

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Caroline Perry
Clerk to the Committee for Justice
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22 March 24

Dear Caroline,

Further Information - Oral evidence from Access to Justice Directorate Officials

Thank you for your letter of 13 March 2024 in which you sought further information on the following matters:

Implementation of the Gillen Review recommendations regarding personal injuries

There are no specific recommendations in the Gillen Review on Civil Justice that directly relate to personal injuries.

There are, however, some recommendations that relate indirectly to personal injuries and may, to varying degrees, have been considered by the Department when developing relevant policy and legislation.

For example, when considering the recommended increase to the jurisdiction of the small claims court from £3,000 to £5,000, the Department considered the merits of continuing to exclude certain categories of case from the small claims court, including

personal injury and road traffic claims. These types of claims are more likely to involve contested liability and the need for expert evidence and the Department remained of the view that it would not be appropriate to include these categories of case as they require more formal procedures and increase the onus for legal representation in a venue that is designed to be informal and accessible for litigants.

The recommendation that legislation should be brought forward to require all settlements of personal injury damages in respect of a minor to require court approval was subject consultation in 2021. The Committee will be briefed on this issue soon.

Other recommendations, such as those relating to conditional fees, qualified one-way cost shifting, and the introduction of pre-action protocols, which may also have some relevance to personal injury litigation, are the responsibility of the Lady Chief Justice's Office.

During officials' briefing to the Committee on 7 March, the issue of personal injuries was specifically referenced in relation to the cost of car insurance and the calculation of compensation in Northern Ireland compared to neighbouring jurisdictions. Some members of the Committee may recall that there was a report published in March 2016 by an All-Party Group on Private Motor Insurance. That report noted the complex and multi-faceted issues that impact on insurance premiums, some of which cut across several Executive Departments. It concluded that it was difficult to make meaningful recommendations given the absence of impartial market data in Northern Ireland on private motor insurance, and the conflicting evidence presented as to why premiums are higher here when compared to the rest of the UK and Ireland.

Finally, whilst not linked to any report recommendation, the Department is currently working to set the parameters for a statutory review of the personal injury discount rate by the Government Actuary. The Committee will be briefed in detail on this issue within a short period.



Proportion of sexual offence cases in which men are the perpetrator

The following table shows the convictions for sexual offences by gender of the defendant, from 2018 to 2022.

Convictions for sexual offences by gender of defendant, 2018 - 2022

Year	Male	Female	Total	% males
2018	190	4	194	98%
2019	228	6	234	97%
2020	146	2	148	99%
2021	286	4	290	99%
2022	304	5	309	98%

Note:

1. Figures relate to initial disposal at court. Appeals are not included.
2. Figures relate to defendants convicted of at least one sexual offence.
3. Figures relate to cases dealt with at Crown Court and at magistrates' courts.

Domestic Abuse Protection Notices and Orders

As Members will be aware, during the passage of the Domestic Abuse and Family Proceedings Bill¹ through the Assembly, a Committee amendment was passed which required the Department to lay draft Regulations for Domestic Abuse Protection Notices and Orders (DAPNs and DAPOs) before the Assembly, by 21 February 2024.

We have subsequently been working with criminal justice agencies (notably PSNI, Courts and PPS) to develop the draft regulations and associated operational arrangements for the introduction of DAPNs and DAPOs. Draft regulations are in a near final state but have not yet been laid. This is due to a number of operational challenges and risks to navigate and balance. These include operational challenges that we need to resolve in relation to:

- meeting the tight timeframes for bringing a DAPO application before the court once a DAPN has been issued. This will be necessary in order to ensure that the DAPN

¹ Now the Domestic Abuse and Civil Proceedings (Northern Ireland) Act 2021.



and DAPO regime is ECHR compliant; and

- managing the volume of estimated cases which is now substantially higher than first anticipated and which would give rise to both operational and resourcing challenges.

Both of these issues have been identified as significant concerns in parallel work in Scotland and we are keen to work with and learn from officials in other jurisdictions in order to ensure that we have the most effective protection regime in place for victims of domestic abuse.

We also want to ensure that any new measures are able to deliver additional protections to victims of domestic abuse, beyond those that are already available under existing measures and interventions, such as non-molestation orders (NMOs) and police bail conditions and intend to explore this issue further in the context of DAPNs and DAPOs particularly given that it would not be possible to legislate at this time to include positive obligations (for example a requirement to participate in a substance misuse or behavioural change programme) given the limited capacity of these programmes.

We are continuing to work through issues with operational partners, including, as noted, liaising with counterparts in neighbouring jurisdictions and we will keep the Committee informed as work to resolve issues progresses.

Reform of rehabilitation periods in Northern Ireland

The Chairperson sought further information on reform of rehabilitation periods and, specifically, plans to reduce rehabilitation periods.

Officials advised that a briefing had been provided to the Committee during the previous mandate and provided an update on options that had been presented to the Minister for bringing forward changes to the Rehabilitation of Offenders (Northern Ireland) Order.



A copy of the written briefing provided previously is attached (**Annex A**).

This set out the Department’s plans to bring forward legislative reforms during the last mandate to reduce existing rehabilitation periods and allow more convictions to become spent in Northern Ireland.

