Northern Ireland Assembly

Research and Information Service Bill Paper

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Victims and Witnesses of Crime Bill

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This Bill Paper has been prepared by the Assembly's Research and Information Service (RaISe) to provide an overview of the Victims and Witnesses of Crime Bill. It outlines the background to the Bill, including public consultations undertaken, and should be read in conjunction with the RaISe Review of Costs (NIAR 264-2026). Where relevant, it provides a comparison with approaches taken in other jurisdictions.

This paper contains references to topics some readers may find distressing, including the impact of sexual violence.

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.

Executive Summary

The Victims and Witnesses of Crime Bill was published on 22 June 2026 and passed Second Stage on 30 June 2026. The Bill has since been referred to the Assembly's Committee for Justice for consideration.

The following supporting documents have been prepared by the Department alongside the Bill:

- Explanatory and Financial Memorandum
- Delegated Powers Memorandum
- Equality Screenings
- European Convention on Human Rights (ECHR) Memorandum

In addition to this paper, the following documents have been published by the Northern Ireland Assembly to support scrutiny of the Bill:

- Review of Costs prepared by RaISe
- Convention Rights Memorandum, which addresses issues arising under the ECHR and Article 2(1) of the Windsor Framework, prepared by the Legal Services Department

What would the Bill do?

The Bill includes 3 Parts, 30 clauses and 2 schedules. The Justice Minister has highlighted that the measures within it, if enacted, would "*deliver significant improvements in the support, protection and rights of victims and witnesses of crime*".

The Bill follows public consultations on the Victims and Witnesses Bill, the Review of Hate Crime Legislation and the Gillen Review into the Law and Procedures in Serious Sexual Offences in Northern Ireland. Below is an overview of the structure of the Bill and relevant sections within this paper, alongside a number of potential scrutiny points.

Establishment and Appointment of the Commissioner for Victims and Witnesses of Crime (clause 1 and schedule 1)

This clause and schedule would:

- provide for the Department of Justice to appoint a Commissioner for Victims and Witnesses of Crime with independent legal status as a corporation sole.
- allow for a Commissioner to be in office for 5 years with eligibility for one further term of office.
- provide for the Commissioner's removal in a limited number of situations, such as conviction for a criminal offence or bankruptcy.
- commence by order on a date appointed by the Department of Justice.

The Department of Justice consulted on the establishment of a statutory Commissioner for Victims and Witnesses of Crime within the consultation on a Victims and Witnesses of Crime Bill.

See Section 2 for Background to the Commissioner and Section 3 of this Bill Paper for more analysis.

Duties and Powers of the Commissioner (clauses 3 - 4)

These clauses would:

- provide the Commissioner with a range of general duties, including the promotion of an understanding of the rights of victims and witnesses and an awareness of matters relating to their interests.
- provide the Commissioner with a number of general powers. This would cover undertaking, commissioning, funding or supporting research or educational activities concerning the interests of victims and witnesses. It would also allow the Commissioner to make representations or recommendations to "any body or person" concerning the interests of victims and witnesses.

MLAs may wish to seek more information on the status of any representations or recommendations which the Commissioner would be able to make to "any body or person" concerning the interests of victims and witnesses (clause 4).

These could extend beyond the remit of the criminal justice system. Only a charter service provider (clause 9) would be required to respond to recommendations made in an annual report by the Commissioner (clause 19).

See Section 3.4.1 of this Bill Paper for more analysis.

Charter Reviews and Best Practice Guidance (clauses 5 - 6)

These clauses would:

- require the Commissioner to review the operation and effectiveness of the Victim and Witness Charter at least every 3 years.
- allow the Commissioner to issue guidance on best practice relating to the interests of victims and witnesses which a person exercising public functions would be required to have regard to.

MLAs may wish to consider whether the Department, or any other charter service providers, should have to provide a response to the Commissioner's review within a defined timeframe. MLAs may wish to consider whether the Commissioner should have the power to make proposals to the Department regarding making amendments to the Victim Charter.

See Section 3.4.2 of this Bill Paper for more analysis.

Advisory Groups (clause 7)

This clause would:

- allow the Commissioner to establish one or more advisory groups to provide advice and information on the exercise of their functions.

MLAs may wish to consider the way in which appointments will be made to the Commissioner's advisory groups and whether they will be required to publish membership, key actions and minutes.

See Section 3.4.3 of this Bill Paper for more analysis.

