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# **VICTIMS AND WITNESSES OF CRIME BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial memorandum has been prepared by the Department of Justice ‘The Department’ in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So, where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Bill gives effect to the Minister of Justice desire to create a more victim- and witness-centred, transparent and protective criminal justice system where victims and witnesses are supported, represented and safeguarded through the criminal justice system. At its core are five key aims, which are to:
  - a) establish a statutory Commissioner for Victims and Witnesses of Crime for Northern Ireland;
  - b) improve transparency, accountability and performance in victim- and witness- -related services by requiring mandatory provision of statistics to the Commissioner;
  - c) strengthen protections for those affected by hate crime through extending special measures and prohibiting cross-examination by defendants;
  - d) enhance privacy, dignity and protection for complainants in serious sexual offence cases by providing a right to pre-trial independent legal representation and to strengthen safeguards around disclosure of records for which complainants could have a reasonable expectation of privacy in relation to; and
  - e) ensure procedural fairness and integrity in criminal proceedings with provisions that apply to defendants in cases involving the death or serious physical harm of a vulnerable person.
4. A more detailed description of the background and policy objectives for each of the constituent parts of the Bill is set out in the Overview section at pages 4 to 14 of this Memorandum.

## CONSULTATION

5. The major components proposed for inclusion in the Bill have been the subject of public consultation exercises.
6. For each consultation exercise, the Justice Committee received presentations on summaries of responses and ways forward. The various consultation and response documents are available to view at the hyperlinks listed individually below.

*Establishment of a Statutory Commissioner for Victims and Witnesses of Crime for Northern Ireland, obligations on Charter service providers, providing pre-trial Independent Legal Representation and on strengthening safeguards around disclosure of victims' sensitive personal information*

7. A consultation on proposals for inclusion in a Victims and Witnesses Bill ran for 12 weeks from 28 November 2024 to 20 February 2025.
8. The consultation document is available to view at: [Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill.pdf](#)
9. The summary of responses document is available to view at: [Responses to the Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill](#)

*Hate Crime provisions - special measures & protection from cross-examination in cases involving aggravation by hostility*

10. A consultation on proposals to Improve the Effectiveness of Hate Crime Legislation in Northern Ireland, which included consideration of extending special measures and prohibiting cross-examination by defendants ran for 8 weeks from 31 January 2022 to 28 March 2022.
11. The consultation document is available to view at: [hate crime legislation consultation.pdf](#)
12. The summary of responses document is available to view at: [phase-one-hate-crimeresponses.pdf](#)

*Aspects where consultation was not considered necessary*

13. The provisions in clause 27 were not consulted upon prior to inclusion in the Bill. This was because they had been subject to full consultation or targeted consultation with key stakeholders previously – in anticipation of provisions being developed for inclusion in a suitable primary legislation vehicle – and because the provision closes a lacuna in law for which no other legislative solution existed.
14. The individual circumstances for this aspect of the Bill are as set out below.
15. Death of a child or vulnerable adult: limitation of power to dismiss alternative charge. No formal consultation has been held by the Department as this is not a new policy and amends sections 7 and 7A of the Domestic Violence, Crime and Victims Act 2004 (“the 2004 Act”) to take account of forthcoming changes to committal proceedings.

## **OPTIONS CONSIDERED**

### *Commissioner for Victims and Witnesses of Crime for Northern Ireland*

16. The options considered were:

- Maintain Status Quo: Commissioner would remain on a non-statutory basis
- Place Commissioner's Office on a statutory footing

### *Pre-trial Independent Legal Representation for complainants in specified pre-trial application hearings*

17. The options considered were:

- Maintain Status Quo: do not implement in full recommendation 40 of the [Gillen Review Report into the law and procedures in serious sexual offences in NI](#)
- To provide publicly funded representation in specified circumstances (to extend the role of the Department funded Sexual Offences Legal Advisers (SOLAs) scheme)

### *Improve Third Party Material disclosure process*

18. The options considered were:

- Maintain Status Quo: continue to use the process and forms provided by LCJ Practice Direction 2/19
- Develop a statutory process which consultation respondents were in favour of

### *Hate crime provisions - special measures & protection from cross-examination in cases involving aggravation by hostility*

19. Judge Marrinan's Review of Hate Crime Legislation in Northern Ireland, ([hate-crimereview.pdf](#)) considered whether the existing legislation represents the most effective approach for the justice system to deal with criminal conduct motivated by hatred, malice, ill-will or prejudice, including hate crime and abuse which takes place online.

