

# Response ID ANON-Z841-1VUZ-D

Submitted to Justice Bill

Submitted on 2025-03-21 17:27:53

## Introduction

What is your name?

Name:

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If you are providing a submission on behalf of an organisation or business, please state its name.

Organisation:

Safeguarding Board for Northern Ireland

The Committee for Justice has agreed to publish all responses as part of the survey results. If you would like to have your survey results anonymised and for us not to publish your name or organisation, please indicate so here.

I am content for my information, including details of my name and organisation, to be published in the survey results.

## Clause 4: Duties of a custody officer after charge

Do you agree that a custody officer should take into account a juvenile's age, maturity, needs and their capacity to understand and comply with any conditions of bail before making a decision to grant bail or not?

Yes

Please provide information to support your answer here::

The Safeguarding Board for Northern Ireland (SBNI) welcomes the proposed amendment to Article 39 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI), which mandates custody officers to consider children and young person's (CYP) age, maturity, needs and capacity to understand and comply with any conditions of bail. It recognises that CYP are at different stages of cognitive and emotional development. This amendment ensures that taking account of the unique needs of each CYP, including mental health, educational needs and family circumstances, custody officers can make more informed decisions regarding bail, taking cognisance of the CYP's developmental stage, promoting fair and just treatment and their ability to comply with bail conditions. This approach enhances the safeguarding and protection of CYP within the justice system and may help in addressing any vulnerabilities that may affect their ability to comply with bail conditions, aiming to reduce the risk of reoffending. Adopting this holistic approach may promote positive outcomes for CYP whilst ensuring that the bail conditions are realistic and achievable for the CYP.

Custody officers will need comprehensive training to understand and apply the new considerations effectively. Clear guidelines and protocols must be established to ensure consistency in the assessment process and fair treatment of all CYP. This includes recognising the developmental needs of CYP. A trauma informed approach is required in the role of the custody officer. This is critical to ensure the safeguarding of CYP, their rights and welfare.

Do you have any other comments on Clause 4 of the Bill?

No

Please provide information to support your answer here::

## Clause 5: Police bail after arrest

Do you agree that any conditions of bail after arrest should require the custody officer to consider the circumstances of the individual and be proportionate to the risk?

Yes

Please provide information to support your answer here::

SBNI consider this amendment is a significant step towards ensuring that the justice system appropriately addresses the unique needs and circumstances of CYP.

It is critical for custody officers to take into consideration the nature and seriousness of the current alleged offence committed by the CYP. This ensures that decisions regarding bail are necessary, proportionate and justifiable, to reflect the gravity of the situation.

Developing insight into and providing a comprehensive overview of the CYP circumstances to include their background, individual circumstances, pattern of past behaviour, their response to past court sanctions and bail conditions is crucial in determining suitability for granting bail. It is also important to assess associations and ties to their local community which will help with more informed and defensible decisions, taking cognisance of the CYP's social environment and potential influences. This amendment recognises that CYP are at different developmental stages and may require individually tailored approaches to ensure they understand, engage in and comply with bail conditions that are realistic and achievable, preventing situations where CYP may be set up to fail.

Do you have any comments on Clause 5 of the Bill?

No

Please provide information to support your answer here::

#### Clause 6: Court bail

Do you support the presumption of bail for children in all but very specific circumstances?

Yes

Please provide information to support your answer here::

SBNI are of the opinion that the provision of a right to bail for CYP is essential in ensuring that their liberty is not unnecessarily restricted and is in alignment with the principles of justice and fairness. It reinforces an important message that CYP should not be treated as adults in the legal system. Whilst the courts have the power to refuse a bail application for public order and safety reasons, careful consideration of the CYP circumstances is critical. Conducting a holistic assessment of the nature and seriousness of the offence, alongside other factors as outlined in Clause 5, is required to ensure that appropriate bail conditions are necessary and proportionate and take cognisance of the CYP's capacity and ability to meaningfully comply. Maintaining a detailed record of decisions concerning bail is crucial for transparency and accountability.

Do you agree with the conditions in Article 10G that must be met if bail is to be refused?