Restriction on Involvement in Individual Cases (clause 8)

This clause would:

- provide that the Commissioner cannot become involved in the individual case of a particular victim or witness or intervene in criminal proceedings.
- not prevent the Commissioner from considering individual cases to enable them to draw conclusions about a general issue.

The Bill as drafted does not include any investigation (either at an individual or organisational level) or complaints handling powers for the Commissioner. Existing accountability bodies within criminal justice are expected to perform these functions. MLAs may wish to consider whether there is a tension between a system-level oversight function and expectations of accessibility and responsiveness from victims and witnesses.

See Section 3.4.4 of this Bill Paper for more analysis.

Charter Service Providers (clause 9)

This clause would:

- provide that the Commissioner must monitor compliance with the Victim Charter by charter service providers. Charter service providers are core criminal justice agencies, including the PSNI, PPS, Probation Board, the Northern Ireland Prison Service and the Northern Ireland Courts and Tribunals Service etc. (clause 9).
- provide the Department with a regulation making power in relation to adding other criminal justice agencies as charter service providers (negative procedure).

MLAs may wish to note that the Victim and Witness Care Unit, Victim Support NI and NSPCC Young Witness Service are listed as service providers in the Victim Charter but are not included in clause 9. MLAs may wish to consider that other non-core criminal justice organisations investigate offences and potentially engage with victims but are not listed as service providers. It may also be worth seeking more information on the future addition of the Office of the Police Ombudsman as a charter service provider.

See Section 3.5 of this Bill Paper for more analysis.

Information and Statistics (clauses 10 - 11)

These clauses would:

- allow the Commissioner to request any information considered necessary from a charter service provider (clause 10).
- require that charter service providers must provide statistics to the Commissioner (clause 11).
- provide the Department with a regulation making power in relation to setting out how the particular statistics to be provided by charter service providers are to be determined (draft affirmative procedure). These would be able to specify the form, manner and timeframes for sharing these statistics with the Commissioner.

As the detail around the statistics will be set via regulation, MLAs may wish to seek further information on the data which service providers will be required to produce to demonstrate charter compliance and accountability.

See Section 3.5.1 of this Bill Paper for more analysis.

Witness Charter Extension (clause 12)

This clause would:

- give the Department the power to extend clause 10, on the monitoring of compliance by the Commissioner, and clause 11, on the provision of statistics and information, to cover the Witness Charter by way of a regulation making power (draft affirmative procedure).

See Section 3.5.2 of this Bill Paper for more analysis.

Duty to Cooperate (clause 13)

This clause would:

- provide that the Commissioner may request that a charter service provider co-operates in any way that enables the Commissioner to carry out their functions. A charter service provider would be required to

respond to such a request confirming that they will comply so far as reasonably practicable or, stating that they will not comply, and the reason for this.

MLAs may wish to query whether the Bill should include a power to extend the cooperation duty to cover Government Departments working across other key areas, such as health, housing, finance (civil law reform), given the impact that these often have in shaping the experience of victims.

See Section 3.5.3 of this Bill Paper for more analysis.

Complaints (clause 14)

This clause would:

- require charter service providers to record complaints relating to alleged breaches of Victim Charter or Witness Charter obligations. A summary report would then sent to the Commissioner after the end of the financial year.

MLAs may wish to consider how this requirement will interact with existing complaints procedures used by service providers.

See Section 3.5.4 of this Bill Paper for more analysis.

Plans and Annual Reports (clauses 16-19)

These clauses would:

- require the Commissioner to prepare a strategic plan (clause 16). As part of this, the Commissioner would be required to specify one or more groups of victims or witnesses to whom they will have particular regard.
- require the Commissioner to send a business plan to the Department setting out how the Commissioner's functions will be exercised in respect of each financial year (clause 17).
- require the Commissioner to produce an annual report after the end of each financial year (clause 18). This would also require a charter service provider to respond to any recommendations made in an annual report published by the Commissioner within 56 days (clause 19).

MLAs may wish to consider whether there should be a wider duty on charter service providers to respond to recommendations made in any other reports produced by the Commissioner within a certain timeframe. As noted under clause 4, the Commissioner would have the power to make recommendations to "any body or person" concerning the interests of victims and witnesses but no response is required to these.

See Section 3.6 of this Bill Paper for more analysis.

