



Northern Ireland  
Assembly

# Committee for Justice Legacy Report 2017 - 2022

Report: NIA 185/17-22

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## List of abbreviations and acronyms used in the report

CJINI	Criminal Justice Inspection Northern Ireland
EU	European Union
LCM	Legislative Consent Motion
MLA	Member of the Legislative Assembly
NDNA	New Decade, New Approach
NI	Northern Ireland
NICCYP	Northern Ireland Commissioner for Children and Young People
NICTS	Northern Ireland Courts and Tribunals Service
NIHRC	Northern Ireland Human Rights Commission
NIPS	Northern Ireland Prison Service
NPS	National Probation Service
PBNI	Probation Board for Northern Ireland
PIDR	Personal Injury Discount Rate

PIL	Private International Law
PSNI	Police Service of Northern Ireland
SHPOs	Sexual Harm Prevention Orders
SPOs	Stalking Protection Orders
SROs	Sexual Risk Orders
TROs	Terrorist Related Offenders
UK	United Kingdom

# Remit, Powers and Membership of the Committee

The Committee for Justice is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Justice and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Justice.

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of 5. The membership of the Committee is as follows:

- Mr Mervyn Storey MLA (Chairperson)
- Ms Sinéad Ennis MLA (Deputy Chairperson)
- Mr Doug Beattie MLA
- Ms Sinéad Bradley MLA

- Ms Jemma Dolan MLA
- Mr Robin Newton MLA
- Ms Emma Rogan MLA
- Mr Peter Weir MLA
- Ms Rachel Woods MLA

# Review of 2017 – 2022 Mandate

## Scrutiny

1. The Committee for Justice has held 101 meetings since its establishment on 14 January 2020 until the end of this mandate at 0001 hours on 28 March 2022. The majority of the meetings have been held in open session. Any meetings or parts of meetings held in closed session were scheduled in accordance with normal procedural convention to enable the Committee to take advice on and discuss potential amendments to the various Bills the Committee was charged with scrutinising, to take privileged legal advice, to discuss procedural matters and, at the request of the Department of Justice, to hear evidence on several issues classified for security reasons.
2. While the Covid-19 pandemic restricted the normal working arrangements of the Committee, this did not impact on the Committee's ability to undertake its full remit and responsibilities as it made use of the hybrid arrangements that were put in place for Committee meetings and continued to meet frequently despite the restrictions in place.
3. Having received a number of briefings from the Minister of Justice, the Chief Constable, departmental officials, NI Prison Service officials, NI Courts and Tribunals Service officials and the Chief Inspector of Criminal Justice Inspection Northern Ireland to gain a clear understanding of the Department of Justice responsibilities, key work streams, financial position, priority issues and challenges and the proposed legislative programme, the Committee held an informal planning session on 5 March 2020. At that session the Committee agreed that its key priority would be scrutiny of the primary legislative programme and related policy reviews that the Department of Justice indicated it intended to bring forward over the next eighteen months.

4. The Committee for Justice’s key activities, outputs and achievements are summarised below.

### **Scrutiny of Primary Legislation**

5. Five departmental Bills were referred to the Committee for Justice to undertake the Committee Stage.

### **Domestic Abuse and Civil Proceedings Bill**

6. Prior to this Bill receiving Royal Assent on 1 March 2021 the law in Northern Ireland did not adequately recognise that domestic abuse is not limited to physical violence and psychological abuse is just as harmful, if not more so. The evidence received by the Committee of the destructive effects on victims of psychological abuse was powerful and persuasive and vividly illustrated the urgent need for this Bill which created a new domestic abuse offence that recognises the experience of victims, the repetitive nature of abusive behaviour and the potential cumulative effect of domestic abuse.
7. The Committee supported a range of amendments brought forward by the Minister of Justice, many of which were as a direct result of the Committee’s scrutiny of the Bill. These included the addition of new provisions to provide for court rules for special measures in family proceedings and in civil proceedings and to provide for a court hearing civil proceedings to have a discretionary power to prohibit cross-examination in person.
8. As a result of the evidence received the Committee also brought forward six amendments to strengthen the protection for victims of domestic abuse and ensure the legislation is implemented properly, all of which received the support of the Assembly. Two of the amendments provided additional support and protection for both adult and child victims of domestic violence and abuse. The first placed a duty on the Minister of Justice to provide for Domestic Abuse Protection Notices and Orders or a similar type scheme within 24 months of commencement of the legislation to give short term



protection to victims for a period of time after an incident, providing them time and space to consider their next steps. The second provided the legislative basis for schools to be notified where a domestic abuse incident has occurred the night before in which police have been called out. This approach, often referred to as Operation Encompass, has been adopted very successfully in England and Wales enabling schools to be in a better position to understand and be supportive of a child's needs and possible behaviours and helping to safeguard children against the short, medium and long-term effects of domestic abuse.

9. One of the consistent themes running through the evidence received by the Committee related to the importance of how the legislation would be implemented. The Committee agreed that, for the legislation to be effective and achieve the desired result of better protection and criminal justice outcomes for victims of domestic violence and abuse, getting the implementation right in terms of training, monitoring, reporting and public awareness was crucial. The four amendments brought forward by the Committee provided for independent oversight, robust data collection and regular and mandatory training for Police Service of Northern Ireland (PSNI), Public Prosecution Service and NI Courts and Tribunals Service (NICTS) staff who are involved in taking these cases forward and placed a requirement on the Department of Justice to regularly report on the operation of the domestic abuse offence and the aggravating factors provided for in the legislation. The aim of the amendments was to enhance transparency and provide reassurance regarding the full and effective implementation of the legislation.

10. Read the Committee Report on the Domestic Abuse and Civil Proceedings Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/domestic-abuse-and-family-proceedings-bill/>

### **Criminal Justice (Committal Reform) Bill**

11. The Criminal Justice (Committal Reform) Bill was a largely technical Bill which aimed to improve the operation of the criminal justice system by

reforming committal proceedings, which is the procedure used to determine whether there is sufficient evidence available to justify putting a person on trial in the Crown Court.

