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Review of Costings: Justice Bill 2024

RaISe

This Briefing Paper draws on available evidence, including submissions by the Department of Justice (DoJ) and the Police Service for Northern Ireland, to review the financial implications arising from the Justice Bill for the public purse, which the DoJ identified in the accompanying Explanatory and Financial Memorandum when introducing the Bill.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Key Points

The Justice Bill's Explanatory and Financial Memorandum (EFM) explains that any financial implications arising from the Justice Bill (the Bill) for the public purse - as introduced by the Minister of Justice into the Northern Ireland Assembly on 16 September 2024 - will be managed from existing resources. The EFM does not provide any further detail on this, but does note that some provisions set out in the Bill will require business cases if enacted as introduced.

Moreover, it should be noted that the Bill has been introduced at a time of serious budgetary challenges faced by the Northern Ireland Executive, due to a number of reasons, including, but not limited to, significant departmental resource pressures. Consequently, the Department of Justice (DoJ) noted in its "Section 75 Equality Screening of the 2024-25 Draft Executive" (September 2024) that it is in a position where it is required to make "extremely difficult decisions on prioritisation and service provision", as reflected below.

The Police Service of Northern Ireland (PSNI) expects additional public purse costs to result from the Bill's proposed changes, as introduced, to the retention of biometric data in Northern Ireland. It, however, is not currently in a position to estimate those costs if those proposals would be enacted as stated.

Moreover, the DoJ is progressing a cost assessment exercise to estimate costs that would be incurred if a Biometric Commissioner would be established in Northern Ireland under the enacted legislation. It, however, is not in a position to share that assessment at the time of writing, as that work is ongoing. It should be noted that comparable organisations in Great Britain currently have a total annual budget of between £400,000 and £500,000 per annum. For example, in 2021-22, the Scottish Biometric Commissioner requested a total of £301,000 for set up and year one costs associated when establishing the SBC. Of those, £278,000 was required for set up and running costs in the first year.

The DoJ also has explained, in response to a request for information by Research and Information Service (RaISe), that the Bill's proposed custody and bail arrangement changes for children and young people aim to meet

international obligations, not to save costs. In its response to RalSe, however, the DoJ was not in a position to provide an assessment of how the proposals might impact costs, if enacted. It is worth noting that data from the Youth Justice Agency suggests that the average cost of custody for children and young people, measured by the total number of resourced places (see section 3 for details), is rising. The Youth Justice Agency has noted that increase reflects *“rising staff costs with the Agency and higher depreciation costs for the replacement of capital works”*. Moreover, a January 2023 report from the Criminal Justice Inspection Northern Ireland found that the proportion of the average daily population of Woodland Juvenile Justice Centre was “predominately remand” and that the proportion had increased in that area, from 65% in 2016-17, to 86% in 2020-21.

In addition, the DoJ maintain that the Bill’s proposed changes to the administration of justice in Northern Ireland would incur limited, or nil, additional costs to the Department, if the Bill would be enacted as introduced.

Introduction

The Justice Bill (the Bill), which was introduced into the Northern Ireland Assembly by the Justice Minister on 16 September 2024, has four main aims:

1. To amend retention periods for DNA and biometric material.
2. To make changes to bail and custody for arrangements for children and young people.
3. To improve services for victims and witnesses.
4. To improve the efficiency and effectiveness of aspects of the justice system.¹

This Briefing Paper draws on available evidence, including submissions by the Department of Justice (DoJ) and the Police Service for Northern Ireland (PSNI), as well as views provided by respondents to DoJ consultations and reports by relevant agencies in the Northern Ireland justice system, to review the financial implications arising from the Justice Bill for the public purse, which the DoJ identified in the accompanying Explanatory and Financial Memorandum when introducing the Bill.

The Briefing Paper is structured as follows:

1. Context
2. Part 1: DNA and Biometric data
3. Part 2: Children
4. Part 3: Use of live links
5. Part 4: Administration of Justice
6. Key takeaways

This Paper supplements the Research and Information Service (RaISe) Bill Paper on [the Justice Bill \(NIAR 89-2024\)](https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill---efm---as-introduced---fpv.pdf), published on 16 September 2024, which provides a broad policy perspective of the Bill, as introduced.

¹ The Justice Bill (as introduced), Explanatory and Financial Memorandum <https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill---efm---as-introduced---fpv.pdf>

1 Context

1.1 Financial effects of the Bill as stated in the EFM

The EFM that accompanied the Bill on its introduction in the Assembly included limited information on the potential financial effects of the Bill – inclusive of those estimated costs that would be incurred by the public purse, if the Bill would be enacted as introduced. The EFM stated only that:

In terms of financial effects, the Bill as a whole will primarily be delivered within existing resources.²

It added:

Some provisions will be the subject of individual costs and benefits analysis and subsequent proportionate business cases requiring appropriate approvals, which will be requested from the Department of Finance as required by individual policy and business areas where appropriate.³

Potential Scrutiny Point

1. The Committee may wish to ask the Department which provisions contained in the Bill, as introduced, will be subject to costs benefit analysis and when that analysis will take place, along with when it will be made available for scrutiny?

1.2 Budgetary context

The Justice Bill has been introduced at a time when there is significant uncertainty with regard to public finances in the United Kingdom, including

² The Justice Bill (as introduced), Explanatory and Financial Memorandum <https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill---efm---as-introduced---fpv.pdf>

³ As cited immediately above

Northern Ireland. This sub-section provides background information to explain the current budgetary context in which the Bill has been brought forward.

1.2.1 Current United Kingdom budgetary context

Following the change of Government in July 2024, the United Kingdom's budgetary context remains uncertain. The Chancellor's Budget, scheduled for 30 October 2024, is a key fiscal event that will provide clarity on the United Kingdom's budget for 2025-26, including determining Northern Ireland's spending envelope for the next financial year.

Ahead of the Budget, the Chancellor noted in July 2024 that the United Kingdom faced £21.9 billion in resource pressures. On 2 August 2024, the Chancellor announced £5.5 billion worth of savings, to bring the in-year pressures down to £16.4 billion. Commenting on the savings and pressures, a 2 August 2024 His Majesty's (HM) Treasury policy paper stated that the £5.5 billion in savings were to be:

...a significant down payment, but these decisions alone will not be sufficient. The government is setting out further steps to tackle the spending pressures that remain and to take the difficult decisions necessary to secure the public finances.⁴

The policy paper added that in the 30 October Budget, the "Chancellor will take further difficult decisions across tax and spending".⁵ The exact nature of those decisions is awaited at the time of writing.