Special Measures and Protection from Cross-Examination (clauses 24 - 25)

These clauses would:

- be dependent on the enactment of the provision creating a statutory aggravator in respect of hostility which is contained in Part 6 of the Criminal Justice (Sentencing etc) Bill.
- provide that complainants are automatically eligible for assistance with giving evidence in cases dealing with an offence involving aggravation by hostility (clause 24). This is in addition to the existing automatic eligibility offences of sexual offences, human trafficking, stalking and domestic abuse.
- prevent any person charged with an offence involving aggravation by hostility from cross-examining in person a complainant in connection with the offence (clause 25).
- commence by order on a date appointed by the Department of Justice.

Judge Marrinan's Independent Review of Hate Crime Legislation in Northern Ireland recommended that complainants in criminal proceedings involving aggravated offences should automatically be eligible for consideration of special measures and that no person charged with such an offence should be allowed to cross-examine a complainant. The Department of Justice accepted this recommendation in 2021 and conducted a further consultation in 2022.

MLAs may wish to give further consideration to the limited list of witnesses who would be automatically eligible for special measures support and protection from cross-examination by a non-represented defendant, given the additional

protected characteristics recommended for inclusion by Judge Marrinan within a statutory aggravation model (age, sex/gender (including gender identity) and variations in sex characteristics).

MLAs may also wish to give further consideration to whether these protections should also include offences aggravated by reason of a victim's vulnerability (clause 36 of the Criminal Justice (Sentencing etc) Bill).

See Section 5 for Background and Section 6 of this Bill Paper for more analysis.

Protection of Complainants in Sexual Offence Cases (clause 26)

This clause would:

- create a statutory basis for the procedures set out in the revised Practice Direction on Case Management in the Crown Court 02/2019.
- allow for qualified legal professionals (usually Sexual Offence Legal Advisers/SOLAs) to represent complainants in pre-trial hearings concerning disclosure of third party material in respect of which the complainant has a reasonable expectation of privacy and evidence of previous sexual history.
- include provision for delegated legislative power in relation to court rules (negative procedure). These may specify the serving of notice and documents upon the complainant, the manner of service and how confidential or sensitive information is to be treated.
- commence by order on a date appointed by the Department of Justice.

Sir John Gillen's Review into the Law and Procedures in Serious Sexual Offence Cases made a recommendation in relation to granting pre-trial independent legal representation where complainants wish to object to the disclosure of private material or the introduction of their previous sexual history. The Department of Justice consulted on this as part of the consultation on a Victims and Witnesses of Crime Bill.

MLAs may wish to ask for further detail on the level of information and evidence that would be shared with a complainant's legal representative (SOLA) in cases for which they are providing representation. MLAs may also wish to consider

whether the detail of the process around disclosure of third party material should be contained in the Bill rather than being left to court rules.

See Section 8 for Background and Section 9 of this Bill Paper for more analysis.

Limitation of Power to Dismiss Charges involving Death or Serious Physical Harm of a Vulnerable Person (clause 27)

This clause would:

- make a technical fix relating to an issue around the Application to Dismiss procedure that will arise when committal reform is implemented. This is a procedure which would allow the defence to apply to the Crown Court to have the charge(s) dismissed.
- amend legislation relating to evidence and procedures for trials in relation to the death or serious physical harm of a child or vulnerable adult.
- remove the risk of the more serious charge in this type of case being dismissed before all of the evidence is heard.
- commence by order on a date appointed by the Department of Justice.

See Section 11 of this Bill Paper for more analysis.

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1 Introduction

The Victims and Witnesses of Crime Bill was introduced into the Northern Ireland Assembly on 22 June 2026 and passed Second Stage on 30 June 2026. Across 3 parts, 30 clauses and 2 schedules, the Bill would make provision for:

- the establishment, appointment, principal aim and functions of a statutory Commissioner for Victims and Witnesses of Crime
- the mandatory publication of victim-related statistics by Victim Charter service providers, covering a range of criminal justice agencies
- requirements for charter service providers to maintain a record of any alleged breaches of Victim and Witness Charter obligations with a summary of this information sent to the Commissioner
- the preparation of a strategic plan, business plans and annual reports by the Commissioner
- the extension of special measures for witnesses and protection from cross-examination in person by individuals charged with offences involving aggravation by hostility
- pre-trial legal representation for complainants in serious sexual offence cases
- a technical fix for the no bill procedure required in preparation for the forthcoming implementation of direct committal.