In summary, the existing rehabilitation periods in this jurisdiction are as follows:

Sentence	Rehabilitation Period *
A fine	Fixed period of 5 years
A sentence of imprisonment of 6 months or less	Fixed period of 7 years
A sentence of imprisonment of 6 – 30 months	Fixed period of 10 years
A sentence of imprisonment of over 30 months	Can never become spent and must always be declared

Following a public consultation on a range of options, the Minister concluded the preferred way forward should be based on the following model, as set out in the Consultation Report and Way Forward document dated 27 October 2021:



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* The rehabilitation period for this regime is made up of the sentence imposed (including any licence period) followed by the buffer period.

** Rehabilitation periods are halved for offenders aged under 18 at date of conviction

Sentence	Rehabilitation Period *
A compensation order	The date on which the payment is made in full
A community or youth rehabilitation order	1 year beginning with the day provided for by or under the order as the last day on which the order is to have effect
A relevant order	The day provided for by or under the order as the last day on which the order is to have effect
Fine	1 year
Sentence of imprisonment of 1 year or less	Length of sentence imposed <u>plus</u> 1 year **
Sentence of imprisonment of 1 - 4 years	Length of sentence imposed <u>plus</u> 4 years **
Sentence of imprisonment of between 4 and 10 years	Length of sentence imposed <u>plus</u> 7 years **

In setting an upper limit of 10 years for allowing convictions to become spent, the Department drew on the existing definition for a 'serious offence' as set out in the Criminal Justice (Northern Ireland) Order 2008.

All spent and unspent conviction data would continue to be disclosed for sensitive employments, such as working with children, young people and vulnerable adults.

An oral briefing was also provided to the Committee on Thursday 17 February 2022, at which the Committee requested some further information on the NIHRC supported judicial review of the 1978 Order; and those organisations that were both invited to take part in the Department's consultation exercise and those that responded.

This additional information was provided to the Committee and considered at the meeting of Thursday on 14 February, when the Committee agreed that it was content with the proposals to amend the Rehabilitation of Offenders (Northern Ireland) 1978 Order to reduce the length of time that it will take for some convictions to become spent and to allow more sentences to be capable of becoming spent.

At that time, officials advised the intention was to make these changes by way of a secondary legislation statutory instrument.

However, the statutory rule – as then drafted – was deemed not to be within the competence of the Assembly. Departmental officials had prepared a revised draft statutory rule to address the competence issues during the absence of Ministers for planned introduction upon the return of the Assembly.

However, further recent legal advice has queried whether the breadth of the changes that the Minister wishes to bring forward are beyond the scope of those that can be facilitated by way of secondary legislation, which could leave any changes brought about by this route susceptible to legal challenge.

Having considered a number of options, therefore, the Minister has decided that the only means by which we can bring about the full extent of her proposed reforms – and mitigate the risk of any potential litigation on the grounds of vires or the nature and range of changes – is by way of primary legislation.

Accordingly, she has now instructed officials to develop legislative provisions for inclusion in the mixed-content Justice Bill that she intends to introduce to the Assembly in June 2024. Given it will not be possible to have the necessary provisions fully drafted and included in the Bill at the outset – as finalisation of the draft Bill is required by end-March to meet the timetable for June introduction – we will be working with the

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Executive and the Committee to co-ordinate the addition of these provisions to the Bill at Consideration Stage.

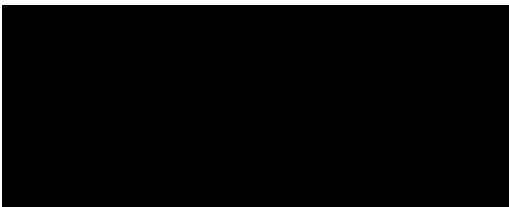
While the Minister fully appreciates the Committee's concerns about provisions not being included in the Committee's Call for Evidence on the Bill as introduced, she considers there are grounds for an exception on this occasion.

Coroners being able to hold inquests into deaths abroad

A public consultation, outlining three different options for extending coroners' jurisdiction to include the deaths of Northern Ireland citizens abroad, took place between 27 October and 22 December 2022.

The Minister will consider the next steps in the near future and officials will provide the Committee with a fuller briefing in due course.

Best Regards,



DALO

Enc Annex A



**Northern Ireland Assembly
Committee for Justice**

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Department of Justice
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13 March 2024

Dear ██████████

Oral evidence from Access to Justice Directorate Officials

At the meeting of the Committee for Justice on 7 March 2024, officials from the Access to Justice Directorate provided an overview of the work of that directorate. The officials agreed to provide further information on a number of matters, which are set out below:

- an update on the implementation of the Gillen Review recommendations regarding personal injuries;
- the proportion of sexual offence cases in which men are the perpetrator;
- an update on the issues that have prevented the Department laying a draft of regulations relating to Domestic Abuse Protection Notices and Orders, as is required by section 27 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021;
- further information on the reform of rehabilitation of offenders legislation, with specific reference to reducing rehabilitation periods; and
- information on what action is being taken to bring Northern Ireland into line with the rest of the UK and Ireland regarding coroners being able to hold inquests into deaths abroad.

I should appreciate the information by 27 March 2024.

Yours sincerely

Caroline Perry

Caroline Perry
Clerk to the Committee for Justice