

Response ID ANON-6T7N-8J5G-D

Submitted to Victims and Witnesses of Crime Bill
Submitted on 2026-09-18 14:03:11

Introduction

Confirmation of having read the Northern Ireland Assembly Committee's Privacy Notice.

I confirm that I have read the privacy notice.:

Yes

What is your name?

Name:

Lucy Jaffe

What is your email address?

Email:

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

Organisation:

European Forum for Restorative Justice

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.

Clauses 1 and 2 - The Commissioner

Clause 1 establishes the Commissioner for Victims and Witnesses of Crime for Northern Ireland, who will be appointed by the Department of Justice. It introduces Schedule 1 which relates to the constitution and operation of the Commissioner and the office. Do you agree with Clause 1 and Schedule 1 of the Bill?

Yes

Please provide information to support your answer here::

The EFRJ strongly supports the establishment of a statutory Commissioner for Victims and Witnesses of Crime for Northern Ireland. It is essential that victims and witnesses have dedicated, independent representation within the criminal justice system, and we welcome that the Commissioner's role and remit are framed around compliance with the Northern Ireland Victim Charter.

Clause 2 provides that the principal aim of the Commissioner is to promote the interests of victims and witnesses. Do you agree with Clause 2 of the Bill?

Yes

Please provide information to support your answer here::

Do you have anything further to add on Clause 1 or 2 or Schedule 1 of the Bill?

No

Please provide any further information relating to Clause 1 here::

Clauses 3 to 8 - Functions of the Commissioner

Clause 3 provides that the Commissioner must: promote an understanding of the rights of victims and witnesses and an awareness of matters relating to their interest; keep the law and practice relating to victims and witnesses under review to ensure adequacy and effectiveness; advise the Northern Ireland Executive or Departments on issues concerning victims and witnesses; and must take steps to raise awareness of the role and functions of the Commissioner, encourage victims and witnesses to engage with their office and seek the views of victims and witnesses regarding the exercise of the Commissioner's functions. Do you agree with these as suitable for the general duties for the role of Commissioner?

Yes

Please provide information to support your answer here::

Reporting lines and visibility

We consider that requiring the Commissioner to lay their annual report before the Northern Ireland Assembly or Government, rather than solely before the Department of Justice, would give the office greater visibility and a higher institutional status. This would also strengthen the Commissioner's independence and public accountability.

Recommendation: Amend the Bill so that the Commissioner's annual report is laid before the Northern Ireland Assembly/Government, not only submitted to the Department of Justice.

Clause 4 provides the general powers of the Commissioner including the power to conduct, fund or support research or education activities; to compile information; provide advice and information; publish any matter concerning the interests of victims or witnesses of crime; and to make representations and recommendations to any body or person concerning the interest of victims or witnesses. Do you agree with the general powers as outlined in Clause 4?

Yes

Please provide information to support your answer here::

Powers to require information outside the annual cycle

As currently framed, the Bill appears to envisage that Charter service providers report to the Commissioner on an annual cycle. In our view, the Commissioner should also have the power to require individual service providers to produce information or reports outside that cycle where a specific concern comes to light — for example, if a probation area were found not to be informing victims of their rights (including their right to information about restorative justice), not providing quality Victim Liaison Services, or failing to ensure that a victim in prison had access to services. An ad hoc information-request power of this kind would allow problems to be identified and addressed promptly, rather than waiting for the next reporting cycle. Recommendation: Give the Commissioner a standing power to require information or reports from individual Charter service providers outside the annual reporting cycle, triggered by evidence of a specific service failure.

Are there any other powers that you believe the Commissioner should have?

Not Answered

If yes, what should they be?:

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A route of escalation for victims and witnesses

We note that the Bill, as drafted, does not appear to give the Commissioner a formal complaints-handling function; the intention seems to be that services report to the Commissioner annually rather than that individuals can raise complaints directly. We would ask the Committee to consider what recourse a victim or witness has if they reach the end of the road with a service provider. In England and Wales, the ultimate avenue of appeal is to the Parliamentary and Health Service Ombudsman, a route that is widely regarded as slow and of limited practical effect. We would suggest that Northern Ireland has an opportunity to do better: for example, by allowing victims and witnesses to escalate concerns — such as a lack of information about, or being blocked from access to, restorative justice — directly to the Commissioner.

We recognise this is a more significant expansion of the Commissioner's role than is currently proposed, and one that carries resource implications. We raise it as a matter the Committee may wish to explore further, including through comparative evidence from other jurisdictions with Commissioner models.

Recommendation: Consider giving victims and witnesses a direct route of escalation to the Commissioner once other avenues have been exhausted, rather than relying solely on an annual reporting cycle and an external ombudsman.

