



Northern Ireland
Assembly

Committee for Justice

Minutes of Proceedings

20 January 2022

Meeting Location: Room 30, Parliament Buildings, Belfast

Present: Mr Mervyn Storey MLA (Chairperson)

Mr Robin Newton MLA

Mr Peter Weir MLA

Present by Video or Teleconference:

Ms Sinéad Ennis MLA (Deputy Chairperson)

Mr Doug Beattie MLA

Ms Sinéad Bradley MLA

Ms Jemma Dolan MLA

Ms Rachel Woods MLA

Apologies: Ms Emma Rogan MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)

Mrs Kathy O'Hanlon (Senior Assistant Clerk)

Mr Stephen Corr (Clerical Supervisor)



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In Attendance by Video or Teleconference:

Mrs Clairita Frazer (Assistant Assembly Clerk)

The meeting commenced at 2:03 p.m. in closed session.

Agreed: The Committee agreed that, in accordance with normal protocol, agenda item one would take place in closed session to discuss the final text of the proposed Committee amendments to the Justice (Sexual Offences and Trafficking Victims) Bill with the Assembly Bill Clerk.

1. Justice (Sexual Offences and Trafficking Victims) Bill – Consideration of final text of draft Committee Amendments

Ms Stephanie Mallon, Assembly Bill Clerk, attended the meeting to outline the final text of the proposed Committee amendments to the Justice (Sexual Offences and Trafficking Victims) Bill and provided clarification on a number of issues.

The Committee considered correspondence from the Department of Justice outlining the views and position of the Minister of Justice on each of the Committee's proposed amendments.

The Committee considered correspondence from the NSPCC outlining its views on the draft Committee amendment on abuse of position of trust.

Doug Beattie MLA joined the meeting at 2:20 p.m.

Ms Sinéad Ennis, Ms Jemma Dolan and Ms Emma Rogan indicated that they were not content with the draft text of the Committee amendment on abuse of trust in light of the issues raised by the Minister of Justice.



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Agreed: The Committee agreed not to bring forward an amendment to the Minister's amendment to widen the scope of the current law on abuse of trust at this stage but it may wish to consider the position further following the debate on this issue at Consideration Stage of the Bill.

Ms Rachel Woods indicated that she did not support the Committee's agreed position.

Agreed: The Committee agreed that it was content with the final text of the proposed Committee amendments relating to Clause 1, Clause 3, Clause 16, to create a new offence of Cyber Flashing, to place a duty on the Department of Justice to bring forward Slavery and Trafficking Risk Orders within a certain time period, to place a duty on the Department to provide guidance to include training and data collection on Part 1 of the Bill, to remove the defence of reasonable chastisement and to extend the statutory defence on exploitation to include Class A drugs.

Ms Sinéad Ennis, Ms Jemma Dolan and Ms Emma Rogan indicated that they had some reservations regarding the amendment to Clause 1 and part of the text of the amendment to create a new offence of Cyber Flashing in light of the views of the Minister.

Mr Mervyn Storey, Mr Robin Newton and Mr Peter Weir indicated that they were opposed to the amendment to remove the defence of reasonable chastisement.

The Chairperson advised the Committee that the formal questions on adopting the Committee amendments would be put during the formal Clause by Clause consideration of the Bill later in the meeting.

The Chairperson thanked the Bill Clerk, Ms Mallon, for her assistance.



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The meeting moved into public session at 2:55 p.m.

Agreed: The Committee agreed that the oral evidence sessions with departmental officials on the Draft Department of Justice 2022 - 2025 Budget and the Review of Hate Crime Legislation and the Committee's Formal Clause by Clause Consideration of the Justice (Sexual Offences and Trafficking Victims) Bill should be reported by Hansard.

2. Apologies

As above.

The Clerk informed the Committee that, under Standing Order 115(6), Emma Rogan MLA had delegated authority to the Deputy Chairperson, Sinéad Ennis MLA, to vote on her behalf.

3. Draft Minutes

Agreed: The Committee agreed the minutes of the meeting held on 11 January 2022.

Agreed: The Committee agreed the minutes of the meeting held on 13 January 2022.



