clause 4, (e) (i)) and if so, whether that definition is consistent with that of a child in need as outlined in the Children (Northern Ireland) Order 1995</p>	<p>Response dated 2 June 2025 - 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</p>
<p>Include Youth</p>	<p>In relation to decisions on granting bail we agree that a child’s age, maturity, needs and capacity to understand and comply with any conditions of bail should be taken into account – we would like to see the vulnerabilities of the child also being considered – this is especially the case for care experienced young people. Care experienced young people should not be more at risk of having bail refused because of their care status and particular circumstances.</p>	<p>Response dated 02 June 2025 – as per response to clause 4, the Department has no objection to this being added by the Committee if they so wish.</p>
<p>Royal College of Speech and Language Therapists (RCSLT)</p>	<p>With specific regard to point (e) (ii) Speech, language and communication needs (SLCN) are more prevalent in the prison population and people in contact with youth justice services, than the general population. There is also now substantial evidence through the evaluation of the Registered Intermediary scheme in Northern Ireland that significant numbers of individuals, including many children and young people, in the justice system require support with their communication (Dept of Justice, 2015 & RCSLT, 2017). When thinking about how most people will recognise speech, language and communication needs, they will likely imagine unclear speech sounds, a stammer or perhaps social communication differences such as a lack of eye contact. There is less awareness about language difficulties and how they may present. Language is the ability to understand and process what is being said to and around you as well as the ability to construct and express your response. A person’s speech may sound ‘typical’ but they may have underlying difficulties understanding or expressing themselves or even have a diagnosis of DLD*.</p>	<p><i>There is increasing awareness amongst criminal justice partners, and more generally, about the prevalence of individuals with speech, language and communication difficulties within the justice system. Nevertheless, the Department agrees about the need to explain what is happening through the justice process in terms which are appropriate to the needs, maturity and understanding of the individual. That is why provisions have been deliberately included in the Bill to draw attention to such issues and to ensure they are considered when making decisions about children.</i></p> <p><i>It is the Department’s intention to develop detailed guidance for criminal justice partners on the intended operation of the new legislation, and this guidance will be used as a further opportunity to draw attention to these issues. This may include reference to ‘The Box’ online training, as recommended by the RCSLT.</i></p>

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	<p>There is specific vocabulary associated with the justice system, most of which are abstract words, for example - perpetrator, allegation, remorse. These terms would even be difficult for a child without language difficulties to understand. It is therefore important to ensure that those being questioned or indeed being told anything, are able to fully comprehend what is being said. We need to ensure that all justice professionals around the child or young person are aware of how to identify likely issues and how to adjust their language and ensure all information is accessible.</p>	
<p>Royal College of Speech and Language Therapists (RCSLT)</p>	<p>To address speech, language and communication needs in Justice, the Royal College of Speech and Language Therapists Northern Ireland recommends:</p> <ol style="list-style-type: none"> 1. Access to speech and language therapy – every prison and youth justice team should have access to speech and language therapy to support the people who need it. This requires addressing the current SLT workforce crisis. 2. Screening – young people and adults should be screened for speech, language and communication needs when they come into contact with the criminal justice system. This should happen at the earliest stage. 3. Training - All staff, including PSNI, judiciary, legal representatives and prison staff should receive training to recognise and support people with communication and swallowing needs. We recommend The Box “communication help for the justice system” free online training 	<p><i>Points 1 & 2: Responsibility for screening for speech, language and communication needs, and the provision of access to services both lie with the Department of Health – the Department of Justice has no budget for this work. The Department also understands there is a significant shortage of qualified speech and language therapists in Northern Ireland. The funding for training these health professionals, again, lies with DoH.</i></p> <p><i>That said, the Youth Justice Agency (YJA) uses a Child First approach with a focus on care and rehabilitation.</i></p> <p><i>A needs assessment is undertaken for every child who receives a statutory referral to YJA. This aims to assess the child’s wider needs, including any health conditions that may be contributing to their offending behaviour.</i></p> <p><i>YJA then works with the family and other agencies to access appropriate services.</i></p>

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		<p><i>There are already good health services within Woodlands Juvenile Justice Centre which are well-placed to identify and meet need.</i></p> <p><i>Since 2024, there is also a YJA Child and Adolescent Mental Health Service (CAMHS) in place within YJA's community-based teams. This is co-funded by YJA and Health and Social Care and helps identify and meet need among children who have offended.</i></p> <p><i>In relation to adults in custody, health and social care provision during the custodial period sits with the South Eastern Health and Social Care Trust. Support provided by the Trust includes access to speech and language therapists.</i></p> <p><i>Point 3: It is the Department's intention to develop detailed guidance for criminal justice partners on the intended operation of the new legislation, and this guidance will be used as a further opportunity to draw attention to these issues. Consideration will be given to including a reference to 'The Box' online training, as recommended by the RCSLT.</i></p>
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Justice Bill (07/22-27) Table of Issues

Clause 5 Children

This clause relates to police bail after arrest and amends the existing provisions to update conditions for serious public order offences and inserts a paragraph to deal with a custody officer granting a juvenile bail.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Children's Law Centre	CLC does not believe that the Department's stated policy objective of strengthening the presumption of bail for children and young people has been achieved in the draft legislation contained within Clause 5 of the Bill and that the language of the Clause should state clearly that a child to whom it applies must be released on bail and that the presumption of bail is also a presumption of bail without conditions attached.	Response dated 02 June 2025 - 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.
Children's Law Centre	Paragraph (5), sub-paragraph (2) the CLC are concerned by the extremely subjective nature of this consideration (b) <i>the character, antecedents, associations and community ties of the juvenile</i> and CLC are concerned about the potential for differential adverse impact on particular groups of young people from (c).	Response dated 02 June 2025 - 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.
Children's Law Centre	(d) <i>the strength of the evidence of the juvenile's having committed the offence</i> CLC are unclear as to the rationale for the inclusion of this consideration. At the point of decision relevant to this Clause, the child will already have been arrested and charged, a determination has therefore already been made by the PSNI regarding the evidence and therefore should not have a bearing on decisions related to bail conditions. Further determinations on the strength of the evidence of the young person having committed the offence is a matter for the courts.	Response dated 02 June 2025 - 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.

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<p>Children's Law Centre</p>	<p>(e) <i>the juvenile's age, maturity and needs</i> As with Clause 4, we recommend this consideration be amended to include 'vulnerabilities' so that it reads as follows: <i>the juvenile's age, maturity, needs and vulnerabilities</i>.</p>	<p>Response dated 02 June 2025 – as per response to clause 4, the Department has no objection to this being added by the Committee if they so wish.</p>
<p>Children's Law Centre</p>	<p>Queried 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.</p>	<p>Response dated 02 June 2025 - 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.</p>
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>Query if there was an intentional difference in the drafting in Clause 5 in relating to 5(2)d amending PACE NI and 10E(2d) amending Criminal Justice Children (NI) Order on the serious threats to public order between 'he does not cause' and 'the child's release causing...'. Children and young people who otherwise would be released on bail, i.e. meeting no other criteria for refusal of bail, should not be denied bail due to the potential actions of other people. If the clauses are to be read that the child could potentially cause serious threat to public order by virtue of their own actions/acts (not the simple act of them being released) this could be covered under 'b. the child committing an offence while on bail' already, as outlined in both 10F and 10G. There is potential to see this as a breach of children and young people's rights under the UNCRC.</p>	<p>Response dated 20 February 2025 – We recognise that some children have the capacity to engage in serious public disorder, whether through their own decision-making or under direction by others. Equally, we recognise that some alleged offending incidents by children can elicit strong community reactions. Therefore, the new ground for refusing bail could apply equally to both. This new ground for refusing bail must be applied in conjunction with the other conditions and considerations being introduced in the Bill to manage the human rights implications.</p>

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<p>Children in Northern Ireland (Ci-NI)</p>	<p>We would echo the calls from other children's rights organisations in NI to strengthen these provisions of the Bill and ensure that no child is ever deprived of their liberty due to a lack of suitable accommodation. We strongly support renewed investment in bail fostering and community-based accommodation schemes, properly resourced and available across NI. In order to successfully implement the stated policy intent of presumption of bail, the Department of Justice must work closely with Department of Health, and properly utilise the powers and duties of the Children's Services Co-operation Act (Northern Ireland) 2015, including the pooling of resources where appropriate.</p>	<p><i>The Department agrees that no child should ever be deprived of their liberty solely due to a lack of accommodation in the community. That is why provisions have been included in the Bill to ensure a child can only be remanded to custody due to the seriousness of their offending. We acknowledge that work needs to continue on the provision of alternative accommodation, and the bail fostering scheme is one way in which this is currently being progressed, albeit on a small scale in one Health Trust at the moment. Nevertheless, the pilot has proven successful and has now moved out of a pilot phase and is being delivered by the Trust as business as usual. Discussions are ongoing with SPPG and Trusts on the potential to expand the approach into the remaining Trusts.</i></p> <p><i>In addition, YJA staff have developed strong links with Health and Social Care staff to minimise a child's stay in custody when bail has been granted. The Department and YJA are also engaged with the Department of Health, SPPG and HSC Trusts across a range of groups and fora with a common aim of 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, we recognise that all aspects of health are already under considerable resource pressures, which makes the provision of community accommodation extremely difficult to provide.</i></p>
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Clause 6 Children
<p>Clause 6 relates to court bail, remand and committal and has 5 sections, dealing with the right to bail (a presumption of bail) for a child, the power to refuse bail, the conditions of bail, the considerations that must be made relevant to bail and the recording of decisions concerning refusal or alteration of bail conditions.</p>

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
CVOONI	<p>Bill should consider a way for victims' views to be considered as part of bail decisions. Their views can provide valuable insights into the potential risk that is posed by the accused and ensure that bail conditions are tailored to effectively protect them from further harm or intimidation.</p>	<p><i>The Department recognises the impact that offending has on the lives of victims, including offending by children.</i></p> <p><i>The youth justice system in Northern Ireland is predicated on restorative justice, which engages the views – and often the direct involvement – of victims once there has been a finding or admission of guilt.</i></p> <p><i>Prior to this point, a court's decision-making in relation to bail will already take into account the impact of the alleged offence on others, including victims. It should be remembered, however, that any accused individual remains innocent at this stage in the proceedings, and therefore decisions should be taken by an independent judiciary, given that the views of victims may be heavily influenced by their experiences.</i></p>
Children's Law Centre	<p>Unclear about the purpose of Paragraphs (3) – (5) of new Article 10E (Right to bail) and are concerned about the potential consequences of elements of it. The EFM is of limited utility in setting out what these new provisions are seeking to achieve and we are particularly concerned about the provisions of Paragraph (4) (b) – (d) in relation to what should be treated as a conviction and therefore remove the</p>	<p>Response dated 02 June 2025 - 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.</p>

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	<p>presumption of bail for some children without a clear rationale.</p>	<p>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.</p> <p>Such a conviction means their status has changed and they are no longer on remand for the offence.</p> <p>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.</p> <p>It cannot apply on conviction, hence the inclusion of these paragraphs.</p>
<p>Children’s Law Centre</p>	<p>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.</p>	<p>Response dated 02 June 2025 - We do not believe that this is necessary, for two reasons.</p> <p>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</p>

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<p>Probation Board for Northern Ireland (PBNI)</p>	<p>The court process for a child/young person can be confusing and in explaining the requirements of bail it will be important that age-appropriate language is used and consideration is given to any speech and language or other communication needs that the child may have. In meeting this requirement of the legislation parents/carers or other professionals may need to assist the child in explaining what the bail requirements are and the consequences for them if they fail to comply.</p>	<p><i>The Department agrees with this, which is why over the years, changes have been made to Youth Court sittings to make them more child-friendly with no wigs and gowns, and with attention paid to the language used etc., and the judiciary are very aware of the need to take a child's understanding into account. This will be placed in statute by the provisions included in the Bill which make specific reference to consideration of a child's age, maturity and understanding when taking decisions around bail and bail conditions. PSNI also has specialist Youth Diversion Officers who feed into bail decisions on the basis of information gathered about the child and family circumstances.</i></p> <p><i>In addition, the Department has developed a range of work to improve youth court experiences, based on the views of children and families that participated in a consultation. Feedback showed that both solicitors and Youth Justice Agency workers were key in explaining what happened at court and the implications for the individuals involved. Other work has included:</i></p> <ul style="list-style-type: none"><i>• restricting youth courts to only those individuals involved in each case, to reduce the disruption in the court room and aid concentration and understanding;</i><i>• development of online 'virtual' tours of the main youth courts, including where everyone sits and the key roles played at court, to enable familiarisation with the layout and personnel prior to a court appearance; and</i><i>• an informational video for children and families on what to expect when going through a youth court process.</i> <p><i>These latter two resources can be found on the DoJ website here.</i></p>
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<p>Include Youth</p>	<p>In relation to decisions on granting bail we agree that a child’s age, maturity, needs and capacity to understand and comply with any conditions of bail should be taken into account – we would like to see the vulnerabilities of the child also being considered – this is especially the case for care experienced young people. Care experienced young people should not be more at risk of having bail refused because of their care status and particular circumstances.</p>	<p>Response dated 02 June 2025 – as per response to clause 4, the Department has no objection to this being added by the Committee if they so wish.</p>
<p>Safeguarding Board for Northern Ireland</p>	<p>We also emphasise the need for a balanced approach that considers the rights of the accused while safeguarding public safety. It is vital that these conditions are applied consistently and fairly, with thorough assessments to ensure that decisions are made based on evidence and risk. It would be of benefit if comprehensive training programs for the members of the judiciary on trauma-informed practices and child safeguarding to ensure that decisions are made with a full understanding of the impact on vulnerable children and families. This could be further enhanced with thorough risk assessments that consider the specific needs and vulnerabilities of children affected by the defendant's actions and access to appropriate support services such as counselling</p>	<p><i>The Department has established a justice Trauma Informed (TI) Practice group which, among other justice and voluntary sector partners (including SBNI) has representatives from the NI Courts and Tribunals Service and the Lady Chief Justice’s Office. There is ongoing engagement on the need for a TI approach to all aspects of the justice system; training is made available and information on training and events is shared widely.</i></p> <p><i>The Task & Finish group established to take forward child-friendly youth court work also promotes the need for TI practices with the judiciary and in youth courts.</i></p> <p><i>The guidance being developed by the Department for criminal justice partners on the intended operation of the new legislation will also provide an opportunity to draw this out.</i></p> <p><i>In relation to risk and needs assessments for children who offend, their needs are already considered by YJA as part of any supervision they deliver, to identify areas of need and to design the provision of appropriate support to prevent reoffending. For those affected by crime, a range of support is provided through VSNI and other organisations.</i></p>

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CVOONI	<p>The proposal to ensure that a child is held in pre-trial detention only as a measure of last resort and only when necessary is very positive, but we suggest that thought should be given to introducing a right to suitable accommodation on release on bail to enable that to happen as a matter of practice and recommend specific inclusion of the "best interests of the child" consideration in this legislation. While we accept that there is a general inclusion in the 2002 Justice Act, we believe that it would be helpful to replicate it in this legislation as well.</p>	<p><i>It is not the responsibility of the justice system to introduce a statutory right or duty to provide suitable accommodation for children on bail. A statutory duty already exists in the Children (NI) Order 1995 for the Department of Health to provide suitable accommodation for children in need. However, we recognise that all aspects of health are already under considerable resource pressures, which makes the regional provision of community accommodation for a small cohort of children extremely difficult to provide.</i></p> <p><i>The Department has no objection to the inclusion of the best interests principle in relation to the youth justice provisions of the Bill. 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 <u>primary consideration</u>. They therefore felt additional references were an unnecessary duplication of this overarching statutory principle.</i></p>
CiNI	<p>Request further clarity on how the Bill's provisions related to bail and remand for children will work in practice and further information on cross-departmental work to ensure there is sufficient capacity in terms of appropriate accommodation.</p>	<p><i>It is the Department's intention to develop detailed guidance for criminal justice partners on the new legislation, to give practical advice on how this will operate in practice</i></p> <p><i>In relation to information on cross-departmental work on accommodation, YJA staff have developed strong links with Health and Social Care staff to minimise a child's stay in custody when bail has been granted.</i></p>

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		<p><i>The Department and YJA are also engaged with the Department of Health, SPPG and HSC Trusts across a range of groups and fora with a common aim of 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, we recognise that all aspects of health are already under considerable resource pressures, which makes the provision of community accommodation extremely difficult to provide</i></p>
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Clause 7 Children
<p>Clause 7 deals with the decision to arrest a child for absconding or breaking bail conditions and the considerations which must be made by the officer.</p>

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
<p>Children’s Law Centre</p>	<p>CLC recommends, notwithstanding the existing recording and reporting requirements on officers following an arrest, that this Clause be amended to provide a proactive duty on officers to make a similar record of the decision when an arrest is made for breach of bail conditions. This record should clearly outline the reasons why the officer has chosen to carry out an arrest.</p>	<p>Response dated 2 June 2025 - the Department would have no objections to the amendment being suggested by the Children’s Law Centre, should the Committee wish to consider it.</p>

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Clause 8 Children

This Clause introduces the considerations which must be given to the accommodation needs of a juvenile and a duty to consider this and not automatically refuse bail because the juvenile does not have suitable accommodation.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Children's Law Centre	To ensure Clause 8 actually delivers on the need to ensure a child's accommodation needs are not a factor in denying bail, the Children's Law Centre strongly recommend that the word 'solely' is removed from the Clause on both occasions in which it is used.	Response dated 2 June 2025 - 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.
Children's Law Centre	CLC believes that the Bill provides an opportunity for the Committee to put in place a statutory system for the provision of accommodation for children who require a bail address, based upon the standards of the guidance referenced above. The Guidance has a specific requirement for the court to be updated by the relevant Health Trust as to their progress in providing bail accommodation by the attendance of Trust personnel at court. The Committee should consider making this obligation part of the Bill. This is not creating a new duty upon the Trusts but instead is strengthening a protection for children requiring bail and this would assist the court in making its bail decisions.	Response dated 2 June 2025 - 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.