In addition to the forthcoming Budget, the United Kingdom Government currently is undertaking a multi-year Spending Review; concluding in spring 2025. The Spending Review seeks to "restore spending control in the medium term, setting spending policy in line with the [United Kingdom G]overnment's wider fiscal strategy".⁶ At the time of writing, it remains to be seen as to what

⁴ HM Treasury, Fixing the foundation: public spending audit 2024-25 (2 August 2024) <https://www.gov.uk/government/publications/fixing-the-foundations-public-spending-audit-2024-25/fixing-the-foundations-public-spending-audit-2024-25-html>

⁵ As cited immediately above

⁶ As cited in Footnote 4

impact the Spending Review will have on public finances across the United Kingdom.

1.2.2 Current Northern Ireland budgetary context

In the Northern Ireland-specific budgetary context, the Justice Bill has been introduced at a time when the Minister for Finance has noted that there are both “increasing demands” on Northern Ireland’s public services and “limited resources”.⁷

In addition, the Executive has been seeking to transpose and implement requirements specified in the February 2024 Executive Restoration financial package, and the agreement between the Northern Ireland Executive and the United Kingdom Government on an [Interim Fiscal Framework](#) published in May 2024. In that regard, on 3 October 2024, the Finance Minister published the Executive agreed “Budget Sustainability Plan” (the Plan), which sets out the “need to deliver a balanced budget in 2024-24 and future years”. The Plan was introduced as part of the 2024 Executive Restoration financial package, which included a commitment by HM Treasury to write off the £559 million overspend that was incurred in 2022-23 and 2023-24 in Northern Ireland.⁸

The Plan stated that the “sustainable use of resources is crucial for the long-term viability and effectiveness of public services”. It added that “ensuring sustainability means strategically managing financial resources to maintain and improve public service delivery while avoiding fiscal imbalances and unsustainable costs increases”.⁹

⁷ Department of Finance, Executive Budget Sustainability Plan Published, 3 October 2024 <https://www.finance-ni.gov.uk/news/executive-budget-sustainability-plan-published#:~:text=The%20Finance%20Minister%20has%20today,and%20to%20examine%20fiscal%20devolution>.

⁸ Department of Finance, Budget Sustainability Plan (3 October 2024) <https://www.finance-ni.gov.uk/publications/budget-sustainability-plan>

⁹ As cited immediately above.

Potential scrutiny point:

2. How will the DoJ ensure the proposals in the Justice Bill, if enacted, will be brought forward in a sustainable way that complies with the Executive's agreed Budget Sustainability Plan?

1.2.3 Department of Justice budgetary context

As noted in sub-section 1.1 above, the DoJ stated that it expects the provisions of the Bill, as introduced, to be delivered through existing resources. Though the DoJ also outlined a range of resource pressures, as recently specified in the Section 75 Equality Screening of the 2024-25 Draft Executive Budget (DEB) allocations for DoJ; published on 18 September 2024.¹⁰ That document stated that the "Department has suffered disproportionately by years of underfunding" and that the 2024-25 DEB allocation for DoJ of £1,262.5 million in non-ringfenced resource DEL is £326 million, below what it would be if allocations had kept pace with inflation. That allocation figure was, however, an 8.3% increase on the 2023-24 opening budget baseline position.

For this financial year (2024-25), the Department received an additional £35 million allocation in June Monitoring 2024. In September 2024, however, it noted that it continues to experience £351.1 million in pressures, as follows:

- stabilisation pressures totalling £122.5 million
- exceptional items, relating to holiday pay, the McCloud injury to feeling and the PSNI data breach, totalling £226.7 million
- transformation bids totalling £1.9 million¹¹

Within that context, the DoJ stated that:

¹⁰ Department of Justice, DoJ Section 75 Equality Screening: Department of Justice Draft Budget allocations 2024-2 (18 September 2024) <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/doj-equality-24-25-opening-budget-allocation.pdf>

¹¹ Department of Justice, DoJ Section 75 Equality Screening: Department of Justice Draft Budget allocations 2024-2 (18 September 2024) <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/doj-equality-24-25-opening-budget-allocation.pdf>

Extremely difficult decisions on prioritisation and service provision will be required to live within the budget allocation. Any actions taken by the Department if implemented, will inevitably result in a slowing down of the justice system, compromising its ability to preserve life, protect the public and keep people safe.¹²

The DoJ argued that to “manage within the budget provided by the Executive”, it will have to “minimise discretionary departmental expenditure”, submit bids at in-year monitoring rounds, and “consider any further opportunities as they arise to live within budget”.¹³

Specifically, the Department has taken, or is considering, the following actions:

- Staff related actions including the management of vacancies, stopping or slowing recruitment, and stopping overtime.
- Potentially paying legal aid bills to budget and no more.
- Reducing estates maintenance projects.
- The closure of PSNI Local Enquiry Offices.
- The continued scaling back on the Parole Board of Northern Ireland’s Enhanced Combination Order Programme during 2024-25.¹⁴

Furthermore, the DoJ noted a decline in planned officers in the PSNI; from 7,100 in 2021-22, to 6,687 in March 2023, and to 6,358 in March 2024. The Department has stated that the financial pressures have had a “significant impact” on delivering PSNI services to the community, including:

- becoming an increasingly emergency response service
- constant pressures on 999
- deteriorating attendance times
- reduced Neighbourhood Policing Teams
- reduced presence on the roads despite rising fatalities
- less visibility and proactivity

¹² As cited immediately above

¹³ As cited in Footnote 10

¹⁴ As cited in footnote 5

- 100 less detectives investigating murder, terrorism, drugs and organised crime
- higher caseloads and slower investigations;
- fewer specialist uniform support officers and reduce capacity for search operations or responding to public order
- difficulties in delivering new legislative measures supported by the Executive
- less capacity to tackle the security threat
- station closures and restricted opening times
- deferred building maintenance and a crumbling estate
- reduced fleet availability¹⁵

Potential scrutiny point:

3. Has the Department carried out any assessment of the potential impact of the budgetary pressures it has specified to date (as above), on the delivery of the Justice Bill, if enacted as introduced; and if so, please detail any such assessments?
4. If the Department has not carried an assessment as described in question 3, does it have any plans to do so?