12. While the Committee was supportive of the legislation, recognising that removal of oral evidence at committal stage will provide victims and witnesses with the reassurance that they will not have to give oral evidence or be subject to cross-examination twice in the trial process, the Committee was not convinced that the legislation would achieve one of its stated aims which was to speed up the justice system. The Committee therefore made a number of recommendations to the Department including that the work to develop a robust case management framework should be expedited; it should take a collaborative approach to ensure all partners are fully aware of their obligations and delays are not simply shifted from the magistrates' court to the Crown Court; and that the evaluation of the roll-out of direct committal should capture how the legislation has improved the experiences of victims and witnesses and the specific impact it has had on speeding up justice and reducing overall delay in the criminal justice system.

13. The Committee was also of the view that other measures are required to tackle avoidable delay in the criminal justice system and welcomed the Inquiry on Speeding Up Justice by the Public Accounts Committee.

14. Read the Committee Report on the Criminal Justice (Committal Reform) Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-criminal-justice-committal-reform-bill/>

### **Damages (Return on Investment) Bill**

15. While the Damages (Return on Investment) Bill was also a technical Bill its purpose, to introduce a new statutory methodology for calculating the personal injury discount rate (PIDR), which is an adjustment made to an award of damages for wrongfully inflicted personal injury, was very important to those who had received such personal injuries and those stakeholders operating in the personal injury field. Such awards are often in the form of a

lump sum and should put the injured person in the same financial position had they not been injured, including loss of earnings, future care costs and provision of specialist equipment, without over- or under-compensating them (known as the “100% rule.”) The PIDR is used to adjust the lump sum awarded to reflect interest that may be earned from the lump sum the person is expected to invest with the aim of ensuring that it lasts for the rest of their life. It largely applies to claims arising from medical negligence, road traffic accidents and industrial accidents.

16. The Minister initially indicated that she intended to seek accelerated passage for this Bill. While the Committee appreciated the need for a stable, longer-term PIDR to be set in Northern Ireland with a facility for it to be reviewed at regular intervals, it did not believe it had enough information to properly and fully assess if the legal framework proposed by the Department in the Bill would achieve the objective of as close to 100% compensation as possible and was therefore unable to indicate support for the case for accelerated passage.
  
17. The Minister subsequently did not seek the support of the Assembly for accelerated passage and the Committee undertook detailed scrutiny of both the elements of the new framework individually and in conjunction with each other to assess the likely effect the framework would have in its totality on the potential to achieve as close to 100% compensation or to provide for either over- or under compensation. Having taken all the views into account the Committee agreed that it was content with the provisions of the Bill as drafted.
  
18. The Committee did however make two recommendations for the Department of Justice. The first was that the Department should publish an impact assessment setting out the potential implications of different rates on Departments and businesses when a review is due to take place so that the potential consequences and costs are fully understood and necessary mitigations and actions can be considered by Government and the relevant

organisations in preparation for a new rate coming in. The second was that the Department should undertake an assessment of the potential options to gather evidence of actual claimant investment behaviour to inform future consideration of the framework to set the PIDR.

19. Read the Committee Report on the Damages (Return on Investment) Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-damages-return-on-investment-bill/>

### **Protection from Stalking Bill**

20. The Committee particularly welcomed this Bill as it was the result of work initiated by a previous Justice Committee in 2016. The Bill created a specific new offence of stalking that recognised the behaviour associated with it, an offence of threatening and abusive behaviour which could be triggered by a single incident, special measures for all victims of stalking when giving evidence and Stalking Protection Orders (SPOs) and Interim Orders to enable the police to proactively intervene, disrupt stalking behaviours before they escalate and protect victims when there is immediate risk to them.

21. The need for this legislation to provide the criminal justice agencies with robust tools to tackle stalking behaviour that takes into account the patterns of behaviour over time and the insidious nature of it to address the gaps that existed was clear from the evidence received by the Committee. Again, the importance of how the legislation would be implemented and the need for a comprehensive, consistent and informed approach by the criminal justice agencies was a constant theme and one with which the Committee agreed. The four amendments brought forward by the Minister, at the request of the Committee, covering guidance, training, data monitoring and reporting both for the new offence and the new SPOs and interim Orders provide the basis for the legislation to be monitored, assessed and reported on in a transparent manner.

22. Read the Committee Report on the Protection from Stalking Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-protection-from-stalking-bill/>

### **Justice (Sexual Offences and Trafficking Victims) Bill**

23. The aim of this Bill was to improve the operation and effectiveness of the justice system, enhance public safety and improve services for victims of trafficking and exploitation. A large number of amendments were made and a range of new provisions added to the Bill during its passage through the Assembly.
24. The Committee supported amendments brought forward by the Minister of Justice that provided clarification and certainty of the common law position that consent to serious harm for sexual gratification is no defence, to create a new offence of non-fatal strangulation or asphyxiation and to widen the scope of the offence of 'disclosure of private photographs or films with intent to cause distress' to include the 'threat to disclose', all of which provide further protections for victims. While the Committee also supported the Minister's amendment to extend the abuse of trust to include certain activities in sports or faith settings, Members remained to be convinced that the provision was comprehensive and expansive enough to provide the protection that all children and young people are entitled to from adults in a position of trust. It therefore brought forward an amendment to provide for a robust, regular and on-going review mechanism to determine whether there is evidence of a risk of harm that would warrant a legislative intervention in any other sectors. This will enable appropriate action to be taken quickly if necessary.
25. The Committee also brought forward a number of amendments to strengthen Part 1 of the Bill including the provision of a separate, standalone reckless element to be included in the up-skirting and down-blousing offences to address concerns that they were too narrowly drafted, to provide for a new offence of cyber-flashing and to place a duty on the Department to provide and review in due course guidance, training and data collection to

ensure effective implementation of Part 1 of the Bill and in particular the new offences created. In the Committee's view the need for a clear understanding and effective implementation of the new offences by the criminal justice agencies which will assist in obtaining successful prosecutions is key in building victims' confidence in the system and encouraging them to come forward, report offences and engage and participate in the criminal justice process.