20. Recommendation 24 of the Review was 'accepted' by the Minister of Justice in the initial Departmental Response published in July 2021, with a commitment to legislate for the extension of special measures and prohibiting cross-examination by defendants. As Judge Marrinan did not consult on this, the Minister of Justice proposed that the Department should consult and consider all of the consultation responses on this matter.

21. Recommendation 24:

- complainants should automatically be eligible for consideration of special measures when giving evidence, and

- no person charged with any aggravated or stirring up offence may, in any criminal proceedings, cross-examine a witness who is the complainant i.e. protection from in-person cross-examination by the defendant.

22. The Department's phase one consultation on hate crime included recommendation 24 in relation to eligibility for consideration of special measures for victims of hate crime when giving evidence and prohibiting cross-examination by defendants.

## **OVERVIEW**

23. The Bill has 30 clauses divided into 3 Parts and 2 Schedules.
24. This section provides an overview description for each Part of the Bill in sequential order. A more detailed clause by clause commentary follows in the next section.

### **Commissioner for Victims and Witnesses of Crime for Northern Ireland**

25. Part 1 of the Bill provides for the establishment, appointment, principal aim and functions of a Commissioner for Victims and Witnesses of Crime for Northern Ireland.
26. It also provides the meaning of a 'charter service provider' and that the Commissioner must monitor compliance with the Victim Charter by charter service providers. These duties can be extended to the Witness Charter. Charter service providers must provide Victim Charter statistics to and co-operate with the Commissioner. They must also record complaints made against them by victims and witnesses and send a report each year to the Commissioner summarising the complaints and if they have been resolved. Charter service providers must also respond to annual reports published by the Commissioner.

### **Special measures in cases involving aggravation by hostility**

27. Offences which involve aggravation by hostility are added to the list for which witnesses are eligible for assistance with giving evidence. Part 2 of the Bill defines the meaning of an offence involving aggravation by hostility for the purposes of the Criminal Evidence (Northern Ireland) Order 1999 (the 1999 Order).

### **Protection from cross-examination in cases involving aggravation by hostility**

28. By amending the 1999 Order, Part 2 also makes provision that no person charged with an offence involving aggravation by hostility may in any criminal proceedings cross-examine in person a witness who is the complainant, including child complainants and other child witnesses, in connection with the offence or any other offence with which that person is charged.

### **Protection of complainants in proceedings for sexual offences**

29. Complainants in sexual offence cases, where applications are made to the Crown Court for evidence/documents which the complainant could have a reasonable expectation of privacy in relation to, or relating to complainant's sexual history, will have a right to make oral or written representations to the court, to be present and to be legally represented at any hearing of the application. Provisions are also made for rules of court

to require service of notice of the application on the complainant, the manner in which service may be effected and the manner in which confidential or sensitive information is to be treated in connection with the application.

**Limitation of power to dismiss charges involving death or serious physical harm of a vulnerable person**

30. Part 2 makes provision for amendments in preparation for the introduction of direct committal. The ‘No Bill’ procedure will be replaced by an application to dismiss under section 14 of the Justice Act (Northern Ireland) 2015. Where a defendant has been charged with murder or manslaughter, that charge is not to be dismissed unless the charge of the section 5 offence under the 2004 Act is also dismissed (the application to dismiss procedure). Section 5 is an offence of causing or allowing the death or serious physical harm of a child or vulnerable adult. Where a defendant has been charged with a ‘relevant offence’ under 7A(2) of the 2004 Act and the section 5 offence of causing or allowing a child or vulnerable adult to die or suffer serious physical harm, the relevant offence is not to be dismissed unless the section 5 offence is dismissed.

**General**

31. Part 3 makes general provision including commencement and short title.

**COMMENTARY ON CLAUSES**

**PART 1**

**COMMISSIONER FOR VICTIMS AND WITNESSES OF CRIME FOR NORTHERN IRELAND**

*The Commissioner*

**Clause 1: Commissioner for Victims and Witnesses of Crime for Northern Ireland**

Subsection (1) provides for the establishment of a statutory Commissioner for Victims and Witnesses of Crime for Northern Ireland (the Commissioner) who will be appointed by the Department (subsection (2)). Subsection (3) makes provision for Schedule 1 which deals with the constitution and operation of the Commissioner and the office, for example, tenure of office, staffing, accounts and supplementary powers.

