

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

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

24 February 2026

Dear Kathy,

JUSTICE BILL: POTENTIAL COMMITTEE AMENDMENTS

Thank you for your letter dated 13 February 2026 requesting clarification on whether the Minister of Justice would be willing to bring forward amendments to include photographs within the scope of Part 1 of the Justice Bill and to include a child's vulnerabilities as a factor to be considered as part of bail arrangements for children.

Biometrics and photographs

As the Committee is aware, the Department's immediate priority is to address the compliance issues arising from the un-commenced amendments to the Police and Criminal Evidence (NI) Order 1989 (PACE NI) introduced by the Criminal Justice Act (NI) 2013, which relate solely to DNA and fingerprints.

The Committee will also be aware of the ongoing debate about whether photographs should be classified as biometric data, particularly given the pace of development in facial-matching technologies.

The Department's view is that the retention of photographs cannot be considered in isolation from the broader issue of how photographs are used, and the need for appropriate legislation to regulate that use. These are substantive and complex issues which require time for meaningful engagement with stakeholders and a full public consultation, as outlined by officials on 5 February.

The Department is of the view that it would not be possible to take forward this essential work within the current timetable for the Justice Bill, given the policy development work required and the lack of capacity.

Furthermore, there is a real risk that introducing provisions at pace may result in unintended or unforeseen consequences. For example, there are several un-commenced pieces of excepted legislation due to come into force upon commencement of the new framework which would require detailed research and amendment before photographs could be added to the new retention framework.

Additionally, the taking powers for photographs under Article 64A of PACE NI differ significantly from those for fingerprints and DNA under Articles 61 and 63, which would likely impact on the operation of the new retention framework.

It is also relevant that the Home Office has only recently completed its consultation on the retention and use of photographs, including the use of technologies such as facial recognition.

The Department is keen to take forward similar work for Northern Ireland, informed by progress in England and Wales, as well as any forthcoming legislation or emerging technological approaches.

The Department would like to assure the Committee that the PSNI have advised that they will operate, on a non-statutory basis, the same retention and deletion policy for photographs as will apply to DNA and fingerprints under the new legislative framework.

Therefore, an individual's photograph will be deleted at the same point as their DNA and fingerprints.

Having considered all matters, the Minister of Justice is not of a mind to bring forward an amendment to include photographs within the scope of Part 1 of the Justice Bill. However, the Committee may wish to consider introducing a regulation-making power as an amendment to Article 64A of PACE NI (photographing of suspects etc.) to make provision for the retention and use of photographs.

Such an approach would provide the Department with the necessary time to undertake detailed policy development, stakeholder engagement, and a full public consultation. If adopted, such regulations could be made subject to the draft affirmative procedure, ensuring that specific approval from the Assembly is required before they can come into force.

Bail arrangements for children

The second proposal from the Committee relates to the inclusion of 'vulnerabilities' into the range of considerations that police and courts must have regard to a when making bail and remand decisions in children's cases.

Whilst there is an argument to say that 'needs' and 'vulnerabilities' are aligned, so in considering one you are also considering the other, the Minister appreciates there is a subtle distinction between them.

While not of a view that the distinction merits the bringing forward of Departmental amendments, the Minister is not opposed to the Committee tabling its own amendments in this respect, but with the caveat that it should only apply to the first three of the four proposed instances i.e.

- in Article 39(2A)(e)(i) on page 18;
- in new Article 48ZA(2)(e) on page 19; and
- in new Article 10H(2)(e) on page 22.

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The fourth instance being proposed, in new Article 10(1)(3), is in relation to a court's use of language, to explain bail decisions to children in a way they can understand. Unlike a child's age, maturity and – most importantly – their understanding, all of which the Department is making provision for, we do not believe that a child's vulnerabilities would have any bearing on the court's use of language.

For this reason, the Minister does not believe that the inclusion of a reference to vulnerabilities is required in this provision, and would request that the Committee reconsider its inclusion.

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

Yours sincerely,



DALO



**Northern Ireland Assembly
Committee for Justice**

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DALO

Department of Justice
Castle Buildings
Stormont Estate
Belfast
BT4 3SQ

13 February 2026

Dear ██████████

Justice Bill – Potential Committee amendments

You will be aware that, at its recent meetings, the Committee for Justice has undertaken deliberations on the Justice Bill. The Committee has identified a number of potential amendments in relation the Bill that it wished to consider further.

At its meeting on 12 February, the Committee agreed to write to the Department to advise of two of those potential amendments and ascertain whether the Minister of Justice would be willing to bring those amendments forward. These are:

- The inclusion of ‘photographs’ within the scope of Part 1 of the Bill.
- To include a duty on a court/custody officer to have regard to a child’s vulnerability as well as “age, maturity and needs” in Article 39(2A)(e)(i) on page 18; proposed new Article 48ZA(2)(e) on page 19; proposed new Article 10H(2)(e) on page 22; and proposed new Article 10(I)(3) on page 23.

I would appreciate a response outlining the Minister’s position on both potential amendments at the earliest opportunity and an indication of if/when the text of any agreed amendment(s) may be available for consideration by the Committee.

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

E-mail: committee.justice@niassembly.gov.uk

The Committee will be continuing with its deliberations at its meetings in the coming weeks and I will provide an update on any further amendments that it may be considering as matters progress.

Yours sincerely

Kathy O'Hanlon

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Clerk to the Committee for Justice

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