Clause 5 stipulates that the Commissioner must review the operation and the effectiveness of the Victim and the Witness Charters at least every 3 years or as directed by the Department; prepare a report and, in doing so, consulting the Department and any other person the Commissioner considers appropriate; and publish a report. . Do you agree with the provisions at Clause 5?

Yes

Please provide information to support your answer here::

Clause 6 provides that the Commissioner may issue guidance on best practice in relation to any matter concerning the interests of victims and witnesses and that this must be taken into regard by persons exercising public functions; and makes provision in respect of revision, consultation and publication of the guidance. It also prohibits the Commissioner from issuing guidance to a court or tribunal. Do you agree with Clause 6 of the Bill?

Yes

Please provide information to support your answer here::

Clause 7 grants the Commissioner the power to establish advisory groups to provide support and information to the Commissioner on matters related to the Commissioner's functions. The Commissioner will determine membership of the group(s) and how expenses will be reimbursed. The Commissioner may also determine the procedure of any advisory group. Do you agree that the Commissioner should have the power to establish advisory groups?

Yes

Please provide information to support your answer here::

We highly recommend an advisory group focussed on victim participation in Restorative Justice.

Do you agree that the Commissioner should have the power to determine the membership of advisory groups?

Yes

Please provide information to support your answer here::

Clause 8 provides that the Commissioner cannot become involved in an individual case or intervene in criminal or related proceedings. Do you support the restriction proposed in Clause 8?

No

Please provide information to support your answer here::

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Recommendation: Consider giving victims and witnesses a direct route of escalation to the Commissioner once other avenues have been exhausted, rather than relying solely on an annual reporting cycle and an external ombudsman.

Do you have anything further to add in relation to Clauses 3 to 8 of the Bill?

Yes

Please provide information to support your answer here::

Resourcing

We note that the Bill does not appear to include a dedicated budget allocation for the Commissioner's office. We are not in a position to say whether this is standard practice for legislation of this kind, or whether funding might instead be linked to a measure such as the level of recorded crime or the number of victims. We flag this as a point on which we would welcome clarification, as adequate and sustainable resourcing will be critical to the Commissioner's effectiveness.

Clauses 9 to 15 - Charter service providers

Clause 9 lists the criminal justice agencies which are specified as "charter service providers". Do you agree with the list of bodies specified in Clause 9?

Yes

Please provide information to support your answer here::

Do you believe that there are any other criminal justice agencies that should be added to the list?

No

Please provide information to support your answer here::

Do you believe that any of the agencies listed should be removed from the list?

No

Please provide information to support your answer here::

Clause 10 requires the Commissioner to monitor compliance with the Victim Charter and enables the Commissioner to request information from a charter service provider. It requires charter service providers to comply with such a request as far as is practical. Do you agree with the purpose stated for Clause 10?

Yes

Please provide information to support your answer here::

Clause 11 provides that charter service providers must collect and retain data in relation to the provision of services set out in the Victims Charter and to provide statistical information to the Commissioner. The Department must make regulations setting out how the particular statistics, or category of statistics to be provided to the Commissioner are to be determined. The Department must consult with the Commissioner and charter services providers it considers appropriate before making regulations, which will be subject to the draft affirmative procedure. Do you agree with the intent behind Clause 11?

Yes

Please provide information to support your answer here::

Mandatory statistics to improve transparency, accountability and performance

The EFRJ regards this provision as the area of greatest relevance to our expertise, and where we believe we can add most value to the Committee's consideration of the Bill.

We welcome the requirement for mandatory provision of statistics to the Commissioner, and we recommend that these statistics explicitly include restorative justice. We are able to provide indicative examples of the kinds of RJ-related indicators that could usefully be collected — for instance, measures of victim awareness of and referral to RJ, uptake and completion rates, and victim-reported outcomes.

We note that the explanatory material accompanying the Bill indicates that the Department of Justice will develop regulations, in conjunction with the Commissioner, to determine which data are to be provided. This represents a timely and valuable opportunity for the EFRJ to engage with the Department and the Commissioner to inform how restorative justice activity and impact should be counted and reported, ensuring that RJ is captured meaningfully rather than as an afterthought within broader victim services data.

Recommendation: Ensure that the statistics prescribed by regulation under this provision explicitly include restorative justice indicators, and that the EFRJ and other RJ specialists are consulted in the development of those regulations.

Clause 12 allows the Department to extend the provisions regarding the Victim Charter at Clauses 10 and 11 to the Witness Charter. Are you content with Clause 12?