26. The Committee also took the opportunity to build on the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act 2015 and improve and enhance the support and protection provided to victims of trafficking and exploitation. It brought forward amendments to provide for additional statutory support for victims while in the National Referral Mechanism process and following receipt of a positive conclusive decision and to place a duty on the Department of Justice to bring forward, by 2024, protective measures for victims of slavery and trafficking such as Slavery and Trafficking Risk Orders. It also brought forward an amendment to extend the statutory defence for victims and survivors of human trafficking to include Class A drugs which reflects the more recent type of criminal exploitation of trafficked victims that has emerged.

27. Read the Committee Report on the Justice (Sexual Offences and Trafficking Victims) Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-justice-bill/>

### **Scrutiny of Legislative Consent Motions**

28. The Committee considered and approved six legislative consent motions (LCMs) referred to it by the Department of Justice. The LCMs proposed to extend to Northern Ireland various provisions of five Bills that were proceeding through the UK Parliament. As part of its consideration of the motions, the Committee sought additional information and clarification from the Department and other key stakeholders as necessary.

### **Private International Law (Implementation of Agreements) Bill**

29. The Private International Law (Implementation of Agreements) Bill provided for the implementation of international agreements on Private International Law (PIL) in domestic law, such as the three Hague Conventions on Child Protection in cross-border disputes, Choice of Court in cross-border contracts and Maintenance in relation to rules for the recovery of child support and other forms of family maintenance. The Committee raised concerns about the regulation-making powers in the Bill but, after receiving assurances from the Department of Justice that the Secretary of State will only legislate in Westminster with the consent of a Northern Ireland Department, the Committee indicated that it was content with the principle of the extension of the provisions of the Bill to Northern Ireland on 23 April 2020.

30. Read the Committee Report on the Private International Law (Implementation of Agreements) Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion--private-international-law-implementation-of-agreements-bill/>

### **Sentencing (Pre-Consolidation Amendments) Bill**

31. The Sentencing (Pre-Consolidation Amendments) Bill amended existing legislation in order to facilitate the enactment and operation of the Law Commission's proposed Sentencing Code to consolidate the law on sentencing procedure in England and Wales. A resultant LCM extended to Northern Ireland a small number of provisions relating to the transfer of community orders, youth rehabilitation orders and suspended sentence orders imposed by the courts in England and Wales, so far as these matters fall within the legislative competence of the Assembly. The Committee indicated that it was content with the LCM on 30 April 2020.

32. Read the Committee Report on the Sentencing (Pre-Consolidation Amendments) Bill at <http://www.niassembly.gov.uk/assembly->

[business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion--sentencing-pre-consolidation-amendments-bill/](https://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion--sentencing-pre-consolidation-amendments-bill/)

### **Birmingham Commonwealth Games Bill**

33. The Birmingham Commonwealth Games Bill introduced a number of temporary operational measures to support the delivery of the Commonwealth Games in Birmingham between 27 July and 7 August 2022. The associated LCM extended to Northern Ireland a number of provisions relating to the creation of a new offence that prohibited the unauthorised sale or resale of Games tickets. Having received further information requested on a number of enforcement matters and the assurances sought that the Department for the Economy had no difficulty with the enforcement role and had not expressed any concerns with the proposed offence and penalties, the Committee indicated that it was content with the LCM on 14 May 2020.

34. Read the Committee Report on the Birmingham Commonwealth Games Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion---birmingham-commonwealth-games-bill/>

### **Air Traffic Management and Unmanned Aircraft Bill**

35. The purpose of the Air Traffic Management and Unmanned Aircraft Bill was to tackle the growing problems associated with unmanned aircraft (drone activity). Civil aviation is a reserved matter, however, an LCM was referred to the Committee to allow senior NI Prison Service (NIPS) and Youth Justice Agency officials to authorise counter-drone measures in relation to the unlawful use of drones near custodial institutions. The Committee indicated that it was content with the LCM on 28 May 2020 but separately sought, and obtained, information on whether the drones and/or the institutions to which the LCM would apply are required to be registered.

36. Read the Committee Report on the Air Traffic Management and Unmanned Aircraft Bill at <http://www.niassembly.gov.uk/assembly->



[business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion---air-traffic-management-and-unmanned-aircraft-bill/](https://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion---air-traffic-management-and-unmanned-aircraft-bill/)

### **Domestic Abuse Bill**

37. The majority of the provisions of the Domestic Abuse Bill applied only to England and Wales. However, on account of the UK's intention to ratify the 'Istanbul Convention' on preventing and combatting violence against women and domestic violence, the LCM proposed to extend to Northern Ireland provisions related to extra-territorial jurisdiction. This would have the effect of extending the power of the courts in Northern Ireland to try certain sexual and violent offences committed abroad, so far as these matters fall within the legislative competence of the Assembly. The Committee indicated that it was content with the LCM on 4 June 2020, having received assurances that it would not interfere with or delay the passage through the Assembly of the Domestic Abuse and Family Proceedings Bill that was being considered by the Committee at that time.

38. Read the Committee Report on the Domestic Abuse Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion---domestic-abuse-bill/>

### **Police, Crime, Sentencing and Courts Bill**

39. The Committee considered two LCMs stemming from the Police, Crime, Sentencing and Courts Bill. The first LCM extended provisions of the Bill to Northern Ireland to: place the National Driver Offender Retraining Scheme on a statutory footing; allow for cross-jurisdictional enforcement of Sexual Harm Prevention Orders (SHPOs) and Sexual Risk Orders (SROs); amend the Proceeds of Crime Act 2002 to bring electronic money and payment institutions within the scope of account freezing and asset forfeiture powers in Northern Ireland; enable a judge in England and Wales to make an order authorising the police to obtain information about the location of human remains outside of a criminal investigation; and amend the Crime (Overseas Production Orders) Act 2019.

