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Submitted to Victims and Witnesses of Crime Bill
Submitted on 2026-09-24 12:02:11

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:

Eleonora Fais

What is your email address?

Email:

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

Organisation:

Anti-Trafficking Monitoring Group

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::

We welcome the establishment of a statutory Commissioner for Victims and Witnesses of Crime to strengthen independent oversight and advocacy within the criminal justice system, and to ensure that the interests of victims and witnesses remain central to policy development and legislative decision-making. The importance of this approach is highlighted in the Designated Commissioner's Annual Report, which notes "the need for a more victim-centred approach that prioritises safety and wellbeing." (<https://www.cvocni.org/files/cvocni/2026-08/RPT-CVOC-Annual-Report-202526.pdf>). Establishing the position on a statutory footing would help ensure sustainable funding and long-term continuity. Given that the current Commissioner's office operates with a small team, statutory status should also facilitate additional resources to address capacity pressures. Furthermore, the Commissioner will play a pivotal role in supporting the implementation of the Department of Justice's Victim and Witness Strategy 2026-32: A Strategy for All, published in March 2026.

However, it is essential that the Commissioner's mandate remains fully independent and that the appointment process is transparent. While Schedule 1 outlines the appointment arrangements and specifies the maximum term of office, greater clarity is required regarding the recruitment and appointment of a successor. In particular, the legislation should establish a clear timeframe for initiating and completing this process to ensure continuity in the role and avoid any gap between the conclusion of one Commissioner's term and the appointment of their successor.

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::

We agree that the Commissioner's primary focus should be to promote the interests of victims and witnesses. However, the role should also include an accountability function, enabling the Commissioner to hold the Minister of Justice and relevant public authorities to account for how they discharge their duties towards victims and witnesses and uphold their rights.

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::

This should also include a requirement for the Commissioner to be consulted on the development and review of related strategies. Victims of crime often engage with multiple systems and services simultaneously, have intersecting needs, and come from diverse backgrounds. As a result, it is essential that strategies are developed in a coordinated and joined-up manner. Where departments operate in isolation and fail to align their approaches, there is a risk of unintended consequences for victims and of gaps emerging in the support and protections available to them.

There should also be a clear provision enabling the Commissioner to communicate, cooperate, and share information with other Commissioners and oversight bodies whose remits intersect with the experiences of victims. This should include, for example, the Independent Anti-Slavery Commissioner, whose remit covers modern slavery across the UK. This would help to promote consistency, avoid duplication, and ensure that victims with complex or overlapping needs receive appropriate consideration across policy and practice.

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::

To support the Commissioner's functions, public bodies should also be required to cooperate with the Commissioner, including by providing relevant data, enabling a comprehensive understanding of emerging issues and trends.

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

Not Answered

If yes, what should they be?:

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::

We agree with the above proposal. While the independence of the courts and tribunals must be preserved, it is important that any reports, evidence, and recommendations produced by the Commissioner are given due consideration and taken seriously by relevant bodies. This is particularly important where the Commissioner identifies systemic issues, emerging trends, or gaps within the criminal justice system or other relevant system that adversely affect victims.

The Commissioner's findings should be used as an opportunity for learning and continuous improvement. For example, where evidence indicates that victims are being failed by existing processes, are being unnecessarily criminalised, or are being placed at risk by aspects of the system itself, there should be mechanisms to ensure that these concerns are appropriately considered and acted upon. While this should not encroach upon judicial independence, it should support greater accountability, improve outcomes for victims, and contribute to the ongoing development of a more effective and victim-centred justice system.

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::

Yes, in this context it is essential that the group remains diverse and representative of different statutory and non-statutory bodies and above all include Lived experience experts.

It is important for a Terms of Reference to be developed to ensure governance and appropriate safeguard. Lived experience experts may also have additional support needs and those should be taken into consideration when allocating funding for the advisory group to ensure they are able to meaningfully engage and contribute their expertise.