1.3 Consultation on the Bill's proposals

The EFM that accompanied the introduced Justice Bill noted that the:

...major components proposed for inclusion in the Bill have been subject of public consultation while a number of the more technical and procedural improvements were the subject of targeted or specialist consultation.¹⁶

¹⁵ Department of Justice, DoJ Section 75 Equality Screening: Department of Justice Draft Budget allocations 2024-2 (18 September 2024) <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/doj-equality-24-25-opening-budget-allocation.pdf>

¹⁶ The Justice Bill (as introduced), Explanatory and Financial Memorandum <https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill---efm---as-introduced---fpv.pdf>

It highlighted two specific consultations had been carried out in relation to the Bill's proposals, prior to the Bill's introduction in the Assembly, namely:

- A consultation on proposals to make changes to the retention of biometric data (see section 2 of this paper for further details), which ran between 3 June and 28 August 2020.¹⁷
- A targeted consultation on the proposals concerning use of live links for police detention and interviews (see section 4 of this paper), which ran between 20 April to 1 June 2020.¹⁸

The DoJ biometric data consultation document did not include any direct questions to respondents on the potential financial implications on the proposals. The consultation did, however, include space for respondents to make other comments on the proposals not covered by the direct questions. The summary of responses document published by the Department in October 2020, following the consultation's closure, highlights that respondents did raise some concerns about resources. In particular, respondents highlighted the need for the review functions and the proposed Biometric Commissioner, to be adequately resourced.¹⁹

The targeted consultation on the extension of live links did note that the proposals were, in part, to improve efficiency. That was also noted in the responses to the consultation. The Summary of Responses to the live links consultation, published in June 2020, noted that respondents highlighted the potential efficiencies that the policy proposals could deliver, if implemented.²⁰

¹⁷ Department of Justice, Proposals to amend the legislation governing the retention of DNA and fingerprints in Northern Ireland, (June 2020) <https://www.justice-ni.gov.uk/consultations/proposals-amend-legislation-governing-retention-dna-and-fingerprints-ni>

¹⁸ Department of Justice, A Consultation on Proposals on the Use of Live Links for Police Detention/Interviews (April 2020) https://www.lawsoc-ni.org/DatabaseDocs/new_7500809_consultation_document_live_links_april_2020_final.pdf

¹⁹ Department of Justice, Consultation on Proposals to amend the legislation governing the retention of DNA and fingerprints in Northern Ireland, June 2020, summary of response (October 2020) <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/biometrics-provisions-summary%20of%20responses.pdf>

²⁰ Department of Justice, A Consultation on Proposals on the Use of Live Links for Police Detention/Interviews: summary of response (June 2020) <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/live%20links%20consultation%20outcome-summary%20of%20responses.pdf>

2 Part 1: DNA and Biometric data retention etc.

With regard to DNA and biometric data, Clauses 1 to 3 of the introduced Bill propose two broad changes that it would be reasonably foreseeable would incur additional costs to the Northern Ireland public purse, if enacted as introduced - namely:

1. Those related to a new regime for the retention of biometric data, for the PSNI.
2. Those related to the creation of a Biometric Commissioner, for the DoJ.

The following sub-sections provide available information on the potential costs associated with the above proposals.

2.1 The retention of biometric data

Within the context of the Justice Bill, as introduced, biometric data are defined to include fingerprints and DNA. Clause 1 of the Justice Bill proposes a new “75/50/25-year model” for the retention of biometric data. If enacted as introduced, the length of time that data would be retained would be determined by age, severity of offence and the outcome of the case. This system would replace the current system of indefinite retention.²¹ For further details, please see the RalSe [Justice Bill](#) Paper; published 16 September 2024.

Moreover, the introduced Bill includes provision for the Department to make regulations “to make further transitional or savings provisions, should this be necessary”, with regard to the retention of biometric data. It also contains provision for the Department to set out, by regulation, the “review process of long-term retained [biometric] material”. It further contains provisions that allow the Department to make regulations in relation to the retention of biometric data of “person arrested for or charged with a qualifying offence”.²² Schedule 2 of the Bill, as introduced, states that such regulations would be approved by resolution

²¹ The Justice Bill (as introduced), Clause 1
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill---as-introduced---fpv-.pdf>

²² As cited immediately above

of the Northern Ireland Assembly, using the draft affirmative resolution procedure²³ – if the Bill is enacted as introduced.²⁴

Potential scrutiny points:

5. Will the DoJ be carrying out any consultation, and/or costs/benefits analysis, on the proposed regulations prior to their introduction in the Assembly?
6. When will the DoJ forward drafts of the proposed regulations to the Northern Ireland Assembly?
7. Will the PSNI be carrying out any cost/benefit analysis on the proposed regulations when they are introduced?

If enacted as introduced, the Bill would require the PSNI to implement the model of biometric data retention. In September 2024, RaISe asked the PSNI to provide details of the potential costs that would be incurred by it in relation to the proposed model. In its response, the PSNI noted that:

The requirement to manage the retention of biometric material retained by the PSNI has been known since the S & Marper Court of Human Rights judgement of 2008 and the subsequent response to this in the Criminal Justice Act (Northern Ireland) 2013.²⁵

The above-referenced 2013 Act received Royal Assent on the 25 April 2013, but the biometric retention provision contained within that Act have not been commenced at the time of writing. That was due to “concerns around the impact of any mass deletion of biometrics would have on a future constituted legacy body and the collapse of the Northern Ireland Executive”. In preparation for the

²³ A statutory rule which is subject to affirmative resolution requires a debate and a vote in Plenary on a motion to affirm the statutory rule. It shall not come into operation unless and until affirmed by a resolution of the Assembly. <https://www.niassembly.gov.uk/visit-and-learning/assembly-glossary/#:~:text=A%20statutory%20rule%20which%20is,to%20affirm%20the%20statutory%20rule.>

²⁴ The Justice Bill (as introduced), Schedule 2 <https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill----as-introduced---fpv-.pdf>

²⁵ PSNI Biometric Unit, Update on Financial Implications of Justice Bill (Biometric Retention), Northern Ireland Assembly Research and Information Services (20 September 2024)

commencement of the 2013 Act's biometric retention provisions, however, the PSNI estimates that it had spent £2.1 million on Information and Technology (IT) costs in 2017-18. It notes that this cost related to software development and IT management of the project. It did not include:

- Internal PSNI staff costs, including the reassignment of staff.
- Costs to Criminal Justice Organisations involved in the development of the software.
- Costs to national bodies such as the Police National Computer and the Forensic Information Database Service.²⁶

In its response to RalSe's query in September 2024, the PSNI also noted that the PSNI's 10-year capital plan published in September 2024 included "an inescapable bid of £0.5m...for Biometric BPS Software development in 2026-27".²⁷

Looking ahead, the PSNI stated in its response that:

The draft Bill shows substantial changes to the retention rules as set out in the Criminal Justice Act and a thorough rewriting of the software will be required.