40. The Committee consulted the Northern Ireland Human Rights Commission (NIHRC), the Attorney General for Northern Ireland and the Independent Commission for the Location of Victims' Remains on the provisions to be included in the LCM. After more detailed engagement with the Department and the NIHRC on the concerns raised by the Commission, the Committee agreed on 21 October 2021 that it was content with the LCM.
41. Read the Committee Report on the Police, Crime, Sentencing and Courts Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-motion--police-crime-sentencing-and-courts-bill/>
42. The supplementary LCM for the Bill related to the extraction of data from mobile devices. The provision had initially been intended for inclusion in the original LCM but was omitted at that time due to ongoing concerns with the drafting of the Code of Practice to underpin the provisions. The Committee had continued to pursue this issue separately following the completion of its report on the initial LCM, and sought and received assurances that the NIHRC and other key stakeholders in Northern Ireland would be involved in the drafting of and consultation on the Code of Practice. The Committee agreed on 17 February 2022 that it was content in principle with the proposal to extend the provisions to Northern Ireland, having noted the Minister's assertion that she will consult with the Assembly following completion of the public consultation on the Code and will not agree to the commencement of the provisions without the consent of the Assembly.
43. Read the Committee Report on the Supplementary LCM on the Police, Crime, Sentencing and Courts Bill at <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/justice/reports/report-on-the-legislative-consent-mot---police-crime-sentencing-and-courts-bill/>

## **Scrutiny of Secondary Legislation**

44. The Committee has played an important role in scrutinising a wide range of subordinate legislation brought forward by the Department of Justice and when necessary has sought additional information and clarification from the Department and other key stakeholders. Following its formation in January 2020, the Committee was required to scrutinise over 50 Statutory Rules that were laid during the period 2017 to 2020 when the Assembly was not sitting.
45. The subordinate legislation considered by the Committee throughout the mandate covered a diverse range of policy areas such as the implementation of certain provisions of the Criminal Finances Act 2017 and related changes to a number of the Proceeds of Crime Act 2002 Codes of Practice; police and judicial pensions; Access NI disclosures; amendments to Parole Commissioners' Rules; Coronavirus Regulations; EU Exit; and changes to court rules and court fees, including amendments consequential to the Licencing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021.
46. The Committee particularly welcomed the Domestic Abuse Information-sharing with Schools etc. Regulations, which implement the provisions brought forward by the Committee in the Domestic Abuse and Civil Proceedings Act to establish an Operation Encompass model in Northern Ireland. Notification from the police of an incident of domestic abuse will enable the relevant school, college or training facility to offer immediate support to children experiencing domestic abuse.
47. The Committee raised a number of concerns when considering a proposal for a Statutory Rule to allow the Department to designate organisations other than the Probation Board for Northern Ireland (PBNI) to supervise terrorist related offenders (TROs) on licence who pose a risk of serious harm to the public. The Committee questioned departmental officials when giving oral evidence on the issue and sought further written information and clarification on the engagement which informed the proposed approach to managing TROs; the benchmarking of multi-agency arrangements in place

in other jurisdictions; the finalised criteria to be used to classify TROs; and the outline offender manager role developed to inform early discussions with the National Probation Service (NPS).

48. Before formally agreeing the Statutory Rule, the Committee considered the finalised definitional criteria for TROs and received assurances that the Northern Ireland centric team responsible for the management of TROs here would be staffed by core employees from the NPS and would not be selected from private companies or third party providers to the NPS.

### **Budget Scrutiny**

49. The Committee undertook regular scrutiny of the Department of Justice budget, funding allocations and pressures during each of the last two financial years and gave detailed consideration to the 2022-25 Draft Budget that was issued by the Minister of Finance for consultation in December 2021.

50. In April 2020 the Committee considered the 2020-21 budget for the Department of Justice in relation to both resource and capital funding. The Committee recognised that the Covid-19 pandemic was likely to have a significant impact, which may not be fully realised for some time, on the delivery of services across the justice sector and that, while savings may arise as planned projects or programmes were delayed, additional costs would be incurred as a consequence of the pandemic. The Committee noted its concern that the Department had not provided indicative costs for New Decade New Approach (NDNA) commitments and other potentially significant issues. It was the Committee's view that the lack of information would make it more difficult for the Department to properly plan and manage the pressures it faced and the Committee sought, and received, more information on a number of those issues.

51. As well as evidence from the Department of Justice, the Committee's consideration of the 2021-22 draft budget allocation was informed by

information provided by the justice Non-Departmental Public Bodies. The Committee was concerned that the PSNI had advised that it may need to reduce the number of officers by 300 to live within its indicative budget and would therefore be moving away from the NDNA target of 7,500 officers. Confirmation in the final budget that in-year funding would be provided to enable the PSNI to retain current officer numbers and recruit 100 additional officers was therefore welcomed, although the Committee was of the view that the associated recurring costs should be included in future baselines. The Committee also noted the important work being done on rehabilitation and reducing offending and called for this work to be properly funded as any reduction in service to deliver short-term savings would lead to costs in the longer term.

52. In respect of the 2022-25 draft Budget, the Committee undertook detailed scrutiny informed by written and oral evidence received from the Minister of Justice, the Department and organisations and stakeholders across the justice sector and submitted [a detailed response](#) for the Committee for Finance's Report. The Committee noted that the Northern Ireland Fiscal Council's report indicated that all departments would gain money with the exception of the Department of Justice which would lose around 1% taken as an average over the three years and was alarmed at the impact that this may have on the justice system, with organisations across the sector advising that staffing reductions would be necessary in order to live within budget which would clearly have consequences for the provision of services.

53. While the consultation on the draft Budget was subsequently paused by the Minister of Finance, questions remain as to whether the Department would be able to fulfil its statutory functions much less deliver non-statutory services and early intervention work which are of significant benefit to the justice system, other departments and wider society if the proposed budgetary allocations became a reality. Many of these initiatives contribute to the delivery of health and social care outcomes and any reduction or cessation will risk diverting users and increasing costs and pressures for the Health Service. Such an outcome appears contradictory to the Draft

Budget's aim of prioritising the Health Service and the Committee urged that a more holistic and collaborative approach should be taken in respect of funding for cross-cutting services. A stand-still budget allocation for the Department will still provide challenges and require difficult resourcing decision to be made.