Yes

Please provide information to support your answer here::

Clause 13 relates to co-operation with the Commissioner and states a charter service provider must comply or provide the reasons for non-compliance. Do you have any comments on Clause 13?

No

Please provide information to support your answer here::

Clause 14 relates to the duty to record and report on complaints received in each financial year that relate to alleged breaches of Victim or Witness Charter entitlements and the outcome of each complaint. Do you agree with Clause 14 of the Bill?

Yes

Please provide information to support your answer here::

Clause 15 relates to the disclosure of information between charter service providers and the Commissioner if the information would assist or enable the Commissioner to carry out their functions. These disclosure powers are subject to restrictions set out in subsections (3) to (5) – namely, they do not override patient confidentiality, data protection legislation or prohibitions on disclosure in the Investigatory Powers Act 2016. The sharing of information does not affect any other power that exists to disclose information. Do you support the intention behind Clause 15?

Yes

Please provide information to support your answer here::

Do you believe that there should be other restrictions to the disclosure of information other than those set out in subsections (3) to (5)?

Yes

If yes, what other restrictions should be placed on the disclosure of information between charter service providers and the Commissioner?

Please provide information to support your answer here::

Great care should be taken in requiring disclosure of confidential restorative justice meetings. We refer you to the questions arising from parole hearings in England and Wales where the fact the conversation took place is evidence but there should not be a requirement to share the outcome agreement or to require restorative justice facilitators to divulge details of the meeting which could compromise the individuals who participated. ref: Why me? Restorative Justice guidance for Parole Boards.

Do you have anything further to add in relation to Clauses 9 to 15 of the Bill?

No

Please provide information to support your answer here::

Clauses 16 to 19 - Strategic plan, business plans and annual reports

Clauses 16 requires the Commissioner to prepare a strategic plan setting out objectives and priorities, how they will be achieved and how the outcomes will be monitored. The Commissioner must specify groups of victims and witnesses to whom they will have particular regard and why. The Commissioner may review the strategic plan at any time during their tenure. Clause 17 requires the Commissioner to send an annual business plan to the Department of Justice setting out how they propose to carry out the Commissioner's functions. Do you agree with the provisions at Clauses 16 and 17?

Yes

Please provide information to support your answer here::

This is a repeat of an earlier clause response but is relevant here too:

Reporting lines and visibility

We consider that requiring the Commissioner to lay their annual report before the Northern Ireland Assembly or Government, rather than solely before the Department of Justice, would give the office greater visibility and a higher institutional status. This would also strengthen the Commissioner's independence and public accountability.

Recommendation: Amend the Bill so that the Commissioner's annual report is laid before the Northern Ireland Assembly/Government, not only submitted to the Department of Justice.

Clause 18 requires the Commissioner to produce an annual report and sets out what it must include. Do you agree with Clause 18?

Yes

Please provide information to support your answer here::

See response to above clause.

Clause 19 places a duty on charter service providers to respond to recommendations made in the Commissioner's annual report and state how they will be addressed, or provide reasons why a charter service provider does not propose to act on a recommendation. The response must be published within 56 days of the publication of the Commissioner's report. Do you agree with the intent and purposes of Clause 19 of the Bill?

Yes

Please provide information to support your answer here::

Do you have anything further to add on Clauses 16 to 19 of the Bill regarding strategic plans, business plans and annual reports?

Yes

Please provide information to support your answer here::

This is a repeat of an earlier clause response, but is relevant here also:

Powers to require information outside the annual cycle

As currently framed, the Bill appears to envisage that Charter service providers report to the Commissioner on an annual cycle. In our view, the Commissioner should also have the power to require individual service providers to produce information or reports outside that cycle where a specific concern comes to light — for example, if a probation area were found not to be informing victims of their rights (including their right to information about restorative justice), not providing quality Victim Liaison Services, or failing to ensure that a victim in prison had access to services. An ad hoc information-request power of this kind would allow problems to be identified and addressed promptly, rather than waiting for the next reporting cycle.

Recommendation: Give the Commissioner a standing power to require information or reports from individual Charter service providers outside the annual reporting cycle, triggered by evidence of a specific service failure.

Clauses 20 to 23 - Supplementary

Clause 20 provides that publications made by the Commissioner under the Act are privileged and exempt from challenge under the law of defamation. Do you support Clause 20 of the Act?

Not Answered

Please provide information to support your answer here::

Clauses 21 sets out the meaning of “victim” for the purposes of Part 1 of the Bill. Do you agree with Clause 21?

Not Answered

Please provide information to support your answer here::

Clause 22 defines the terms used in Part 1; and Clause 23 introduces Schedule 2 which makes minor and consequential amendments in connection with Part 1 of the Bill. Do you have any comments to make on Clauses 22 or 23?