The following supporting documents have been prepared by the Department alongside the Bill:

- Explanatory and Financial Memorandum[1]
- Delegated Powers Memorandum[2]
- Equality Screenings[3]

[1] Victims and Witnesses of Crime Bill, Explanatory and Financial Memorandum (June 2026)

[2] Department of Justice, Delegated Powers Memorandum (July 2026)

[3] Provided through correspondence between RaISe and Department of Justice (27 July 2026). The Department's equality screenings relating to the Bill did not identify any significant impact on the section 75 groups.

- European Convention on Human Rights (ECHR) Memorandum[4]
- Data Protection Impact Assessments.[5]

In addition to this paper, the following documents have been published by the Northern Ireland Assembly to support scrutiny of the Bill:

- Review of Costs prepared by RaISe[6]
- Convention Rights Memorandum, which addresses issues arising under the ECHR and Article 2(1) of the Windsor Framework, prepared by the Legal Services Department.[7]

This RaISe briefing provides further background and analysis on the Bill as introduced. It provides background information on the public consultations undertaken for the Victims and Witnesses Bill,[8] the Review of Hate Crime Legislation and the Gillen Review into the Law and Procedures in Serious Sexual Offences in Northern Ireland. It also considers the Bill clause-by-clause and includes areas that MLAs may wish to consider further during scrutiny of the Bill.

During Second Stage debate, MLAs highlighted other matters that have been proposed for potential inclusion in the Bill. Caoimhé's Law, which involves proposals for an offence to prevent the unauthorised recording and sharing of photographs of road traffic collisions, was referenced.[9] Growing concern around the use of good character references at sentencing in certain proceedings was also discussed.[10] The Minister suggested that officials are giving urgent

[4] Provided through correspondence between RaISe and Department of Justice (27 July 2026). This considers Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life) in respect of provisions contained in the Bill.

[5] Provided through correspondence between RaISe and Department of Justice (27 July 2026)

[6] Northern Ireland Assembly, Research and Information Service Review of Costs: Victims and Witnesses of Crime Bill (NIAR 264-2026) (October 2026)

[7] Will be available at Northern Ireland Assembly Committee for Justice, Victims and Witnesses of Crime Bill Committee Stage

[8] Department of Justice, Consultation on proposals for a Victims and Witnesses of Crime Bill (November 2024)

[9] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 102 and page 120-122

[10] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 119-120

consideration to whether a "simple legislative change" could be identified and the issue addressed during this Assembly mandate.[11]

The Committee for Justice has also received correspondence from a range of stakeholders highlighting further areas for potential consideration. This includes victim personal statements, criminal injuries compensation and suicide following domestic abuse.[12]

2 Background: Commissioner for Victims and Witnesses of Crime

2.1 Victim and Witness Charters

Victims and witnesses of crime have long standing entitlements to a range of support through the Victim and Witness Charters.[13] In 2015, legislation was passed which put these charters on a statutory footing.[14]

At that time, the development of the two charters formed part of the Department of Justice's response to meeting the obligations contained in the EU Directive on establishing minimum standards on the rights, support and protection of victims of crime.[15] This action also followed an inquiry report from the Committee for Justice during the 2011 – 2016 Assembly mandate on the services available to victims and witnesses of crime which recommended the introduction of a Victim and Witness Charter.[16]

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[11] A public consultation is currently ongoing on the use of good character references at sentencing. Department of Justice, A Consultation on Good Character References at Sentencing in Criminal Proceedings (October 2026). The issue of good character evidence at trial is being considered by the Department's Review of Sentencing Policy with a view to developing legislative proposals for the next Assembly mandate, if required. Department of Justice, Written Ministerial Statement: Launch of Review of Sentencing Policy (January 2026)

[12] Victim Support NI, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026), page 10 and Commissioner for Victims of Crime Office, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026), page 25-26

[13] Department of Justice, Victim Charter (January 2015) and Witness Charter (April 2017)

[14] Justice Act (Northern Ireland) 2015, Part 4 with the Victim Charter coming into operation via The Victim Charter (Justice Act (Northern Ireland) 2015) Order (Northern Ireland) 2015

[15] Directive 2012/29/EU of the European Parliament and of the Council (October 2012)

[16] Committee for Justice, Report on the Committee's Inquiry into the Criminal Justice Services available to Victims and Witnesses of Crime in Northern Ireland (June 2012)