It is also worth noting that the PSNI will not be in a position to commence this work with software development in detail until the Bill receives Royal Assent and consultation is completed on the attendant Regulation. Only at this point will PSNI be assured there will be no further amendments to the retention rules as set out in the Bill. At this time, it is estimated that publication of the Regulations will take place between February and May 2026.²⁸

The PSNI response also set out a range of reasons as to why it was currently "extremely difficult" for the Service to provide a detailed estimate of the

²⁶ As cited immediately above.

²⁷ As cited in footnote 23.

²⁸ PSNI Biometric Unit, Update on Financial Implications of Justice Bill (Biometric Retention), Northern Ireland Assembly Research and Information Services (20 September 2024)

projected cost of the Justice Bill's biometric provisions.²⁹ It argued that those reasons included:

- The different retention periods that vary according to by age, severity of offence, and the outcome of the case necessitate proposed by the Bill are in the PSNI's view "much more complicated" than those previously set out in the Criminal Justice Act 2013. That PSNI stated that the cost to the organisation will be "commensurate with the complexity of the final requirement".
- The final retention periods will not be known until the Bill receives Royal Assent and all related regulations are passed. The PSNI response notes that, assuming the Bill receives Royal Assent by September 2025, it estimates that it will be June 2026 before the Regulations are published.
- A business case setting out estimated capital and revenue costs associated with the changes to the system is to be developed.
- The PSNI is the only police force "being asked to comply with a biometric retention schedule of this complexity", as such there is no previous experience to draw on to estimate likely financial impacts.
- The project will require the cooperation of other public bodies, that may potentially "seek full cost recovery for the PSNI". Those potential costs are unknown.
- PSNI currently faces acute budgetary pressures and these are expected to continue into the future.
- The figure of £2.1m for the previous project excludes PSNI internal staff costs. These costs will be higher for the new project given the increased complexity of the proposed solution and the probable need for staff to be extracted for longer periods both in development phase, testing and preparation for legislative commencement and cost inflation generally.
- It is estimated that it will take 36 months to "perfect paper fingerprint records held in the PSNI Fingerprint Bureau". This could be offset by overtime but it predicted to "have a further financial impact on the project".

²⁹ As cited immediately above

- There are currently “resourcing issues” within the PSNI’s IT department and Identification Bureau”. The PSNI anticipates that the “resolution” of these issues to have financial implications.
- The proposed retention scheme may result in some biometric retention being managed manually, which may have future resource and financial implications.
- Moving from a system of retaining biometrics indefinitely to the proposed system, will necessitate the mass deletion of biometrics. The PSNI’s response argued that this “is a substantial piece of work” that will “require significant resources”.
- The removal of biometric data will require the “retaking of further biometrics” where an individual is arrested for another offence. This process “will have an inevitable impact on PSNI Custody Suites, forensic providers, PSNI ID Bureau and local and national CJO partners”.³⁰

Potential scrutiny points:

8. The Committee may wish to ask the DoJ for its position on each of the above points raised by the PSNI.
9. The Committee may wish to ask the Department if it anticipates that the regulations cited above will have any financial effects on the operation of a future biometric retention scheme under the stated regulations, if enacted under the Bill as introduced?

2.2 Biometric Commissioner for Northern Ireland

Clause 1 of the Justice Bill also requires the Department to appoint a Northern Ireland Commissioner for the Retention of Biometric Material (the Commissioner). If the Bill is enacted as introduced, the Commissioner would

³⁰ PSNI Biometric Unit, Update on Financial Implications of Justice Bill (Biometric Retention), Northern Ireland Assembly Research and Information Services (20 September 2024)

have responsibility for reviewing the biometric technologies used by law enforcement, issuing guidance and providing an annual report to the Department.³¹

As noted, in sub-section 1.3 above, respondents to the consultation of proposals to change biometric retention system in Northern Ireland raised concerns that the biometric commissioner for Northern Ireland would be adequately resourced.³² In September 2024, RalSe asked the DoJ to share details of any cost assessment carried out with regards this new role, including details of the Commissioner's potential salary range, staffing levels and grades, and office costs. The Department responded that it is:

*...progressing work to assess potential costs associated with establishing a Biometrics Commissioner, including consideration of staffing levels and grades, staff costs and office costs. The work is still ongoing and, therefore, would not be appropriate to share at this stage.*³³

Potential scrutiny points:

10. When will the Department be in a position to share with the Committee the results of its work to assess the potential costs that would be associated with establishing such a Biometrics Commissioner?
11. Will this work include an assessment of both the start-up associated with establishing the Commissioner as well as the ongoing annual running costs?

³¹ The Justice Bill (as introduced), Clause 1
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill----as-introduced---fpv-.pdf>

³² Department of Justice, Consultation on Proposals to amend the legislation governing the retention of DNA and fingerprints in Northern Ireland, June 2020, summary of response (October 2020)
<https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/biometrics-provisions-summary%20of%20responses.pdf>

³³ Department of Justice, response to RalSe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

12. What impact would the staff-related actions of managing expenditure, as noted in sub-section 1.2.3 above, have on the creation of a Biometrics Commissioner's office?

Comparable Biometric Commissioner roles exist in Great Britain, where such Commissioners have been established, namely – the Biometrics and Surveillance Camera Commissioner in England and Wales, and the Scottish Biometrics Commissioner in Scotland. The roles of these organisations and details of their set up and operating costs are outlined in the sub-sections below, for purposes of offering some comparative bases when considering the introduced Bill in this context.