**Clause 2: Principal aim**

This clause sets out the principal aim of the Commissioner which is to promote the interests of victims and witnesses.

*Functions of the Commissioner*

### **Clause 3: General duties**

This clause sets out the general duties of the Commissioner. Subsection (1) provides that the Commissioner must promote an understanding of the rights of victims and witnesses and an awareness of matters relating to their interests. Subsection (2) provides that the Commissioner must keep under review the law and practice relating to the interests of victims and witnesses, to ensure that it is adequate and effective. Subsection (3) requires that the Commissioner provide advice on victim and witness matters to a Northern Ireland department or the Executive Committee of the Assembly when requested. Subsection (4)(a) provides that the Commissioner must take reasonable steps to raise awareness amongst victims and witnesses of the Commissioner's functions, office location and ways to communicate with the Commissioner. Subsection (4)(b) provides that the Commissioner must encourage victims and witnesses to communicate with the Commissioner, and subsection (4)(c) provides that the Commissioner must seek the views of victims and witnesses concerning the exercise of the Commissioner's functions.

### **Clause 4: General powers**

This clause outlines the general powers of the Commissioner. Subsection (1) provides the Commissioner with the power to conduct, fund or support research or education activities relating to victims and witnesses. Subsection (2) means that the Commissioner may: compile information; provide advice or information; and publish any matter relating to victims and witnesses. Subsection (3) provides that the Commissioner may make representations or recommendations to anyone concerned with the interests of victims and witnesses.

### **Clause 5: Review of Victim Charter and Witness Charter**

Subsection (1) requires the Commissioner to review the operation and effectiveness of the Victim and Witness Charters at least once every three years and at other times, as directed by the Department. Subsection (2) allows the Department to direct the Commissioner to conduct a review in respect of the Victim Charter, Witness Charter or both. Subsection (3) provides that the Commissioner must prepare a report on any review and, when doing so, consult the Department or any other person the Commissioner considers appropriate (subsection (4)). Subsection (5) provides that the Commissioner must publish the report and send a copy to the Department, as soon as reasonably practicable.

### **Clause 6: Guidance**

This clause provides the Commissioner with the power to issue guidance on best practice relating to the interests of victims and witnesses. Subsection (2) requires a person exercising public functions to have regard to the guidance. Subsections (3) provides that the guidance may be revised and subsections (4) and (5) deal with the consultation and publication of such guidance. Subsection (6) prohibits the Commissioner issuing guidance to a court or tribunal.

### **Clause 7: Advisory groups**

Subsection (1) allows the Commissioner to establish one or more advisory groups, to provide the Commissioner with advice and information on the exercise of the Commissioner's functions. Subsection (2) provides that the Commissioner may determine membership of the group(s). Subsection (3) provides that the Commissioner may reimburse members for any expenses incurred. Subsection (4) provides that the Commissioner may also determine the procedure of any advisory group established.

### **Clause 8: Restriction on exercise of functions in individual cases**

This clause provides that the Commissioner cannot become involved in the individual case of a particular victim or witness or intervene in criminal or related proceedings. The Commissioner can, however, consider individual cases to enable them to draw conclusions about a general issue.

### **Clause 9: Meaning of “charter service provider”**

This clause sets out the meaning of a ‘charter service provider’ and lists the criminal justice agencies which are specified as a “charter service provider” for the purposes of Part 1. Before making regulations the Department must consult the Commissioner and other criminal justice agencies.

### **Clause 10: Compliance with the Victim Charter**

Subsection (1) places a duty on the Commissioner to monitor a charter service provider's compliance with the Victim Charter. Subsection (2) enables the Commissioner to request information from a charter service provider, in order to monitor compliance. Subsection (3) requires that a charter service provider must, as far as is appropriate and reasonably practicable, comply with such a request.