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<p>Probation Board for Northern Ireland (PBNI)</p>	<p>PBNI is supportive of the amendments to police and court bail that a child should not be placed in custody solely because of accommodation needs. There will be a need however for organisations such as the Health and Social Care Trusts, and Social Services to work together to address children's accommodation issues when they arise. PBNI and YJA should be involved in these conversations, but Trusts have overall responsibility for providing accommodation. It is likely that schemes such a bail fostering will need to be expanded to support the small number of children who experience this situation.</p>	<p><i>We acknowledge that work needs to continue on the provision of alternative accommodation, and the bail fostering scheme is one way in which this is currently being progressed, albeit on a small scale in one Health Trust at the moment.</i></p> <p><i>Nevertheless, the pilot has proven successful and has now moved out of a pilot phase and is being delivered by the Trust as business as usual. Discussions are ongoing with SPPG and Trusts on the potential to expand the approach into the remaining Trusts.</i></p> <p><i>In addition, YJA staff have developed strong links with Health and Social Care staff to minimise a child's stay in custody when bail has been granted. The Department and YJA are also engaged with the Department of Health, SPPG and HSC Trusts across a range of groups and fora with a common aim of 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.</i></p> <p><i>However, we recognise that all aspects of health are already under considerable resource pressures, which makes the provision of community accommodation extremely difficult to provide.</i></p>
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<p>Law Society Northern Ireland</p>	<p>The Law Society highlighted over the years that children are often remanded in custody and refused bail solely because of a lack of accommodation & advised on the development of appropriate emergency, short-term, and long-term accommodation for children. Also, that bail support services should also be expanded to all children facing a bail decision.</p>	<p><i>The Department agrees that no child should ever be deprived of their liberty solely due to a lack of accommodation in the community. That is why provisions have been included in the Bill to ensure a child can only be remanded to custody due to the seriousness of their offending.</i></p> <p><i>We acknowledge that work needs to continue on the provision of alternative accommodation, and the bail fostering scheme is one way in which this is currently being progressed, albeit on a small scale in one Health Trust at the moment.</i></p> <p><i>Nevertheless, the pilot has proven successful and has now moved out of a pilot phase and is being delivered by the Trust as business as usual. Discussions are ongoing with SPPG and Trusts on the potential to expand the approach into the remaining Trusts.</i></p> <p><i>In addition, YJA staff have developed strong links with Health and Social Care staff to minimise a child's stay in custody when bail has been granted. The Department and YJA are also engaged with the Department of Health, SPPG and HSC Trusts across a range of groups and fora with a common aim of 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.</i></p> <p><i>However, we recognise that all aspects of health are already under considerable resource pressures, which makes the provision of community accommodation extremely difficult to provide.</i></p>
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		<p><i>In relation to bail support services, YJA already has a bail support scheme in place which offers a positive alternative to custody before a case is heard.</i></p> <p><i>Whilst it primarily operates within Woodlands JJC, YJA staff also link in across courts when a bail support package is required.</i></p> <p><i>Once a child is referred, a member of YJA staff develops a tailored bail support plan which is designed to meet court requirements and respond to the child's needs, enabling eligible children to be released on bail with the support of the scheme.</i></p> <p><i>This means instead of being held in custody while awaiting trial or sentencing, they can continue with school, training, or work, stay connected with their families, and receive help to address the issues that brought them before the courts in the first place.</i></p> <p><i>Whilst ideally YJA would like to operate this bail support scheme for all children attending court, the Agency does not have either the resources or the capacity to attend every youth court across Northern Ireland to provide this service in all cases.</i></p>
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY do not feel that children and young people should be remanded into custody because of a lack of suitable accommodation and therefore support this prohibition of such in the absence of any other reason and therefore welcomes Clause 8. However, we are aware that the Minister does not intend to commence this Clause should the Bill receive Royal Assent. NICCY does not support this position. NICCY has previously recommended that the law regarding bail must be revised to remove the JJC as a place of safety (removing lack of accommodation as a reason to remand).</p>	<p>Response dated 2 June 2025-</p> <p>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.</p>

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		<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<p>Voice of Young People in Care (VOYPIC)</p>	<p>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.</p>	<p>Response dated 2 June 2025 –</p> <p>We also understand 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.</p>

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	<p>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.</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<p>Include Youth</p>	<p>We are concerned that the accommodation considerations included in Clause 8 will not come to fruition in practice. Assembly Justice Committee members have already heard evidence from DoJ officials on this issue and the impact that the current lack of available and appropriate accommodation will have on the ability to commence this provision. Include Youth are not supportive of the intention to not commence this Clause.</p>	<p>Response dated 2 June 2025 –</p> <p>We also understand 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.</p>

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	<p>It is imperative that children in care are not detained in custody, refused bail or are not able to perfect bail because of lack of suitable accommodation.</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
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Clause 9 Children

Clause 9 inserts a new article relating to the place of detention and the custody arrangements following sentencing and specifies that that custody must be in a juvenile detention centre.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
BASW NI	It is necessary to explore the arrangements that will determine when a child is to be moved to a young offenders centre following their eighteenth birthday, with allowances made in cases where the young person is due for release within a short period of time after turning 18. There is significant potential for disruption associated with such a move, particularly where positive work has been completed within the Juvenile Justice Centre in preparation for release.	<p><i>The amendment to Schedule 2 paragraph (6) of the Criminal Justice (Children) (NI) Order 1998, which can be found in Schedule 4 paragraph (10) of the Justice Bill, was drafted specifically to ensure that there is flexibility in planning for those children who turn 18 whilst in custody.</i></p> <p><i>Rather than a requirement to automatically transfer to Hydebank Wood College upon reaching their 18th birthday, the provisions allow for a decision to be made by Youth Justice Agency (YJA) staff, based on the individual circumstances of the young person.</i></p> <p><i>Decisions will be made on a case-by-case basis and will take account of a range of factors, including the best interests of the individual, their needs and vulnerabilities, their personal views, the length of sentence remaining and whether they are engaged in a specific education or training programme at the Juvenile Justice Centre (JJC).</i></p> <p><i>The best interests of the other children in custody within the JJC at that time will also be a factor. No person will be held beyond the point where they are 18 years and six months.</i></p>

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		<p><i>In introducing this flexible approach in statute, we are legislating for what currently happens in practice. Staff within the YJA and Hydebank Wood College work closely on this issue and have significant operational experience in ensuring young people are held safely, securely and in the most appropriate location.</i></p>
<p>Children in Northern Ireland (Ci-NI)</p>	<p>Placement of any child in Hydebank Wood Young Offenders' Centre is inappropriate and potentially harmful. A key question is whether the Bills' provisions, as drafted, still leave open the option for children to be placed in custody with adults in any setting, including in police custody. If so, should consider amendments that provide sufficient legal clarity that this is no longer an option. In the event that the Juvenile Justice Centre (JJC) ever reached capacity and could not accommodate a child, the Department of Justice and Youth Justice Agency should work collaboratively with colleagues in the Department of Health, in compliance with its obligations under the Children's Services Co-operation Act (Northern Ireland) 2015 to promote the wellbeing of children, and provide secure alternative accommodation that is safe and child appropriate.</p>	<p>Response dated 2 June 2025 – We recognise 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.</p>

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<p>Safeguarding Board for Northern Ireland</p>	<p>Effective implementation requires co-ordination between various agencies, including social services, education and healthcare providers. Ensuring seamless collaboration can be complex and time-consuming and there needs to be further attention to these critical issues.</p>	<p><i>We are not sure what relevance this has to this specific clause, which is about ensuring that children requiring custody are always held at Woodlands Juvenile Justice Centre.</i></p> <p><i>However we agree with the sentiment, and the Department and its agencies continue to work with criminal justice and other partners in the best interests of children in the justice system.</i></p>
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Clause 10 Children
This clause covers the powers to sentence a child to detention for punishment of certain grave crimes, life sentence offences and serious or violent sexual offences in such a place and under the condition as the Department of Justice may direct.

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

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Clause 11 Children

Clause 11 refers to the powers to sentence to detention and amends the age of referral to a young offenders centre from 16 to 18, removes the provision in the Criminal Justice (Children) (Northern Ireland) Order 1998 to provide for juvenile justice centre orders and omits the section in the Justice (Northern Ireland) Act 2002 relating to custody care orders.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
BASW NI	<p>It is necessary to explore the arrangements that will determine when a child is to be moved to a young offenders centre following their eighteenth birthday, with allowances made in cases where the young person is due for release within a short period of time after turning 18. There is significant potential for disruption associated with such a move, particularly where positive work has been completed within the Juvenile Justice Centre in preparation for release.</p>	<p><i>The amendment to Schedule 2 paragraph (6) of the Criminal Justice (Children) (NI) Order 1998, which can be found in Schedule 4 paragraph (10) of the Justice Bill, was drafted specifically to ensure that there is flexibility in planning for those children who turn 18 whilst in custody.</i></p> <p><i>Rather than a requirement to automatically transfer to Hydebank Wood College upon reaching their 18th birthday, the provisions allow for a decision to be made by Youth Justice Agency (YJA) staff, based on the individual circumstances of the young person.</i></p> <p><i>Decisions will be made on a case-by-case basis and will take account of a range of factors, including the best interests of the individual, their needs and vulnerabilities, their personal views, the length of sentence remaining and whether they are engaged in a specific education or training programme at the Juvenile Justice Centre (JJC).</i></p> <p><i>The best interests of the other children in custody within the JJC at that time will also be a factor. No person will be held beyond the point where they are 18 years and six months.</i></p>

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		<p><i>In introducing this flexible approach in statute, we are legislating for what currently happens in practice. Staff within the YJA and Hydebank Wood College work closely on this issue and have significant operational experience in ensuring young people are held safely, securely and in the most appropriate location.</i></p>
<p>Children’s Law Centre</p>	<p>CLC would take this opportunity to highlight to need to ensure the same standard is replicated in police custody settings. We recommend the Committee explore whether the Department has considered legislative change to ensure the separation of children and adults in all custodial settings – including policy custody – and if not, to bring forward amendments to achieve this.</p>	<p>Response dated 02 June 2025 - 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.</p>

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Clause 12 Children

Clause 12 introduces a Youth Custody and Supervision Order into the Criminal Justice (children) (Northern Ireland) order 1998 that covers the terms of the order, the taking of children to and from juvenile justice centres, supervision under a youth custody and supervision order, restrictions on multiple custody or supervision orders and the conditions for when the order should be used or revoked.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
BASW NI	BASW raised that youth custody and supervision orders should provide all necessary opportunities for practitioners to work with the child, their family and community to support them and avoid a return to custody to avoid reoffending. This will align with the Department's Strategic Framework for Youth Justice 2022-2027 which promotes custody as a last resort.	<p><i>The Youth Custody and Supervision Order (YCISO) largely replicates the current JJCO, and will therefore allow for a needs assessment of each child to be undertaken by YJA staff.</i></p> <p><i>They will then work with them and their family both in custody and in the community on release, to ensure they are given the support they need to desist from future offending.</i></p>
Children's Law Centre	CLC are clear that children's rights standards do not allow for a minimum sentence duration (38B (2) 7 385 (a)) as it is contradictory to Article 37(b) of the UNCRC, which provides that detention and imprisonment should only be used as a measure of last resort and for the shortest appropriate period of time.	<p>Response dated 02 June 2025 - 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.</p> <p>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.</p>

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		<p>This latter rationale may on the face of it seem oxymoronic, however placing a child into custody should be seen as a significant event.</p> <p>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.</p> <p>In other words, the shortest appropriate period of time in custody, in our view, is three months.</p>
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY encourages consideration that the other existing orders that are at the courts disposal for children to ensure that they are in the child's best interests, and that there is adequate supervision within community settings to support reintegration and diversion from the justice system in the future. Furthermore, NICCY wants to ensure robust monitoring processes in place to ensure that children and young people subject to these new Orders, are so as a measure of last resort, in line with the Strategic Framework for Youth Justice and the UNCRC. It may be beneficial for this to be made explicit either on the face of the Bill, in the Explanatory and Financial Memorandum (EFM) or within associated guidance that would be required to be produced on the new orders themselves.</p>	<p>Response dated 02 June 2025 - 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.</p> <p>Once introduced, Youth Custody and Supervision Orders will be included in these monitoring and reporting arrangements.</p> <p>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.</p> <p>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.</p>

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Lady Chief Justice	<p>In considering the new disposal outlined it is of some concern that a child under the age of 14 cannot be made subject to a youth custody and supervision order which may create difficulties with compliance. Once it is established that the court does not have the power to impose a custodial order (as a sanction of last resort) it can be anticipated that there may be an increase in 'non-compliance' cases.</p> <p>The age limits proposed for the new custodial disposal may be problematic as it has the potential for offenders brought before the Youth Court on the same offences having outcomes which are age dependant. It is entirely foreseeable that, solely on the basis of age, one co-accused may be facing a YCSO whilst another, on the same facts may not. There is also potential, borne out in a recent case, that older controlling parties could use this freedom from risk of detention to persuade under 14s to act for them</p>	<p>Response dated 23 May 2025 - Children aged 13 and under are being removed from the scope of the new order as we do not wish custody to be used for this age group for anything other than very serious offences, in line with international children's rights standards and our obligations under the UN Convention on the Rights of the Child.</p> <p>The Youth Justice Agency has significant expertise in delivering community orders, engaging with and providing support for children of all ages, to enable them to comply and complete their disposals. Their success is demonstrated by the very low number of community orders that are breached – less than 2% of all orders over the five-year period 2019-2024 across all age groups. Allowing the threat of custody to be used to force compliance with community orders for such young children therefore seems unnecessary.</p> <p>Whilst we understand the second issue raised, regarding the same offences potentially having different outcomes which are age dependent, this has always been – and will always be – the position in law. The same is true across a range of current court orders. The Lady Chief Justice expresses concern that setting an age limit of 14 may encourage coercion and exploitation of younger children. However, removing this, or setting a lower age limit, could potentially draw more children into custody, which is a worse scenario, particularly as research indicates that the deeper children penetrate the youth justice system, the less likely they are to stop offending and grow out of crime. The line has to be drawn somewhere, and it is clear from the statistics that courts are not using custody as a sentencing option for younger children, which is a positive position we wish to maintain.</p>
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Clause 13 Children

This clause relates to the Place of detention and remand in or committal to custody following arrest for trial or sentencing.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
BASW NI	<p>Expressed concerns about the availability of alternative bail accommodation and would like to have seen bail fostering or similar approaches in legislation.</p> <p>It is necessary to explore the arrangements that will determine when a child is to be moved to a young offenders centre following their eighteenth birthday, with allowances made in cases where the young person is due for release within a short period of time after turning 18. There is significant potential for disruption associated with such a move, particularly where positive work has been completed within the Juvenile Justice Centre in preparation for release.</p>	<p><i>We acknowledge that work needs to continue on the provision of alternative accommodation, and the bail fostering scheme is one way in which this is currently being progressed, albeit on a small scale in one Health Trust at the moment.</i></p> <p><i>Nevertheless, the pilot has proven successful and has now moved out of a pilot phase and is being delivered by the Trust as business as usual. Discussions are ongoing with SPPG and Trusts on the potential to expand the approach into the remaining Trusts.</i></p> <p><i>In addition, YJA staff have developed strong links with Health and Social Care staff to minimise a child's stay in custody when bail has been granted. The Department and YJA are also engaged with the Department of Health, SPPG and HSC Trusts across a range of groups and fora with a common aim of 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.</i></p>

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		<p><i>However, we recognise that all aspects of health are already under considerable resource pressures, which makes the provision of community accommodation extremely difficult to provide.</i></p> <p><i>The amendment to Schedule 2 paragraph (6) of the Criminal Justice (Children) (NI) Order 1998, which can be found in Schedule 4 paragraph (10) of the Justice Bill, was drafted specifically to ensure that there is flexibility in planning for those children who turn 18 whilst in custody.</i></p> <p><i>Rather than a requirement to automatically transfer to Hydebank Wood College upon reaching their 18th birthday, the provisions allow for a decision to be made by Youth Justice Agency (YJA) staff, based on the individual circumstances of the young person. Decisions will be made on a case-by-case basis and will take account of a range of factors, including the best interests of the individual, their needs and vulnerabilities, their personal views, the length of sentence remaining and whether they are engaged in a specific education or training programme at the Juvenile Justice Centre (JJC).</i></p> <p><i>The best interests of the other children in custody within the JJC at that time will also be a factor. No person will be held beyond the point where they are 18 years and six months. In introducing this flexible approach in statute, we are legislating for what currently happens in practice. Staff within the YJA and Hydebank Wood College work closely on this issue and have significant operational experience in ensuring young people are held safely, securely and in the most appropriate location.</i></p>
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Children's Law Centre	Expressed an issued with the inclusion of new Article 10J, Paragraph (4) which seems to indicate that the Article will not apply where a court considers it appropriate to remand a child to customs detention under section 152 of the Criminal Justice Act 1988. CLC understanding is that this legislation does not apply where a charge is brought against anyone under the age of 17 and so it is not clear to us why those aged 17 would be excluded from the safeguards of new Article 10J as a result.	Response dated 02 June 2025 - 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.
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Clause 14 Children

This clause relates to consideration to the reason for sentencing a child to custody of longer than 3 months.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Children's Law Centre	CLC recommends that new Article 10K, Paragraph (2) (b) be removed and replaced with a new Paragraph (3) which states: (3) The court must ensure the extent to which the total period for which the child is remanded in custody must not exceed the likely period of any custodial sentence. With existing Paragraph (3) renumbered (becoming Paragraph (4)).	Response dated 02 June 2025 - 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.
Northern Ireland Commissioner for Children and Young People (NICCY)	Clause 14 adds that a court must openly state its reasons for remanding a child in custody for more than three months. NICCY recommends the Committee ensure that this information is issued to the child in an appropriate and accessible manner to ensure their full understanding and participation in proceedings.	Response dated 2 June 2025 - 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).

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		<p>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).</p> <p>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.</p>
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Clause 15 Children

Clause 15 refers to consideration being given to time spent on remand in custody prior to sentencing a child for any offence.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Children's Law Centre	CLC welcomes the provisions contained with Clause 15 of the Bill that require the court to consider any period for which a child has already spent remanded in custody for an offence in the context of the court deciding whether to impose a sentence following a finding of guilt. In order to ensure the meaningful application of the intention of this Clause, CLC recommends that it be amended to require the court not only to consider any such period but to also explicitly take any such period into account in the sentencing decision.	Response dated 02 June 2025 - the Department would have no objections to the amendment being suggested by Children's Law Centre, should the Committee wish to consider it.

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Clause 16 Children		
This clause relates to the requirement to place a child in a juvenile justice centre if detained due to contempt of court.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

Clause 17 Children		
Clause 17 relates to the removal of powers to remand or remit a child to custody and changes the minimum age to 18 for committal to a young offenders centre.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

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Clause 18 Children		
This clause makes minor and consequential amendments relating to bail, custody, sentencing, remand and committal.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

Clause 19 Children		
Clause 19 relates to transitional provisions and savings in respect of children.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

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Clause 20 Live Links
<p>Clause 20 relates to the use of live links for police interviews and placing a duty on an officer conducting an interview via a live link to have the same duty as an officer present in person.</p>

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
NIHRC	<p>Suggest that the use of live links should be monitored across the justice system so that it does not become the norm and is not used inappropriately.</p>	<p><i>The Department does not currently have any mechanism in place to monitor the use of live links across the justice system.</i></p> <p><i>The provisions are not a replacement to in-person attendance.</i></p> <p><i>Currently the Northern Ireland Courts and Tribunals Service (NICTS) can provide data regarding the number of live link connections made.</i></p> <p><i>Themis is the NICTS' business transformation and service improvement Programme, that will incrementally deliver new case management technology with enhanced data capabilities. It is intended that the Themis case management solution will capture the details of how each party attended hearings (i.e. in-person / remotely). Themis will be delivered on a phased basis until 2029.</i></p>

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		<p><i>The use of live links in police detention will be an operational matter for the Chief Constable, who is accountable to the Northern Ireland Policing Board (NIPB).</i></p> <p><i>Monitoring of the use of live links will be conducted through existing policing oversight arrangements including the NIPB, Criminal Justice Inspection NI (CJINI) and HM Inspectorate of Police, Fire & Rescue Service (HMICFRS).</i></p>
<p>Law Society Northern Ireland</p>	<p>Codes of Practice to reflect the changes must be updated so they set out the procedures clearly. For example, it is important that there is an obligation for documents to be supplied to a representative involved in the process via remote means and provision should be added to ensure that legal representatives are kept updated at all times, ensuring that their representations can be made before any decisions are made.</p>	<p><i>It will be necessary to update PACE Code C which deals with the detention, treatment and questioning of persons by police officers to support the operation of the new provisions.</i></p> <p><i>There will also be potential minor amendments to PACE Codes E & F which deals with the audio and video recording of interviews with suspects. The Code amendments are secondary legislation which means that changes can only be made once the primary legislation has been finalised.</i></p> <p><i>Work is currently underway in preparation for this.</i></p> <p><i>A public consultation will be required for the Code amendments.</i></p>

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<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY wishes to consider an additional condition, that explicitly recognises that the use of the live link be appropriate when it is in the child's best interests and consider that additional text on the Bill is advisable in this case, alongside assurances that the child fully understands the proceedings alongside the production of appropriate guidance and that that a condition relating to competency to fully understand proceedings be considered as well as mandatory training on ACEs and trauma-informed practice and on children's rights be given to all those professionals dealing with children in these cases.</p>	<p>Response dated 02 June 2025 - 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.</p> <p>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.</p> <p>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.</p>
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<p>Children in Northern Ireland (Ci-NI)</p>	<p>We would strongly advise additional safeguards to ensure that all children have the right support and capacity to participate fully, and to prevent any potential for live links to become the default for child defendants or witnesses. Continual monitoring and review of the use of live links, and specific analysis of the impact on children and young people, particularly with regard to the right of children to understand and participate fully in their trial, will be required. Decisions around the use of live links in children's cases should be made on a case-by-case basis. The best interests of the child or young person should be the primary consideration in making such decisions and adequate consideration should be given to their particular needs and vulnerabilities. Where there are concerns that the use of a live link may not be suitable or may impact on the ability of a child or young person to fully understand or participate in their case and have their right to a fair trial upheld, they should not be used.</p>	<p>Response dated 02 June 2025 - 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.</p>
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<p>Voice of Young People in Care (VOYPIC)</p>	<p>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.</p>	<p>Response dated 02 June 2025 - 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.</p> <p>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.</p> <p>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.</p>
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Justice Bill (07/22-27) Table of Issues