2.2.1 The Biometrics and Surveillance Camera Commissioner

The Biometrics and Surveillance Camera Commissioner (the BSCC) was established in 2021. It was originally comprised of two separate offices – the Office of the Biometrics Commissioner and the Officer of Surveillance Camera Commissioner – both of which established under the Protection of Freedoms Act 2012. The two offices were merged in March 2021.³⁴ The BSCC's is an independent monitoring body of the Home Office. Its role is to:

- Keep under review the retention and the use by police of DNA sample, DNA profiles and finger prints.
- Decide applications by the policy to retain DNA profiles and fingerprints.
- Review national security determination made or renewed by the policy in connection with the retention of DNA profiles and fingerprints.
- Provide reports to the Home Secretary about the carrying out of the BSCC's functions.
- Encourage compliance with the Surveillance Camera Code of Practice, review how the code is working and provide advice to ministers on whether or not the code requires amendment.³⁵

The BSCC budget for the financial year 2023-24 was £599,201. In the same year, it employed seven permanent staff, though notes that the staffing complement is nine. Additionally, it employed one “ad hoc contractor” in the financial year 2023-24.³⁶

2.2.2 The Scottish Biometrics Commissioner

The Scottish Biometrics Commissioner (SBC) was established by the Scottish Biometrics Commissioner Act 2020. The SBC's general function is to:

³⁴ The Biometrics and Surveillance Camera Commissioner, BSCC-FOI-0524-HD: budget and responsibilities (10 July 2024) <https://www.gov.uk/government/publications/biometrics-and-surveillance-camera-commissioner-foi-responses-2024/bbcc-foi-0524-hd-budget-and-responsibilities>

³⁵ The Biometrics and Surveillance Camera Commissioner, About (accessed 14 October 2024) <https://www.gov.uk/government/organisations/biometrics-and-surveillance-camera-commissioner/about>

³⁶ The Biometrics and Surveillance Camera Commissioner, BSCC-FOI-0524-HD: budget and responsibilities (10 July 2024) <https://www.gov.uk/government/publications/biometrics-and-surveillance-camera-commissioner-foi-responses-2024/bbcc-foi-0524-hd-budget-and-responsibilities>

...promote the adoption of lawful, effective and ethical practices in relation to the acquisition, retention use and destruction of biometric data for criminal justice and policy purposes by:

- a. The Police Service of Scotland (Police Scotland)*
- b. The Scottish Policy Authority (SPA)*
- c. The Police Investigations and Review Commissioner (PIRC)³⁷*

In addition to the above general function, the Commissioner is also required to:

- Keep under review, the law, policy and practice relating to the acquisition, retention of biometric by or on behalf Police Scotland, the SPA and the PIRC.
- Promote public awareness and understanding of the powers and duties those bodies have in relation to the acquisition, retention, use and destruction of biometric data.
- Promote, and monitor the impact of the SBC statutory code of practice.

The SBC's total required funding³⁸ in the financial year 2022-23 was £415,000, up from £278,000 in 2021-22. That increase "was mainly due to increases in staff costs". 2021-21 was the SBC's first full year of activity, but staffing costs "were only part-year compared to a full year staffing cost in 2022-23".

Accordingly, the staff costs rose from £149,000 in 2021-22, to £332,000 in 2022-23. The SBC was staffed by the Commissioner and three full-time equivalent persons in 2022-23.³⁹

The SBC's 2021-22 Annual Report and Accounts noted that the Scottish Parliamentary Corporate Body requested a total of £301,000 for set up and year one costs associated with establishing the SBC. Of this, £278,000 was required in the first year.⁴⁰

³⁷The Scottish Biometrics Commissioner, Annual Report and Accounts 2022/23

<https://www.biometricscommissioner.scot/media/efmrxanu/sbc-annual-report-accounts-2022-23.pdf>

³⁸ These figures show total funding received from the Scottish Parliamentary Corporate Body and are equal to total expenditure net of non-cash adjustments and movements in working capital including cash.

³⁹ A cited in footnote 35

⁴⁰ The Scottish Biometrics Commissioner, Annual Report and Accounts 2021/22

<https://www.biometricscommissioner.scot/media/nbobwwrd/sbc-ara-2021-to-2022.pdf>

3 Part 2: Children

Part 2 of the Bill, as introduced, sets out provisions relating to the bail, remand and custody for children. In particular, its Clause 6 seeks to strengthen the presumption of bail for children, by placing a duty on courts to release a child on bail, except in specific circumstances – for example, where a violent, sexual or very serious offence has occurred.⁴¹

Additionally, Clause 8 of the introduced Bill proposes amendment of Article 39 of the Police and Criminal Evidence (Northern Ireland) Order. To the effect, it proposes that a custody officer who takes a decision to release a child on bail, that that officer “may consider the child’s accommodation needs, but must not refuse bail solely because of the absence of any, or adequate, accommodation”. The Bill amends the Criminal Justice (Children) (Northern Ireland) Order 1998, “to include a similar provision in respect of a court’s power to refuse a child on bail under Article 10F of that Order”.⁴²

Taken together, these proposals could impact the public purse, if enacted as introduced. On the one hand, provisions that would result in an increase in the number of children granted bail could lead to a decrease in the cost of custody. On the other hand, the same result could lead to increased pressure on accommodation providers.

In September 2024, RaISe asked the DoJ to share with it:

*... any assessment of the cost of children being detained in custody because a lack of suitable accommodation for bail and the impact of the Bill’s proposed measures on this cost?*⁴³

⁴¹ The Justice Bill (as introduced), Clause 6
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill----as-introduced---fpv-.pdf>

⁴² The Justice Bill (as introduced), Clause 8
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill----as-introduced---fpv-.pdf>

⁴³ Department of Justice, response to RaISe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

In response, the Department emphasised that the “decision to propose changes to existing legislation” was made:

...not on an economic argument of with a view to saving costs, but to ensure the Department is compliant with the United Nations Convention on the Rights of the Child and other international instruments. Through the new provisions, we hope to reduce pre-trial detention in all but the most serious of cases, with children held in custody only as a result of the nature of their offending and not their individual circumstances.⁴⁴

The Youth Justice Agency (YJA) Northern Ireland publishes figures on the annual cost of custody per young person in its Annual Report and Accounts. The YJA uses two methods for calculating the per young person cost:

1. Total operating expenditure divided by the maximum number of available spaces (the maximum number of places methodology).
2. Total operating expenditure divided by the number of resourced places available, based on staffing levels and resources available for service deliver (the resourced places methodology).