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4. Matters Arising

Item 1 – Committee Forward Work Programme – January and February 2022

The Committee noted an updated Forward Work Programme for January and February 2022 reflecting the work items agreed at the meeting on 13 January 2022.

Item 2 – Response from the Secretary of State for Northern Ireland regarding the Troubles Permanent Disablement Payment Scheme

The Committee noted correspondence from the Secretary of State for Northern Ireland clarifying his position on the Troubles Permanent Disablement Payment Scheme and the guidance he had published setting out relevant factors the Victims' Payment Board must take into consideration when making decisions.

5. Chairperson's Business

The Chairperson updated the Committee on recent informal meetings he and the Deputy Chairperson had held with the Minister of Justice to discuss the Department's draft 2022-25 Budget and with the Chair and Chief Executive of the Policing Board along with the Chair of its Resources Committee to discuss the 2022-25 Draft Budget allocation for the PSNI.

6. Draft Department of Justice 2022 - 2025 Budget – Oral Evidence Session with Departmental Officials

The Committee noted a Budget Consequences briefing paper provided by the Department of Justice.



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The following officials joined the meeting at 3:00 p.m.

Deborah Brown, Director, Justice Delivery Directorate, Department of Justice

Glyn Capper, Acting Director of Access to Justice Directorate, Department of Justice

Julie Harrison, Director of Safer Communities Directorate, Department of Justice

Ms Brown outlined the key issues in relation to the Department's Draft 2022-25 Budget.

The oral evidence was followed by a question and answer session.

The oral evidence session was reported by Hansard.

The officials agreed to provide additional information on a number of issues discussed during the session.

The Chairperson thanked the officials for their attendance.

Agreed: The Committee agreed to send questions not covered during the evidence session to the Department of Justice for a written response.

7. Review of Hate Crime Legislation - Update on Progress and Proposed Consultation on Policy Issues being developed for a Hate Crime Bill – Oral Evidence Session with Departmental Officials

The following officials joined the meeting at 3:51 p.m.



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Julie Harrison, Director of Safer Communities Directorate, Department of Justice

Barbara McAtamney, Head of Hate Crime Branch, Department of Justice

Noel Marsden, Policy Officer, Hate Crime Branch, Department of Justice

Dianne Lowry, Policy Officer, Hate Crime Branch, Department of Justice

Ms Harrison outlined the key issues in relation to the Review of Hate Crime Legislation and a proposed consultation on policy issues being developed for a Hate Crime Bill.

The oral evidence was followed by a question and answer session.

The oral evidence session was reported by Hansard.

The officials agreed to provide additional information on one issue discussed during the session.

The Chairperson thanked the officials for their attendance.

The Committee noted the proposed consultation on policy issues being developed for a Hate Crime Bill.

Agreed: The Committee agreed to request details of the composition of the Reference Group from the Department of Justice.

Agreed: The Committee agreed to request an update from the Department of Justice and the PSNI on their engagement on the Online Safety Bill.

Agreed: The Committee agreed that implementation of the recommendations in the Review of Hate Crime Legislation was an issue that should be highlighted in the



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Committee Legacy Report as one that the next Justice Committee may wish to prioritise for scrutiny.

Robin Newton MLA left the meeting at 4:07 p.m.

Doug Beattie MLA left the meeting at 4:09 p.m.

Sinéad Ennis MLA left the meeting at 4:11 p.m.

The meeting was suspended at 4:27 p.m. and resumed at 4:32 p.m.

Present: Mr Mervyn Storey MLA (Chairperson)

Mr Peter Weir MLA

Present by Video or Teleconference:

Ms Sinéad Bradley MLA

Ms Jemma Dolan MLA

Ms Rachel Woods MLA

8. Justice (Sexual Offences and Trafficking Victims) Bill - Formal Clause by Clause Consideration

The Committee considered correspondence from the Department of Justice providing confirmation that the list referred to in Clause 8(5) must be construed as non-exhaustive and no amendment to the wording was necessary or desirable but that an addition to the wording of the Explanatory and Financial Memorandum would be made to provide clarity.

Agreed: The Committee agreed that it was content that no amendment was needed to Clause 8(5).



