

BASW NI briefing to the NI Assembly Committee for Justice ahead of evidence session on Thursday 30 January 2025 concerning the Justice Bill

1. Introduction

- 1.1. The British Association of Social Workers Northern Ireland (BASW NI) is part of the British Association of Social Workers (BASW), the largest professional body for social workers in the UK. BASW has 22,000 members employed in frontline, management, academic and research positions in all care settings including probation and youth justice.

2. Biometric Testing

- 2.1. BASW NI welcomes the Justice Bill's focus on the retention of biometric data, however, there remains some way to go. 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. Take for example children living in residential care settings. In instances where children cause damage within residential homes they are often reported for criminal damage and receive convictions as a result. This is unlikely to be replicated in a scenario in which a child living with their family causes damage to the family home.
- 2.2. 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.

3. Bail and Custody

- 3.1. BASW NI welcome the legislation's focus on provisions for bail and custody arrangements for children, especially given the Bill would ensure that following sentencing, young people under the age of 18 will only be held in the Juvenile Justice Centre. However, 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 to realise 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.
- 3.2. Clause 12 of the Bill will introduce youth custody and supervision orders to replace juvenile justice orders for children aged 14+ for less serious offences. While supervising

the child's return to the community, it is essential that the youth custody and supervision orders provide all necessary opportunities for practitioners to work with the child, their family and community to support them and avoid a return to custody. This will align with the Department's Strategic Framework for Youth Justice 2022-2027 which promotes custody as a last resort.

- 3.3. It must be recognised that children who leave custody are more likely to return—a scenario referred to as *revolving door syndrome*. Returns to custody occur for many reasons, including access to care, with offences deliberately committed to achieve a return to a place of safety/custody.
- 3.4. Any preparation for release should begin from the moment a child enters custody. The youth justice system should be future proofing a safe return to community with the necessary supports to prevent further offending. This would require an increase in supervision and the opportunity that a child has a “circle of support,” a community of positive influences in this child's life who will step in to respond to a lifestyle that could lead to further offending, or where a child is acting in a way where there is an increased risk of harm.
- 3.5. BASW NI is concerned that the Bill does not go far enough to legislate for alternative bail accommodation for young people aged under 18. It is well recognised in the criminal justice system that there are high numbers of children serving periods on remand or overnights in custody under police bail for offences which ultimately do not lead in a custodial sentence. However, these short periods can result in the normalisation of custodial environments, with young people considering because they, their parents or peers have been in custody, it is expected they will serve a prison sentence.
- 3.6. It is vital that early intervention approaches inform the support provided to children and young people on bail, including provision of bail fostering or beds within “safe” facilities. This approach could provide families with the opportunity to address their fears about having their child returned to their care while they receive the necessary supports to address the child's potential for further offending. In many cases, children and young people who offend have social needs that have not been fulfilled leading to their involvement with the criminal justice system.

4. Minimum Age of Criminal Responsibility

- 4.1. BASW NI supports raising of the minimum age of criminal responsibility from 10 to 14 years old, in line with the recommendations of the United Nations Committee on the Rights of the Child. The Association recognises that raising the minimum age of criminal responsibility is not addressed by the Justice Bill and would support the increase to 14 years old via an amendment to the legislation.