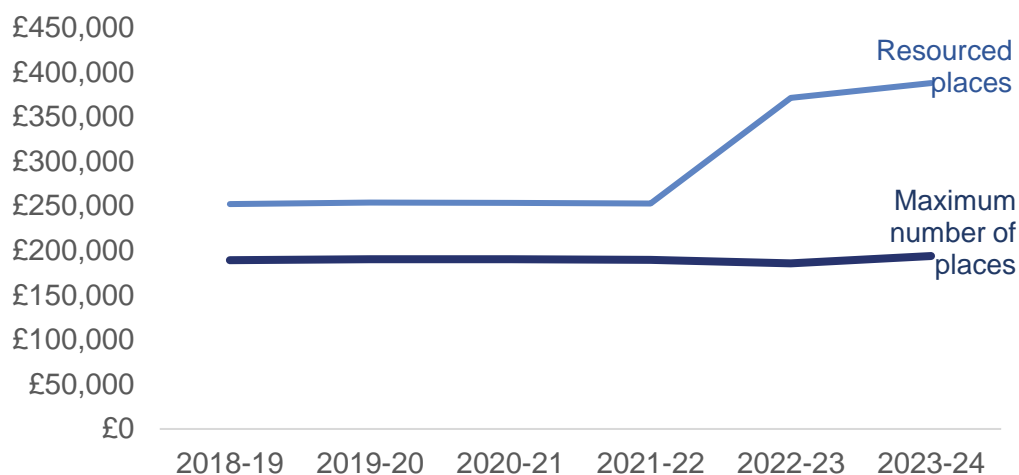
Figure 1, below, plots the cost of custody per young person between 2018-19 and 2023-24, as calculated by each methodology. As can be seen from the Figure, the cost based on the “maximum number of available places methodology” has remained relatively flat over the period; increasing from £189,065 in 2018-19, to £193,880 2023-24. There was, however, a significant increase in the cost as measured using the “resourced places methodology” (see bullet point two above). This was relatively flat between 2018-19 and 2021-22, decreasing slightly over this period from £252,087 to £252,846. In subsequent years, the costs increased to £371,320 in 2022-23, and to £387,759 in 2023-24. The YTA has explained:

Operating expenditure relates to the resource expenditure outturn with non-standard cost items removed. These relate to the costs in respect of Youth Justice Services, an apportionment of corporate overheads, the

⁴⁴ Department of Justice, response to RalSe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

costs associated with the joint project with the DoH regarding the proposed repurposing of Woodlands Juvenile Justice Centre, movements in provisions and impairments arising from the revaluation of fixed assets. The movement in the cost of custody reflects rising staff costs with the Agency and higher depreciation costs for the replacement of capital works at Woodlands Juvenile Justice Centre.⁴⁵

Figure 1: Cost of custody per young person 2018-19 to 2023-24⁴⁶



Source: Compiled by RalSe, relying on [YTA Annual Reports and Accounts 2019-20 to 2023-24](#)

Potential scrutiny point:

13. The Committee may wish to ask the YTA which methodology for calculating the costs of custody per young person it prefers; and why.

The DoJ has noted the difficulty in calculating the costs of keeping children in custody in a scenario where bail has been granted, but no suitable accommodation can be secured. The Department has explained:

⁴⁵ Youth Justice Agency, Annual Report and Accounts 2023/24 <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/2023-24%20annual%20report%20and%20accounts%20-%20youth%20justice%20agency.PDF>

⁴⁶ Compiled by RalSe from YTA Annual Reports and Accounts 2019/20 to 2023/24 <https://www.justice-ni.gov.uk/publications/youth-justice-agency-annual-reports-and-accounts>

However, given that a high proportion of the operating costs of the Juvenile Justice Centre are fixed costs, it is not possible to accurately assess the costs of keeping children in the facility for an additional number of days post-granting of bail due to the lack of appropriate alternative accommodation.

Potential scrutiny point:

14. Noting the above-stated difficulty in estimating the costs of keeping children in remand post-granting of bail, does the Department anticipate that proposal, if enacted as introduced, would have a positive impact on the average cost of custody?

In addition, in January 2023, the Criminal Justice Inspection Northern Ireland (CJINI), published “The Operation of Bail and Remand in Northern Ireland”. That report found that the average daily remand population in Woodlands Juvenile Justice Centre (WJJJC) increased from 65% in 2016-17, to 86% in 2020-21. That report also noted that, in general, “remanding a person into prison can be a more expensive option compared to bail”.⁴⁷

Potential scrutiny points:

15. Does the Department agree with the CJINI’s assessment that remanding a person into prison can be more expensive than bail?
16. Has the Department carried out any assessment of this (above in 13) that it would share with the Committee?

⁴⁷ Criminal Justice Inspection Northern Ireland, The operation of bail and remand in Northern Ireland, January 2023 <https://www.cjini.org/getattachment/65877a4e-3b5b-4319-9684-513d0d4ea542/The-operation-of-Bail-and-Remand-in-Northern-Ireland.aspx>

17. Does the Department expect the proposals to reduce the proportion of the daily remand population in WJJC, if enacted as introduced?
18. If so, do the Department anticipate that such a change (as in 15 above) would reduce the cost of custody?

The DoJ were also asked to share with RaISe any assessment of the cost of ensuring suitable accommodation in the future, if these provisions would be enacted as introduced. In its responses to RaISe, the Department noted that options for suitable alternative accommodation were under consideration by the Regional Facilities Programme Team. However, that Team has been “stood down” since that time, and this work will “now be taken forward through the mechanisms established to deliver on the recommendations from the recent Independent Review of Children’s Social Care Services”. In that regard, the DoJ further stated:

As a result, it is not possible, at this stage, to provide an assessment of providing comprehensive alternative bail accommodation options for children.⁴⁸

Potential scrutiny point(s):

19. The Committee may wish to ask the DoJ when it anticipates that it will be in a position to provide the Committee with an “assessment of providing comprehensive alternative bail accommodation options for children”, including any costings it compiles in relation to that assessment?