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The Committee noted correspondence from the Department providing a response to the Summary of Evidence table.

The Committee noted the text of the following Department of Justice amendments:

- A New Clause covering Consent to Serious Harm for Sexual Gratification is No Defence
- An Amendment to make 'Threats to disclose private sexual photographs and films with intent to cause distress' an offence
- An amendment to Clause 15 to include the exclusion of the public from appeal hearings against conviction or sentence in serious sexual offence cases in the Court of Appeal
- An amendment to create a new offence of non-fatal strangulation or asphyxiation

Agreed: The Committee was content to support the principles of the amendments but, given it had not had sufficient time to consider the text of them, seek the views of key stakeholders and carry out adequate scrutiny, it would note them and provide the text to the PSNI, the PPS, the Law Society and the Bar for views/comments

The Committee commenced its formal Clause by Clause consideration of the Justice (Sexual Offences and Trafficking Victims) Bill.

Clause 1 – Voyeurism: additional offences

The Committee considered Clause 1 and its proposed amendment to remove the 'banter' defence.

Clause 1, Page 2, Line 18, leave out 'B.' and insert –

'B,

or that a reasonable person would consider the action to be likely to cause B to suffer humiliation, alarm or distress.'



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Clause 1, Page 3, Line 11, leave out 'B.' and insert –

'B,

or that a reasonable person would consider the action to be likely to cause B to suffer humiliation, alarm or distress.'

Agreed: The Committee agreed that it was content with its amendment as drafted.

Agreed: The Committee agreed that it was content with Clause 1, subject to its proposed amendment.

Robin Newton MLA returned to the meeting at 4:38 p.m.

New clause 1A - Cyberflashing

The Committee considered its proposed amendment to insert a new Clause 1A to provide for an offence of cyberflashing.

Page 3, Line 23, insert new clause –

'1A Coercing a person into looking at a sexual image

(1) A person (A) commits an offence if—

(a) A intentionally and for a purpose mentioned in subsection (2) or a condition in subsection (3) causes another person (B)

(i) without B consenting, and

(ii) without any reasonable belief that B consents,

to look at a sexual image.

(2) The purposes are—

(a) obtaining sexual gratification,

(b) humiliating, distressing or alarming B,



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or that a reasonable person would consider the action to be likely to cause B to suffer humiliation, alarm or distress.

(3) A condition is that a reasonable person would consider the action to be likely to cause B to suffer humiliation, alarm or distress.

(4) For the purposes of subsection (1), a sexual image is an image (produced by whatever means and whether or not a moving image) of—

(a) A engaging in a sexual activity or of a third person or imaginary person so engaging,

(b) A's genitals or the genitals of a third person or imaginary person

(5) A person found guilty of an offence under this Article is liable –

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.'

Agreed: The Committee agreed that it was content with the new Clause 1A as drafted.

Agreed: That the Committee recommends to the Assembly that the proposed new Clause 1A be added to the Bill.

Clause 2 – Sexual grooming: pretending to be a child

The Committee considered Clause 2 as drafted.

Agreed: The Committee agreed that it was content with Clause 2 as drafted.

New Clause 2A – Abuse of position of trust: relevant positions



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The Committee considered an amendment proposed by the Minister of Justice to insert a new Clause 2A to extend the scope of abuse of position of trust of a child offences to include certain activities carried out in sports and faith settings.

After clause 2 insert—

‘Abuse of position of trust: relevant positions

2A.—(1) *The Sexual Offences (Northern Ireland) Order 2008 is amended as follows.*

(2) *In Article 2 (interpretation), after paragraph (4) insert—*

“(4A) “The Department” means the Department of Justice.”.

(3) *In Article 28 (positions of trust), in paragraph (1)(b), for “an order made by the Secretary of State” substitute “regulations made by the Department”.*

(4) *After Article 29 insert—*

“Positions of trust: further categories

29A.—(1) *For the purposes of Articles 23 to 26, a person (A) is in a position of trust in relation to another person (B) if—*

(a) A coaches, teaches, trains, supervises or instructs B, on a regular basis, in a sport or a religion, and

(b) A knows that A coaches, teaches, trains, supervises or instructs B, on a regular basis, in that sport or religion.