### **Clause 11: Statistics relating to the Victim Charter**

This clause places a duty on a charter service provider to provide statistics to the Commissioner and to collect and retain such data as is necessary for that purpose, in relation to the provision of services set out in the Victim Charter to be provided to victims by a charter service provider. The Department will be required to bring forward regulations (subject to the draft affirmative procedure) setting out how the statistics are to be determined and the regulations may specify the form, manner and timescales for sharing these with the Commissioner. Regulations by the Department may also require a charter service provider to provide a report to the Commissioner, along with statistics, setting out how the provider has produced the statistics and the steps taken to ensure they are accurate. The Department is required to consult with the Commissioner and such charter service providers as the Department considers appropriate before making regulations.

### **Clause 12: Power to extend sections 10 and 11 to the Witness Charter**

This clause gives the Department the power to make regulations, subject to the draft affirmative procedure, to extend sections 10 (compliance with the Victim Charter) and

section 11 (statistics relating to the Victim Charter) to the Witness Charter. This would mean that the Commissioner would be required to monitor compliance with the Witness Charter by any charter service provider specified in it, and such charter service providers would be required to provide requested statistics or information to the Commissioner. The Department must consult on the making of regulations with such charter service providers as it considers appropriate and the Commissioner.

### **Clause 13: Co-operation with the Commissioner**

This clause provides that the Commissioner may request that a charter service provider co-operates in any way that enables the Commissioner to carry out the Commissioner's functions. It also places a duty on the charter service providers to respond to such a request confirming that they will comply or, stating that they will not comply, and explain why.

### **Clause 14: Complaints**

This clause places a duty on each charter service provider to record all complaints received in each financial year relating to alleged breaches of Victim or Witness Charter entitlements and the outcome of each complaint. Each charter service provider must also send a report containing a summary of any such complaints to the Commissioner as soon as reasonably practicable after the end of the financial year. Subsection (3)(a) to (c) sets out the detail that the summary should contain within the report.

### **Clause 15: Disclosure of information**

Subsection (1) provides that a charter service provider may disclose information to the Commissioner for the purposes of supporting the Commissioner in the carrying out of the Commissioner's functions. These disclosure powers are subject to the restrictions set out in subsections (3) to (5), namely that they do not override patient confidentiality, data protection legislation or prohibitions on disclosure in the Investigatory Powers Act 2016. Subject to that, a disclosure of information under this section is not impeded by any other duty of confidentiality, or restriction on the disclosure of information (howsoever imposed) (subsection (2)). The sharing of information under this clause does not affect any other power that exists to disclose information (subsection (6)).

### **Clause 16: Strategic plan**

This clause requires the Commissioner to prepare a strategic plan setting out the Commissioner's objectives and priorities; how the Commissioner intends to achieve them; and the outcomes the Commissioner will use to monitor their achievement. In setting out objectives and priorities, the Commissioner must specify groups of victims or witnesses to whom they will have particular regard and set out the reasons why. In determining the groups the Commissioner must seek and take into account the views of the Department, providing reasons for any significant departure.

The Commissioner may review and revise the strategic plan at any time during the Commissioner's tenure (subsection (6)). In preparing the plan, the Commissioner is required to consult the Department and any other persons the Commissioner considers

appropriate (subsection (7)). The Commissioner must publish the strategic plan or revised plan and send it to the Department (subsection (8)). The Department must arrange to lay the plan before the Northern Ireland Assembly (subsection (9)).

### **Clause 17: Business plans**

This clause requires the Commissioner to send an annual business plan to the Department setting out how the Commissioner proposes to carry out the Commissioner's functions. Subsection (3) sets out what the business plan should include. The Commissioner may revise the business plan (subsection (4)). The first business plan must be prepared and sent to the Department as soon as reasonably practicable after the Commissioner's appointment (subsection (5)) and each successive business plan must be prepared and sent to the Department at least one month before the beginning of each financial year (subsection (6)).

### **Clause 18: Annual reports**

This clause requires the Commissioner to produce an annual report as soon as reasonably practicable after the end of each financial year and send this to the Department and any charter service provider named in the report. Subsection (2) sets out what the annual report must include. The Department must lay a copy of the report before the Assembly (subsection (4)).

### **Clause 19: Duty to respond to annual reports**

This clause requires a charter service provider to respond to any recommendations made in an annual report published by the Commissioner under clause 18(1). The response must provide comment on each recommendation and specifically state what action the charter service provider has or will take to address the recommendation or give reasons why the charter service provider has not or does not propose to act on the recommendation.