⁴⁸ Department of Justice, response to RaISe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

4 Part 3: Use of live links

Live links is the name given to audio or video conferencing systems used within Northern Ireland's court system. If enacted as introduced, Clause 20 would extend the use of live links into other areas of the justice system. Specifically, the Clause would enable the use of the technology:

- to enable remote interviewing by police officers in a different location to a suspect
- for the purposes of seeking “the authorisation of extensions of pre-charge detention”⁴⁹

In September 2024, RalSe asked the DoJ to share with it any costs benefit analysis it had conducted into the extension of live links into those areas. The Department responded, saying that it:

...does not consider there to be any additional costs associated with the roll-out of live links, as PSNI will be using technology that is already in place and will be refreshed as part of the normal PSNI IT refresh cycle.⁵⁰

The DoJ noted also that the PSNI had identified benefits of using the technology. The Department stated:

Currently, superintendents may be required to travel long distances to conduct an extension of detention review, the process of which may take around 10 minutes. The use of live links could potentially result in some efficiencies on travel and escort costs, depending on how often they are used and the volume of cases.⁵¹

This was reflected in the responses to the DoJ's consultation on proposals to extend the use of live links, which was carried out between 20 April and 1 June

⁴⁹ The Justice Bill (as introduced), Clause 20
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill----as-introduced---fpv-.pdf>

⁵⁰ Department of Justice, response to RalSe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

⁵¹ Department of Justice, response to RalSe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

2020. As noted in the DoJ's "Summary of Responses" (dated June 2020), respondents to the consultation recognised:

...the benefits in making the justice system less prone to delay, more efficient and effective; for example, the use of live links may result in the reduction in time waiting for a superintendent to attend in person. Some respondents suggested that the proposals may help to reduce delay, travel and waiting times.⁵²

Potential scrutiny point:

20. The Committee may wish to ask the PSNI for its assessment of the potential costs that could be incurred and/or saved if it would use live links, as proposed in the introduced Bill?

5 Part 4: Administration of justice

Part 4 of the Justice Bill, as introduced, contains provisions that seek to make changes to the administration of justice in Northern Ireland. Of the provisions included in the introduced Bill's Part 4, four proposals could result in costs to the public purse if enacted. Those are explored in the following sub-sections.

5.1 Examination in criminal proceedings through a Registered Intermediary

Currently, the Criminal Evidence (Northern Ireland) Order 1999 provides for the examination of an accused person in a Magistrates' or Crown Court through a Registered Intermediary. There is currently no provision in legislation to allow for the use of a Registered Intermediary at the Court of Appeal. Clause 26 of the Bill, as introduced, proposes an amendment to the Criminal Evidence

⁵² Department of Justice, The use of live links for police detention/interviews – A consultation: Summary of responses (June 2020) <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/live%20links%20consultation%20outcome-summary%20of%20responses.pdf>

(Northern Ireland) Order 1999, to close that gap in the legislation by extending the examination through a Registered Intermediary to the Court of Appeal.⁵³

In September 2024, RalSe asked the Department to share with it any cost assessment of extending Registered Intermediaries to appeal courts. The Department responded:

*Registered Intermediaries already provide assistance in appeal courts when approved by the judiciary. This legislation is purely to provide a statutory basis for this action. The Department expects an additional 2 to 3 cases per annum as a result of the provision at a cost of between £300 - £400 per case, which will be met within existing budgets.*⁵⁴

5.2 Legal aid

Clauses 27 and 28 – as introduced - propose changes to Northern Ireland's legal aid system. Clause 27 proposes a "technical amendment" to the Land Registration Act (Northern Ireland) 1970, to enable Legal Services Agency to register certain statutory charges, in the Statutory Charges Register.

Clause 28 proposes changes to the taxation of legal aid costs in Northern Ireland by inserting a new Section 59A into the Judicature (Northern Ireland) Act 1978. As noted in the RalSe briefing on the Justice Bill in September 2024, the aim of that amendment is to restrict the role of the court via Taking Master to determine payment for legal aid work where the basis for payment out in a remuneration order made under the Access to Justice (Northern Ireland) Order 2003. The Bill's EFM notes that this change would support alternative methods of determining such remuneration, if enacted. The EFM further notes that the provisions would not be commenced and would take effect only on a project-by-project basis.⁵⁵

⁵³ The Justice Bill (as introduced), Clause 26
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill----as-introduced---fpv-.pdf>

⁵⁴ Department of Justice, response to RalSe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

⁵⁵ The Justice Bill (as introduced), Clause 28
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill----as-introduced---fpv-.pdf>

As also noted in the September 2024 RalSe Briefing, the proposed change has its roots in the Assembly's Public Account Committee 2016 "Report on Managing Legal Aid". That Report recommended a review of how expenditure currently adjudicated by the Taxing Master could be brought under the remit of the Accounting Officer. The September 2024 RalSe Briefing added:

Therefore, the objective of clause 28 is to preclude the High Court and Court of Appeal from granting orders for taxation of legal aid costs if:

- The costs are for civil or criminal legal services funded by the Department of Justice;*
- The costs have not been ordered to be paid by any party other than the Department of Justice.*

The Department takes the view that it should be able to determine the amount that it pays.⁵⁶

In September 2024, RalSe asked the Department to share with it any assessment of the potential costs or savings arising from the proposals included in Clause 28, as introduced. The Department responded:

This provision, in and of itself, will not save any money. It will facilitate reform of legal aid cost to remove the determination of legal cost for the High Court cases and Court of Appeal cases from the Taxing Master (an independent judicial office holder) to the Department.⁵⁷

The Department added:

The provision sets down a marker to ensure that when new fee rates are introduced, the Department rather than the court will determine the fees payable. In determining the fee structure, the Department will take into account value of money. It is not possible at this stage to determine whether there will be any financial savings.⁵⁸

⁵⁶ Northern Ireland Assembly Research and Information Service, Justice Bill (16 September 2024) [Assembly Research and Information Service Briefing Paper - Justice Bill \(niassembly.gov.uk\)](https://niassembly.gov.uk/assembly-research-and-information-service/briefing-paper-justice-bill)

⁵⁷ Department of Justice, response to RalSe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

⁵⁸ As cited immediately above

Potential scrutiny points:

21. Has the Department established a timeline for when the proposed fee structure would be determined, if enacted as proposed?
22. At what point would the Department be in a position to determine whether there would be any financial savings from such a fee structure?