(2) *In paragraph (1)—*

“sport” includes—

(a) any game in which physical skill is the predominant factor,

(b) any form of physical recreation which is also engaged in for purposes of competition or display,

“religion” includes—

(a) a religion which involves belief in more than one god,

(b) a religion which does not involve belief in a god.



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(3) Paragraph (1) does not apply where A is in a position of trust in relation to B by virtue of circumstances within Article 28.

(4) The Department may by regulations amend paragraphs (1) and (2) so as to add or remove an activity in which a person may be coached, taught, trained, supervised or instructed.”.

(5) In Article 80—

(a) the heading becomes “Orders and regulations”,

(b) after paragraph (3) insert—

“(4) Regulations under Article 28(1)(b) or 29A(4) may not be made unless a draft of them has been laid before and approved by a resolution of the Assembly.

(5) Regulations under this Order may include any incidental, supplementary, consequential, transitory, transitional or saving provision which the Department considers necessary or expedient.”.’

Agreed: The Committee agreed that it was content with the proposed new Clause 2A.

Agreed: That the Committee recommends to the Assembly that the proposed new Clause 2A be added to the Bill.

Clause 3 – Miscellaneous amendments as to sexual offences and Schedule 2

The Committee considered Clause 3 and its proposed amendment to make it clear that payments may be something other than financial.

Clause 3, Page 6, Line 12, after ‘paying’ insert –

‘(which is not limited solely to the exchange of monies for this purpose)’

Agreed: The Committee agreed that it was content with its amendment as drafted.



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Agreed: The Committee agreed that it was content with Clause 3, subject to its amendment.

New Clause 3A – Abolition of defence of reasonable chastisement

The Committee considered its proposed amendment to insert a new Clause 3A to remove the defence of reasonable chastisement.

The question was put that the Committee was content with its proposed amendment as drafted.

The Committee divided: Ayes 3; Noes 3; Abstain 0

Ayes: Ms Sinead Bradley, Ms Jemma Dolan, Ms Rachel Woods

Noes: Mr Mervyn Storey, Mr Robin Newton, Mr Peter Weir

The question was negatived.

Clause 4 – Extended anonymity of victims

Clause 5 – Disapplication of anonymity of victim after death

Clause 6 – Increase in penalty for breach of anonymity

Clause 7 – Special rules for providers of information society services

Agreed: The Committee agreed to group Clauses 4 to 7 for the purpose of putting the question.

Peter Weir MLA left the meeting at 4:45 p.m.

The Committee considered Clauses 4 to 7 as drafted.

Agreed: The Committee agreed that it was content with Clauses 4 to 7 as drafted.



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Clause 8 – Restriction on reports as to suspects of sexual offences

Clause 9 – Meaning of sexual offence in section 8

Clause 10 – Power to disapply reporting restriction

Clause 11 – Magistrates’ courts rules

Clause 12 – Offence relating to reporting

Clause 13 – Interpretation of sections 8 to 12

Clause 14 – Consequential amendment

Agreed: The Committee agreed to group Clauses 8 to 14 for the purpose of putting the question.

Sinéad Ennis MLA returned to the meeting at 4:46 p.m.

The Committee considered Clauses 8 to 14 as drafted.

Agreed: The Committee agreed that it was content with Clauses 8 to 14 as drafted.

Clause 15 – Serious sexual offences: exclusion of public from court

The Committee considered Clause 15 as drafted.

Agreed: The Committee agreed that it was content with Clause 15 as drafted.

New Clause 15A – Guidance about Part 1



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The Committee considered its proposed amendment to insert new Clause 15A into the Bill to place a duty on the Department of Justice to provide guidance on Part 1 of the Bill including training and data collection.

Agreed: The Committee agreed that it was content with proposed new Clause 15A as drafted.

Agreed: That the Committee recommends to the Assembly that the proposed new Clause 15A be added to the Bill.

Clause 16 – Support for victims of trafficking etc

The Committee considered its two proposed amendments to Clause 16 to extend support for victims of trafficking and its proposed amendment to extend the statutory defence on exploitation to include Class A drugs.