A charter service provider response must be published within 56 calendar days of the date of publication of the Commissioner's report. Where a response is not published, the charter service provider must provide an explanation to the Commissioner.

### **Clause 20: Privilege for certain publications**

This clause provides that any report published by the Commissioner is privileged and exempt from challenge under the law of defamation.

### **Clause 21: Meaning of "victim"**

This clause sets out the meaning of "victim," for the purposes of Part 1 of the Bill.

### **Clause 22: Interpretation of Part 1**

This clause defines terms used in Part 1.

**Clause 23: Minor and consequential amendments**

This clause makes provision for Schedule 2 which makes minor and consequential amendments in connection with Part 1 of the Bill.

**PART 2 CRIMINAL EVIDENCE AND PROCEDURE**

**Clause 24: Special measures in cases involving aggravation by hostility**

This clause amends the Criminal Evidence (Northern Ireland) Order 1999 (“the 1999 Order”) to provide that witnesses are eligible for assistance with giving evidence in cases dealing with an offence involving aggravation by hostility and to insert a definition of “an offence involving aggravation by hostility”.

Subsection (1) provides that the 1999 Order is amended in accordance with subsections (2) and (3).

Subsection (2) inserts new paragraph (1B) to Article 3 of the 1999 Order to set out what an offence involving aggravation by hostility means.

Subsection (3) adds new sub-paragraph (e) to Article 5(5) of the 1999 Order to make witnesses to offences involving aggravation by hostility eligible for assistance with giving evidence.

**Clause 25: Protection from cross-examination in cases involving aggravation by hostility**

This clause amends the Criminal Evidence (Northern Ireland) Order 1999 to add 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.

Subsection (1) provides that the 1999 Order is amended in accordance with subsections (2) to (6).

Subsection (2) inserts new Article 22C to the 1999 Order to prevent any person charged with an offence involving aggravation by hostility from cross-examining in person a witness who is the complainant in connection with the offence or any other offence with which that person is charged in the proceedings.

Subsection (3) amends Article 23 of the 1999 Order to provide for the protection of children from cross-examination by the defendant in person for offences involving aggravation by hostility.

Subsection (4) amends Article 24 of the 1999 Order (direction prohibiting defendant from cross-examining particular witnesses) to insert references to new Article 22C.

Subsection (5) amends Article 26(1) of the 1999 Order (defence representation for purposes of cross-examination) to insert a reference to new Article 22C.

Subsection (6) amends Article 27(1) of the 1999 Order (warning to jury) to insert a reference to new Article 22C.

**Clause 26: Protection of complainants in proceedings for sexual offences**

This clause makes provision for complainants in sexual offence cases, heard 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.

Similar provisions are made in relation to applications made to the court relating to the complainant's sexual history.

Subsection (1) amends the Criminal Evidence (Northern Ireland) Order 1999 ("the 1999 Order") to insert a new Article 27G. New Article 27G provides for the right for a complainant to participate in an application for a witness summons, to attend the application hearing and the right to have legal representation at the hearing. Full details of new Article 27G are set out below.

- **New Article 27G(1)** sets out the circumstances where the new Article applies. It applies where the person is being tried on indictment for a sexual offence and an application is made for a witness summons under Article 51A of the Judicature (Northern Ireland Act) 1978 and where the evidence, document or thing sought in the summons contains information which relates to the complainant and which the complainant could have a reasonable expectation of privacy in relation to.
- **New Article 27G(2)** sets out that a complainant has a right to make representations to the Court about the application, to attend the hearing and have a right to be legally represented.
- **New Article 27G(3)** is a rule making power. Rules of court may be made in specifying when service of the notice of application on the complainant is required, the manner in which it must be served and how any sensitive or confidential information is to be treated.

Clause 26(2)-(5) amends Article 30 of the 1999 Order (procedure on applications relating to complainant's sexual history). New paragraph (1A) gives a complainant a right to attend, make representations and be legally represented at an application made related to obtaining information in relation to a complainant's sexual history and for that information to be used at trial. Subsection (5) amends paragraph (3) of Article 30 of the 1999 Order to insert new sub-paragraphs (d) and (e). Those sub-paragraphs provide that rules of court may make provision requiring service of the notice of application on the complainant and how service is to be effected.