### **Policy and Performance Scrutiny**

54. The Committee has scrutinised numerous consultations and policy proposals from the Department of Justice covering all aspects of justice and has engaged with relevant stakeholders. Some of the issues considered included:

### **Justice Response to the Pandemic**

55. On 19 March 2020 the Committee was advised that the provisions in the emergency Coronavirus Bill relating to the functions of the Department of Justice were aligned with the approach being taken across all of the United Kingdom jurisdictions and the Secretary of State for Health and Social Care had made a statement under section 19(1)(a) of the Human Rights Act 1998 that the provisions in the Bill were compatible with the Convention Rights. Departmental officials subsequently provided oral evidence on the justice related provisions in the Bill for which a LCM was being sought and the Committee also received overview briefings on the planning preparations taking place for the pandemic across the justice sector including by the PSNI, the Northern Ireland Prison Service (NIPS) and the Northern Ireland Courts and Tribunals Service (NICTS). The Committee continued to receive updates on the Covid-19 situation and response throughout April and May 2020 from justice officials and the Minister of Justice. The Attorney General also attended the meeting on 14 May 2020 to discuss the Covid-19 Regulations.

56. In June 2020 the Committee considered the Department of Justice Covid-19 Recovery Plan and information on recovery planning in relation to the NICTS, the NIPS and the Youth Justice Agency following which it continued

to monitor the Covid-19 situation, implementation of the recovery plans and progress to address the backlog of criminal, civil and family court cases.

### **EU Exit and justice related issues**

57. Justice-related matters affected by the UK's exit from the EU are not devolved but operate in and through the devolved justice system. The Committee therefore kept a watching brief through regular oral and written updates from the Department of Justice and, on specific operational issues the PSNI, to ensure that no serious issues arose and that the Department contributed to the UK Government's negotiations in respect of the future security partnership, especially regarding issues that were specific to Northern Ireland. Of particular interest to the Committee was cross-border co-operation, extradition/surrender processes, biometric exchange arrangements, other key justice measures such as Prüm, Europol and Eurojust, the exchange of criminal records, assets freezing and confiscation and the effect of the UK's exit from the Lugano Convention. The Committee also considered the impact of the outworking of the Northern Ireland Protocol on the justice sector and the Protocol-related funding requirements for the PSNI.

### **Review of Hate Crime Legislation**

58. Following the publication of the report on his comprehensive Review of Hate Crime Legislation in Northern Ireland in December 2020, Judge Marrinan met with the Committee to discuss his key findings and recommendations. The Committee subsequently considered the Department of Justice's initial response to the Review and more recently a proposed consultation on policy issues being developed for a Hate Crime Bill.

### **Youth Justice Issues**

59. Youth justice issues have been a regular feature in the work programme and the Committee maintained on-going dialogue with the NI Commissioner for Children and Young People (NICCYP) and a number of the children's organisations to inform its consideration of developments in this area.

60. The Committee sought further information and clarification in relation to a range of issues following the publication of the NI Audit Office Follow-Up Report on its 2017 Review on Managing Children who Offend, having discussed the Department's response to the findings and recommendations with NICCYP. The Committee also took written and oral evidence on the Proposals for the Development of a Joint Secure Care and Justice Campus for Children on the Woodlands/Lakewood site and considered the responses to the consultation and the plans for the next steps. Having considered further information on and clarification of a number of issues the Committee agreed to monitor progress by way of regular updates.

61. In December 2021 the Department provided a first draft of a Strategic Framework for Youth Justice and associated 5-year Action Plan which was subsequently finalised in March 2022. The Committee noted that, despite concerns raised by NICCYP and a range of children's organisations, the Strategic Framework had been signed off by the Minister and requested further information on how the Department intended to address the concerns going forward and why a full Equality Impact Assessment had not been completed.

### **Troubles Permanent Disablement Payment Scheme**

62. Following the designation of the Department of Justice in August 2020 to administer the Troubles Permanent Disablement Payment Scheme the Committee undertook frequent and detailed scrutiny of progress to develop and deliver the Scheme. This scrutiny was informed by regular engagement with representatives of the victims' groups, discussions with the President of the Victims' Payments Board and written and oral evidence from Department of Justice and Executive Office officials and representatives of Capita, the organisation appointed to undertake the assessments.

### **Implementation of Gillen Review Recommendations in relation to Serious Sexual Offences**



63. One of the key priorities for the Committee was the implementation of the recommendations in the Gillen Review into the law and procedures in serious sexual offences in Northern Ireland. The Committee considered the Department's implementation plan and received six-monthly updates on progress to implement the strategic priority areas.

### **Criminal Justice Inspection Northern Ireland Reports**

64. The Committee considered a number of Criminal Justice Inspection Northern Ireland (CJINI) Reports and requested information, both orally and in writing, on how the findings and recommendations would be addressed and the timescales for actions to be completed. Reports considered included:

- A Thematic Inspection of Public Protection Arrangements in Northern Ireland
- A Follow-Up Review on the Implementation of the Recommendations in the Thematic Inspection of the Handling of Domestic Violence and Abuse Cases by the Criminal Justice System
- A Follow-Up Review on the Implementation of the Recommendations in the Thematic Inspection of the Handling of Sexual Violence and Abuse Cases by the Criminal Justice System
- A Review of Policing and Community Safety Partnerships in Northern Ireland
- Effective Penalty Enforcement – A Review of the Impact of Current Fine Default Strategy and Services
- An Inspection of the Criminal Justice System's Response to Child Sexual Exploitation in Northern Ireland
- An Inspection of the Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland
- A Review into the Operation of Care and Supervision Units in the NI Prison Service

65. In addition to the above the Committee has scrutinised and advised the Minister on policy issues in relation to sexual exploitation of children,

strengthening the response to modern slavery and human trafficking, tackling paramilitary activity, criminality and organised crime, sentencing policy in Northern Ireland including death by unlawful driving offences, a new victims and witnesses strategy, support services for operational prison staff and retired staff, an Adult Restorative Justice Strategy, domestic violence and abuse initiatives and a Strategy for Supporting Women and Girls in contact with the justice system.