<p>Royal College of Speech and Language Therapists (RCSLT)</p>	<p>We would advise consideration be made to those with speech, language and communication needs (SLCN) who are being interviewed. Additionally, there may be some people with unidentified SLCN that will also struggle to understand what is being said to them and to express themselves. Furthermore the use of a live video link may be present an additional challenge for some. Anglade et al (2022) reported that virtual communication can hinder interactions by filtering out key aspects of communication one example being nonverbal communication - something which those with SLCN often heavily rely on to both understand the messages of others and express themselves. It is therefore important that steps are taken to ensure all interviews take account of the communication needs of the interviewee and provide the necessary accommodations</p>	<p><i>The Department's view is that there is sufficient detail within the provisions to protect the best interests of the individual.</i></p> <p><i>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.</i></p> <p><i>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.</i></p> <p><i>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.</i></p> <p><i>Additionally, there is a provision within PACE Code C, Section 3 (B) 'Detained persons – special groups', that if the detainee appears to have significant communication difficulties, the custody officer will ensure a Registered Intermediary (RI) is requested to carry out an assessment.</i></p> <p><i>If the assessment confirms an RI is required, they will facilitate communication during the police interview. The RI will also advise the interviewing officer of the appropriate communication strategies for each detainee.</i></p> <p><i>RIs are professionals with specialist skills in communication.</i></p>
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		<i>They help vulnerable victims, witnesses (for both prosecution and defence) and defendants (including suspects), with significant communication problems to give evidence during police investigations and at trial.</i>
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Clause 21 Live Links

Clause 21 relates to detention and the functions of extending detention via live links, the issue of warrants for further detention via live link and the support available for vulnerable people during any such live link hearing.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
ICO (NI)	<p>Seeks clarification from the DoJ as to the data protection considerations that have been applied to the live link technology to be satisfied that there are proper safeguards in place to protect vulnerable individuals, including children, when using live links. This includes providing them with appropriate transparency information to ensure they understand how their information is being used.</p>	<p><i>The Department has received assurances from the PSNI that the Chief Constable is satisfied that the PSNI has taken steps to ensure a secure IT solution across the PSNI Estate to facilitate the live link function proposed in the Justice Bill.</i></p> <p><i>The Department's view is that there is sufficient detail within the provisions to protect the best interests of the individual.</i></p> <p><i>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 determination by the custody officer must also be made in a manner that must be compliant with Section 6 of the Human Rights Act.</i></p> <p><i>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.</i></p>

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		<p><i>PACE Code C already requires that an appropriate adult attends when a young person or vulnerable adult is in custody. The role of the appropriate adult includes ensuring that the young person/ vulnerable adult understands and can participate appropriately in proceedings.</i></p> <p><i>Further safeguards relating to the use of live links will be included in the PACE Code updates that are required to be made before the primary legislation is commenced.</i></p> <p><i>A consultation will be carried out and a Data Protection Impact Assessment (DPIA) will be completed as part of that exercise. The Department will work with the ICO to take this forward.</i></p>
NIHRC	<p>Suggest that the use of live links should be monitored across the justice system so that it does not become the norm and is not used inappropriately - an appearance before a judge can guarantee important safeguards for anyone who has been deprived of their liberty.</p>	<p><i>The Department does not currently have any mechanism in place to monitor the use of live links across the justice system.</i></p> <p><i>The provisions are not a replacement to in-person attendance.</i></p> <p><i>Currently the Northern Ireland Courts and Tribunals Service (NICTS) can provide data regarding the number of live link connections made. Themis is the NICTS' business transformation and service improvement Programme, that will incrementally deliver new case management technology with enhanced data capabilities. It is intended that the Themis case management solution will capture the details of how each party attended hearings (i.e. in-person / remotely). Themis will be delivered on a phased basis until 2029.</i></p>

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		<p><i>The use of live links in police detention will be an operational matter for the Chief Constable, who is accountable to the Northern Ireland Policing Board (NIPB). Monitoring of the use of live links will be conducted through existing policing oversight arrangements including the NIPB, Criminal Justice Inspection NI (CJINI) and HM Inspectorate of Police, Fire & Rescue Service (HMICFRS).</i></p>
<p>Northern Ireland Policing Board (NIPB)</p>	<p>The Board supports and recognises the need for change and the potential impact that the introduction of Live Links could bring to the efficiency and effectiveness of the criminal justice system. However, the Board also notes the issues and concerns that have been raised as part of the consultation on this issue. These have included:</p> <ul style="list-style-type: none"> • Consent - A general concern regarding the issue of consent, both in terms of who might provide consent and the ability of children and those with vulnerabilities to understand what they were consenting to; • Consult in private - The continued right of the detainee to be advised by and consult in private with their legal representative; • Police Interviews - the ability of the detainee to understand the proceedings and participate effectively; and • Children and Young People – the impact of the proposals on children and young people and other vulnerable groups; <p>The Policing Board recognises the need for change and modernisation, however, support for the Live Links changes would be subject to effectively addressing the issues and concerns raised above.</p>	<p>Response dated 02 June 2025 - The Department's view is that there is sufficient detail within the provisions to protect the best interests of the child.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>This would include various Human Rights issues including the best interest of the child.</p>

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		<p>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.</p> <p>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.</p> <p>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.</p>
<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>Wish to know how the use of live links balance with children and young people's rights to access justice, how the interest of justice test is and will be considered, and how children are to effectively participate in and understand proceedings, in appropriate settings, with appropriate support systems in place; and, how the increased use of live links meets the best interests of children and young people and not in terms of efficiency and potential resource savings and would support the monitoring of such increased use on vulnerable people - children and young people. Further, appropriate safeguards must be in place and children and young people must have full understanding and involvement in decision making and proceedings effecting them, with their opinions given due weight.</p>	<p>Response dated 02 June 2025 - The Department's view is that there is sufficient detail within the provisions to protect the best interests of the child.</p> <p>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.</p> <p>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.</p> <p>In addition, for new Article 46ZB there is a further mandatory requirement inserted that court hearing is not contrary to the interests of justice.</p>

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		<p>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.</p> <p>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.</p> <p>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.</p>
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Clause 22 Administration of Justice

Clause 22 relates to the delegation of functions of the NI Policing Board to individual board or committee members

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response

Clause 23 Administration of Justice

Clause 23 relates to the removal of the requirement for the Comptroller and Auditor General to audit performance plans and the performance summary in respect of the NI Policing Board.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response

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Clause 24 Administration of Justice		
Clause 24 updates terminology in consent for prosecution cases in conspiracy to commit the offence outside Northern Ireland.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

Clause 25 Administration of Justice		
Clause 25 relates to the limitation of power to “no bill” in cases of the death of a child or vulnerable adult under the Domestic Violence, Crime and Victims Act 2004.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

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Clause 26 Administration of Justice
Clause 26 updates existing legislation when examination in criminal proceedings takes place through an intermediary.

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
Northern Ireland Commissioner for Children and Young People (NICCY)	It is NICCY's understanding that Clause 26 seeks to address a gap in law to enable the service provided by RIs in lower courts to continue to appeal hearings in higher courts without having to rely on the inherent court powers and judicial discretion to provide for this. RIs are communication specialists who assist vulnerable victims, witnesses, suspects and defendants with significant communication issues to communicate their answers more effectively during police interview and when giving evidence at trial. Historically, the most common vulnerabilities giving rise to a need for an RI relate to young age, learning disability and ASD. NICCY wishes to draw attention to the increasing need for RIs in our justice system, and for the reasons of 'age' and disability and how these interplays with those in our society coming into contact with the justice system.	<p>Response dated 02 June 2025 - The Department notes and welcomes that NICCY is in favour of the proposed legislative change contained in clause 26 of the Bill.</p> <p>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.</p> <p>The Department will continue to work with criminal justice partners to ensure that every witness who requires RI support will receive it.</p>

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Clause 27 Administration of Justice
<p>This clause relates to placing legal aid charges in relation to the Land Registry Act (Northern Ireland) 1970 being placed in the statutory charge register and defines the relevant day for the placing of the charge.</p>

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
<p>Law Society Northern Ireland</p>	<p>The Law Society stated it is unclear whether this Clause is meant to serve as an alternative to the existing arrangements involving formal registration of a legal mortgage or charge against the title holder or whether it is to be used in conjunction with those existing arrangements and considered it prudent to ensure that these changes have been considered in light of impending changes to the Land Registry Digital Registration Platform.</p>	<p>Response dated 13 February 2025 - The new procedure will ensure that all interested parties know where the charges should be registered and will be able to check in one place for the existence of a charge.</p> <p>That, in combination with the additional communications regarding the introduction of the new process, should ensure some degree of additional transparency for the statutory charge.</p> <p>In addition, an early indication of the Foundational Review of Civil Legal Aid, in relation to the reform of the Statutory Charge is that a wider and greater understanding of the need for, and the rules and regulations pertaining to, the statutory charge could be significantly enhanced by the provision of information sessions and additional training for the profession and wider interested parties.</p>

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		<p>The second suggested that there may be unintended consequences for conveyancing practices, and stated it was important that the proposals were widely communicated and publicised in advance. The Department is conscious of the potential for these reforms to affect the work of conveyancing solicitors.</p> <p>As suggested by the Law Society, the introduction of the proposals will be preceded by a communications process that will ensure that all affected parties are aware of the change.</p> <p>The last comment was in relation to joint owners, and that the placement of the charge could be of detriment to joint owners, even the possibility of automatically severing the joint tenancy.</p> <p>The Department has noted the point made by the Law Society in respect of the potential impact of the proposals on joint owners of properties. It will seek to mitigate any such impact in the design of the operational arrangement to give effect to the new legislative provisions.</p>
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Clause 28 Administration of Justice
Clause 28 relates to restrictions on the ordering of taxation of costs in legal aid cases.

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
The Bar of Northern Ireland	<p>The Bar described the clause as a “disjointed and incoherent approach to reform” and stated it was difficult to reconcile why the Justice Bill would propose this measure when the Department’s own review of taxation had only begun and that it was unclear what alternative measures would be introduced to replace the Taxing Master and how would these provide better scrutiny than the current, independent service provided by the taxation mater. They expressed concern that there may be moves to replace the system with statutory scale fees, which that they view as not being a viable alternative due to a lack of review for current statutory scales.</p> <p>The Bar was also concerned that Clause 28 and the implementation of a new system of remuneration would increase payment delays further. This will have an adverse effect on the sustainability and viability of the profession and will restrict access to justice to communities that need it the most.</p> <p>The Bar further expressed concern that as a potential consequence of the removal of taxation fees could be the creation of a two-tier justice system.</p>	<p>Response dated 13 February –</p> <p>It is not anticipated that changes caused by Clause 28 and wider legal aid taxation reform will negatively impact access to justice for citizens. Clause 28 and the restriction on the ordering of taxation of legal aid costs will only commence when alternative remuneration orders (secondary legislation) are in place, which will be subject to the usual consultation and scrutiny. With regards a review mechanism for any new remuneration framework, the Department anticipates that The Taxing Master will have an adjudication role in respect of requests for redetermination of decisions made under the framework as is currently the case with regards to criminal remuneration in the Crown Court.</p> <p>Further Response dated 18 March 2025 - Legal Aid fees and rates will be set out in secondary legislation. The enabling provisions to make that secondary legislation are set out in the Access to Justice (NI) Order 2003 (civil legal services and Criminal Court of Appeal), and the Legal Aid, Advice and Assistance (NI) Order 1981 (other criminal remuneration).</p>

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		<p>In order to implement a revised remuneration framework for cases currently subject to taxation, the Department can do so via a remuneration order made under the Access to Justice (NI) Order 2003. Any remuneration order is subject to negative resolution.</p> <p>The policy intention of taxation reform is not to interfere with that independence but rather to bring the legal expenditure currently assessed by the Taxing Master under the purview of the Accounting Officer, thereby making it subject to the same scrutiny processes as other legal aid expenditure.</p> <p>The reform seeks to act upon recommendations made by the Public Accounts Committee (PAC) and Northern Ireland Audit Office (NIAO) in reports of 2017.</p>
<p>Law Society Northern Ireland</p>	<p>Clause 28 aims to remove the role of the Court, which is concerning, and would have a significant impact on the independence and fairness of the process. It would also remove the ability of oversight which is important in any system regarding the spending of public funds and it is unclear how the proposed reform will result in improved accountability and predictability over legal aid expenditure in relation to the professional fees of solicitors.</p>	<p>Response dated 13 February – It is not anticipated that changes caused by Clause 28 and wider legal aid taxation reform will negatively impact access to justice for citizens. Clause 28 and the restriction on the ordering of taxation of legal aid costs will only commence when alternative remuneration orders (secondary legislation) are in place, which will be subject to the usual consultation and scrutiny. With regards a review mechanism for any new remuneration framework, the Department anticipates that The Taxing Master will have an adjudication role in respect of requests for redetermination of decisions made under the framework as is currently the case with regards to criminal remuneration in the Crown Court.</p>

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		<p>Further Response dated 18 March 2025 - Legal Aid fees and rates will be set out in secondary legislation. The enabling provisions to make that secondary legislation are set out in the Access to Justice (NI) Order 2003 (civil legal services and Criminal Court of Appeal), and the Legal Aid, Advice and Assistance (NI) Order 1981 (other criminal remuneration). In order to implement a revised remuneration framework for cases currently subject to taxation, the Department can do so via a remuneration order made under the Access to Justice (NI) Order 2003. Any remuneration order is subject to negative resolution. The policy intention of taxation reform is not to interfere with that independence but rather to bring the legal expenditure currently assessed by the Taxing Master under the purview of the Accounting Officer, thereby making it subject to the same scrutiny processes as other legal aid expenditure. The reform seeks to act upon recommendations made by the Public Accounts Committee (PAC) and Northern Ireland Audit Office (NIAO) in reports of 2017.</p>
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Clause 29 Administration of Justice
Clause 29 relates to an automatic review of criminal record certificates where the conviction occurred when the person was aged under 18.

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
CVOONI	To ensure appropriate access to the right, we suggest that information should be provided to applicants and potential applicants on the availability of the right and the means of applying.	<p><i>Clause 29 provides for the automatic review of non-court disposals awarded when the individual was under 18. This review is built into the disclosure process and will be undertaken before the disclosure certificate is issued. There is no need for the individual to apply for this review.</i></p> <p><i>Information is included on all digital disclosure certificates providing details of the actions that individuals can take if they wish to challenge the inclusion of any non-court disposals or convictions; they can do this by requesting a review by the Independent Reviewer using the online tool.</i></p> <p><i>Further information on the role of the Independent Reviewer is also available on the AccessNI pages of the NI Direct website. Statutory Guidance is published on the DOJ website at Statutory Guidance for the Independent Reviewer - March 2022.pdf.</i></p>
NIHRC	Automatic review with consideration of individual merits is critical. To ensure appropriate access to the right, NIHRC suggest that information should be provided to applicants and potential applicants on the availability of the right and the means of applying for any automatic review.	<p><i>Clause 29 provides for the automatic review of non-court disposals awarded when the individual was under 18. This review is built into the disclosure process and will be undertaken before the disclosure certificate is issued. There is no need for the individual to apply for this review.</i></p>

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<p>Northern Ireland Commissioner for Children and Young People (NICCY)</p>	<p>NICCY wishes to seek out information relating to the decision-making process around not proceeding with Recommendation 21 of the YJR as outlined, the evidence and information gathered and used by the Department relating to an application process for children when they reach 18 which is not outlined in the EFM.</p>	<p>Response dated 02 June 2025 - 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.</p> <p>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. 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.</p> <p>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</p>
<p>National Society for the Prevention of Cruelty to Children (NSPCC)</p>	<p>The NSPCC concurs that a process must be in place to allow for the retention of information in cases where there are safeguarding risks. Regardless of what overall process is agreed by experts in youth justice, our core position is that this mechanism must allow for safeguarding exceptions.</p>	<p><i>A fundamental principle for the Independent Reviewer, 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.</i></p> <p><i>Statutory Guidance on the role and responsibilities of the Independent Reviewer is published on the DOJ website at Statutory Guidance for the Independent Reviewer - March 2022.pdf</i></p>

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<p>Victim Support NI</p>	<p>We broadly agree with the provisions to amend Schedule 8A of Part V of the Police Act to comply with a 2019 Supreme Court judgment on disclosure of non-court disposals for under 18s. The changes to the Police Act provisions aim to improve transparency in dealing with young offenders, but the impact on victims will depend on how these disclosures are used and how victims' views are gathered during this process. It is our contention that a genuine effort needs to be made to seek their views. Used in this manner, we believe they have the potential to increase victim safety and confidence in the justice system. The challenge will be ensuring that these disclosures are used in a balanced way that maximises victim protection while also allowing for fair treatment of offenders, particularly those who are under 18.</p>	<p><i>Disclosure certificates are issued to help organisations make safer and more-informed recruitment decisions. AccessNI has provided guidance to assist organisations in understanding and interpreting criminal history information disclosed on certificates.</i></p> <p><i>A fundamental principle for the Independent Reviewer, in considering matters for removal from a disclosure certificate is that information must not be removed if it is considered that doing so might pose a risk to safeguarding or public protection.</i></p> <p><i>Statutory Guidance on the role and responsibilities of the Independent Reviewer is published on the DOJ website at Statutory Guidance for the Independent Reviewer - March 2022.pdf</i></p>
<p>Citizen Space Responses</p>	<p>This does not go far enough and NI should be in line with England and Wales where out of court disposals for under 18s are not automatically disclosed - police information can still be disclosed if needed and Barring List so protections are still in place.</p> <p>Cautions and Warnings should be treated as such and young people should be allowed to move on from past mistakes with these outcomes and employment is a major factor in rehabilitation and becoming a valued member of the community.</p> <p>This should also be extended to ACRO certificates/ a mechanism for this to be reviewed in-line with that of mainland UK. I think this is particularly true for cautions in relation to a child- this should be completely removed from ACRO certificates</p>	<p><i>In the annual report for 2024/25 the Independent Reviewer (IR) reported that, of the 168 youth non-court disposal cases referred, information was removed in 166 instances, with information retained on 2 cases (1.2%). The IR commented, "In the 2 cases where I retained information, it was my view that the offences were relevant given their gravity and recency. It was therefore my view that disclosure was necessary and proportionate, in order to ensure that the safeguarding of children and vulnerable groups was not compromised unnecessarily."</i></p> <p><i>The Department considers that this role of the IR is essential in striking a proportionate balance in the treatment of youth non-court disposals in the AccessNI disclosure process.</i></p>

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	<p>I have had conversations with those who have youth cautions uploaded to the PNC therefore having ACRO certificate implications. Currently, there appears to be no mechanism in place for challenging this on ACRO certificates.</p> <p>Filtering on ACRO certificates should apply to youth cautions- while this exists to some extent in terms of 'no live trace' filtering, this should extend to 'no trace' for minor caution committed by a child. This appears very disproportional and has real implications for those seeking to move for employment for example yet may be held back by something minor in childhood resulting in a 'no live trace' as opposed to 'no trace.'</p> <p>This is particularly important as this mechanism exists for those in England and other regions in the UK availing of ACRO certificates, yet this appears not to apply to the residents of N.I.</p>	<p><i>The approach recognises that, in a very small number of cases, there continues to be a requirement to disclose youth non-court disposals in the interests of safeguarding and public protection.</i></p> <p><i>Whilst the Department is unable to comment on specific aspects of processes undertaken by ACRO, we understand that ACRO treats all applications for Police Certificates in a consistent manner, irrespective of where the applicant resides in the UK.</i></p>
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Clause 30 Administration of Justice
<p>Clause 30 relates to the provision of security at a relevant building used for courts or tribunal hearings or where a judicial officer is exercising their functions in relation to section 2 of the Justice (Northern Ireland) Act 2002.</p>

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
Emer Morrison	There should be separate entrances and exits for victims of crime rather than using the same doors as the accused.	<p><i>Facilities for Victims & Witnesses will be considered as part of our continued implementation of the NICTS Estate Strategy.</i></p> <p><i>NICTS recently launched a survey on the quality of court buildings and facilities which includes facilities for Victims & Witnesses. NICTS is also engaging with the Young Witness Service and Victim Support NI to assess the quality of courthouse design and facilities against the specific needs of Victims and Witnesses.</i></p> <p><i>The findings from the survey and qualitative assessment will inform future plans, however it should be noted that the age and layout of our buildings, as well as funding availability, may constrain the extent to which changes can be made.</i></p> <p><i>NICTS also provides accommodation for Victim Support NI and NSPCC within our courthouses as well as providing a number of video link rooms to allow witnesses to give their evidence away from the court, at the direction of the Judge.</i></p>

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		<p><i>In addition, the Department has established Remote Evidence Centres (RECs). While the RECs are not court premises, they enable victims and witnesses to give their evidence away from the court building. Feedback from users has been very positive and usage has grown substantially.</i></p> <p><i>Special Measures applications can be made to the court for a range of provisions as outlined above and can also consider the use of phased court attendance times, which can help to ensure that a victim or witness (should they be required to attend court by the Judge) enters the building at a time beyond the official start time of the court.</i></p>
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Clause 31 Final provisions	
Clause 31 provides further provisions in relation to the powers of the Department of Justice to alter any or all parts of the act (so called Henry VIII powers).	