### **Clause 27: Limitation of power to dismiss charges involving death or serious physical harm of a vulnerable person**

Clause 27 amends sections 7 and 7A of the Domestic Violence, Crime and Victims Act 2004 (“the 2004 Act”) to take account of forthcoming changes to committal proceedings.

Section 7(3B) (prospectively inserted by clause 25 of the Justice Bill (07/22-27)) of the 2004 Act provides that where a defendant has been charged with murder or manslaughter, that charge is not to be dismissed unless the charge of the section 5 offence under the 2004 Act is also dismissed (the application to dismiss procedure). Section 5 is an offence of causing or allowing the death of a child or vulnerable adult.

Section 7A(5A) provides that where a defendant has been charged with a relevant offence (as defined in section 7A(1)) and the section 5 offence of causing or allowing serious physical harm to a child or vulnerable adult, the relevant offence is not to be dismissed unless the section 5 offence is dismissed (the application to dismiss procedure).

On the introduction of direct committal provisions the ‘No Bill’ procedure will be replaced by an application to dismiss under section 14(2) of the Justice Act (Northern Ireland) 2015.

## **PART 3 GENERAL**

### **Clause 28: Regulations and orders**

This clause provides the processes by which regulations should be made.

### **Clause 29: Commencement**

This clause provides that Part 3 comes into operation on the day after the day on which the Act receives Royal Assent and that all other provisions will come into operation on such days as the Department may by order appoint.

### **Clause 30: Short title**

The short title of the Act will be the Victims and Witnesses of Crime Act (Northern Ireland) 2026.

## **SCHEDULES**

### **Schedule 1: Commissioner for Victims and Witnesses of Crime for Northern Ireland**

This schedule provides for the status, tenure of office, Commissioner’s salary, staffing and procedural arrangements. It provides for a tenure not exceeding 5 years, with eligibility for one further term and provides for accountability to the Department and the Assembly in relation to Accounts.

Status

Paragraph 1 provides that the Commissioner has an independent legal status (corporation sole) distinct from the sponsoring Department which permits the post of Commissioner to continue when the individual who holds the post changes.

The Commissioner would not be regarded as a servant or agent of the Crown and would not enjoy any status, immunity or privilege of the Crown. This status would ensure that the Commissioner enjoys equal status with other statutory bodies and Commissions.

#### Tenure of office

Paragraph 2 provides that the term of office for the Commissioner will be for no longer than 5 years with the opportunity to be appointed for one further term. The Commissioner may be removed from office by the Department on the grounds of misconduct or incapacity, including specifically, if the Commissioner has been convicted of a criminal offence, become bankrupt, failed to discharge functions for a continuous period of 3 months, become unable or unfit to carry out functions, or has failed to comply with the terms of appointment.

#### Commissioner's salary, etc.

Paragraph 3 provides that the Commissioner is a full-time salaried appointment funded by the Department. This paragraph also makes provision for the payment of compensation, under special circumstances, to a person who no longer holds office as Commissioner. A determination by the Department under paragraph 3 requires approval from the Department of Finance.

#### Staff

Paragraph 4 provides that the Commissioner has the power to employ staff as the Commissioner considers necessary, following approval of the Department and the Department of Finance.

#### Seconded staff

Paragraph 5 provides that the Commissioner has the power to make arrangements to second NICS staff from any Northern Ireland Department to the office of the Commissioner.

#### Delegation of functions of Commissioner

Paragraph 6 allows the delegation by the Commissioner of any of the Commissioner's functions to a member of staff within the Commission.

#### Seal

Paragraph 7 provides that the Commissioner's signature or that of authorised staff authenticates or forms the 'Seal' of the Commissioner's office on any documentation.

#### Evidence

Paragraph 8 provides that any document signed by the Commissioner or the Commissioner's staff (i.e. with the 'Seal' of the Commissioner's office) will be permissible as documentary evidence in a court of Law/Judicial or administrative proceedings

#### Property

Paragraph 9 allows all real and personal property, for example the offices of the Commissioner, to be transferred to his/her successor.

#### Funding

Paragraph 10 provides that the Commissioner's office is to receive funds through the standard procedures for all non-Departmental public bodies and office holders in Northern Ireland. Annual grants to the Commissioner will form part of the Department budget and the Commissioner would be invited to submit a budget bid to the Department for each financial year.