## Approach

66. In addition to formal meetings – for which key statistics are appended – the Committee also undertook a number of other actions, set out below, to enhance its legislative and scrutiny work.

### Evidence

67. The Committee was keen to hear evidence from as many organisations and stakeholders as possible during its scrutiny of the primary legislation. Public notices calling for written evidence for each of the Bills were placed in the 3 main newspapers and advertised on the Assembly webpage and on the Committee social media channels. The Committee also identified and contacted a wide range of stakeholders directly seeking written submissions to assist it in its scrutiny role. The written evidence was supplemented by oral evidence sessions with a range of organisations to explore the key issues raised. This evidence-based approach informed the Committee's decisions on whether to support the Bills as drafted or seek amendments to improve and strengthen the legislation.

68. To inform its consideration of both the Domestic Abuse and Civil Proceedings Bill and the Protection from Stalking Bill the Committee met with a number of victims on a confidential basis to hear directly of their personal experiences of domestic abuse and of stalking and their views of each piece of legislation. This approach proved invaluable in assisting the Committee to consider the legislation and identified a range of issues that were explored further and led to a number of amendments being brought forward. The willingness of an individual victim of voyeurism to discuss their experience also helped shape the new offences of up-skirting and down-blousing in the Justice (Sexual Offences and Trafficking Victims) Bill.

### Research

69. The Committee commissioned Assembly research papers to help its consideration of the Bills it scrutinised and on a number of policy areas. One of the key benefits of the research was to identify approaches in other

jurisdictions, the impact or effectiveness of these and new or emerging developments that could be introduced in Northern Ireland.

### **Engagement with Stakeholders**

70. The Committee undertook a number of informal meetings with key stakeholders on a range of issues. These discussions complemented the formal evidence sessions and informed the Committee scrutiny of key policy areas including the development and implementation of the TPDP Scheme and the proposed Strategic Framework for Youth Justice in Northern Ireland.

71. There is a large degree of independence and autonomy between the various elements of the justice system. To provide an opportunity for the Committee to discuss the main issues with the key players and gain an understanding of all perspectives, including operational aspects of particular proposals, it agreed both formal and informal arrangements for regular contact with the Lady Chief Justice, the Right Honourable Dame Siobhan Keegan and her predecessor, Sir Declan Morgan, the Chief Constable of the PSNI, Simon Byrne, the Director of Public Prosecutions, Stephen Herron, and the Chair and Deputy Chair of the Northern Ireland Policing Board.



*Committee Chairperson, Mervyn Storey MLA, with the Lord Chief Justice, Sir Declan Morgan, prior to his attendance at the Committee Meeting on 24 June 2021*

## **Social Media**

72. The Committee uses its twitter account, which has 1,445 followers from the legal profession, criminal justice organisations, academics, the media and interested individuals to provide easily accessible information on the issues to be considered at each committee meeting and its calls for evidence.

73. For the Domestic Abuse and Civil Proceedings Bill a social media campaign was used to access 'harder to reach' groups and individuals to raise awareness of the proposed new domestic abuse offence and encourage engagement with the Committee on the legislation. Thirty-two pieces of content including a video for Facebook, a blog, individual graphics, text and links were created across four social media platforms – NI Assembly blog, Facebook, Twitter and Instagram. The use of social media in this co-

ordinated way attracted a wide range of interest and contributed to receipt of views and comments on the legislation from a broader audience than would have otherwise been achieved.

## Visits

74. While the opportunity for the Committee to undertake visits was severely curtailed by the Covid-19 pandemic Members took the opportunity in March 2022 to visit the PSNI Cybercrime Centre to discuss the changing and evolving nature of crime, how the internet and technology are facilitating this and the action being taken to bring perpetrators to justice. The discussions identified that some of the challenges going forward to tackle such criminal behaviour include how the current legislation can be enhanced and resourcing requirements.



*Committee Members visit the PSNI Cybercrime Centre – March 2022*

### **Joint Meetings with the Committee for Health**

75. On two occasions, in relation to the development of a Joint Secure Care and Justice Campus for Children on the Woodlands/Lakewood site and regarding the implementation of the Regulation and Quality Improvement Authority Report on the Review of Services for Vulnerable Persons Detained in Northern Ireland Prisons, where there was a clear overlap of responsibility between the Departments of Justice and Health, the Committee held joint meetings with the Committee for Health to take evidence on the key issues. This was a more efficient and effective method of scrutiny and enabled both Committees to adopt a collaborative approach.

## Issues the Incoming Committee may wish to Prioritise

76. Issues the incoming Committee may wish to prioritise include:

77. **Domestic Abuse and Civil Proceedings Act** – Consideration of the proposals for subordinate legislation to provide for Domestic Abuse Protection Notices and Orders and, in due course, monitoring of the implementation of the new domestic abuse offence and the legal aid waiver to ensure they are operating as envisaged or issues are identified and addressed.

78. **Protection from Stalking Bill** – Monitoring of the provision of guidance and the roll-out of training on the new stalking offences and SPOs and interim Orders. At its meeting on 22 March 2022, the Committee noted that the Department had indicated that the guidance on the new stalking offences for criminal justice organisations was still a work in progress, it was not in a position to share it with the Committee and it may be the case that not all criminal justice partners would be able to be trained before the stalking offence became operational upon the Bill receiving Royal Assent. The PSNI had also confirmed that there were challenges with finalising the training module for frontline officers and staff members as they had not yet received the finalised statutory guidance which is a key element of any training package of this nature.

79. **Justice (Sexual Offences and Trafficking Victims) Bill** – Monitoring of the implementation of Part 1 of the Bill and in particular the effectiveness of the new offences of up-skirting, down-blousing and cyberflashing and the outcome of the review to be undertaken by the Department of the abuse of trust provision and the sectors involving tuition, uniformed and non-uniformed youth activities to determine whether there is evidence of a risk of harm that would warrant a legislative intervention.