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

Clause 32 Final Provisions	
This clause deals with interpretation of the act as effected by section 1(f) of the Interpretation Act (Northern Ireland) 1954.	

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

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Clause 33 Final Provisions		
Clause 33 deals with the commencement of the act.		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

Clause 34 Final Provisions		
Clause 34 provides the Short title as “The Justice Act (Northern Ireland) 2025”		

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

Amendments received from 28 October 2024

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Clause 23A Biometrics

Clause 23A makes provision conferring powers to photograph certain persons at a Police Station via a new schedule, number 5.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
NICCY	We note that there is no age range included here, so it is our assumption is that this could apply to a child 10 and over – the minimum age of criminal responsibility. Clarity would be welcome on this, and if at any stage, the Police Service of Northern Ireland (PSNI) would collect photographs of anyone under the age of criminal responsibility and how they are retained, either as victims, witnesses, suspects or otherwise.	<p><i>Children under the age of 10 cannot be arrested or charged with a crime in Northern Ireland. Therefore, Article 64A of PACE NI (Photographing of suspects etc.) or the proposed amendments do not apply to children under the age of 10.</i></p> <p><i>The taking of photographs outside the legislative framework of PACE NI would be an operational matter for the PSNI.</i></p>
NICCY	Wish to reiterate that we do consider the taking of photographs as the taking of biometric data and content that there is an argument to suggest that this is already current practice and understanding.	<p><i>The Department is cognisant of the continuing debate on the definition of images as a biometric and the ongoing development of facial matching processes and technology in this area.</i></p> <p><i>The Department considers that the retention of photographs needs to be considered alongside the use of such photographs and the need for legislation in this regard.</i></p> <p><i>The Department is of the opinion that these important matters should be afforded the appropriate time and space, to allow for engagement with key stakeholders and to take forward a public consultation.</i></p>

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		<p><i>The Department notes that in England and Wales, and in Scotland, work is underway on the development of policy and legislation on the retention and use of photographs, including the use of technologies such as facial recognition.</i></p> <p><i>The Department proposes taking forward similar work to consider the need for policy and legislation in Northern Ireland, taking account of ongoing developments in England and Wales and in Scotland (including any proposed legislation) and technological developments.</i></p>
CVOONI	<p>There have been a number of cases where there has been confusion amongst the media about the PSNI's policy regarding the release of custody photographs. I believe that the release of these photographs can help improve victim's confidence in our system by showing justice being done and I have previously called for the PSNI to provide clarity on the process for releasing these images. Could an issue arise where custody photographs are treated as biometric data, preventing their release?</p>	<p><i>The release of custody photographs is a matter for the PSNI. However, the Chief Constable advised the NI Policing Board on 5 September 2024 that the PSNI would consider releasing post-conviction images in the future. A PSNI working group has been established to develop the actual processes that will govern the release of images.</i></p>
ICO (NI)	<p>Seek clarification as to whether further technical processing of custody photos is taking place to render them biometric material and would welcome further engagement with the DoJ as they progress their thinking in this area.</p>	<p><i>The PSNI wrote to the Justice Committee on 31 July 2025 regarding this matter (available here).</i></p> <p><i>The Department is cognisant of the continuing debate on the definition of images as a biometric and the ongoing development of facial matching processes and technology in this area.</i></p> <p><i>The Department considers that the retention of photographs needs to be considered alongside the use of such photographs and the need for legislation in this regard.</i></p>

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		<p><i>The Department is of the opinion that these important matters should be afforded the appropriate time and space, to allow for engagement with key stakeholders, such as the ICO, and to take forward a public consultation.</i></p> <p><i>The Department notes that in England and Wales, and in Scotland, work is underway on the development of policy and legislation on the retention and use of photographs, including the use of technologies such as facial recognition.</i></p> <p><i>The Department proposes taking forward similar work to consider the need for policy and legislation in Northern Ireland, taking account of ongoing developments in England and Wales and in Scotland (including any proposed legislation) and technological developments.</i></p>
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Clause 23B Biometrics

Clause 23B makes provision conferring powers to specify the date and time of attendance for fingerprinting etc at a Police Station

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
BASW NI	The new Article 63P provides for a 5-year retention period for any person who has completed a community-based restorative justice scheme (CBRJ) for an offence and is aged under 18. BASW NI oppose this retention period for u18's, especially where this is for a first offence, and believe this is disproportionate.	<i>Community-based restorative justice schemes (CBRJs) are directed by the PPS and 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.</i>
Fraser Sampson (Former Biometrics and Surveillance Camera Commissioner for England and Wales)	Attendance at police station for fingerprinting etc. The provisions of the amended Police and Criminal Evidence (Northern Ireland) Order 1989 replicate the arrangements under the Police and Criminal Evidence Act 1984 in England and Wales. Both are based on an approach of taking the person to the technology – in other words they require the person to be either arrested and taken into police detention or to submit themselves to a police station in order to enrol their fingerprints. In the latter case, the technological capability to enrol fingerprints is now sufficiently advanced to allow consideration of whether these biometric processes might also be undertaken at places other than police stations in the future. Taking the technology to the person would have the advantages of being less intrusive, more flexible and less susceptible to disruption by events such as the COVID-19 pandemic which closed custody suites to all but the most pressing cases	<i>The comments by Professor Fraser Sampson have been noted.</i>

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Clause 26A Restorative Justice

Clause 26A inserts a Transfer of functions related to restorative justice schemes via 9 paragraphs which creates a register of accredited persons to be maintained by the Chief Inspector of Criminal Justice in Northern Ireland.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Victim Support NI	We strongly urge the DOJ to commit to providing sustained funding for the Adult Restorative Justice Strategy which would provide a clear and easily accessible gateway for victims of crime to explore this service and take it up. This would ensure that victims' needs are at 'the heart and centre' of the DOJ's plans in this area.	<p>The Department and RJWG considered a number of funding options, recognising that flexibility is needed in year one to allow time for the process to embed, identify trends and better estimate future referral levels. At the end of the first year the funding model will be reviewed, taking account of the take up of service provision.</p> <p><i>DOJ Addendum</i></p> <p><i>The Department has considered and identified the funding that is needed for the Restorative Justice process as part of a future funding exercise, estimating what is needed over the next four years to provide for the expansion of adult restorative justice arrangements.</i></p> <p><i>It is also intended that once level of uptake is identified that we would make further bids for funding.</i></p>

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<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>NIACRO supports the amendment, but asks for consideration of the following matters:</p> <ul style="list-style-type: none"> • Ensuring consistency in restorative justice access, preventing disparities in availability across different regions. • Expanding training for justice professionals, ensuring all practitioners understand and apply restorative principles consistently, safely and to a high quality. 	<p>Response dated 02 September 2025 -</p> <p>The allocation of cases will be handled by an Independent Referral Body (IRB), namely the Probation Board for Northern Ireland (PBNI). A range of factors will be considered in the allocation of cases. The Department has sourced and funded a range of restorative justice training courses that have been delivered across statutory organisations but those applying for accreditation are expected to have undertaken an appropriate level of training based on the level of accreditation they are applying for. The Department is considering the further provision of comprehensive training to those that become accredited.</p> <p>The Department intends to officially launch the new Practice Standards and Accreditation Framework, together with a call for applications to become accredited, in the autumn. The application window will remain open for 6 weeks. This will allow for applications to be considered by the Independent Protocol Lead, an independent suitability panel and the Minister, in line with the 2023 Protocol, with providers in place for the turn of the 2026/27 financial year. The application window will likely open again once or twice per year.</p> <p>Response dated 26 September 2025 –</p> <p>Intensive training will be undertaken with those accredited and practicing in the Hub, focusing on preparation and facilitation skills, recording and report writing to ensure consistency. Training will be delivered by an accredited trainer/organisation in conjunction with PBNI, the Protocol Lead and an expert in this field.</p>
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	<p>• Increasing funding for restorative justice programmes, ensuring long-term sustainability and accessibility and choice for people and communities.</p>	<p>Training plans are also being developed with criminal justice partners to ensure police officers and PPS staff are adequately trained in the process. This training will also be available to NIPS staff.</p> <hr/> <p>Response dated 26 September 2025 - The Department and RJWG considered a number of funding options, recognising that flexibility is needed in year one to allow time for the process to embed, identify trends and better estimate future referral levels. At the end of the first year the funding model will be reviewed, taking account of the take up of service provision.</p>
<p>NICCY</p>	<p>NICCY welcomes the Department’s intention to expand the number of individuals and organisations in restorative justice and practice and note that the amendment provides for the Criminal Justice Inspectorate NI (CJINI) under Clause 26A(2) and (3) and note that CJINI have previously reported on aspects of restorative justice within the system and community based restorative justice accredited schemes but it is unclear what specific role CJINI will have in the accreditation of schemes, if any, of if this decision making will rest solely in the Department of Justice and the Interim Protocol Lead.</p> <hr/> <p>We understand that the Department is working on a new ‘Adult Restorative Justice Practice Standards and Accreditation Framework’ and request information relating to any impact this would have on the operation of youth restorative justice practice standards, if any.</p>	<p>Response dated 26 September 2025 – CJINI are of the view that it is more appropriate that they review and assess the work of practitioners and organisations once operating, rather than through a one-off pre-accreditation check of an organisation’s processes. Going forward, and to allow time for the process to become embedded, an initial inspection may potentially commence around the second half of 2027/28 year two. It is envisaged that each accredited organisation would then be inspected during any three-year term of accreditation (and any subsequent periods).</p> <hr/> <p><i>The Adult Restorative Justice Practice Standards and Accreditation Framework will not have any impact on the operation of youth restorative justice practice standards, rather learning from the youth conferencing process was used to develop and extend the use of restorative approaches in the adult justice system</i></p>

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NIHRC	<p>Details of how long organisations or individuals will be accredited to deliver restorative justice programmes, and whether this will be consistent across all organisations or, if not, what criteria will be used to determine the accreditation period.</p>	<p>Response dated 17 June 2025 - The committee asked for details of how long organisations or individuals will be accredited to deliver restorative justice programmes and whether this will be the same for everyone. The 2023 Protocol provides that all accredited organisations and individuals must make an application for re-accreditation every three years. This position is also made clear in the new Practice Standards and Accreditation Framework which will be launched later this year, a copy of which will be provided to Committee members once it has been approved by the Minister. The process for re-accreditation will require evidence of organisational governance and individual competency and experience as outlined in the Framework.</p>
NIHRC	<p>Whether there will be specific timescales set for review by Criminal Justice Inspection Northern Ireland (CJINI), particularly for newly-accredited organisations who may benefit from early and/or regular reviews.</p>	<p>Response dated 17 June 2025 - Restorative Justice organisations and independent restorative practitioners accredited under the Protocol will be subject to inspection and review of their working practices by CJINI. These inspections will be undertaken, as appropriate, by CJINI using its statutory functions to inspect aspects of the criminal justice system; the timing and frequency of these inspections is a matter for CJINI to consider as part of its wider programme of work. Aside from CJINI inspections, all service providers will be expected to provide regular monitoring reports on the work undertaken on justice referrals, as well as being subject to scrutiny by the Interim Protocol Lead (IPL) who holds responsibility for assessing their suitability for continued accreditation.</p>

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NIHRC	Clarification of how 'community-based restorative justice' is defined and how the balance will be struck between community-based organisations/individuals and other non-statutory or statutory bodies in providing restorative justice service.	Response dated 17 June 2025 - The Department recognises the importance of this work that has been undertaken by accredited community based restorative justice groups over the past two decades, but have taken the decision to remove the reference to 'community based' restorative justice in the provisions in the Justice Bill. This is because the new Protocol, and therefore the new accreditation process that is covered by the provisions, opens up accreditation to a wider range of voluntary and community bodies as well as individual practitioners. The terminology in the provisions reflects this change. There is no 'balance to be struck' between different sectors or organisations, because everyone that applies for accreditation, and meets the necessary training and practice standards will be accredited to work with referrals from the criminal justice system.
NIHRC	Clarification of whether the Probation Board will be included as a potential provider under these provisions and if this could this present any potential conflict of interest given their status as a non-departmental public body.	<p>Response dated 17 June 2025 - The accreditation process does not apply to statutory justice organisations, including PBNI, meaning that there is no conflict of interest.</p> <p>That said, both the Protocol and the new Framework being developed are clear that any staff within justice agencies who are delivering restorative interventions as part of their role must be trained to an appropriate standard, as agreed with the IPL.</p> <p>PBNI are aware of this, and staff are engaged in an ongoing programme of training in advance of the Framework launch to ensure they meet the required standards.</p>

Justice Bill (07/22-27) Table of Issues

NIHRC	What is the referral system for individuals to undertake restorative work and who can utilise the referral mechanism?	<p>Response dated 17 June 2025 - Following the launch of the Framework later in the year, applications for accreditation will open.</p> <p>Any individual practitioner or organisation who believe they meet the practice standards and accreditation criteria as set out in the Framework will be able to apply for accreditation – an application form for this purpose is being developed and will be made available and promoted at the same time as the launch of the Framework.</p>
NIHRC	Whether there is a wider review of restorative justice planned or being undertaken and what that could mean for adults who might be involved in the Adult Restorative Strategy.	Response dated 17 June 2025 - there are no plans for a wider review of Restorative Justice at present, the existing Strategy is due to run through until 2027 at which point a review will likely take place.
NIHRC	Details of the what the Restorative Panels in the Strategy entail and how they are constituted, including whether they comprise elected representatives.	Response dated 17 June 2025 - As was the case under the older 2007 Protocol, the new (2023) Protocol advocates for an “advisory expert panel” to assist the IPL in their decision-making on applications for accreditation. Previously these were a three-person panel consisting of representatives from both PBNi and the Youth Justice Agency with restorative justice experience, sitting alongside an independent chair who again would have relevant experience in the justice field. It is our intention to replicate a similar approach under the new accreditation process, and are currently identifying suitable personnel to sit on this small panel.

Justice Bill (07/22-27) Table of Issues

NIHRC	<p>What training is or will be provided to restorative justice providers to enable them to gain accreditation or on an ongoing basis once accredited.</p>	<p>Response dated 17 June 2025 - The Department has already hosted a range of training courses to help statutory partners prepare for the launch of the new Framework and an increased focus on, and expansion of, restorative justice work. It is hoped that, if appropriate funding and resources are available, future training can be provided for a wider range and number of restorative justice providers to assist them in becoming accredited and maintaining accreditation. This will be kept under review.</p>
NI Alternatives/CRJI	<p>NIA and CRJI call for clarity on the rationale to remove the Criminal Justice Inspectorate for Northern Ireland (CJINIs) pre-accreditation inspection role. It is our view that an external body absent of political guidance creates a required checks and balance approach, establishing a safeguarding mechanism for both the Department of Justice and community-based restorative justice schemes. The inclusion of restorative justice must not be limited to theoretical endorsement but embedded with operational clarity, funding, and accountability</p>	<p>Response dated 2 July 2025 - The consideration of future inclusion of accredited restorative justice organisations in an Inspection Programme would form part of the Chief Inspector's annual consultation with stakeholders, a risk-based approach to inspection inclusion, annually recurring or other Reviews and the availability of CJI resources.</p> <p>The Inspection Programme content is developed in the context of CJI's statutory remit and National Preventive Mechanism member responsibilities and is approved by the Minister of Justice.</p> <p>CJI does not currently have the resources to inspect every current and anticipated expansion of accredited restorative justice organisations within their accredited period. If required, CJI would need to discuss this with relevant senior DoJ officials and additional annually recurring resources provided.</p>

Amendments received from 8 November 2024

Justice Bill (07/22-27) Table of Issues

Clause 28A Rehabilitation of Offenders

Clause 28A makes provision to amend the rehabilitation period for custodial sentences given to offenders as specified for offenders under 18 years old and aged 18 and over.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Commissioner for Victims of Crime (Designate)	Notes that the Department has chosen not to make serious sexual, violent and terrorist offences disclosable regardless of the passage of time as in the case in England and Wales in this amendment. It is important that the rationale behind this approach is clearly understood by victims and the public.	<p>Response received 24 June 2025 – the Department confirmed that aligning with England and Wales was considered by the Minister but the option chosen was thought to be simpler to operate and understand.</p> <p><i>DOJ Addendum</i> <i>The DOJ approach offers more opportunity for more ex-offenders in NI to have their conviction become spent than in England and Wales.</i></p> <p><i>Although E+W have removed the upper limit of 4 years for convictions to become spent, the number of exceptions contained in Schedule 18 of the Sentencing Act that can <u>never become spent</u> extends to 174 individual offences, so the chances of someone with a conviction of over 4 years having their conviction become spent are limited.</i></p> <p><i>The NI Scheme, as set out in the amendment, allows for all convictions of up to 10 years to be capable of becoming spent, regardless of the nature of the offending.</i></p>

Justice Bill (07/22-27) Table of Issues

<p>Northern Ireland Human Rights Commission (NIHRC)</p>	<p>The Commission recommends consideration of amending the proposed Clause 28B to provide that the Department of Justice shall make regulations for and in connection with allowing a person on whom a sentence has been imposed in respect of a conviction to apply for an order.</p>	<p>The Supreme Court judgment of 6 March 2025 makes clear that a review mechanism is not required in order for a rehabilitation regime to be considered lawful. Although the Department considers that there is merit in continuing to develop policy proposals for a potential future review mechanism that would be subject to stakeholder engagement and public consultation, the development of these policy proposals will be subject to resource availability and other competing policy and legislation requirements for the remainder of the mandate. The Department's priority is the progression and implementation of the reforms to reduce rehabilitation periods for disposals currently captured by the existing regime and to increase the range of sentences that can become spent, as facilitated by the planned amendments to the Justice Bill at new Clause 28A.</p>
<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>NIACRO urgently calls for revision to the legislation to ensure full alignment with England and Wales, removing unnecessary barriers to rehabilitation. It is deeply concerning that the DoJ has failed to seize the opportunity to align with legislative advancements in England and Wales since October 2023. Unlike NI, England and Wales have removed the upper limit on custodial sentences that remain unspent, signalling a more progressive approach to rehabilitation. While the proposed legislation in Northern Ireland may have once been considered forward-thinking, it will now lag behind. England and Wales have amended the Rehabilitation of Offenders Act 1974 to ensure that custodial sentences exceeding four years become spent after the sentence duration plus seven years - except for certain excluded offences (introduced in Schedule 18 of the Sentencing Act), which remain exempt from rehabilitation.</p>	<p>Response received 24 June 2025 – the Department confirmed that aligning with England and Wales was considered by the Minister but the option chosen was thought to be simpler to operate and understand.</p> <p><u>DOJ Addendum</u> <i>The DOJ approach also offers more opportunity for more ex-offenders in NI to have their conviction become spent than in England and Wales. Although E+W have removed the upper limit of 4 years for convictions to become spent, the number of exceptions contained in Schedule 18 of the Sentencing Act that can <u>never become spent</u> extends to 174 individual offences, so the chances of someone with a conviction of over 4 years having their conviction become spent is limited</i></p>