Clause 16, Page 20, Line 6, at end insert –

‘(aa) in subsection (4) after ‘days’ insert ‘(or more based on need)’

Clause 16, Page 20, Line 6, at end insert –

‘(ab) in subsection (9) leave out ‘such further period as the Department thinks necessary’ and insert ‘for 12 months (or less if not required)’

Clause 16, Page 20, Line 12, at end insert –

‘(4) In section 22 (Defence for slavery and trafficking victims in relation to certain offences)–

(a) in subsection (9)(a)(i) after ‘of a’ insert ‘Class A,’

(b) In subsection (9)(a)(ii) after ‘of a’ insert ‘Class A or,’

Agreed: The Committee agreed it was content with its amendments as drafted.



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Agreed: The Committee agreed it was content with Clause 16, subject to its amendments.

Clause 17 – Reports on slavery and trafficking offences

The Committee considered Clause 17 as drafted.

Agreed: The Committee agreed it was content with Clause 17 as drafted.

New Clause 17A – Protective measures for victims of slavery or trafficking

The Committee considered its proposed amendment to insert new Clause 17A into the Bill to place a duty on the Department of Justice to bring forward protective measures for victims of slavery and trafficking.

Page 20, Line 17, insert new clause –

‘Protective measures for victims of slavery or trafficking

17A. (1) The Department of Justice may by regulations, within 24 months of Royal Assent, make provision—

(a) enabling or requiring steps to be taken or measures to be imposed for protecting a person from slavery or trafficking,

(b) for the purpose of or in connection with such steps or measures for protecting a person from slavery or trafficking.

(2) Steps or measures which may be provided for in regulations under this section are not limited to notices or orders.

(3) The regulations may not be made unless a draft has been laid before and approved by a resolution of the Assembly.’



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Agreed: The Committee agreed that it was content with proposed new Clause 17A as drafted.

Agreed: That the Committee recommends to the Assembly that the proposed new Clause 17A be added to the Bill.

Clause 18 – Qualifying offences for sexual offences prevention orders

Clause 19 – Time limit for making violent offences prevention orders

Agreed: The Committee agreed to group Clauses 18 and 19 for the purpose of putting the question.

The Committee considered Clauses 18 and 19 as drafted.

Agreed: The Committee agreed that it was content with Clauses 18 and 19 as drafted.

Clause 20 – Ancillary regulations

Clause 21 – Commencement

Clause 22 – Short title

Agreed: The Committee agreed to group Clauses 20 to 22 for the purpose of putting the question.

The Committee considered Clauses 20 to 22 as drafted.

Agreed: The Committee agreed that it was content with Clauses 20 to 22 as drafted.



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Schedule 1 – Consequential amendments: voyeurism (additional offences)

The Committee considered Schedule 1 as drafted.

Agreed: The Committee agreed that it was content with Schedule 1 as drafted.

Schedule 2 – Miscellaneous amendments as to sexual offences

The Committee considered Schedule 2 as drafted.

Agreed: The Committee agreed that it was content with Schedule 2 as drafted.

Schedule 3 – Offence of breach of anonymity: providers of information society services

The Committee considered Schedule 3 as drafted.

Agreed: The Committee agreed that it was content with Schedule 3 as drafted.

Long Title

The Committee considered the Long Title of the Bill.

Agreed: The Committee agreed that it was content with the Long Title.



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The Chairperson advised Members that the formal clause by clause scrutiny of the Justice (Sexual Offences and Trafficking Victims) Bill was concluded and the draft report on the Bill would be prepared for consideration at the meeting on 27 January 2022.

9. January Monitoring Round 2021-22 – Additional Information

The Committee noted further information provided by the Department of Justice on a range of issues relating to the January Monitoring Round and copies of the January Monitoring Forms which had been submitted to the Department of Finance.

10. Proposals to Reform Rehabilitation Periods in Northern Ireland - Summary of Consultation Responses and Proposed Way Forward

The Committee considered a briefing paper from the Department of Justice on the outcome of the consultation on proposals to reform rehabilitation periods in Northern Ireland and the proposed way forward and a copy of the consultation report and summary of responses.