80. **Criminal Justice (Committal Reform) Bill** - Scrutiny of the evaluation of the roll out of direct committal to be undertaken by the Department of Justice once it has been in operation for 18 – 24 months to inform consideration of future proposals to extend direct committal to other offences by draft affirmative regulations.
81. **Justice (Miscellaneous Provisions) Bill** - Scrutiny of the Justice (Miscellaneous Provisions) Bill which the Department has indicated that it intends to bring forward early in the next mandate.
82. **Department of Justice Budget** - Scrutiny of the Department of Justice budget, funding allocations and pressures, the impact on the delivery of statutory and non-statutory functions and in particular early intervention and problem solving justice initiatives, implications for staff resources and funding for NDNA commitments.
83. **Youth Justice** - Consideration of the Strategic Framework for Youth Justice in Northern Ireland 2022-27 and associated action plan including the issues of raising the age of criminal responsibility and repealing the defence of reasonable chastisement and how the Department is addressing the concerns of the Northern Ireland Commissioner for Children and Young People and the children's organisations and scrutiny of the development of the Joint Secure Care and Justice Campus for Children on the Woodlands/Lakewood site.
84. **Department of Justice Research into Over-Representation of Particular Groups within the Youth Justice System** – Consideration of the research commissioned by the Department of Justice which aims to examine and identify the reasons for any over-representation of particular groups, including children from a Catholic background who, according to Youth Justice Agency statistics, are disproportionately more likely to be detained in Woodlands Juvenile Justice Centre, that is expected to be published during 2022.

- 85. Review of Hate Crime Legislation** - Monitoring of the implementation of the recommendations in the Review of Hate Crime Legislation including consideration of the outcome of the Department of Justice consultation published at the end of January 2022 on a number of policy issues for inclusion in a Hate Crime Bill.
- 86. Review of Sentencing Policy in Northern Ireland** - Consideration of the implementation plan for the ten policy areas covered in the review of sentencing policy in Northern Ireland and scrutiny of the Bill to implement the legislative changes which the Department has indicated it is taking forward with a view to introduction as soon as practicable in the new mandate.
- 87. EU Exit and Justice Related Issues** – Monitoring progress on and the effectiveness of the justice-related measures to address EU Exit key issues relating to law enforcement, security and criminal justice.
- 88. Gillen Review of Serious Sexual Offences** - Monitoring of the implementation of the recommendations in the Gillen Review into the law and procedures in serious sexual offences in Northern Ireland and in particular the work on the issue of consent and the other issues that will require legislation.
- 89. Domestic and Sexual Abuse Strategy and A Strategy to Tackle Violence Against Women and Girls** – Examination of the results of the Call for Views to inform the development of both strategies and consideration of any proposals and monitoring of the delivery of the final year action plan for the current Seven Year Strategy to Tackle Domestic and Sexual Violence and Abuse and in particular progress to deliver the Domestic Violence Court pilot.
- 90. Troubles Permanent Disablement Payment Scheme** - Assessment of progress being made to obtain medical information for assessments from GPs and the Health and Social Care Trusts in a timely manner and

continuation of the engagement with the Representatives of the Victims' Groups and the President of the Victims' Payments Board regarding the implementation of the TPDP Scheme and any other issues that need to be addressed.

91. **Prisons Issues** - Review of the progress by the NI Prison Service to implement the findings and recommendations of the CJINI Report on a Review into the Operation of Care and Supervision Units, the recommendations of the Reviews of Support Services for Operational Prison Staff and Retired Staff, the delivery of the Strategic Improvement Programme 2022-2025: Prisons 25 by 25 and the delivery of capital projects relating to the upgrading of prison sites and prison facilities.
92. **Tackling Avoidable Delay in the Criminal Justice System** - Review of the progress and impact of the Speeding Up Justice programme and the Department's response to the Public Accounts Committee Inquiry findings and recommendations on Speeding up Justice.
93. **Stocktake on Policing Oversight and Accountability Arrangements and Police Ombudsman's Five Year Review** - Consideration of the results of the consultation by the Department of Justice on a number of proposals for change regarding the policing oversight and accountability arrangements and on the recommendations in the Police Ombudsman's Five Year Review and the proposed way forward.
94. **Deaths Abroad – Final Report on the Commencement of Section 49(1) of the Coroners and Justice Act 2009** - Consideration of the proposed next steps, which are to be decided in the new mandate, following the final report on the practical implications of commencing Section 49(1) of the Coroners and Justice Act 2009 in respect of investigating deaths abroad.
95. **Problem Solving Justice Initiatives** – Assessment and review of progress towards the wider implementation of problem-solving justice initiatives.

96. **Court Approval of Minor Settlements** - Consideration of the proposed way forward, which is to be decided in the new mandate, following the results of the consultation which indicated a high level of support for legislation to require court approval of compensation settlements to children for personal injuries (minor settlements) in cases in which legal proceedings have not been issued.
97. **New Legislative Measures to Strengthen the Response to Modern Slavery and Human Trafficking** - Consideration of the results of the Department of Justice's consultation, which is currently on-going, on a range of proposed new measures to strengthen the response to Modern Slavery and Human Trafficking and the proposed way forward.
98. **Charlotte's Law** - Consideration of the results of the consultation on proposals to introduce Charlotte's Law to encourage the disclosure of the location of victim's remains in 'no body' cases.
99. **Review of the Law on Child Sexual Exploitation** - Scrutiny of the policy proposals being developed for potential legislative change and those on which the Department of Justice is engaging further with criminal justice partners and key stakeholders following its consultation on a Review of the Law on Child Sexual Exploitation.
100. **Statutory Registration Scheme for Legal Aid Practitioners** – Scrutiny of the proposals for a Statutory Registration Scheme for Legal Aid Practitioners in Northern Ireland which was recommended by the Public Accounts Committee in 2017. In February 2022 the Department decided not to proceed with a proposed consultation on this following representations from the Bar Council.
101. **Family Mediation** - In the last week of the mandate an informal meeting was held with the CEO of Family Mediation NI who outlined the significant and lasting impact on children and young people of poorly managed family breakdown and the importance of mediation services and other support

organisations to address the wider societal issues that this can cause. Following the meeting the Committee wrote to the Minister of Justice and NICCYP but it did not have time to consider the matter further. The incoming Committee may therefore wish to consider access to family mediation services and funding for it and review progress to deliver the Private Family Law Early Resolution Action Plan in more detail.