The two charters set out the entitlements and standards that apply to victims and witnesses of crime by a range of criminal justice service providers, including the Police Service of Northern Ireland (PSNI), Northern Ireland Courts and Tribunals Service (NICTS), Public Prosecution Service (PPS), the Victim and Witness Care Unit and the Northern Ireland Prison Service (NIPS). The general entitlements and standards of service contained in the Victim Charter cover:

- being treated fairly, professionally and with respect
- a needs assessment, including consideration of any communication difficulties or potential eligibility for special measures
- access to free translation or interpretation in a victim's first language on request (if a victim does not speak or understand English)
- having professional and trained staff consider a victim's needs in an impartial, sensitive and tailored manner
- being given information about what to expect from the criminal justice system, including signposting to specialist support organisations
- being kept informed of decision making in a criminal case, including decisions not to prosecute someone or not to continue with an investigation
- being able to ask for a court familiarisation visit and to be kept separate from the defendant as much as possible at court
- being kept informed of the outcome of a criminal case and any sentence, including receiving details of the relevant victim information release scheme (for sentences of 6 months or more)
- being informed about complaints mechanisms by all service providers and having any complaints dealt with in a prompt, open and fair way with the option for independent review where necessary.[17]

The Witness Charter also sets out the services which are to be provided to witnesses of crime alongside the entitlements that apply to prosecution, defence and expert witnesses. These include:

[17] Department of Justice, Victim Charter (January 2015)

- being treated in a courteous, respectful, sensitive and professional way by service providers and in dealings with the defence legal representative
- receiving information about the date, time and location of giving evidence (by the Victim and Witness Care Unit for prosecution witnesses and the defence legal representative for defence witnesses)
- claiming expenses (if asked to give evidence by the prosecution or as an expert witness)
- consideration being given to any assistance needed for giving evidence in the form of special measures by service providers (prosecution witnesses) or the defence legal representative (defence witnesses)
- access to free translation or interpretation when reporting to the police or giving evidence to the police or at court, where a witness to a crime does not speak or understand English (does not apply to expert witnesses).[18]

There are also young people's guides to the Victim and Witness Charters, alongside a video produced by Victim Support NI and the NSPCC to provide further information.[19]

2.2 Relevant Statistics

PSNI statistics show that 95,968 crimes were recorded in Northern Ireland in 2024-2025, the second lowest annual total in the data series beginning in 1998-1999.[20] Around 66% had an individual ('person') victim. In 2024-2025:

- Violence against the person: 41,144 offences were recorded, down from a peak of 49,897 in 2022-2023
- Sexual offences: 4,244 were recorded, similar to the series high of 4,303 in 2022-2023

[18] Department of Justice, Witness Charter (April 2017)

[19] Department of Justice, Victim Charter: A Guide for Young People and Witness Charter: A Guide for Young People and Victim Support NI/NSPCC Victim Charter Animation

[20] Police Service of Northern Ireland, Trends in Police Recorded Crime in Northern Ireland 1998-1999 to 2024-2025 (November 2025), page 5-6

- Theft: 20,040 offences were recorded, less than half the peak recorded in 2001-2002
- Criminal damage: 14,028 offences were recorded, the lowest level in the series.

Of recorded crimes where there was a person victim, 80% involved a victim aged 18–64, 13% a victim aged under 18 and 6% a victim aged 65 or over. Among victims aged under 18, 93% were victims of violence against the person or a sexual offence.

There is no comparable data available in relation to witnesses of crime.

In 2024-2025 Northern Ireland Safe Community Survey (NISCS) found that 4.4% of adult respondents were victims of at least one crime measured through the survey during the 12 months prior to interview, similar to the rate of 4.5% in 2023-2024.[21]

The survey estimates that 47% of all NISCS crime was reported to the police which suggests that the actual number of crimes and victims may be higher than official statistics.[22] The most common reason given by NISCS victims for not reporting to police was “too trivial/no loss/police would not/could not do anything” (68%).[23]

The findings from the Northern Ireland Victim and Witness Survey (NIVAWS) are used to monitor progress in the area of service delivery to victims and witnesses of crime in Northern Ireland. They provide context for the Bill’s provisions concerning the Commissioner’s role in monitoring compliance with the Victim Charter and the provision of services to victims and witnesses. There were some statistically significant findings from the most recent 2022-2023 survey which are explored below.