5.3 Criminal records

Clause 29 of the Bill, as introduced, proposes that the scope of the Independent reviewer of criminal record's automatic review powers is extended to include the automatic review of:

...criminal record information to be disclosed on all criminal record certificates or enhanced criminal record certificates issued under the [Police Act 1997], where that information relates to any "other disposal" given to a person when they were under 18 years of age.⁵⁹

This is in response to a Supreme Court ruling from January 2019 that "determined that blanket disclosures of offence in respect of which such a disposal was given was unlawful".⁶⁰

In September 2024, RaISe asked the DoJ to clarify the following for it: whether the proposals would have any impact on the Department's costs; whether an increase to the Independent Reviewer's case load is anticipated as a result of the proposals; and, if so, what impact would that have on the Independent Reviewer's costs. The Department responded:

⁵⁹ The Justice Bill (as introduced), Explanatory and Financial Memorandum <https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill---efm---as-introduced---fpv.pdf>

⁶⁰ As cited immediately above

*We do not envisage any additional costs to the Department as a result of this provision. AccessNI has been referring all Youth Non-Court Disposals to the Independent Reviewer (on an administrative basis) since March 2020 – the IR has been able to undertake these additional referrals without the need for additional resource.*⁶¹

5.4 Court security

Clause 30 of the Bill, as introduced, provides the DoJ with “regulation-making powers to add to the list of ‘relevant buildings’ to ensure that the Department has the power to extend the use of court security officers to areas of business that are not covered by existing legislation”. It is worth noting that the Bill itself does not extend the use of court security to other areas; rather, it gives the Department the power to do so through secondary legislation.⁶²

In September 2024, RaISe asked the DoJ to provide it with an estimate of the current cost of providing court security and share any assessment of extending court security. The Department responded:

*NICTS [Northern Ireland Courts and Tribunals Service] do not foresee any additional costs arising from these provisions as they aim to better support the security arrangement that are already in place.*⁶³

Potential scrutiny points:

23. Will the DoJ be carrying out any consultation and/or costs/benefits analysis on the proposed secondary legislation prior to its introduction to the Assembly?

⁶¹ Department of Justice, response to RaISe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

⁶² The Justice Bill (as introduced), Clause 30
<https://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/mandate-2022-2027/justice-bill/justice-bill---as-introduced---fpv-.pdf>

⁶³ Department of Justice, response to RaISe on Justice Bill – Information request: Financial Implications of Justice Bill 2024 (18 September 2024)

24. When will the DoJ forward drafts of the proposed secondary legislation to the Assembly?

6 Key takeaways

The EFM accompanying the Justice Bill, as introduced, included little information on the estimated financial effects of the Bill's provisions. Nonetheless, the EFM stated that Bill's financial effects, if enacted as introduced, would be delivered within existing resources and that some provisions would be subject to "individual costs and benefits analysis and subsequent proportionate business cases".

It should be noted that the Bill has been introduced at a time of significant resource pressure. The DoJ noted in its Section 75 Equality Screening of its Draft Budget Allocations that it was in a position where it was required to make "extremely difficult decisions on prioritisation and service provision". The same document notes that the Department is taking a range of actions to manage its budget, including staff related actions such as the stopping or slowing of recruitment. The Department has also noted that the PSNI, a key partner in delivering the Bill's biometric retention provisions, is experiencing a range of pressures.

Within that context, this Briefing Paper has relied on available information, including information provided by the DoJ and the PSNI, to identify potential costs arising from the Bill's provisions, as introduced. The Paper has identified the following:

- **The retention of biometric data:** The PSNI has noted that the biometric data retention scheme proposed in the Bill, as introduced, is more complex than the scheme previously set out in the Criminal Justice Act 2013. It has stated that if the introduced Bill was enacted, the cost to the PSNI would be commensurate with this complexity, but that it would not be in a position to provide an estimate of that cost until the Bill has reached Royal Assent and all related regulations have been passed. The use of secondary legislation means that certain aspects of the biometric

data regime remain undetermined until those regulations have been introduced and pass. Sub-section 2.1 of this Briefing Paper raised a number of questions concerning those regulations, including: whether the DoJ will carry out any consultation and/or cost/benefit analysis prior to introducing the relevant secondary legislation; and when the Department will introduce that legislation into the Assembly.

- **Biometric Commissioner:** The DoJ has stated that it is “progressing work to assess the potential cost associated with establishing a Biometric Commissioner”. It was not in a position to share that assessment at the time of writing. Similar roles existing in Great Britain. The Biometric and Surveillance and Camera Commissioner was established in 2021. In 2023-24, it had a budget of £599,201 and employed seven staff (out of a compliment of nine). The Scottish Biometrics Commissioner was established in 2020. In 2022-23, it had a budget of £428,000 and was staffed by the Commissioner and three full-time equivalent persons. It is worth noting that in 2021-22 the Scottish Biometrics Commissioner expenditure was £278,000. That expenditure covered both set-up and year one costs.
- **Children:** The DoJ has stated that the proposed changes to bail arrangements have not been put forward to save costs, but to ensure the Department is compliant with the United Nations Convention of the Rights of the Child. In its response to a request for information by RalSe the Department did not provide any assessment of the proposed changes on costs. The introduced Bill’s proposals are at a time when the cost of custody per young person, as measured by the total number of resourced places, are rising. Additionally, the Department has stated that it is not possible at this point to provide “an assessment of providing a comprehensive bail accommodation options for children”.
- **Live links:** The introduced Bill proposes extending the use of live links to police interviews and extensions of pre-charge detention. The DoJ has stated that it does not consider there to be any additional costs with this proposal. It suggests that it may result in some savings to the PSNI. Respondents to a consultation on the proposed extension to live links

(April to June 2020) also highlighted the potential efficiencies the changes could deliver.

- **Registered Intermediaries:** The introduced Bill proposes extending examination through a Registered Intermediary to the Court of Appeal. This already occurs when approved by the judiciary. The provision, if enacted, would “provide a statutory basis for this action”. The DoJ expect the provisions would result in an extra two to three cases per year at a cost of between £300 to £400 per case, if enacted as introduced.
- **Legal Aid:** The proposed changes to legal aid would, if enacted as introduced, “remove the determination of legal cost for the High Court cases and Court of Appeal Cases from the Taxing Master to the Department”. The DoJ has stated that this provision would not “in and of itself” save money. The Department has stated it would consider value for money when it determines a new fee structure, but adds that it is “not possible at this stage to determine when there would be any financial saving”.
- **Criminal records:** If enacted as introduced, the proposed changes to the automatic review of criminal records disclosures would not be anticipated to result in any additional cost to the Department. The Independent Reviewer has been undertaking additional reviews since 2020 and has been able to do so with the additional resource.
- **Court Security:** The Bill includes provision that, if enacted as introduced, would give the Department power to make regulations extend the use of court security. The DoJ has stated that it does not “foresee an additional costs arising from these provisions”, if enacted as introduced. Sub-section 5.4 of this Briefing Paper raised a number of question about the use of secondary legislation, including: whether the DoJ will carry out any consultation and/or cost/benefit analysis prior to introducing the relevant secondary legislation; when the Department introduce the relevant legislation into the Assembly.