Justice Bill (07/22-27) Table of Issues

<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>To seek views on the appropriateness of the use of fines as an alternative court disposal for children aged under 16.</p>	<p>Response received 24 June 2025 – The Department is aware of the implications which can arise in cases where a financial penalty is imposed on an individual.</p> <p>These can be exacerbated where the individual in question is a child, who often have no financial independence, particularly if they are under 16. This is why fines and other financial penalties are rarely imposed on children.</p> <p>Current legislation also restricts the level of any fine imposed on children and makes provision for any such fines to be paid by a child’s parent or guardian in most cases (see Articles 34-35 of the Criminal Justice (Children) (Northern Ireland) Order 1998).</p> <p>The youth justice provisions in the Justice Bill do not introduce any new fines for children. Rather, they replicate what already exists in legislation, whereby a fine can be given as a penalty for a breach of a Youth Custody and Supervision Order under the same conditions and up to the same amount as currently exists under a Juvenile Justice Centre Order.</p>
<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>Clarification of how the proposed new Youth Custody & Supervision Order will align with Youth Justice practice, the Review of Sentencing and the proposed new Single Community Order for Children.</p>	<p>Response received 24 June 2025 – work aligns with the Department’s policy approach for custodial orders, which is to develop one main order for children (the Youth Custody and Supervision Order as introduced in the Justice Bill), to streamline and simplify the sentencing framework, reduce confusion and increase compliance.</p>

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<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>Whether there will be flexibility regarding the transfer of persons in custody between the Youth Justice Centre and Hydebank when they reach 18 years old but have limited time left to serve on their sentence.</p>	<p>Response dated 24 June 2025 - This flexibility is already catered for within the Justice Bill. Schedule 4, paragraph 10b amends Schedule 2 of the Criminal Justice (Children)(NI) Order 1998 to allow the manager of the Juvenile Justice Centre to hold an individual serving a custodial order beyond their 18th birthday rather than transferring them automatically to Hydebank when they become an adult. The decision whether or not to transfer them will be made by expert Youth Justice Agency staff on a case-by-case basis.</p>
<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>Clarity on the inclusion of cautions and disposals in the biometric retention framework, given their diversionary nature; and whether the framework extends to informal warnings for minor offences.</p>	<p>Response received 24 June 2025 – Response included details of the disposal schedules for CRNs, Diversionary Youth Conferences, Community Based Restorative Justice Schemes and normal cautions.</p>
<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>Calls for the Department to consider introducing a review mechanism to ensure that people who are sentenced to more than 10 years and have rehabilitated have the chance to have their convictions become spent.</p>	<p>Response received 24 June 2025 – The Supreme Court judgment of 6 March 2025 makes clear that a review mechanism is not required in order for a rehabilitation regime to be considered lawful. Although the Department considers that there is merit in continuing to develop policy proposals for a potential future review mechanism that would be subject to stakeholder engagement and public consultation, the development of these policy proposals will be subject to resource availability and other competing policy and legislation requirements for the remainder of the mandate. The Department’s priority is the progression and implementation of the reforms to reduce rehabilitation periods for disposals currently captured by the existing regime and to increase the range of sentences that can become spent, as facilitated by the planned amendments to the Justice Bill at new Clause 28A.</p>

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<p>NICCY</p>	<p>NICCY strongly recommends young people who have committed offences in childhood should move into adulthood without a criminal record. The only exceptions should be with young people who have committed pre-defined 'serious crimes, which should be independently reviewed on a case-by-case basis. NICCY does not support any rehabilitation periods to 'apply' to children and young people who have been through a diversionary disposal, should this apply. The completion of the diversion should result in a definite and final closure of the case. Although confidential records of diversion can be kept for certain purposes, they should not be viewed as criminal convictions or result in criminal records.</p>	<p><i>This proposal would represent significant new policy that would require substantial policy development, stakeholder engagement and public consultation – due to a congested legislative programme for the remainder of the mandate, together with competing priorities for existing resource capacity, this is not a policy proposal that the Department is considering at this time.</i></p>
<p>NICCY</p>	<p>There is specific mention of fines within Article 28A(11) regarding children and young people within the proposed amendment. It appears that for those under 18 at the time of being in receipt of a fine, or any other sentence that would be subject to rehabilitation but for which no rehabilitation period is specified, the period therefore ends at the end of 6 months postconviction. NICCY queries this and would request further information on the situations that this would apply to children and young people.</p>	<p><i>The rehabilitation period for a fine for an adult is 12 months. This is halved for those aged under 18 at the point of conviction, i.e. 6 months.</i></p> <p><i>Please see response provided on 24 June 2025 to NIACRO correspondence at point 4 above in relation to use of fines and alternative disposals for children</i></p>

Justice Bill (07/22-27) Table of Issues

Clause 28B Rehabilitation of Offenders

Clause 28B makes provision to amend the rehabilitation period for custodial sentences given to offenders that are otherwise excluded from rehabilitation under the 1978 Order

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
NICCY	Through new Clause 28B the amendment provides a power where the Department may make regulations allowing for certain terms of sentences exceeding 10 years to become rehabilitated by an order, and this requires further work and consultation. NICCY would welcome further information on how this would work in the future and the Department's assessed impacts on children and young people.	<p><i>The Supreme Court judgment of 6 March 2025 makes clear that a review mechanism is not required in order for a rehabilitation regime to be considered lawful.</i></p> <p><i>Although the Department considers that there is merit in continuing to develop policy proposals for a potential future review mechanism that would be subject to stakeholder engagement and public consultation, the development of these policy proposals will be subject to resource availability and other competing policy and legislation requirements for the remainder of the mandate.</i></p> <p><i>The Department's priority is the progression and implementation of the reforms to reduce rehabilitation periods for disposals currently captured by the existing regime and to increase the range of sentences that can become spent, as facilitated by the planned amendments to the Justice Bill at new Clause 28A.</i></p>
NIHRC	The Commission recommends consideration to amending the proposed Clause 28B to provide that the Department of Justice shall make regulations for and in connection with allowing a person on whom a sentence has been imposed in respect of a conviction to apply for an order.	As above

Amendments received from 4 December 2024

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Clause 23A Repeal of Vagrancy Legislation

Clause 23A repeals section 4 of the Vagrancy Act 1824 and repeals the Vagrancy (Ireland) Act 1847 and creates a new Schedule (5) to repeal public order offences relating to vagrancy.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Retail NI	<p>We have no objection to their repeal but only in circumstances whereby an alternative framework is in place which recognises the rights of the individual, but also provides clear protections for business owners and their employees.</p> <p>We support new, modern, targeted powers that allow authorities to address genuinely disruptive or intimidating behaviour that could negatively impact trade and public safety.</p> <p>Retail NI believes that this clause should be halted until proper consideration is given to bringing forward an alternative framework, one which considers the needs of employers.</p>	<p>Response dated 12 June 2025 - Following careful analysis of the responses, it remains the Minister's view that the existing legislative framework has the necessary offences to deal with any behaviours committed by those who beg or sleep rough where these cross the criminal threshold. It has been concluded that the replacement legislation as proposed by respondents would continue to marginalise and criminalise people for begging and therefore, no replacement legislation is proposed by the Department.</p> <p><u>DOJ addendum</u></p> <p><i>It remains the Department's view that neither rough sleeping nor simple begging, which often involves some of the most vulnerable people within our society, should be criminalised.</i></p> <p><i>However, sanctions should be carried for those who cross the criminal threshold using the range of powers available within the current legislative framework, the application of which would be carefully considered and the particulars balanced by police in dealing with an individual case.</i></p>

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		<p><i>Those who simply beg or rough sleep should not be treated differently, or marginalised with the creation of separate laws, than others within society who choose to cross the criminal threshold.</i></p> <p><i>These views are based on the assessment of findings of the Department's review of this area and the public consultation exercise which followed.</i></p> <p><i>This assessment identified that the only gap in the existing framework which would arise from the repeal of vagrancy legislation, involved the ability of police to deal with simple begging.</i></p> <p><i>Consequently, the Department will seek to repeal section 3 of the Vagrancy (Ireland) Act 1847 and section 4 of the Vagrancy Act 1824 in full without the introduction of any replacement legislation.</i></p> <p><i>That said, the Department considers that a review of this area at an appropriate point post commencement of repeal would be beneficial to ensuring that there are no unintended impacts arising from repeal.</i></p> <p><i>Timing is important to enabling a qualitative assessment, which should be applied post commencement of repeal.</i></p>
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<p>Professor Kevin Brown, QUB</p>	<p>Supportive of repeal but suggests the need to;</p> <ul style="list-style-type: none"> • Introduce an offence of arranging or facilitating begging for gain. • Introduce new powers to allow the PSNI to issue ‘move-on directions’ to those begging where it is causing harassment, obstruction or public order concerns. • Explore further whether a new offence of trespassing with intent to commit a criminal offence is necessary to replace the loss of the provision in the Vagrancy Act 1824 s4. 	<p>Response dated 12 June 2025 - Following careful analysis of the responses, it remains the Minister’s view that the existing legislative framework has the necessary offences to deal with any behaviours committed by those who beg or sleep rough where these cross the criminal threshold. It has been concluded that the replacement legislation as proposed by respondents would continue to marginalise and criminalise people for begging and therefore, no replacement legislation is proposed by the Department.</p> <p>DOJ Addendum</p> <p><i>The Department has offered further detail to address these points under “other proposed amendments” – amendments 16 – 18” at the end of the table</i></p>
<p>Homeless Connect</p>	<p>Support the repeal of legislation but submit that if there is a concern about the impact of repeal on begging, that the option of requiring a report to be produced on the impact of repeal of the provisions to be conducted after a suitable period following royal assent should be considered.</p>	<p><i>The Department considers that a review of this area at an appropriate point post commencement of repeal would be beneficial to ensuring that there are no unintended impacts arising from repeal. Timing is important to enabling a qualitative assessment, which should be applied post commencement of repeal</i></p>
<p>Homeless Connect</p>	<p>Felt there was a need to define “aggressive begging” and make this different from simple begging, which they believe should not be criminalised in any new legislation.</p>	<p><i>The Department considers that this is set in the context of a proposal from Professor Kevin Brown for replacement legislation. The Department is not supportive of Professor Brown’s proposal which is addressed at amendment number 17 within the “other proposed amendments” section.</i></p> <p><i>There are a wide range of offences within the existing legislative framework which could be used to deal with any individual who crosses the criminal threshold upon repeal.</i></p>

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<p>Simon Community</p>	<p>Strongly supports the proposals: The current provisions criminalise and dehumanise the most vulnerable in our society, often pushing individuals further away from help and into more dangerous situations. Repealing these provisions is therefore a timely step forward and would like to see the Housing First model strengthened and further rolled out.</p>	<p><i>The issue of begging and rough sleeping, which often involves a number of complex and underlying dependency issues, goes further than the Department of Justice and requires a multi-agency and cross-departmental Government response.</i></p> <p><i>The Department considers that the Housing First initiative is a helpful step forward in addressing issues which lead to chronic homelessness and poorer life outcomes. As a cross-departmental programme established under the Programme for Government, it is led by the Department for Communities (DfC) and the Department for Health (DoH) and therefore sits outside of the Department of Justice remit. Any roll-out of the pilot would be a matter for DfC and DoH</i></p>
<p>Northern Ireland Human Rights Commission (NIHRC)</p>	<p>The Commission asks to ensure that an appropriate balance is struck between tackling anti-social behaviour and ensuring that the alternative legislation that will be relied on following the repeal of section 4 of the Vagrancy Act 1824 and section 3 of the Vagrancy (Ireland) Act 1847 does not unduly infringe on the rights of individuals in NI, including people experiencing homelessness. While acknowledging the public consultation, this requires specifically seeking and giving consideration to the views of people with lived experience of homelessness and their representative organisations at each decision-making stage.</p>	<p><i>The public consultation exercise on the repeal of vagrancy legislation was informed by a number of organisations representing the interests of, and including direct views from, those with a lived experience of homelessness. Consequently, the Department's way forward has been informed by these views.</i></p> <p><i>The police currently adopt a policy of 'Right Care Right Person' where those sleeping rough are not criminalised. Repeal of the legislation will not change this approach by police.</i></p> <p><i>Where a person, however, crosses the criminal threshold, sanctions will be pursued in resolving the issue, the application of which would be carefully considered and the particulars balanced by police in dealing with an individual case.</i></p> <p><i>The Department is aligned in its approach to the outcome of the anti-social behaviour consultation.</i></p>

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<p>Chartered Institute of Housing</p>	<p>In addition to calling for the repeal of the Vagrancy Act, CIH has also called for the government to invest more in affordable housing and support services for people who are homeless. We believe this is the best way to address the root causes of homelessness and to help people who are homeless to rebuild their lives.</p>	<p><i>The issue of begging and rough sleeping, which often involves a number of complex and underlying dependency issues, goes further than the Department of Justice and requires a multi-agency and cross-departmental Government response.</i></p> <p><i>Responsibility for Housing sits with the Department for Communities.</i></p>
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Justice Bill (07/22-27) Table of Issues

Clause 29A Criminal Record Certificates

Clause 29A amends the Police Act 1997 regarding criminal record certificates and the recording of offences

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Children in Northern Ireland	Asks whether this change poses any significant risks to the welfare of children given the key role that AccessNI checks play in safeguarding and vetting potential staff working directly with young people and if an impact assessment has been carried out.	<p><i>Clause 29A seeks to represent the list of offences that cannot be filtered (from disclosure certificates) in a more simplified and user-friendly manner, setting out each offence along with its relevant legislative provision.</i></p> <p><i>The Department considers that the provisions in this clause are designed to provide greater clarity in this complex area of the disclosure process and that the legislative change does not pose any significant risks to the welfare of children.</i></p>
Victim Support NI	<p>We broadly agree with the amendment to streamline the filtering of criminal record certificates on AccessNI to improve the effectiveness and efficiency of the process. AccessNI filtering is necessary to give individuals who have committed less severe offences a chance to move forward.</p> <p>However, the impact on victims must be considered, particularly regarding the potential for repeat offences, a lack of transparency, and a diminished sense of justice. It is crucial for victims to be fully aware of how this system works and the potential risks involved in the filtering process.</p> <p>Ideally, reforms to the filtering process should balance the needs of victims and individuals seeking rehabilitation.</p>	<p><i>AccessNI disclosure certificates are issued to help organisations make safer and more informed recruitment decisions.</i></p> <p><i>The majority of Enhanced checks are sought by employers or voluntary, community, faith or sports organisations for roles that are regarded as Regulated Activity with children and/or vulnerable adults.</i></p> <p><i>AccessNI has published guidance to assist organisations in understanding and interpreting criminal history information disclosed on certificates. The filtering scheme provides for the removal of disposals for old and minor offences from disclosure certificates.</i></p>

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		<p><i>To mitigate risks, the scheme has in-built mechanisms to strengthen safeguarding and public protection by ensuring that:</i></p> <ol style="list-style-type: none"> <i>1. Convictions that resulted in a custodial sentence continue to be disclosed; and</i> <i>2. Serious, violent and/or sexual offences (the List of Specified Offences) are always be disclosed irrespective of the date of conviction.</i>
<p>Children in Northern Ireland (Ci-NI)</p>	<p>While these reforms aim to simplify filtering of criminal records, the removal of certain protections may disproportionately affect children. For example, under the current legal framework for filtering non-serious offences from criminal record checks, the Department notes that the ‘Disqualification of Caring for Children Regulations (NI) 1996 requires that the following entry is included in the current List, namely “Any offence involving injury or threat of injury to another person.”’ The Department argues that this is a ‘wide-ranging entry’ and is ‘inconsistent with how other offences are required to be treated.’ They propose to remove it from the List on the basis that it is ‘unclear’, ‘not in keeping with current practice’, and it ‘does not accord with the policy in this area (filtering non-serious offences), or indeed the accompanying caselaw.’ However, the Department has not provided any assessment of the potential impacts of this change. They should consider whether this change poses any significant risks to the welfare of children given the key role that AccessNI checks play in safeguarding and vetting potential staff working directly with young people.</p>	<p><i>The AccessNI filtering scheme has been in operation for more than 10 years. Each offence as listed on PNC is considered in its own merits in the application of the filtering rules. Schedule 8ZA, which is included with Clause 29A in the Bill, sets out the serious, violent and sexual offences that cannot be filtered.</i></p> <p><i>In the past 10 years and given the already extensive list of offences noted as non-filterable, AccessNI has never found the need to use the entry “Any offence involving injury or threat of injury to another person” in order to retain an offence on a disclosure certificate.</i></p> <p><i>The Department considers that this entry presents an inconsistency from an operational perspective, for example, in the treatment of the offence Common Assault which is regarded as only non-filterable if the victim is under 18.</i></p> <p><i>By inference, the application of the above entry would require Common Assault to also be non-filterable if the victim was an adult – meaning that it should always be retained on disclosure certificates. The Department would consider this approach to be disproportionate for, what is regarded as, a low-level offence which would have resulted, at worst, in minor injury(s).</i></p>

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		<p><i>The Department would consider that, in these circumstances (where the victim was an adult), it would be appropriate for the offence of Common Assault to be filtered after the prescribed period following the date of conviction. If the offence resulted in more serious injury(s) then the conviction would be for ‘assault occasioning actual bodily harm (AOABH)’ which is a non-filterable offence.</i></p> <p><i>The Department considers that the entry “Any offence involving injury or threat of injury to another person” is unnecessary in Schedule 8ZA and that removing it from the long list of non-filterable offences would not pose any significant risk to the welfare of children.</i></p>
<p>Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)</p>	<p>NIACRO supports the amendment, we urges consideration of the following matters:</p> <ul style="list-style-type: none"> • Expanding filtering eligibility to ensure that outdated convictions do not disproportionately impact individuals who have demonstrated rehabilitation. However, if we aligned our Rehabilitation of Offenders legislation with England and Wales legislation, it would lessen the requirement for the need for a review mechanism and filtering. • Enhancing public awareness so employers and service providers understand the updated filtering rules and do not discriminate against individuals with spent convictions. • Strengthening appeals mechanisms, allowing individuals to challenge disclosure decisions where appropriate 	<p><i>Currently individuals can request the Independent Reviewer to consider spent convictions (for removal from disclosure certificates). The amendment to rehabilitation periods set out in Clause 28A of the Bill will allow individuals to request the Independent Reviewer to consider more recent convictions (as convictions will become spent sooner), which could result in more criminal record information being removed from disclosure certificates.</i></p> <p><i>The Department has published detailed information about the Filtering Scheme, including worked examples, on the AccessNI pages of the NIdirect website and on the DoJ website. The Department will review and update this information upon amendment of the rehabilitation periods.</i></p> <p><i>The Department has no plans at present to review wider aspects of the Filtering Scheme.</i></p>

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<p>NICCY</p>	<p>Asks to satisfy itself that there will not be any gaps within the removal of the umbrella ‘any offence involving injury or threat to another person’ and therefore no safeguarding risks identified. We also seek assurances that the Department will keep the new specified list under regular review, and that if any issues are raised, necessary changes can be made.</p>	<p><i>The AccessNI filtering scheme has been in operation for more than 10 years. Each offence as listed on PNC is considered in its own merits in the application of the filtering rules. Schedule 8ZA, which is included with Clause 29A, sets out the serious, violent and sexual offences that cannot be filtered.</i></p> <p><i>In the past 10 years and given the already extensive list of offences noted as non-filterable, AccessNI has never found the need to use the entry “Any offence involving injury or threat of injury to another person” in order to retain an offence on a disclosure certificate.</i></p> <p><i>The Department considers that this entry presents an inconsistency from an operational perspective, for example, in the treatment of the offence Common Assault which is regarded as only non-filterable if the victim is under 18. By inference, the application of the above entry would require Common Assault to also be non-filterable if the victim was an adult – meaning that it should always be retained on disclosure certificates.</i></p> <p><i>The Department would consider that, in these circumstances (where the victim was an adult), it would be appropriate for the offence of Common Assault to be filtered after the prescribed period following the date of conviction. If the offence resulted in more serious injury(s) then the conviction would be for ‘assault occasioning actual bodily harm (AOABH)’ which is a non-filterable offence.</i></p> <p><i>The Department considers that the entry “Any offence involving injury or threat of injury to another person” is unnecessary in Schedule 8ZA and that removing it from the long list of non-filterable offences would not pose any significant risk to the welfare of children.</i></p>
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		<p><i>The new 'Non-filterable List Committee' is expected to meet on a biannual basis with the remit to review and update the longlist of non-filterable offences. The Committee can recommend the addition or removal of offences on the list, or the varying of an entry relating to an offence (for example, by suggesting specific conditions are placed against a non-filterable offence).</i></p>
<p>CiNI</p>	<p>Asks whether this change poses any significant risks to the welfare of children given the key role that AccessNI checks play in safeguarding and vetting potential staff working directly with young people.</p>	<p><i>Clause 29A seeks to represent the list of offences that cannot be filtered (from disclosure certificates) in a more simplified and user-friendly manner, setting out each offence along with its relevant legislative provision.</i></p> <p><i>The Department considers that the provisions in this clause are designed to provide greater clarity in this complex area of the disclosure process and that the legislative change does not pose any significant risks to the welfare of children.</i></p>

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Clause 29B Criminal Record Certificates
Clause 29B amends the Rehabilitation of Offenders (Exemptions) Order (Northern Ireland) 1979 and introduces a new Schedule (5) in three parts, outlining matters to be included in a criminal record certificate.