Yes

Please provide information to support your answer here::

SBNI acknowledges the importance of the conditions outlined in Article 10G for refusing bail. These conditions play a crucial role in ensuring the safety of victims, witnesses, and the community, as well as maintaining the integrity of the judicial process.

SBNI supports the criteria that bail should be refused if there is a significant risk of the defendant committing further offenses, interfering with witnesses or the investigation, or failing to appear in court. These measures are essential to protect vulnerable individuals and uphold justice.

However, 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.

Do you agree with the rules relating to the imposition, variance and removal of the conditions attached to bail?

Yes

Please provide information to support your answer here::

Bail conditions can help protect CYP from potential harm by restricting the defendant's movements and interactions. This is particularly important in cases involving child exploitation or abuse. The close monitoring of bail conditions is crucial for child safeguarding. Providing support services to children and families affected by bail decisions is essential. This includes counselling and protective measures to mitigate the impact of the defendant's actions.

Do you have any further comments on Clause 6 of the Bill?

No

Please provide information to support your answer here::

#### Clause 7: Arrest for absconding or breaking conditions of bail

Do you have any comments on Clause 7?

Yes

Please provide information to support your answer here::

The SBNI supports the proposed amendment as it requires constables to assess the seriousness of a breach of bail conditions, ensuring that the decision to arrest is proportionate and defensible. This approach prevents unnecessary arrests and promotes fair treatment of CYP within the justice system. As referenced in responses to previous clauses, it is necessary to assess the specific circumstances of each CYP, including issues regarding maturity and capacity to ensure that the CYP understands the charge and bail conditions.

#### Clause 8: Conditions relevant to bail: accommodation

Do you have any comments on Clause 8?

Yes

Please provide information to support your answer here::

The SBNI strongly supports this Clause 8 of the Justice Bill as it ensures that the rights and welfare of CYP are upheld within the justice system and that they are not unjustly deprived of their liberty due to circumstances beyond their control. With the amendment promoting fair treatment of CYP this ensures that bail decisions are based on the merits of the case and individual circumstances, rather than on the availability of suitable accommodation, aligning with the principles of justice and equality. It helps in providing a supportive environment that fosters CYP's rehabilitation and reintegration into society. This is of particular importance for the well-being and development of CYP, as detention can have along enduring and detrimental impact on their physical and emotional well-being, ensuring the safeguarding and protection of CYP.

#### Clause 9: Place of detention following sentencing

Do you agree that children under the age of 18 should only be held in a juvenile justice centre?

Yes

Please provide information to support your answer here::

SBNI welcome this amendment as it ensures that CYP are held in juvenile justice centres (JJC) rather than adult facilities, this is crucial for safeguarding their rights. A trauma informed approach is embedded in JJC which is specifically designed to address the developmental needs of CYP and is conducive to successful rehabilitation. JJC are equipped to provide specialised care and support, tailored to the needs of CYP, including access to mental health services. However, detaining CYP in adult institutions can expose them to significant harm, this amendment mitigates such risks by ensuring that CYP are placed in age-appropriate settings.

However, 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.

Do you have any further comments on Clause 9 of the Bill?

No

Please provide information to support your answer here::

#### Clause 10: Powers to sentence child to detention: amendment

Do you have any comments on Clause 10 of the Bill?

No

Please provide information to support your answer here::

Please see response to Clause 9

#### Clause 11: Powers to sentence child to detention: removal

Do you support raising the minimum age for detention in a young offenders' centre to 18?

Yes

Please provide information to support your answer here::

The SBNI considers this is a positive step and fully supports Clause 11 recommending the increase in the minimum age for detention in a young offenders centre. This change aligns with the principles of child development and the need for age-appropriate interventions.

Removing custody care orders for CYP aged 10 to 13 years ensures that very young children are not subjected to custodial measures. This change reinforces the importance of alternative, community-based interventions that focus on support and successful rehabilitation. SBNI believe that staff working with CYP who have offended require specialised training to manage the unique needs of this age group, embedding trauma-informed care and effective rehabilitative strategies.

Do you have any other comments on Clause 11?

No

Please provide information to support your answer here::

#### Clause 12: Youth custody and supervision orders

Do you agree with the introduction of Youth Custody and Supervision Orders?

Yes

Please provide information to support your answer here::

Do you agree with the duration of the Youth Custody and Supervision Orders as proposed in subsection 38B?