## Appendix 1 – Committee for Justice

The Committee has 9 members. The membership of the Committee throughout the current mandate was as follows:

- Mr Mervyn Storey MLA (Chairperson)<sup>1</sup>
- Ms Sinéad Ennis MLA (Deputy Chairperson)<sup>2</sup>
- Mr Doug Beattie MLA
- Ms Sinéad Bradley MLA<sup>3</sup>
- Ms Jemma Dolan MLA<sup>4</sup>
- Mr Robin Newton MLA<sup>5</sup>
- Ms Emma Rogan MLA<sup>6 7</sup>
- Mr Peter Weir MLA<sup>8</sup>
- Ms Rachel Woods MLA

<sup>1</sup>With effect from 14 June 2021, Mr Mervyn Storey replaced Mr Paul Givan as Chairperson

<sup>2</sup>With effect from 2 August 2021, Ms Sinéad Ennis replaced Ms Linda Dillon as Deputy Chairperson

<sup>3</sup>With effect from 26 May 2020, Ms Sinéad Bradley replaced Mr Patsy McGlone

<sup>4</sup>With effect from 16 March 2020, Ms Jemma Dolan replaced Mr Pat Sheehan

<sup>5</sup>With effect from 21 June 2021, Mr Robin Newton was appointed as a Member of the Committee

<sup>6</sup>With effect from 17 February 2020, Ms Martina Anderson replaced Mr Raymond McCartney

7With effect from 9 March 2020, Ms Emma Rogan replaced Ms Martina Anderson

8With effect from 21 June 2021, Mr Peter Weir replaced Mr Paul Frew

### **Members Attendance**

Members attendance figures are available on the Assembly website ([here](#)).

## Appendix 2 – Mandate facts and figures

### Committee meetings & visits

Session	Number of meetings held	Percentage minutes public / closed	Number of meetings held outside Parliament Buildings	Number of committee visits
2019/2020	27	Public – 3245 (93.2%) Closed – 234 (6.73%)	0	0
2020/2021	45	Public – 6310 (90.52%) Closed – 661 (9.48%)	0	0
2021/2022	29	Public – 3624 (88.18%) Closed – 486 (11.82%)	0	1

### Committee Bill Reports

Session	Name of Bill	Committee report (Ordered to print)
2020/21	Domestic Abuse and Family Proceedings Bill	15 October 2020
2020/21	Criminal Justice (Committal Reform) Bill	10 June 2021
2021/22	Damages (Return on Investment) Bill	21 October 2021
2021/22	Protection from Stalking Bill	9 December 2021
2021/22	Justice (Sexual Offences and Trafficking Victims) Bill	27 January 2022



## Committee Motions Debated in Plenary (excluding Inquiries / Reviews / Membership changes)

Session	Motion	Date debated in Plenary
2019/20	Motion to extend Committee stage of the Domestic Abuse and Family Proceedings Bill	2 June 2020
2020/21	Motion to extend Committee stage of the Criminal Justice (Committal Reform) Bill	14 December 2020
2020/21	Motion to extend Committee stage of the Damages (Return on Investment) Bill	19 April 2021
2020/21	Motion to extend Committee stage of the Protection from Stalking Bill	8 March 2021
2021/22	Motion to extend Committee stage of the Justice (Sexual Offences and Trafficking Victims) Bill	19 October 2021

## Statutory Rules

Session	Negative Resolution	Affirmative Resolution	Draft Affirmative	Confirmatory	Not laid	Total
2019/20	42	0	0	0	18	60
2020/21	6	1	6	0	3	16
2021/22	10	0	3	1	4	18

## Committee Reports (excluding Bill and Inquiry reports)

<b>Session</b>	<b>Name of report</b>	<b>Date</b> <small>(date approved by Committee)</small>
2019/20	Report on the Legislative Consent Motion – Private International Law (Implementation of Agreements) Bill	30 April 2020
2019/20	Report on the Legislative Consent Motion – Sentencing (Pre-Consolidation Amendments) Bill	14 May 2020
2019/20	Report on the Legislative Consent Motion - Birmingham Commonwealth Games Bill	28 May 2020
2019/20	Report on the Legislative Consent Motion - Air Traffic Management and Unmanned Aircraft Bill	4 June 2020
2019/20	Report on the Legislative Consent Motion - Domestic Abuse Bill	11 June 2020
2021/22	Report on the Legislative Consent Motion: Police, Crime, Sentencing and Courts Bill	4 November 2021
2021/22	Report on the Supplementary Legislative Consent Motion: Police, Crime, Sentencing and Courts Bill	24 February 2022
2021/22	Committee Legacy Report	22 March 2022

## Witnesses

<b>Session</b>	<b>Number of Organisations who gave evidence to the committee</b>
2019/2020	24
2020/2021	36

<b>Session</b>	<b>Number of Organisations who gave evidence to the committee</b>
2021/2022	33

## **Appendix 3 - Expenditure for the period January 2020 – March 2022**

<b>Budget area</b>	<b>Details</b>	<b>Expenditure</b>
Committee Travel - committee members and staff travel and subsistence in relation to visits and meetings outside Parliament Buildings		£0
Advertising	Includes the cost of advertising relating to: Call for Views	£2903.77
External Consultancy	Includes costs associated with committee use of external consultants to assist in consideration of legislation, inquiries, etc.	£0
General expenses	Cost of refreshments for committee meetings, committee events, working lunches, seminars, room hire, witness expenses, and conference fees for members etc.	£1804.49
<b>All budget areas</b>	<b>All details</b>	<b>£4708.26</b>

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