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response

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Clause 19A Serious and Organised Crime

Clause 19A creates a definition for organised crime groups and activities that fall within that definition.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Children in Northern Ireland	<p>Asked how these new proposed criminal offences will sit alongside key recommendations from the Jay Review including introducing a single, cohesive legal code designed to tackle the criminal exploitation of children and a statutory definition within UK law, recognising exploitation as a distinct category of child protection and a welfare-first approach instead of criminalisation.</p>	<p>Response dated 2 October 2025 - the CCE offence has already been introduced for Northern Ireland at the Commons report stage, clauses 40 and 41. The introduction of a specific offence in Northern Ireland against the criminal exploitation of children would criminalise any adult over the age of 18 who engages in conduct towards or in respect of a child under the age of 18, for the purpose of causing the child to commit an offence.</p> <p>The intention is to create an offence which prosecutes the adult as the primary offender against the child; it is not the intention of this provision merely to extend liability to the adult for the underlying offence committed by the child.</p> <p><u>DOJ Addendum</u></p> <p><i>The new offences are intended to reflect the harm caused by organised crime groups and the seriousness of this offending. During the policy development stage, the Department did actively consider how the legislation could be drafted to ensure that children or young people were not innocently captured by the new offences.</i></p>

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		<p><i>It was also noted that children or young people can be prosecuted for similar offences in all other neighbouring jurisdictions. Following discussion with operational partners, it was agreed that guidance would be developed and in place before the legislation is commenced.</i></p> <p><i>Colleagues in the Public Prosecution Service (PPS) were also of the view that protections are provided for through independent prosecutorial discretion in decision making by applying the test for prosecution to the evidence available and applying public interest considerations on a case-by-case basis.</i></p> <p><i>Separately, a Child Criminal Exploitation (CCE) offence is included in the draft Crime and Policing Bill and is being extended to Northern Ireland. The introduction of a specific offence in Northern Ireland against the criminal exploitation of children would criminalise any adult over the age of 18 who engages in conduct towards or in respect of a child under the age of 18, for the purpose of causing the child to commit an offence.</i></p> <p><i>The intention is to create an offence which prosecutes the adult as the primary offender against the child; it is not the intention of this provision merely to extend liability to the adult for the underlying offence committed by the child.</i></p> <p><i>The introduction of a CCE offence should act as a deterrent to gangs from enlisting children by charging them as child exploiters with a maximum penalty of 10 years imprisonment.</i></p>
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<p>Northern Ireland Human Rights Commission (NIHRC)</p>	<p>The Commission wishes to note the risk that victims could be prosecuted under the proposed legislation. This may be a particular risk for women who are subject to coercive control,²³ children who are criminally exploited, and victims of trafficking and modern slavery. In 2023, the UN Committee on the Rights of the Child (UN CRC Committee) recommended that the UK Government and NI Executive “strengthen measures to protect children from intimidation, racist attacks and other forms of violence committed by non-State actors, including so called ‘paramilitary organisations’ in NI, and from recruitment by such actors into violent activities”. The Commission recommends that the Department of Justice looks at how law enforcement agencies will ensure that those who are exploited or coerced to participate in criminal activity, including children, women, and persons who are trafficked or subjected to modern slavery are not criminalised by the proposed offences.</p>	<p><i>The Department is very alert to the harm caused by organised crime groups and the seriousness of this offending. During the policy development stage, we did actively consider how the legislation could be drafted to ensure that children or young people were not innocently captured by the new offence.</i></p> <p><i>As previously mentioned, guidance will be developed and in place to support operational partners which will ensure that there is a consistent approach.</i></p> <p><i>Robust consideration was given to whether there was a requirement for statutory defences to be included in the new legislation.</i></p> <p><i>We examined other relevant legislation and noted that statutory duress defences tend not to apply to offences with a maximum sentence of less than 5 years imprisonment on indictment. We also tested this point with operational partners, and it was highlighted that there were concerns that such a defence could be used to evade prosecution in some cases.</i></p> <p><i>As a safeguard, it was noted that the common law defence of duress could potentially apply in a situation where threats are made and where there is evidence to support this.</i></p> <p><i>There are also additional safeguards and mechanisms such as, the common law defence of duress, and in some cases, Section 22 of the Human Trafficking and Exploitation (Criminal Justice and support for Victims) Act (NI) 2015 provides a statutory defence for slavery and trafficking victims in relation to certain criminal offences.</i></p>
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		<p><i>Section 22 only applies to offences with a maximum term of less than 5 years imprisonment for persons over the age of 21. As such, children and young people may avail, where appropriate, of this statutory defence in respect of the 'participating' offence.</i></p> <p><i>Furthermore, where appropriate, there is the ability to make referrals to the National Referral Mechanism (the UK wide referral system for identification of victims/potential victims of modern slavery/human trafficking).</i></p> <p><i>In addition, the introduction of the new Child Criminal Exploitation (CCE) Offence which will criminalise any adult who uses or attempts to use a child for the purpose of involving the child in criminal activity. This will act as a deterrent to gangs from enlisting children to commit criminal behaviour.</i></p>
<p>Safeguarding Board for Northern Ireland</p>	<p>Consideration should be given to raising awareness about child criminal exploitation linked to organised crime with specific training to help recognise and respond to signs of child criminal exploitation. This includes understanding the tactics used by organised crime groups to recruit and exploit CYP. This can lead to a more proactive approach and measures put in place by communities, schools and social services to identify and support at-risk CYP. Additionally, support services for victims of child criminal exploitation and targeted interventions to help them recover is required</p>	<p>A Child Criminal Exploitation (CCE) offence is included in the draft Crime and Policing Bill and is being extended to Northern Ireland.</p> <p>The introduction of a specific offence in Northern Ireland against the criminal exploitation of children would criminalise any adult over the age of 18 who engages in conduct towards or in respect of a child under the age of 18, for the purpose of causing the child to commit an offence.</p> <p>The intention is to create an offence which prosecutes the adult as the primary offender against the child; it is not the intention of this provision merely to extend liability to the adult for the underlying offence committed by the child.</p>

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		<p>There will be awareness raising and training as part of the implementation of the new CCE offence and civil orders.</p> <p>This work will complement the ongoing work as part of the cross-government CCE action plan to improve identification and support for victims</p>
<p>NICCY</p>	<p>Query as to why it appears the Department are seeking to introduce different conviction rates from other jurisdictions in this amendment, and how they envisage these new offences working for cross-border organised crime, as well as in the context of human trafficking and exploitation and query what the evidentiary test for participation and also for directing would be considered as.</p>	<p><i>The Department engaged closely with each of our neighboring jurisdictions when developing the new offences. It was apparent that they all have their own nuanced version of serious organised crime offences.</i></p> <p><i>Having offences akin to neighboring jurisdictions, which also take into account the unique challenges presented in Northern Ireland, ensures that Northern Ireland does not fall behind in response to serious organised crime.</i></p> <p><i>The proposed sentencing associated with the new offences is intended to accurately reflect the serious nature of this type of criminal activity and may also act as a deterrent for those considering participating in such activities.</i></p> <p><i>For those who are found guilty of the offence of participating offence, the penalty on conviction on indictment is imprisonment for a term not exceeding 10 years and / or a fine.</i></p> <p><i>For those who are found guilty of the offence of directing offence, the penalty on conviction on indictment is imprisonment for a term not exceeding 14 years and / or a fine.</i></p>

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		<p><i>These penalties are in line with the proposals set out in the earlier consultation. We revisited these proposals with operational partners who were of a view that they remained reflective of the seriousness of the crime.</i></p> <p><i>The Department also recognises that organised criminality can include the facilitation and commission of organised crime activities, both within and outside Northern Ireland, and therefore the new offences include the ability to prosecute on a cross-jurisdictional basis.</i></p> <p><i>Potential victims of modern slavery should be referred to the National Referral Mechanism (the UK wide referral system for identification of victims/potential victims of modern slavery/human trafficking).</i></p> <p><i>Section 22 of the Human Trafficking and Exploitation (Criminal Justice and support for Victims) Act (NI) 2015 provides a statutory defence for slavery and trafficking victims in relation to certain criminal offences.</i></p> <p><i>Section 22 only applies to offences with a maximum term of less than 5 years imprisonment for persons over the age of 21. As such, children and young people may avail where appropriate of this statutory defence in respect of the ‘participating’ offence.</i></p> <p><i>As a safeguard, it was noted that the common law defence of duress could potentially apply in a situation where threats are made and where there is evidence to support this.</i></p>
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	<p>NICCY wishes to raise concern to the Committee on the potential of these offences to be applied to and issued to children and young people over the age of 10 years old, given the low age of criminal responsibility in NI and reiterates calls for this to be increased to 16 years old.</p>	<p><i>The Department is very alert to the harm caused by organised crime groups and the seriousness of this offending. During the policy development stage, we did actively consider how the legislation could be drafted to ensure that children or young people were not innocently captured by the new offence.</i></p> <p><i>As previously mentioned, guidance will be developed and in place to support operational partners.</i></p> <p><i>Depending on the circumstances, there are also safeguards or mechanisms which could provide additional protection to children such as:</i></p> <ul style="list-style-type: none"><i>• the common law defence of duress;</i><i>• Section 22 of the Human Trafficking and Exploitation (Criminal Justice and support for Victims) Act (NI) 2015 which provides a statutory defence for slavery and trafficking victims in relation to certain criminal offences. Section 22 only applies to offences with a maximum term of less than 5 years imprisonment for persons over the age of 21. As such, children and young people may avail where appropriate of this statutory defence in respect of the ‘participating’ offence.</i><i>• referrals to the National Referral Mechanism (the UK wide referral system for identification of victims/potential victims of modern slavery/human trafficking); or</i><i>• the introduction of the new Child Criminal Exploitation Offence (which may deter organisations from enlisting children).</i> <p><i>The issue of the Minimum Age of Criminal Responsibility is much wider than this policy area.</i></p>
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<p>ALS (Assembly Legal Services)</p>	<p>An explanation of how the extraterritorial element of new Clause 19A is compatible with Section 6(2)(a) of the Northern Ireland Act 1998; and to what extent activities in other jurisdictions will be taken into account when prosecuting for offences committed in Northern Ireland</p>	<p><i>The definitions at Clause 19A operate for the purposes of Part 2A, to include the two new offences. 'Criminal activities' are defined as activities falling with Clause 19A(5) or (6). Clause 19A(6) has an extraterritorial element in so far as it recognises certain criminal activities carried on outside Northern Ireland.</i></p> <p><i>In order to satisfy the meaning of criminal activities under clause 19A(6), the activities must be carried on outside Northern Ireland, they must constitute an offence in the country or territory they are carried on, and they would constitute an offence in Northern Ireland if they were carried on in Northern Ireland.</i></p> <p><i>With regard to compatibility of Clause 19A with Section 6(2)(a) of the Northern Ireland Act 1998, it is not considered that this raises any competence issues as this does not form part of the law of a country or territory other than Northern Ireland and nor does it seek to reach into other jurisdictions.</i></p> <p><i>It merely recognises criminal activities carried on outside Northern Ireland for the purposes of prosecuting an offender in Northern Ireland in connection with either of the two new offences. It is particularly beneficial as it recognises criminal activities carried on by organised crime groups who operate across the UK and beyond, and it means that evidence relating to their criminal activities may be admissible before a Court in Northern Ireland when determining the guilt of an offender under the two new offences in Northern Ireland.</i></p>
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Clause 19B Serious and Organised Crime

Clause 19B creates an offence of participating in the criminal activities of an organised crime group.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Victim Support NI	<p>While we support the aim of prosecuting those involved in organised crime and giving justice agencies sufficient tools to do so, consideration must be given to ensuring that appropriate safeguards are in place to identify and prevent criminalisation of those who have been coerced or manipulated into the commission of crime by OCGs. In our view, steps should be taken to ensure that any new offence does not criminalise those who have either acted or omitted to act under duress or coercion, in a manner that may facilitate the commission of serious organised crime. In particular, we would like to highlight cases in which children under the age of 18 are exploited, groomed and coerced into committing criminal acts by gangs.</p>	<p><i>During the policy development stage, the Department actively considered how the legislation could be drafted to ensure that children or young people were not innocently captured by the new offence.</i></p> <p><i>Robust consideration was given to whether there was a requirement for statutory defences to be included in the new legislation. We examined other relevant legislation and noted that statutory duress defences tend not to apply to offences with a maximum sentence of less than 5 years imprisonment on indictment.</i></p> <p><i>We also tested this point with operational partners, and it was highlighted that there were concerns that such a defence could be used to evade prosecution in some cases.</i></p> <p><i>As a safeguard, it was noted that the common law defence of duress could potentially apply in a situation where threats are made and where there is evidence to support this.</i></p>

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		<p><i>Colleagues in the Public Prosecution Service (PPS) were also of the view that protections are provided for through independent prosecutorial discretion in decision making by applying the test for prosecution to the evidence available and applying public interest considerations on a case-by-case basis.</i></p> <p><i>Section 22 of the Human Trafficking and Exploitation (Criminal Justice and support for Victims) Act (NI) 2015 provides a statutory defence for slavery and trafficking victims in relation to certain criminal offences.</i></p> <p><i>Section 22 only applies to offences with a maximum term of less than 5 years imprisonment for persons over the age of 21.</i></p> <p><i>As such, children and young people may avail where appropriate of this statutory defence in respect of the 'participating' offence</i></p>
<p>CiNI</p>	<p>Wants to seek clarity from the Department on how these new proposed criminal offences will sit alongside key recommendations from the Jay Review including introducing a single, cohesive legal code designed to tackle the criminal exploitation of children and a statutory definition within UK law, recognising exploitation as a distinct category of child protection and a welfare-first approach.</p>	<p><i>During the policy development stage, the Department did actively consider how the legislation could be drafted to ensure that children or young people were not innocently captured by the new offences.</i></p> <p><i>It was also noted that children or young people can be prosecuted for similar offences in all other neighbouring jurisdictions.</i></p> <p><i>Following discussion with operational partners it was agreed that guidance would be developed and in place before the legislation is commenced.</i></p>

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		<p><i>Colleagues in the Public Prosecution Service (PPS) were also of the view that protections are provided for through independent prosecutorial discretion in decision making by applying the test for prosecution to the evidence available and applying public interest considerations on a case-by-case basis.</i></p> <p><i>Separately, a CCE offence is included in the draft Crime and Policing Bill and is being extended to Northern Ireland.</i></p> <p><i>The introduction of a specific offence in Northern Ireland against the criminal exploitation of children would criminalise any adult over the age of 18 who engages in conduct towards or in respect of a child under the age of 18, for the purpose of causing the child to commit an offence.</i></p> <p><i>The intention is to create an offence which prosecutes the adult as the primary offender against the child; it is not the intention of this provision merely to extend liability to the adult for the underlying offence committed by the child.</i></p> <p><i>It should also act as a deterrent to gangs from enlisting children by charging them as child exploiters with a maximum penalty of 10 years imprisonment.</i></p>
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Clause 19C Serious and Organised Crime

Clause 19C creates an offence of directing the criminal activities of an organised crime group.

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response
Victim Support NI	<p>We urge the DOJ to follow the example of the UK government by making Child Criminal Exploitation (CCE) a standalone offence to prosecute adults committing child criminal exploitation and prevent exploitative conduct committed by adults against children from occurring or re-occurring. We would also call on the DOJ to make Child Sexual Exploitation (CSE) a standalone offence with particular consideration given in the legislation to the CSE perpetrated by paramilitary gangs against young people in Northern Ireland.</p>	<p><i>Provisions for Northern Ireland relating to the Child Criminal Exploitation (CCE) offence are already included in clauses 40 and 41 of the UKG Crime & Policing Bill.</i></p> <p><i>CCE Prevention Orders at clauses 42 to 55 and Schedule 5 currently apply only to England and Wales.</i></p> <p><i>Drafting instructions for extending these provisions to Northern Ireland have been submitted to the Office of the Parliamentary Counsel (OPC) and are expected to be introduced at the Lords Committee stage.</i></p> <p><i>The policy outcomes that a standalone offence should aim to deliver are:</i></p> <ul style="list-style-type: none"> <i>• an increase in prosecutions by driving behavioural change and addressing evidential challenges with existing offences;</i> <i>• a deterrent to gangs from enlisting children by charging them as child exploiters with a maximum penalty of 10 years imprisonment;</i> <i>• it will also improve identification of victims.</i>

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		<p><i>The Department does not consider that a specific offence of child sexual exploitation (CSE) is required. CSE is a generic term used to describe various forms of sexual exploitation of children.</i></p> <p><i>Behaviours that would constitute CSE are addressed through a wide range of specific child sexual offences, contained mainly in the Sexual Offences (Northern Ireland) Order (2008), which target specified harmful activities.</i></p> <p><i>The Department strengthened the law in this area at the end of the previous political mandate, with amendments made to the 2008 Order by way of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 and there are further plans to extend particular CSE and child sexual abuse (CSA) related provisions to Northern Ireland as part of the Westminster Crime and Policing Bill.</i></p> <p><i>This includes: new offences of ‘online facilitation of child sexual exploitation and abuse’ and a new offence of ‘child sexual abuse image-generators’; an update to the existing offence of ‘possession of a paedophile manual’; a new power to ‘scan child sexual abuse images’ by border control at the UK borders; and a new defence to enable authorised companies to ‘test CSA material’ to prevent misuse of AI technology.</i></p>
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Clause 19D Serious and Organised Crime

Clause 19D makes further amendments to offences of participating in or directing an organised crime group and introduces a new Schedule (5).