Not Answered

Please provide information to support your answer here::

Do you have any other comments on Clause 12 of the Bill?

No

Please provide information to support your answer here::

#### Clause 13: Place of detention following remand in custody

Do you have any comments on Clause 13 of the Bill?

No

Please provide information to support your answer here::

Please see response to Clause 9

#### Clause 14: Remand in custody exceeding three months

Do you have any comments on Clause 14 of the Bill?

No

Please provide information to support your answer here::

#### Clause 15: Consideration of time spent on remand in custody

Do you have any comments on Clause 15 of the Bill?

No

Please provide information to support your answer here::

#### Clause 16: Place of detention in custody for contempt of court

Do you have any comments on Clause 16 of the Bill?

No

Please provide information to support your answer here::

Please see response to Clause 9

#### Clause 17: Removal of powers to remand or commit a child to custody

Do you have any comments on Clause 17 of the Bill?

No

Please provide information to support your answer here::

Please see response to Clause 9

## Clause 18: Minor and consequential amendments; and Clause 19: Transitional provisions and savings: custody of children

Do you have any comments to make on Clause 18 or Clause 19 of the Bill?

No

Please provide information to support your answer here::

## Part 2: Children - Other

Do you have any other comments or information you would like to be considered by the Committee in relation to Part 2: Children?

Yes

Please provide information to support your answer here::

SBNI consider the Bill could benefit from more explicit provisions regarding mental health support for CYP within the justice system. Ensuring access to mental health services and support can significantly impact on successful rehabilitation and overall well-being. Incorporating legislative powers to embed trauma-informed care practices within JJC is essential. These practices not only support the rehabilitation and well-being of CYP but also foster a more compassionate and effective justice system. Formalising these practices within the structure of JJC will ensure consistent application and provide a framework for ongoing training and development, improving interactions and outcomes for CYP. Provisions that encourage family involvement in the rehabilitation process can be beneficial, for example, facilitating family visits, counselling and support can strengthen family ties. Expanding community-based alternatives to detention, such as restorative justice programmes and diversion initiatives can provide more effective options that maintain CYP in the community to build on their personal resources, connectivity and capacity within communities. Ensuring that all staff working in the JJC receive comprehensive safeguarding training to understand the signs of abuse, neglect and exploitation, building on their knowledge and skills on how to respond appropriately. It is important that CYP have access to legal representation and advocacy services to protect their rights within the justice system, helping them navigate legal processes to make informed decisions.

## Clause 25: Death of a child or vulnerable adult: limitation of power to "No Bill" alternative charge

Do you support the change to limit the power to "No Bill" under the specific circumstances relating to the death of a child or vulnerable adult?

Yes

Please provide information to support your answer here::

SBNI believe that this amendment addresses a critical gap in the law as it ensures consistency in legal decisions by linking the charges of murder or manslaughter with the related charge of causing or allowing a child or vulnerable adult to die or suffer serious physical harm. It prevents situations where a serious charge is dismissed while a related charge remains, ensuring a coherent and enhanced accountable approach to justice. By addressing the legal gap, the amendment strengthens the protection of vulnerable individuals, including CYP and vulnerable adults. It ensures that all aspects of their harm or death are considered together, reflecting the severity and interconnected nature of these offences.

## Amendment: Organised crime

Do you have any comments on the proposed organised crime amendment to the Bill?

Yes

Please provide information to support your answer here::

This amendment provides a clear definition of organised crime groups which is essential for the effective enforcement of laws, contributing to the safety and security of communities in Northern Ireland, safeguarding the rights and welfare of all individuals, particularly the most vulnerable to the impacts of organised crime. Organised crime are highly co-ordinated enterprises, set up for the purposes of engaging in illegal activities, often involving vulnerable CYP. This amendment targets those who contribute to the criminal activities of the group, even if they are not directly involved in the most serious crimes. It allows for a more comprehensive approach to dismantling organised crime groups by targeting both the participants and the leaders. This can reduce the influence and reach of organised crime groups that exploit CYP, potentially reducing the recruitment. Law enforcement agencies will have stronger legal powers to intervene and safeguard CYP from being coerced or manipulated. 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.