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::

While it is important that the Commissioner has a role in the appointment of advisory members, this should be undertaken in consultation with relevant sectors, agencies, and stakeholders to ensure that membership reflects the breadth of expertise required to support the Commissioner's functions effectively. This process should enable the Commissioner to draw on the knowledge and experience of organisations and individuals who are well placed to contribute specialist insight, including those with lived experience and those representing diverse victim groups and communities.

In addition, there should be a mechanism for periodically reviewing the membership of the advisory board. While continuity and consistency are important, it is equally essential that the board's composition remains relevant, representative, and responsive to emerging issues. Regular review would help to ensure that a diverse range of perspectives is maintained and that the advisory board continues to provide informed and effective support to the Commissioner in carrying out their functions.

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?

Yes

Please provide information to support your answer here::

Supporting individual cases will require the Commissioner to have substantial financial resources, staffing, and organisational capacity. There is a risk that the volume of cases requiring intervention could exceed available resources, potentially forcing the Commissioner to prioritise certain cases over others. However, the Commissioner should be allowed to identify and escalate issues and concerns raised by victims and organisations, even when these are reported by a single individual. This would help ensure that emerging problems are recognised early and are met with a timely and appropriate response, preventing concerns from escalating and improving accountability across the system.

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

No

Please provide information to support your answer here::

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?

Yes

Please provide information to support your answer here::

Police Ombudsman for Northern Ireland
Northern Ireland Policing Board
Criminal Justice Inspection Northern Ireland
Parole Commissioners for Northern Ireland
Coroners Service for Northern Ireland

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

Not Answered

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::

The list of data and statistical information to be provided should be kept under regular review to reflect developments in both Northern Ireland and Westminster legislation. Legislative changes may have a direct impact on the categories of data that need to be collected, monitored, and reported. Regular review will help ensure that data collection remains relevant, comprehensive, and responsive to emerging issues and evolving statutory requirements.

Where a request by the Commissioner for information or data to support the discharge of her duties cannot be met because such information is not currently recorded, the Commissioner should have a role in identifying these gaps and promoting the collection of the relevant data. This would help ensure that important information is captured consistently, strengthen transparency and accountability, and support a more effective response to victims' needs. Robust data collection is essential for transparency, accountability, and effective oversight. Where data is absent, significant gaps can emerge in understanding victims' experiences, identifying unmet needs, and detecting failures in the provision of support and assistance. By highlighting these gaps and advocating for improved data collection and reporting, the Commissioner can help strengthen the overall system and ensure that policies and services are informed by a more complete evidence base.

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?

Yes

Please provide information to support your answer here::

Cooperation with the Commissioner is essential to the Office's ability to discharge its functions effectively. Accordingly, compliance with requests for information and assistance from the Commissioner should remain a fundamental expectation. While we recognise that there may be circumstances in which full compliance is not possible, it is important that mechanisms are in place to enable organisations to work collaboratively with the Commissioner to address and rectify any obstacles. This is particularly important where non-compliance arises from issues such as gaps in data collection, deficiencies in recording practices, or other operational challenges for which solutions can be identified and implemented.

Even in cases where information cannot be provided due to considerations such as public safety, national security, legal restrictions, or public order concerns, the Commissioner should be engaged in discussions regarding the reasons for non-compliance. This would promote transparency, accountability, and mutual understanding, while ensuring that any limitations on information sharing are appropriately justified and subject to scrutiny where possible.

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::

Please see our reply to the above questions. While we appreciate that certain information, such as material relating to live investigations or protected by patient confidentiality, cannot be disclosed, it is also important to recognise that the Commissioner is subject to the same data protection obligations, including GDPR requirements and duties of confidentiality, in the discharge of their functions. In this context, it is important that communication channels remain as open as possible to enable the Commissioner to carry out their role effectively.