Consultation Response Summary/Witness evidence

Organisation Name	Comments	Department of Justice Response

Amendments received from 16 January 2025

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12 Clauses – Use of Live Links
<p>These amendments contain 12 Clauses and 2 new Schedules to extend the use of live links for remote video access in courts and tribunal settings, to include: directions for participation by live link; enabling the public to see and hear proceedings - limited transmission; enabling the public to see and hear proceedings - broadcast; effect of live link – direction; giving a direction under this Chapter; presumption of giving evidence by live link in certain cases; varying or rescinding a direction under this Chapter; offences in relation to participation through live link; offences in relation to limited transmission or broadcast; meaning of “live link” for the purposes of this Chapter; other definitions; and, consequential amendments and transitional provisions.</p>

Consultation Response Summary/Witness evidence		
Organisation Name	Comments	Department of Justice Response
BASW NI	<p>BASW NI members have suggested a wider roll out of the use of video links to enable social workers to participate in hearings remotely from designated regional sites.</p>	<p><i>These clauses propose a statutory presumption for the use of live link when the only party to the application before the court might be a social worker such as in emergency care proceedings.</i></p> <p><i>The operation by the courts of these provisions will also occur with the judiciary required to “have regard” to guidance issued by the Lady Chief Justice.</i></p> <p><i>The most recent guidance was issued in October 2025. It is noteworthy that guidance recognises that remote evidence may be given from social workers, like other professional witnesses but an application will have to be made and it will be a matter for the judge in that case to determine whether it is in the “interests of justice”.</i></p> <p><i>Relevant to that decision will be matters such as the nature, complexity and significance of the witness’s evidence. Guidance on Physical (In-Person), Remote and Hybrid Attendance - 20 October 2025 Judiciary NI</i></p>

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		<p><i>The use of live links for remote evidence by persons not eligible for “special measures” is still an evolving development for all engaged within the courts or tribunals.</i></p> <p><i>Wider experience of the use of remote attendance may highlight where some “professional witnesses” evidence is generally suitable for remote attendance without impacting adversely the interests of the parties or justice.</i></p> <p><i>The bill proposes a power for the Department to specify classes or descriptions of expert witnesses to fall within a statutory presumption of remote attendance. The use of that power would be subject to further consultation and the draft affirmative procedure.</i></p>
<p>BASW NI</p>	<p>BASW NI believe the screening of the needs of defendants prior to the use of any live link process is vital to ensure a fair process, with potential barriers removed for every case—including identifying up to date health and mental health needs information. This is critical to guaranteeing the right to a fair trial under the European Convention on Human Rights.</p>	<p><i>There are a number of protections for defendants who are being prosecuted within the courts. It is clear from the current LCJ guidance that a defendant is likely to be present in the court for a trial. In relation to pre-trial interlocutory matters the defendant if in custody is more likely to attend remotely.</i></p> <p><i>Other protections available to a defendant include section 6 of the Human Rights Act 1998 as well as the power of the court to grant free criminal legal aid to a person charged with a criminal offence provided the court is satisfied it is in the interests of justice.</i></p> <p><i>We consider that the legal representative would make an assessment as to the suitability for remote participation for that court business.</i></p>

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		<p><i>In regard to the wider use by courts we have raised in communication with the relevant administrative staff the potential benefit for including in the application forms for remote attendance to a court or tribunal a space for setting out whether the person has any health condition, disability, or other circumstance the court should be aware of that might or should be taken into account in determining whether remote attendance is or is not in the interests of justice.</i></p>
<p>Northern Ireland Policing Board (NIPB)</p>	<p>The Policing Board recognises the need for change and modernisation, however, support for the Live Links changes would be subject to effectively addressing the issues and concerns of</p> <ul style="list-style-type: none"> • Consent - A general concern regarding the issue of consent, both in terms of who might provide consent and the ability of children and those with vulnerabilities to understand what they were consenting to; • Consult in private - The continued right of the detainee to be advised by and consult in private with their legal representative; • Police Interviews - the ability of the detainee to understand the proceedings and participate effectively; and • Children and Young People – the impact of the proposals on children and young people and other vulnerable groups; 	<p><i>Children engaged with the court as victims or witnesses in criminal matters will always have the right to attend remotely through 'special measures' which is separate and sit outside the proposed amendments.</i></p> <p><i>The few children engaged as defendants in a criminal prosecution will only be attending remotely for interlocutory hearings rather than a trial.</i></p> <p><i>The proposed clauses in no way impact upon the right to private consultation with legal representatives. The feedback from the Juvenile Justice Centre is that attending remotely has benefits for the child as they have support nearby from staff as well as less disruption to their usual day including educational requirements.</i></p> <p><i>The other matters raised by NIPB re police interviews fall outside the amendments proposed for live links use by courts and tribunals but have been addressed at Clause 21 above (the NIPB comments appearing twice in this table).</i></p>

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<p>Victim Support NI</p>	<p>While we support the introduction of RECs and the use of live links and video recorded evidence for victims to give their evidence, we are concerned that special measures still have to be “granted” in cases of domestic abuse and an abuse victim’s eligibility is assessed to ascertain if they “qualify”. Given the pervasive nature of this type of crime, we believe that all victims of domestic abuse should be afforded automatic eligibility for special measures unless they expressly refuse. This would give victims enhanced confidence in the criminal justice process, therefore making it more victim centred. In addition, it is our view that special measures are not being applied for early enough which increases victims’ anxiety as their trial date approaches.</p> <p>By prioritising special measures applications, victims can be assured early in the justice process that they will be protected from their alleged perpetrator, thereby enabling them to give their best evidence.</p>	<p><i>These observations are not concerned with the proposed clauses to be introduced in the bill but concern the relevant legislation on “special measures”. The domestic Abuse and Civil Proceedings Act 2021 (DACPA 2021) provided (section 23) that complainants in respect of the domestic abuse offence, or an offence aggravated by domestic abuse, would be automatically eligible <u>for consideration</u> of special measures when giving evidence. Similar to what is proposed with the proposed clauses on live links for courts and tribunals the judiciary retain a discretion to determine whether the relevant test is met.</i></p> <p><i>For the Criminal Evidence (NI) Order 1999 the relevant test is whether the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings. This is the same test for those who are victims of a sexual offence, slavery or human trafficking or stalking offence.</i></p> <p><i>In regard to the commentary that special measures are not being applied for early enough appears to the Department to be an operational matter falling within the remit of the independent organisations of the DPPNI and PSNI.</i></p> <p><i>The Department can advise that the PPS indicate that work is underway to enhance the process for identification of victims and witnesses eligible to apply for special measures.</i></p>
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		<p><i>This includes:</i></p> <ul style="list-style-type: none"> • <i>the review and improvement of internal processes and supporting documents to achieve early notification of the grant of special measures where possible;</i> • <i>ongoing provision of guidance and delivery of training regarding the operation of the Remote Evidence Centres (RECs) and expansion to all under 18 year old complainants in cases of serious sexual assault;</i> • <i>provision of staff guidance on special measures more generally;</i> • <i>the adoption of measures aimed at improving the awareness of special measures among victims and witnesses; and</i> • <i>quality assurance of special measures applications.</i> <p><i>CJSNI agencies, including the PPS, are also considering the recommendations made by Criminal Justice Inspection NI in their draft report on the use of special measures. Key issues arising include the timing of special measures applications.</i></p>
<p>NICCY</p>	<p>Appearances before a judge are a vital safeguard for liberty, and care must be taken to ensure children understand and can meaningfully participate in proceedings. They must not become the 'norm. We wish to reiterate our recommendation on the use of live links that guidance and information be presented and available to children and young people to whom this may effect.</p>	<p><i>The Department is satisfied that there are robust safeguards built into the new provisions, as well as in other supporting legislation and guidance relating to young people and the courts to address these concerns.</i></p>

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<p>CiNI</p>	<p>Continual monitoring and review of the use of live links, and specific analysis of the impact on children and young people, particularly with regard to the right of children to understand and participate fully in their trial, will be required. Decisions around the use of live links in children’s cases should be made on a case-by-case basis. The best interests of the child or young person should be the primary consideration in making such decisions and adequate consideration should be given to their particular needs and vulnerabilities. Where there are concerns that the use of a live link may not be suitable or may impact on the ability of a child or young person to fully understand or participate in their case and have their right to a fair trial upheld, they should not be used.</p>	<p><i>There is nothing to date to indicate a need to expend resources on monitoring as the provision to attend remotely in a court or a tribunal through the use of live links is not a requirement or replacement to in-person attendance.</i></p> <p><i>Clearly the situation of the use of special measures for a child victim of crime is not engaged by these proposed clauses. It is clear from the current LCJ guidance that decisions around the use of live links in any case is made on a case-by-case basis.</i></p> <p><i>It is clearly in the best interests of a child or young person that they can effectively participate in any hearing as well as being a requirement of Article 6 of ECHR. An underpinning essential consideration of any determination by a court or tribunal is therefore whether “the interests of Justice” test can be satisfied by a child’s remote attendance.</i></p>
<p>Live Links</p>	<p>Clarification of whether the custody clock is stopped should a live link connection be lost.</p>	<p>There is no provision for the custody clock to be stopped if a connection is lost during the use of live links. The clock will run as normal while attempts are made to restore the connection or alternate arrangements are put in place.</p> <p>When considering the use of live links for reviews or extensions of detentions or police interviews, the PSNI should be cognisant of any risk of connection issues, and this should be taken into consideration as part of planning and decision making when considering the use of live links.</p>

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		<p>The use of live links is discretionary so when it is unavailable, the PSNI should revert to in person review/extension hearing and interviews should take place.</p> <p>PACE NI permits the “pausing” of the PACE clock for both reviews and detentions if the detained person is released on bail.</p> <p>Article 42(4) of PACE NI also permits the pausing of the PACE clock, where a person is taken to a hospital for medical treatment. The clock resumes for any time the person is questioned either travelling to or from the hospital and while in hospital.</p> <p><i>DOJ Addendum</i></p> <p><i>This comment has no relevance to the proposed provisions for use of live links by courts and tribunals.</i></p> <p><i>It concerns the use of live links by PSNI at clauses 20 and 21 of the Bill, which are referenced elsewhere in this table</i></p>
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Other Proposed Amendments		
Suggested Amendment No.	Amendment Details	Sponsor/Proposer
1	Raising the minimum age of age of criminal responsibility (MACR).	<p>Barnardo’s Northern Ireland - written paper 24 January 2025 and in oral evidence 30 January 2025 – suggested raising the age of criminal responsibility to 16 from the current age of 10.</p> <p>British Association of Social Workers (BASW) Northern Ireland - written paper 24 January 2025 and in oral evidence 30 January 2025 – suggested raising the age of criminal responsibility from 10 to 14 years old in line with UNCRC recommendations.</p> <p>The Bar of Northern Ireland – written paper 02 February 2025 and in oral evidence – suggested the need for raising the age of criminal responsibility to 14 in line with UNCRC rights.</p> <p>Children’s Law Centre – written paper 26 March 2025 and in oral evidence – suggested the need to raise the minimum age of criminal responsibility to 16.</p> <p>Probation Board for Northern Ireland – written paper 20 March 2025 – suggest raising the MACR to 14.</p> <p>Victim Support NI – written paper 3 April 2025 – suggest raising MACR to 14.</p> <p>Children in Northern Ireland – written submission 4 April 2025 – suggest raising MACR and cite evidence for 14, 15 or 16 years old.</p> <p>NI Youth Assembly – written submission 4 April 2025 – suggest raising MACR to at least 14 years old.</p> <p>NICCY – written submission dated 23 April 2025 - NICCY strongly recommends that NI moves beyond minimum standards to a more fully children’s rights compliant system that takes into account the neurological science and adverse childhood experiences and raises the minimum age of criminal responsibility to 16 and provided text of a suggested amendment:</p> <p>Suggested Committee amendment on raising the Minimum Age of Criminal Responsibility</p> <p style="padding-left: 40px;">After Clause X insert – ‘Minimum Age of Criminal Responsibility.</p> <p style="padding-left: 40px;">XA. In Article 3 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (age of responsibility) for “10” substitute “16”.’</p>

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Suggested Amendment No.	Amendment Details	Sponsor/Proposer
		<p>VOYPIC – Written submission dated 20 June 2025 - In compliance with international children’s rights standards we advocate for the minimum age of criminal responsibility to be raised to 16 years.</p> <p>Include Youth – written submission dated 22 June 2025 - There are a number of reasons why we believe the minimum age of criminal responsibility should be raised to 16 years. When the UN Committee on the Rights of the Child ‘commends’ State parties that have a higher minimum age such as 16 we should be aiming to reach a point of commendation rather than just the ‘at least’ option.</p> <p>NI Alternatives and CRJI – written submission 6 August 2025 - NIA and CRJI strongly support a further amendment to the Justice Bill which would raise the MACR from 10 years of age to 14 years of age.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The Committee will be well aware of the Justice Minister’s views and the Department’s support for an increase in MACR. We would therefore welcome any and all support for the introduction of an amendment which achieves such an increase.</i></p>
2	<p>Equal Protection - Amend the Law Reform (Miscellaneous Provisions) (NI) Order 2006 to remove the defence of ‘reasonable punishment’ for parents and carers who are accused of assault against a child.</p>	<p>Barnardo’s Northern Ireland - written paper 24 January 2025 and in oral evidence 30 January 2025 – suggested a need to amend the law to ensure equal protection for children by banning the defence of reasonable chastisement for parents/guardians.</p> <p>Joint Submission by Action for Children, Barnardo’s NI, BASW NI, Children in Northern Ireland, Children’s Law Centre, Include Youth, Mencap, NICCY, NSPCC, Parenting Focus NI, Royal College of Paediatrics and Child Health, VOYPIC and Women’s Aid – calling for an amendment to remove the legal defence of “reasonable punishment”.</p> <p>NI Youth Assembly – written submission 4 April 2025 – encourage an amendment to be brought forward to ensure children have equal protection.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The Minister is fully supportive of removing the defence of reasonable chastisement from the law here. However, any such amendment requires Executive agreement and the Minister, despite her efforts, has not been able to secure Executive agreement to deliver a change in the law here.</i></p>

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Suggested Amendment No.	Amendment Details	Sponsor/Proposer
3	Recommend specific inclusion of the "best interests of the child" consideration in this legislation.	<p>NIHRC - oral evidence 21 November 2024 - The Bill addresses factors relevant to decisions being made regarding a child, and that undoubtedly means that decisions are more likely to be made only when proportionate and necessary, but we recommend specific inclusion of the "best interests of the child" consideration in this legislation. While we accept that there is a general inclusion in the 2002 Justice Act, we believe that it would be helpful to replicate it in this legislation as well.</p> <p>Children in Northern Ireland (CiNI) – written evidence 4 April 2025 - strongly urge the Committee to consider the best interests of the child, and the particular vulnerabilities of the children in contact with the criminal justice system, throughout their scrutiny of the Bill and ensure that, through their ongoing engagement with government departments, adequate and appropriate supports are in place at every stage as they progress this legislation.</p> <hr style="border-top: 1px dashed black;"/> <p><u>DOJ Comment</u></p> <p><i>The Department has addressed the issue of the addition of a best interests clause in relation to the youth justice provisions in Part 2 of the Bill, both in correspondence with the Justice Committee and earlier in this table</i></p>
4	Include photographs in the definition of Biometric data	<p>Scottish Biometrics Commissioner – written evidence 27 February 2025 and oral evidence 27 February 2025 – custody photographs is the fastest growing area of biometrics in UK policing necessitating robust independent oversight mechanisms to ensure public confidence and trust. The original Home Office thinking under the Protection of Freedoms Act 2012, appears to have been that photographs were not of themselves biometric data. However, nowadays biometric templates are derived from such photographs and are then applied to AI enabled searching platforms and are most categorically biometric data. Accordingly, the Committee may wish to consider whether the most frequently used police biometric should be excluded from the protections of the Bill and from the safeguards and oversight of the Commissioner.</p> <p><i>“... We used to take photographs of prisoners. They are digital images now. They are binary code. If you just hold that image, that is one thing. However, when you then ingest it, via the binary code, into a biometric template, which is what is in PND and CAID, it is absolutely biometric data... In Scotland, the definition of "biometric data" covers all biometrics that the police use, including DNA, fingerprints, photographs, recordings, voice, gait recognition and vein pattern recognition.”</i></p>

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Suggested Amendment No.	Amendment Details	Sponsor/Proposer
		<p>Information Commissioners Office – written evidence 28 February 2025 - We would recommend that the Committee seek clarification as to whether further technical processing of custody photos is taking place to render them biometric material.</p> <p>Law Society of Northern Ireland – written evidence 21 March 2025 - the Bill does not explicitly include custodial photographs within its definition of biometric data. The Information Commissioner’s Office (ICO) has previously noted while a photograph itself does not constitute biometric data; it can acquire biometric status if specific technical processing takes place. There is a need for further consideration on whether this should be provided for in the Bill, particularly as the taking and retaining of custody photographs can interfere with an individual’s rights under Article 8 of the ECHR.</p> <p>NICCY – written evidence 24 March 2025 - It is NICCYs understanding that in further amendments, the Department intends to add custody images into this Part to ensure that they are covered by the new regime. NICCY welcomes this clarification, as the absence of custody images would have led to a potential mismatch between the systems used across the UK and Ireland on custody photographs, since the Home Office’s Custody Image Review in 2019, and the introduction of guidance and the new Law Enforcement Data Service system.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The Department wrote to the Committee on 8 August to explain why photographs had not been included in the Bill and its intention to consider the need for policy and legislation on the use and retention of images (20250808-doj-response---photos-as-biometrics_redacted.pdf)</i></p>

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5	<p>Legislate for the repeal of Blasphemy laws, which still have effect in NI via common law arising from the Law of Libel Amendment Act 1888 and the Criminal Libel Act 1819.</p>	<p>National Secular Society (NSS) - Northern Ireland is the only nation in the UK where 'blasphemy' and 'blasphemous libel' remain common law offences. Blasphemy laws were abolished in England and Wales in 2008 and in Scotland in 2021. The Republic of Ireland abolished its blasphemy laws in 2020.</p> <p>NSS urge the Northern Ireland Assembly to pass an amendment to the Justice Bill to the repeal these offences.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The Minister of Justice believes that that the common law offences of blasphemy and blasphemous libel are archaic and that they have no place in a modern society.</i></p> <p><i>The Minister of Justice is committed to freedom of and from religion and is sympathetic to removing such outdated and unused offences from the law, particularly as there have been no prosecutions for either blasphemy or blasphemous libel in recent times, but has been unable to secure Executive support to progress these reforms.</i></p>
6	<p>Replace the word “offender” in children’s sections with “child”.</p>	<p>PBNI - To avoid labelling language, PBNI would ask for consideration to be given to replacing the word “offender” which is used in the legislation with the word “child” instead.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The youth justice provisions in the Bill, whether the main clauses or the Schedule of amendments, all amend existing legislation – they do not create a new Order in their own right. The provisions have therefore been drafted in such a way as to tie in with the existing legislation being amended to ensure there is consistency throughout and prevent confusion. This is why some of the provisions refer to children, some to juveniles and some to offenders.</i></p>

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7	To appoint an Investigatory Powers Commissioner for Northern Ireland.	<p>Northern Ireland Policing Board – written submission 26 March 2025 - In view of the fundamental issues of ECHR compliance with the continued retention of biometric samples by the PSNI it is essential that the Assembly and the Department of Justice act on the appointment of a Biometric Commissioner for Northern Ireland. This would also be an opportunity to appoint an Investigatory Powers Commissioner for Northern Ireland.’</p> <hr/> <p>DOJ Comment</p> <p><i>A UK Investigatory Powers Commission (IPCO) has been set up to oversee the Investigatory Powers Act 2016 and the Regulation of Investigatory Powers Act 2000, which are UK wide legislation and relate to excepted/reserved matters</i></p> <p><i>In addition, section 61 of the Regulation of Investigatory Powers Act 2000 already makes provision for the appointment of an IPC for NI – the appointment is by the PM on advice of FM/dFM.</i></p>
8	Policing Misconduct Regulations	<p>Northern Ireland Policing Board – written submission 26 March 2025 - a review of the current Policing Misconduct Regulations in order to identify improvements in the use of existing legislation provision which would enable Police misconduct cases to be progressed expeditiously, mindful of situation in the rest of the UK, and explore the possibility of making legislative change in the following areas: Criminal Proceedings; Vetting; Chairing of Misconduct Hearings; Misconduct Hearings in Public; and The Use of Regulation 13 (dismissal during probation).</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The Department has reviewed the regulatory framework within which the police officer misconduct process operates, and a targeted stakeholder consultation closed on 2 October 2025. Following review of the consultation responses the Minister has decided to progress the following proposals.</i></p> <p><i>Those shown in blue are anticipated to be progressed by further amendment to the Justice Bill, while the remainder will be progressed through secondary legislative amendment to the Police (Conduct) Regulations (NI) 2016 and the introduction of new Police Vetting Regulations:</i></p> <ul style="list-style-type: none"> • <i>Vetting.</i> • <i>UK Barred and Advisory Lists.</i> • <i>Former Officer Misconduct Proceedings.</i> • <i>Joint Misconduct Proceedings.</i>