Not Answered

Please provide information to support your answer here::

Do you have anything further to add in relation to the supplementary provisions at Clauses 20 to 23 of the Bill?

No

Please provide information to support your answer here::

Clauses 24 to 27 - Criminal evidence and procedure

Clause 24 of the Bill provides that witnesses are eligible for assistance with giving evidence in cases dealing with an offence involving aggravation by hostility. It inserts into the Criminal Evidence (Northern Ireland) Order 1999 Order that the definition of “an offence involving aggravation by hostility” means an offence of any kind in respect of which an allegation that the offence is aggravated by hostility is specified alongside the offence in accordance with section 33(1) of the Criminal Justice (Sentencing etc) Act 2027 [see more information]. Do you agree with the provisions in Clause 24?

Yes

Please provide information to support your answer here::

Strengthened protections for victims of hate crime

The EFRJ supports the extension of special measures to those affected by hate crime and the prohibition on cross-examination by defendants in person. These are important and welcome protections.

We invite the Committee to consider whether the Bill should also make clear that victims of hate crime remain eligible for, and should be informed about, restorative justice. More broadly, we would encourage a general presumption of suitability for restorative justice across all categories of crime, unless and until a case-specific assessment indicates otherwise, rather than restorative justice being assumed unsuitable for particular offence types by default.

Recommendation: Include a presumption that restorative justice is suitable for all categories of crime, including hate crime, unless assessed otherwise on a case-by-case basis, and ensure victims are proactively informed of their eligibility.

Clause 25 provides that no person charged with an offence involving aggravation by hostility may cross examine in person a witness, including a child, who is the complainant in connection with the offence or any other offence with which that person is charged in the proceedings. Do you support the inclusion of Clause 25 in the Bill?

Yes

Please provide information to support your answer here::

Clause 26 introduces provisions for complainants in sexual offence cases in the Crown Court, to make oral or written representations to the court, be legally represented and entitled to be present at any hearing of an application for documents or records which relate to the complainant and which they could have a reasonable expectation of privacy in relation to. It makes similar provisions in relation to applications made to the court relating to the complainant's sexual history. Do you agree with the inclusion of Clause 26 in the Bill?

Yes

Please provide information to support your answer here::

Enhanced protections for complainants in serious sexual offence cases

The EFRJ supports the provision of a right to pre-trial independent legal representation for complainants in serious sexual offence cases, and the strengthening of safeguards around the disclosure of records in which complainants could reasonably expect privacy. These measures are important steps towards enhancing the privacy, dignity and protection of complainants.

Clause 27 is a technical fix required for the forthcoming introduction of committal reform provisions. It provides that, in cases involving death or serious harm of a child or vulnerable person, charges cannot be dismissed unless the charge of an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 is also dismissed. Do you agree with Clause 27 being included in the Bill?

Yes

Please provide information to support your answer here::

Procedural fairness in cases involving death or serious physical harm to a vulnerable person

The EFRJ supports the provisions intended to ensure procedural fairness and integrity in criminal proceedings that apply to defendants in cases involving the death or serious physical harm of a vulnerable person.

Do you have anything further to add on Clauses 24 to 27 of the Bill relating to Criminal Evidence and Procedure?

No

Please provide information to support your answer here::

Any Other Comments on the Bill

Do you have any other comments or views on the Victims and Witnesses of Crime Bill?

Yes

Please provide any other comments or views you have on the Victims and Witnesses of Crime Bill here::

The European Forum for Restorative Justice (EFRJ) welcomes the opportunity to respond to the Call for Evidence on the Northern Ireland Victims and Witnesses Crime Bill ("the Bill"). This submission should be read alongside our related submission to the Northern Ireland Call for Evidence on the Criminal Justice Bill, and with reference to the Restorative Justice Protocol in Northern Ireland, both of which are directly relevant to the matters raised below.

The Bill's stated purpose is to create a more victim- and witness-centred, transparent and protective criminal justice system, in which victims and witnesses are supported, represented and safeguarded. The EFRJ supports this overarching aim and, in the comments that follow, sets out where we believe the Bill's provisions could be strengthened — in particular through clearer recognition of restorative justice (RJ) as part of the support and information landscape for victims and witnesses — and where we consider further evidence or comparative learning would be valuable.

We highlight the need for protected characteristics of victims and witnesses to be taken into account when drawing up the strategic plan, standard setting and in monitoring and evaluating the success of chartered service providers to meet the needs of all victims and witnesses. Extensive research and evidence is available from Imkaan and Southall Black Sisters to name but two organisations which are active in this area.