The Commissioner's primary function is to promote and safeguard the interests of victims and to ensure that systems and services operate in a way that best meets their needs. Therefore, even where specific information cannot be shared, the Commissioner should be able to receive sufficient information about relevant processes, decision-making frameworks, and systemic issues to enable effective oversight, scrutiny, and advocacy on behalf of victims.

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

Not Answered

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::

n/a

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::

It is crucial the Commissioner retains a degree of independence in determining which groups of victims should be given particular regard and to talk to any groups they see fit. While it is important to consult the Department, the choice should not be influenced solely by them or the victim group statistical size. Decisions about prioritisation should be informed by a broad and meaningful consultation process involving statutory and non-statutory organisations, as well as victims and witnesses from a range of crime types. Such engagement should take place from the outset and inform the development of the Commissioner's priorities and work programme. A comprehensive mapping exercise is essential to identify victim groups whose experiences may not be fully reflected in official data. Low prevalence often reflects underreporting, or failures in identification. Victims of modern slavery and human trafficking are a clear example of this. Despite substantial evidence of child criminal exploitation, including the involvement of children in drug distribution and paramilitary-related activities, referrals to the National Referral Mechanism have not reflected the scale of the issue.

While the Commissioner cannot prioritise every victim group equally and must focus resources where they can have the greatest impact, it is vital that decisions are informed by robust consultation and a thorough understanding of unmet need. Smaller or less visible groups are often overlooked when priorities are based exclusively on statistical prevalence. Consideration should also be given to alternative approaches to supporting these groups, including collaboration with other commissioners and oversight bodies whose remits intersect with victims' experiences, such as the Independent Anti-Slavery Commissioner.

Survivors of trafficking and modern slavery face a unique set of barriers that distinguish their experiences from those of many other victims. These may include coercion and control by perpetrators, fear of authorities, delayed disclosure, insecure immigration status, risks of re-exploitation, and, in some cases, criminalisation for offences they were compelled to commit. These factors frequently bring survivors into contact with the criminal justice system in complex and challenging ways.

Failures within the criminal justice system can have particularly severe consequences for trafficking survivors. Criminalisation can undermine recovery, restrict access to specialist support, and, for those without secure immigration status, affect protection from removal and access to fundamental rights and assistance. The long-term impact on an individual's safety, wellbeing, and future can therefore be profound. Therefore, oversight on the application of the statutory defence (section 22 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015) is paramount.

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::

Clause 19 places a duty on 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::

There should be a mechanism to monitor and review whether accepted recommendations are implemented in practice and deliver the intended outcomes. Where recommendations are not adopted or acted upon, there should be a process for ongoing engagement and constructive discussion between the Commissioner and the relevant organisation to identify and address any barriers to implementation. This would help ensure accountability, support continuous improvement, and enable practical solutions to be developed where obstacles, whether operational, financial, or legislative, are preventing progress.

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::

Some survivors of modern slavery would fall within the Bill as currently drafted, for example, where trafficking involved sexual offences. But protection would depend on the charges brought, not on the survivor's trafficking-related vulnerability. Furthermore, while access to support should never be contingent upon a survivor's cooperation with law enforcement authorities, the availability of appropriate support is often a key factor in enabling victims to engage safely and effectively with the criminal justice process. Where support is absent or inadequate, survivors may be less willing or able to cooperate with investigations and prosecutions, which can hinder efforts to hold perpetrators accountable and disrupt organised criminal networks responsible for exploitation.

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?

Yes

Please provide information to support your answer here::

Section 29 of the Justice Act (Northern Ireland) 2015, whose definition of "victim" is relied upon in clause 21, includes an exclusion at subsection (7), which provides that an individual cannot be treated as a victim where they are under investigation for, or have been charged with, an offence connected to the same criminal conduct.