#### Accounts

Paragraph 11 sets out the arrangements for the financial accountability and audit requirements for the Commissioner's office. The Commissioner is required to keep proper accounting records and to prepare an annual financial statement of accounts in accordance with directions given by the Department and with Department of Finance guidance. The Commissioner's office is required to submit the annual statement of accounts, by financial year, to both the Department and the Comptroller and Auditor General for examination, who will then report back on the statement of accounts to the Department. The Department is responsible for laying a copy of the annual statement of accounts and report of the Comptroller and Auditor General before the Assembly.

#### Supplementary powers

Paragraph 12 provides the Commissioner with the power to do anything that the Commissioner considers appropriate to enable the Commissioner to exercise the Commissioner's functions and subsection (2) sets out some examples of what this might include. Subsection (3) prohibits the borrowing of money.

### **Schedule 2: Minor and consequential amendments**

#### Superannuation (Northern Ireland) Order 1972

Paragraph 1 adds the Commissioner and any staff to the list of Schedule 1 bodies to the Superannuation (NI) Order 1972. Where an employment is listed at Schedule 1, pension provision is made.

#### Northern Ireland Assembly Disqualification Act 1975

Paragraph 2 adds the Commissioner to Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 ensuring that the Commissioner cannot also hold membership of the Northern Ireland Assembly.

#### The Freedom of Information Act 2000

Paragraph 3 adds the Commissioner to Schedule 1 of the Freedom of Information Act 2000 and in so is bound by its requirements.

#### Public Services Ombudsman Act (Northern Ireland) 2016

Paragraph 4 adds the Commissioner to Schedule 3 to the Public Services Ombudsman Act (NI) 2016. Schedule 3 lists the bodies that are subject to investigation by the Public Services Ombudsman in Northern Ireland.

### **FINANCIAL EFFECTS OF THE BILL**

32. In terms of financial effects, the Bill as a whole will primarily be delivered within existing resources.
33. Some provisions, including the office of the statutory Commissioner for Victims and Witnesses of Crime, will be the subject of individual costs and benefits analysis and subsequent proportionate business case requiring appropriate approvals, which will be requested from the Department of Finance as required by individual policy and business areas as and where appropriate.

### **HUMAN RIGHTS ISSUES**

34. All proposals have been screened and are considered to be Convention compliant.

### **EQUALITY IMPACT ASSESSMENT**

35. All of the constituent parts of the proposed Bill have been screened out; not having an adverse impact on any of the section 75 categories in the Northern Ireland Act 1998.

### **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

36. The Department considers that there is no impact on the private or voluntary sectors as a result of the provisions of the Bill.

### **DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN**

37. Data Protection screening exercises have been carried out in respect of each of the constituent parts of the Bill. The screening exercises indicated that impact assessments were required. The impact assessments noted that the Department will not collect, use, store or share any personal data arising from the provisions contained in the Bill.
38. However, criminal justice agencies investigating and prosecuting offences and charter service providers applying the new arrangements contained in the provisions of the Bill will need to collect and process personal data on victims and witnesses.
39. The data will be processed in line with the robust procedures and protocols already in place for investigating and prosecuting criminal offences and used to provide statistics on compliance with the Victim and Witness Charters to the statutory Commissioner.

40. Engagement with the ICO will be initiated via the Department's DPO.

#### **RURAL NEEDS IMPACT ASSESSMENT**

41. Rural Needs screening exercises have been carried out in respect of each of the constituent parts of the Bill. All of the provisions in the Bill were screened out as having no impact on rural needs as all of the provisions of the Bill will apply equally to all areas of Northern Ireland, both urban and rural.

#### **LEGISLATIVE COMPETENCE**

42. At Introduction the Minister for Justice had made the following statement under section 9 of the Northern Ireland Act 1998:

*"In my view the Victims and Witnesses of Crime Bill would be within the legislative competence of the Northern Ireland Assembly."*

#### **SECRETARY OF STATE CONSENT**

43. The Secretary of State's consent is required by section 8 of the Northern Ireland Act 1998 and a statement of such consent is required for the purpose of section 10(3)(b) of that Act:

*"The Secretary of State has consented to the Assembly considering this Bill"*









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