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		<ul style="list-style-type: none"> • <i>Ability for the Appropriate Authority (AA) to be legally represented by a relevant lawyer at a misconduct hearing or special case hearing, whether or not the member chooses to be so represented.</i> • <i>Ensuring the unavailability of one or more preferred lawyers is not a valid ground for delaying a misconduct hearing or special case hearing.</i> • <i>Ability to serve misconduct papers via a police friend or an agreed 3rd party.</i> • <i>Direction regarding the scheduling of misconduct interviews and the ability to direct a member to remain until the conclusion of the interview.</i> • <i>The inclusion of “Reflective Practice review process” as an available outcome of the misconduct process.</i> • <i>The ability for investigators to submit a closing report in light of new evidence, during the investigation.</i> • <i>Clarification regarding the roles and obligations of the Chair of misconduct hearings.</i> • <i>Obligations on investigators regarding disclosure.</i> • <i>Process for misconduct pre-meetings.</i> • <i>Ability to extend the period a Final Written Warning remains in force up to a maximum of 5 years.</i> • <i>Ability to define the period after a “Reduction in Rank” sanction during which the member will be barred from applying for promotion.</i> • <i>The inclusion of a revised Code of Ethics as a schedule to the Conduct Regulations (subject to NIPB proposal).</i> <p><i>The Minister has decided not to proceed with the proposal to introduce legally qualified chairpersons (LQCs) to misconduct panels here. While the Minister does consider there to be merit in revisiting the NI position in respect of misconduct hearings in public, it is felt that the timing is not right in relation to the security threat here. However, the Minister has given her commitment to reconsidering this issue at the appropriate juncture.</i></p> <p><i>Previously, and again following the consultation, consideration was given to progressing an amendment to Section 59 regarding criminal proceedings within the Justice Bill, however capacity issues have meant it is not possible to progress this within the current legislative mandate.</i></p> <p><i>The use of regulation 13 (Discharge of probationer) by the PSNI, is a matter for the Chief Constable to address, and therefore legislative amendment is not required.</i></p>
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9	Independent Custody Visitors Scheme	<p>Northern Ireland Policing Board – written submission 26 March 2025 - seeking that consideration is given to amending to Section 73 of the Police (NI) Act 2000 in order to allow ICVs access to custody records in instances where detainees are unavailable and/or unable to give consent and that consideration is given to making an amendment to this section of the Police Act in order to bring the Northern Ireland ICV Scheme in line with the provisions in place across all other jurisdictions of the UK.</p> <hr/> <p>DOJ Comment</p> <p><i>The Department is reviewing options to allow ICVs access to custody records in the instances described, including the possibility of an amendment to the Justice Bill, subject to policy development and drafting requirements and resource availability in the time available prior to Consideration Stage.</i></p>
10	Recommendation 15 of the hate crimes review	<p>CAJ written submission 3 April 2025 - recommends amendment to include an additional provision to take forward Recommendation 15 of the Marrinan Review, namely that: “There should be a clear and unambiguous statutory duty on relevant public authorities including Councils, the Department for Infrastructure and the Northern Ireland Housing Executive, to take all reasonable steps to remove hate expression from their own property and, where it engages their functions, broader public space.”</p> <hr/> <p>DOJ Comment</p> <p><i>The department recognises the concerns about how flags can and are used as divisive territorial markers to intimidate and incite sectarian and racial hatred.</i></p> <p><i>With specific regard to hate expression, policy development work is ongoing in relation to Recommendation 15 proposals which will be considered in the next mandate.</i></p> <p><i>Public consultation on this recommendation is pending and will form part of the Phase Two consultation which is paused until after the approval of the Sentencing Bill by the Assembly.</i></p> <p><i>Existing provisions to deal with hate expression are contained in the Public Order (Northern Ireland) Order 1987.</i></p> <p><i>The extent to which the display of flags and emblems can be perceived as stirring up hatred offences to intimidate or control communities can be dependent on the circumstances in which they are displayed.</i></p> <p><i>Within the broader context, it remains the Minister’s view that the implementation of recommendations contained in TEO’s Commission on Flags, Identity, Culture and Tradition (FICT) report to tackle unwanted flags and banners on public property provides a viable mechanism to address these complex challenges.</i></p>

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<p>11</p>	<p>Positions of Trust – Abuse of Power</p>	<p>NSPCC – written submission 3 April 2025 – recommends an amendment to strengthen the Justice (Sexual Offences and trafficking Victims) Act (Northern Ireland) 2022 to extend abuse of positions of trust to adults working in non-statutory settings with 16 and 17 year olds beyond religious and sporting settings.</p> <p><u>DOJ Comment</u></p> <p><i>Section 5 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 amended the law on abuse of position of trust contained in the Sexual Offences (Northern Ireland) Order 2008 ('the 2008 Order') through introduction of new Article 29A to the 2008 Order. This followed a review of the law in this area and extended, for the first time, the relevant offences contained in Article 29 of the 2008 Order to the non-statutory settings of sport and religion. Prior to this legislative change, only young people aged 16 and 17 years within specified statutory environments such as education, detention or social care, for example, were protected by this legislation.</i></p> <p><i>It is important to note that the offending behaviours which the abuse of position of trust offences capture are already available for children under 16 within the 2008 Order, but there are important elements to how the abuse of position of trust offences affect 16- and 17-year-olds which require particular consideration and a balanced approach in light of specific Article 8 ECHR requirements which any further extension would fully engage. Specifically, concerning the rights of those who are legally able to have consensual sexual relations from the age of 16.</i></p> <p><i>The Department is committed to ensuring that sufficient protections are provided in law and remains open to changing the law further where this is considered appropriate. Consequently, this area remains under review by my Department</i></p> <hr/> <p>NICCY – written submission 24 March 2025 - to further explore how abuse of trust protections could be secured within the Bill's scope, particularly as it relates to children.</p> <p><u>DOJ Comment</u></p> <p><i>Should any legislative change be required, Article 29A(4) of the 2008 Order enables the extension of the law by way of secondary legislation without the need for primary legislation. This was intentionally provided to ensure that legislation, as considered appropriate, could be progressed more quickly and without the need to await a primary legislative vehicle</i></p>
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12	Standalone CSE offence	<p>Victim Support NI - written submission 3 April 2025 – call for an amendment to make Child Sexual Exploitation (CSE) a standalone offence with particular consideration given in the legislation to the CSE perpetrated by paramilitary gangs against young people in Northern Ireland.</p> <hr/> <p>DOJ Comment</p> <p><i>The Department does not consider that a specific offence of child sexual exploitation (CSE) is required. CSE is a generic term used to describe various forms of sexual exploitation of children. Behaviours that would constitute CSE are addressed through a wide range of specific child sexual offences, contained mainly in the Sexual Offences (Northern Ireland) Order (2008), which target specified harmful activities.</i></p> <p><i>The Department strengthened the law in this area at the end of the previous political mandate, with amendments made to the 2008 Order by way of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 and there are further plans to extend particular CSE and child sexual abuse (CSA) related provisions to Northern Ireland as part of the Westminster Crime and Policing Bill. This includes: new offences of ‘online facilitation of child sexual exploitation and abuse’ and a new offence of ‘child sexual abuse image-generators’; an update to the existing offence of ‘possession of a paedophile manual’; a new power to ‘scan child sexual abuse images’ by border control at the UK borders; and a new defence to enable authorised companies to ‘test CSA material’ to prevent misuse of AI technology</i></p>
13	Clean slate at 18 years old	<p>NI Youth Assembly – written submission 4 April 2025 – recommend that an application process for “wiping the slate clean” regarding criminal convictions should be in place for minor crimes committed as a child.</p> <p>NICCY – written submission 24 March and oral evidence 27 March 2025 - recommend that an application process for “wiping the slate clean” regarding criminal convictions should be in place for minor crimes committed as a child</p> <hr/> <p>DOJ Comment</p> <p><i>This proposal would represent significant new policy far beyond the scope of the related provisions to be taken forward in the Bill. The proposal would require substantial policy development, stakeholder engagement and public consultation. Due to a congested legislative programme for the remainder of this curtailed mandate, together with competing priorities for existing resource capacity, this is not a policy proposal that the Department is considering at this time.</i></p>

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14	Banning the use of spit and bite guards for children and young people.	<p>NICCY – written submission 24 March and oral evidence 27 March 2025 – Recommend that the use of spit and bite guards on children and young people should be banned and legislated for by way of an amendment to the Bill.</p> <hr/> <p>DOJ Comment</p> <p><i>This proposal would represent significant new policy far beyond the scope of the related provisions to be taken forward in the Bill. The proposal would require substantial policy development, stakeholder engagement and public consultation. Due to a congested legislative programme for the remainder of this curtailed mandate, together with competing priorities for existing resource capacity, this is not a policy proposal that the Department is considering at this time.</i></p>
15	Legislate for on AI generated deep fake abuse	<p>Lara Fox (an individual) – shared a proposal for the case for criminalising AI-generated deepfake abuse. Key recommendations include:</p> <ul style="list-style-type: none"> ● Definition clause - to include deepfake and synthetic Media ● Offence clause - to criminalise creation and dissemination ● Victim support clause - to mandate support services and reporting mechanisms ● Strict Liability for Distribution ● Aggravating factors such as - was the victim a child? Was the content distributed for profits? Was distribution occurred with intent to cause reputational harm or blackmail? ● Platform Accountability - establish a robust takedown and appeal system and maintain transparency reports on the prevalence and response to deepfake content ● Civil Remedy - allow victims to bring civil actions for damages against the creators/distributors of the content as well as the online platforms that fail to take reasonable removal actions. ● Victim Anonymity and Legal Protections akin to Sexual Offences ● Extraterritorial Jurisdiction - content may target residents of NI aligning with cybercrime trends <hr/> <p>DOJ Comment</p> <p><i>The Minister announced her intention on 29 April 2025 to introduce an amendment, at Consideration Stage, to the Justice Bill, to provide for Northern Ireland-specific offences related to sexually explicit deepfake images, structured to ensure that all aspects of the offending behaviour can be captured.</i></p>

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		<p><i>A public consultation on a range of proposals was launched on 22 July 2025 and closed on 13 October 2025.</i></p> <p><i>The consultation sought views on proposals to criminalise the creation of, requesting the creation of, sharing or threatening to share sexually explicit deepfake images of an adult. Views were also sought on the definition that should be applied to sexually explicit deepfake images to ensure that all images of this type are captured by the proposed offences.</i></p> <p><i>49 responses were received which are currently being analysed. This analysis will help shape the structure of the legislative proposals intended for the Bill.</i></p> <p><i>There are already protections in place for children. Under Article 3 of the Protection of Children (Northern Ireland) Order 1978 it is an offence to take, make, distribute or show an indecent photograph, or pseudo-photograph of a child under 18.</i></p>
<p style="text-align: center;">16</p>	<p>An offence of arranging or facilitating begging for gain.</p>	<p>Professor Kevin Brown, QUB –</p> <p>While the 2015 Act remains crucial for punishing serious trafficking and exploitation, it cannot reliably or efficiently substitute for a more tailored offence of arranging or facilitating begging for gain. A specific offence, designed for lower-threshold exploitation, with clearer evidential standards, lighter procedural demands, and appropriate safeguards, would fill the gap between public-order powers and full trafficking law.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>Section 3 of the Vagrancy Act 1824 does not cover this behaviour, as it criminalises those who beg and not those who would arrange or facilitate begging. Therefore, repeal of section 3 would not present a legislative gap in this area.</i></p> <p><i>Currently section 1 (Slavery, servitude and forced or compulsory labour) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, introduced by Lord Morrow, is available to prosecute those who are found to have forced persons to beg.</i></p> <p><i>The Department regularly engages with key partners across statutory and non-statutory bodies via the Organised Crime Task Force, Modern Slavery and Human Trafficking Sub-Group and the NGO Engagement Forum.</i></p>

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		<p><i>During engagement sessions to date, organised begging has not been raised by partners, including the PSNI, as an area of concern in respect of exploitation. As recently as 27 November 2025, while providing oral evidence to the Justice Committee on the Justice Bill, ACC Anthony McNally confirmed that there was no information or intelligence that organised begging was occurring in Northern Ireland. There was suggestion that provision could be created ‘just in case’.</i></p> <p><i>It is the Department’s view that policy and legislative proposals should be developed only on the basis of evidence of a gap in provision and that there should be strong justification for the enactment of a law. As yet there is no evidence that organised begging is happening in Northern Ireland.</i></p> <p><i>As with all legislation enacted, the Department intends to review the impact of repeal of vagrancy legislation. Its liaison with police, and in particular with the Organised Crime Task Force and the Modern Slavery and Human Trafficking Sub-Group, during the course of any review, would be considered important in helping to identify whether any persons were being exploited in this way</i></p>
<p>17</p>	<p>A targeted and proportionate ‘move on’ provision for begging causing harassment, obstruction or public order concerns.</p>	<p>Professor Kevin Brown, QUB – Professor Brown shared the rationale and proposed text for an amendment to create new provision to tackle Begging causing Harassment, Obstruction or Public Order Concerns.</p> <p>Begging causing harassment, obstruction or public order concerns</p> <p>(1) A constable may direct a person who is begging in any place and whom the constable reasonably believes to be acting, or to have acted, in a manner that—</p> <ul style="list-style-type: none"> (a) harasses, intimidates, assaults or threatens any person; (b) obstructs or impedes the passage of pedestrians or vehicles; or (c) gives rise to a reasonable apprehension for the safety of persons or property or for the maintenance of public order, <p>to desist from such conduct and to leave the immediate vicinity in a peaceable and orderly manner.</p> <p>(2) A constable may direct a person who is begging at or near—</p> <ul style="list-style-type: none"> (a) the entrance to a dwelling; (b) an automated teller machine; (c) a vending machine; or (d) a night safe, <p>to desist from begging and to leave the vicinity of that place in a peaceable and orderly manner.</p>

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		<p>(3) A constable may direct a person who is begging at or near the entrance to business premises, at any time when those premises are open for the transaction of business with members of the public, to desist from begging and to leave the vicinity in a peaceable and orderly manner, if the constable has reasonable grounds for believing that—</p> <ul style="list-style-type: none">(a) the person's behaviour, or(b) the presence of multiple persons begging at or near the premises, <p>is causing, or is likely to cause, members of the public to be deterred from entering the premises.</p> <p>(4) A constable may direct a person (other than the owner or occupier) who is begging in a private place to desist from begging and to leave that place and its vicinity in a peaceable and orderly manner.</p> <p>(5) A person who, without reasonable excuse, fails to comply with a direction given under this section commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.</p> <p>(6) When giving a direction under this section, a constable shall inform the person, in clear and simple language, that—</p> <ul style="list-style-type: none">(a) failure to comply with the direction constitutes an offence; and(b) the person may be arrested if the direction is not obeyed. <p>(7) Where a person fails to comply with a direction given under this section, a constable may arrest the person without warrant if the constable reasonably believes that such arrest is necessary—</p> <ul style="list-style-type: none">(a) to prevent injury to any person or damage to property;(b) to prevent further harassment, obstruction or disorder; or(c) to enable the person's prompt and effective prosecution for the offence. <p>(8) A constable shall not exercise powers under this section within a dwelling unless acting—</p> <ul style="list-style-type: none">(a) with the consent of the owner or occupier; or(b) otherwise in the lawful execution of their duty. <p>(9) Nothing in this section limits the right of an owner or occupier of a private place to require a person who is begging there to—</p> <ul style="list-style-type: none">(a) desist from begging; or(b) leave that place. <p>(10) Interpretation In this section—</p>
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		<p>“automated teller machine” means a machine designed to enable a person, by means of a cash, credit or debit card, to withdraw or lodge cash or conduct other financial transactions;</p> <p>“business premises” means premises normally used for—</p> <ul style="list-style-type: none">(a) the carrying on of any professional, commercial or industrial activity; or(b) the provision of goods or services to members of the public; <p>“night safe” means a device located on the exterior of premises occupied by a financial institution for the deposit of money by customers;</p> <p>“vending machine” means a machine designed to enable a person to purchase goods or services by inserting money, tokens, or using a payment card.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The Department does not support this proposal as it would continue to criminalise people who are simply begging and would continue to marginalise some of the most vulnerable within our society. The proposal does not resolve the complexities of this issue or the people it involves. The issue requires a multi-agency response which goes further than the Department of Justice. The proposal also raises particular Article 8 ECHR concerns as per the case of the Lacatus v Switzerland (Application no 14065/15) [19.01.2021] – ‘the Lacatus judgment’.</i></p> <p><i>Specifically, as regards <u>clause 1</u>, it remains the Department’s view that there are a wide range of existing laws to deal with behaviours of any individual who crosses the criminal threshold and that those individuals who are simply begging should not be treated differently from others within society who cross the criminal threshold. They should not be marginalised with separate laws.</i></p> <p><i>It is the Department’s view that the proposed decriminalisation of begging requires a variation in approach and mindset where the offending behaviour should be taken out of the context of begging.</i></p> <p><i>The restriction imposed on begging by clause 1 would be justified within the margin of appreciation afforded by the Lacatus judgment where the behaviour of the person begging goes beyond simple begging but does not preclude the possibility that its operation may violate Article 8 ECHR should the criminalisation be directed towards the act of begging rather than the nature of the begging.</i></p> <p><i>The remaining clauses of this proposal - <u>from clause 2 onwards</u> - place restrictions on simple begging at specified places where the police would have a power to move people on because they are begging, with the threat of committing a criminal offence if they refuse to move on.</i></p> <p><i>Failure to comply with any direction under these proposed clauses would be an offence. Individuals would be criminalised for simply begging.</i></p>
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		<p><i>The Lacatus judgement confirmed that the right to beg is protected under Article 8 ECHR. The court stated that the interference with the applicant’s rights “was not necessary in a democratic society” and that “the right to call on others for assistance went to the very essence of the rights protected by Article 8 of the Convention”. The judgment also cited that “an attempt to reduce the visibility of poverty in a city and to attract investments are also not a legitimate aim to restrict the right to beg”. Any restriction on begging needs to have a legal basis, aim at a legitimate purpose and must be necessary in a democratic society.</i></p> <p><i>The Department is concerned that these proposals represent a backward step and, in some ways, would reinstate section 3 of the Vagrancy Act 1824 but with the risk that it would be more punitive. Further, Northern Ireland would be out of step with the more progressive approach taken or being taken across the rest of the UK.</i></p> <p><i>Proposals from clause 2 onwards broadly mirror provision established in the Republic of Ireland under section 3 of the Criminal Justice (Public Order) Act 2011, which had been considered by the Department as part of its review and reflected in the Department’s consultation. This preceded the Lacatus judgment</i></p>
18	An Offence of trespassing with intent to commit a Criminal Offence	<p>Professor Kevin Brown, QUB –</p> <p>Exploring the proposed legislation in England and Wales and enacted legislation in the Republic of Ireland, one could argue that the gaps identified by legislators elsewhere are equally relevant to Northern Ireland, particularly in the context of protecting property, businesses, and residents while ensuring proportionate safeguards against the overcriminalisation of vulnerable individuals. Further investigation is therefore needed to determine whether the current legal framework in Northern Ireland provides adequate coverage, or whether now is an opportune time to introduce modern, narrowly framed offences of trespassing with intent to commit a criminal offence.</p> <hr/> <p><u>DOJ Comment</u></p> <p><i>The Department considers that repeal of section 4 does not present a gap in this area. The use of the offence of ‘found on premises for unlawful purpose’ contained in section 4 has been declining year on year. On average, there are five cases where this offence is being used, per year.</i></p> <p><i>The Department has explored the application of this offence with PPS.</i></p>

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		<p><i>PPS advises that in the last seven years (1 January 2019- November 2028), there have been 38 cases where the offence was charged, report and/or prosecuted. An average of five cases per year. PPS is currently carrying out a manual assessment of the individual cases and it reports that of those it has considered in detail so far(starting with the most recent), the majority involve cases where the offences have been added as a support charge in case proof of the associated burglary offence has not been made out.</i></p> <p><i>The Department is of the view that concerns that in the absence of this offence, the police may not have sufficient powers to deal with trespass would appear are unfounded. The offence does not appear to have been used to arrest offenders but rather added on to the principal charge 'just in case' the main charge is not substantiated.</i></p> <p><i>PPS agrees that use of the offence has been declining over recent years with the last use of the offence by PPS made in January 2025 whereby the case was dismissed. PPS also highlight one case where it had likely been used against a person sleeping rough.</i></p> <p><i>The Department considers, however, that a review of this area at an appropriate point after commencement of repeal would ensure that there are no unintended impacts arising from repeal.</i></p> <p><i>The timing of any review would be important to allow the provisions to bed in and to enable a meaningful, quantitative assessment.</i></p>
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