We would like to highlight the potential impact of this definition on victims and survivors of modern slavery and human trafficking. It is well recognised that many survivors are compelled or coerced into committing criminal offences as a direct consequence of their exploitation and, as a result, are often criminalised rather than identified as victims. Excluding such individuals from recognition as victims, particularly where there is evidence that their offending was a consequence of their exploitation, risks undermining the principles of victim protection and may leave them vulnerable to further criminalisation.

Consideration should therefore be given to ensuring that victims of modern slavery and human trafficking are not excluded from access to victim protections solely because they were compelled to engage in criminal conduct as part of their exploitation and therefore this clause should reference section 22 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

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?

No

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::

In relation to the application of special measures, we recommend that survivors of modern slavery and human trafficking should be automatically eligible for consideration for special measures.

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::

This protection from direct cross examination should apply where someone is charged with human trafficking and all related charges.

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?

Not Answered

Please provide information to support your answer here::

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?

Not Answered

Please provide information to support your answer here::

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::

Clauses 28 to 30 - General

Clauses 28 to 30 provide for regulation making powers, the commencement of the parts of the Bill and the short title. Do you have any comments on Clauses 28 to 30 of the Bill?

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::

Non-discriminatory approach: the Bill should explicitly include an equality and non-discriminatory provision to ensure that victims' and witnesses' rights apply regardless of an individual's immigration status, and that information provided for the purpose of accessing support, reporting crime, or engaging with the criminal justice process is not used for immigration enforcement purposes.

This is essential to ensure that all victims are able to access the justice, protection, and support to which they are entitled, irrespective of their background or immigration status. Fear of immigration enforcement, detention, or removal is a well-recognised barrier to disclosure, reporting, and

engagement with support services and criminal justice processes.

Survivor-centred approach: while this Bill is focused on criminal justice processes, the Commissioner's role is central to ensuring that the voices of victims and witnesses are heard and represented. It is therefore essential that the Commissioner is able to scrutinise and promote access to appropriate support throughout these processes. Access to support should not be contingent upon a victim's or survivor's cooperation with, or participation in, criminal justice proceedings.

For survivors of modern slavery and human trafficking, support and recovery services are fundamental to enabling meaningful engagement with any process, particularly within the criminal justice system. These cases are often complex and can take considerable time to progress through investigation and prosecution. It is therefore essential that specialist, long-term support is available and sustained throughout the process, allowing survivors to recover, maintain stability, and make informed decisions about their engagement with the authorities. The Commissioner should have a role, even if this is cooperating with the Anti-Slavery Commissioner to examine whether such support is available, effective, and responsive to victims' needs, recognising its importance both for recovery outcomes and for the effective functioning of the justice system.

Lived Experience engagement: it is also essential that the involvement and engagement of individuals with lived experience is embedded within the Commissioner's work and recognised as a key source of expertise in informing the exercise of their functions. Lived experience experts can provide valuable insight into the realities of navigating support services, the criminal justice system, and compensation processes, ensuring that the Commissioner's work remains grounded in the needs and experiences of victims and survivors. Engagement with lived experience experts should be conducted in a trauma-informed and survivor-centred manner, with appropriate safeguards in place to minimise the risk of re-traumatisation and to support meaningful participation. Their contribution should be recognised as a form of expertise and fairly remunerated accordingly. It is important that clear frameworks and mechanisms are established to facilitate consistent, structured, and ongoing engagement, rather than relying on ad hoc consultation. This will help ensure that victims' and survivors' perspectives are embedded in the Commissioner's decision-making, priorities, and recommendations, strengthening the effectiveness, accountability, and credibility of the role.

Interaction with other Bills or existing legislation: it is crucial to clarify how this Bill will interact with existing statutory powers, duties, and frameworks, as well as with any forthcoming legislation. For example, duties towards children and the independent child guardianship service for children affected by modern slavery, are governed under Strategic Planning and Performance Group (SPPG), as part of the Department of Health. The Criminal Justice (Sentencing etc) Bill seems positive in terms of the mandatory reporting of statistics and the Commissioner. Will those new legislative obligations apply in this context?