The Committee noted that the Department has submitted a proposal for a Statutory Rule which will be subject to draft affirmative resolution to amend Article 6 of the Rehabilitation of Offenders (Northern Ireland) Order 1978 to introduce the reformed rehabilitation periods.

Agreed: The Committee agreed to schedule an oral evidence session with Department of Justice officials on the outcome of the consultation and proposed way forward in February.

Sinéad Ennis left the meeting at 4:58 p.m.



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11. Review of Sentencing Policy in Northern Ireland - Sentencing for Offences of Causing Death by Driving

The Committee noted an update provided by the Department of Justice on progress on preparations for legislative change to the maximum penalty for offences of causing death by driving following the Sentencing Policy Review.

Agreed: The Committee agreed to forward a copy of the update to the individuals they had met with on this issue for information.

12. Draft Strategic Framework for Youth Justice – Additional Information

The Committee considered further information provided by the Department of Justice on the draft Strategic Framework for Youth Justice and associated action plan.

Agreed: The Committee agreed to forward the information to the children's organisations and request their views.

13. Domestic Abuse Offence Training and Awareness Materials - Update

The Committee considered an update provided by the Department of Justice on the eLearning training package, the digital awareness tool and the PSNI, PPS and judiciary training that is taking place ahead of the new domestic abuse offence coming into operation as well as further details of the multi-media public awareness campaign.

Agreed: The Committee agreed to ask the Department of Justice to clarify in what way the public awareness campaign conflicts with pre-election purdah.

Agreed: The Committee agreed to write to the Assembly Director of Corporate Services to request that the eLearning Package is made available to Assembly staff.



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14. Correspondence

- i. The Committee considered a briefing paper from Dr Lowe providing further details of his proposal to introduce a bespoke version of the Prevent Strategy currently operating in Britain to reduce hate crime and sectarianism in Northern Ireland.

Agreed: The Committee agreed to request the views of the Department of Justice on Dr Lowe's proposal.

The Committee noted the following:

- ii. A response from the Department of Justice providing further information on the response to the Criminal Justice Inspection Northern Ireland Report on 'How the Justice System Treats Females in Conflict with the Law'.
- iii. A response from the Police Service of Northern Ireland providing clarification of one issue covered in its response on the Abortion (Safe Access Zones) Bill.
- iv. An invitation from the Committee for the Executive Office to an event on 18 January 2022 to facilitate engagement between the Victims and Survivors Forum and Members of the Executive, Justice and Health Committees.
- v. A copy of a letter from the Chair of the House of Lords European Affairs Sub-Committee on the Protocol on Ireland/Northern Ireland to the Minister of State for Home Affairs requesting further information in relation to the Nationality and Borders Bill.
- vi. The NI Chamber of Commerce and Industry and BDO NI Quarterly Economic Survey Summary – 4th Quarter 2021.
- vii. Notification from the Northern Ireland Judicial Appointments Commission of the appointment of a District Judge on 11 January 2022.



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- viii. The Investment Strategy Northern Ireland – Department of Justice Procurement Activity Report for December 2021.

15. Any Other Business

Ms Jemma Dolan referred to the recent publication of a report by the NI Police Ombudsman on the Investigation into Police Handling of Certain Loyalist Paramilitary Murders and Attempted Murders in the North West of Northern Ireland during the Period 1989 to 1993.

Agreed: The Committee agreed to ask the Minister of Justice for her response to the Police Ombudsman's report.

The Committee discussed the volume of committee work over the coming week and available staff resources.

Agreed: The Committee agreed that the meeting on 27 January 2022 should focus only on essential items of business including consideration of the Committee Report on the Justice (Sexual Offences and Trafficking Victims) Bill and the oral evidence session with the Youth Justice Agency on the 2022-15 Draft Budget and other work items would be deferred until the following week.

16. Date, Time and Place of the next meeting

The next meeting will be held on Thursday 27 January 2022 at 2:00 p.m. in the Senate Chamber, Parliament Buildings.

The meeting was adjourned at 5:08 p.m.



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Mervyn Storey MLA

Chairperson, Committee for Justice

27 January 2022