[21] Department of Justice, Experience of Crime and Perceptions of Crime, Policing and Justice and Organised Crime: Findings from the 2024-2025 Northern Ireland Safe Community Survey (October 2026), page 6

[22] Ibid, page 10

[23] Ibid

2.2.1 Information and Communication

- Fewer witnesses were satisfied with the information they had been given about the criminal justice system (73% in 2022-2023 compared with 81% in 2019-2020).
- Fewer witnesses were satisfied with how they had been treated by staff in the criminal justice system (85% in 2022-2023 compared with 92% in 2019-2020).
- A fall in the number of witnesses who reported that a criminal justice source had kept them informed about the progress of their case (58% in 2022-2023 compared with 68% in 2019-2020).
- A reduction in the number of victims who reported having been contacted by the police or the PPS and told the reason why the charges for their respective cases had been dropped (58% in 2022-2023 compared with 69% in 2019-2020).

2.2.2 Pre-Trial Experience

- A reduction in the number of victims and witnesses who reported having been offered the opportunity for a pre-trial familiarisation visit (37% of victims in 2022-2023 compared with 56% in 2019-2020 and 13% of witnesses in 2022-2023 compared with 42% in 2019-2020).
- A reduction in the number of witnesses availing of the opportunity for a pre-trial familiarisation visit (down from 23% in 2019-2020 to 0% in 2022-2023).

2.2.3 Experience at Court

- A reduction in the number of victims reporting that they understood what was happening in court while they were there to give evidence (down from 93 in 2019-2020 to 76% in 2022-2023).
- An increase in the number of witnesses satisfied that the judge/ magistrate had been courteous in their treatment of them (up from 88% in 2019/20 to 100% in 2022-2023).

2.2.4 Access to Support

- Fewer victims reported having had contact with Victim Support NI at some stage during the process (down from 51% in 2019-2020 to 44% in 2022-2023).[24]
- Awareness of victim information schemes was also low among the small number of eligible respondents. Of 25 victims whose case had resulted in a custodial sentence of six months or more, 3 reported being aware of the Prisoner Release Victim Information Scheme (PRVIS) and none had registered with the scheme.

The findings for the 2022-2023 survey should be viewed in the context of the COVID-19 pandemic which had a significant impact on court activity. In addition, whilst the NIVAWS provides a useful insight into the experiences of victims and witnesses of crime, certain categories of victims and witnesses were ineligible to take part in the survey. Sexual offences, drugs offences, crimes involving a fatality and domestic violence were among those deemed ineligible for inclusion.[25]

The length of time it takes for a case to reach a conclusion can also impact on the confidence that victims and witnesses have in the criminal justice system. In 2025-2026, the average time (measured as the median) from the date the offence was reported to court disposal, across all courts, was 209 days; 20 days more than the previous year (189 days) and the slowest time in the past 4 years.[26] Charge cases at adult Magistrates' Courts took an average of 92 days

[24] Department of Justice, Victim and Witness Experience of the Northern Ireland Criminal Justice System: Key Findings 2022-2023 (August 2023)

[25] Department of Justice, Victim and Witness Experience of the Northern Ireland Criminal Justice System: User Guide (August 2023), page 6. The Department of Justice previously undertook qualitative research projects with victims of some serious and sensitive crimes in 2014-2015 which are available at Department of Justice, Victims and Witness Research

[26] Department of Justice, Case Processing Time For Criminal Cases Dealt With At Courts In Northern Ireland April 2025 to March 2026 (August 2026). The COVID-19 pandemic disrupted court operations, particularly during 2020-2021, which has created backlogs in subsequent years.

(the same as the previous year) with summons cases taking an average of 239 days (223 days in 2024-2025).[27]

In 2025-2026, charge cases at the Crown Court took an average of 521 days (21 days faster than the previous year at 542 days). Summons cases at the Crown Court took an average of 1,174 days to complete (37 days faster than in 2024-2025 at 1,211 days). Broken down by offence category, the longest average times involved fraud offences (549 days) and sexual offences (547 days).[28]

2.3 Commissioner Designate Role

In 2021, the Department of Justice consulted on the establishment of a Victims of Crime Commissioner for Northern Ireland.[29] This was initially envisaged as being in the form of a Commissioner Designate ahead of the role being placed on a statutory footing in the next Assembly mandate. The consultation noted that the Commissioner Designate would have a number of core functions, including:

- to provide a voice for all victims of crime (with a focus on particularly vulnerable groups of victims, specifically victims of domestic and sexual abuse and victims of hate crime)
- to identify, promote, encourage and issue guidance on good practice
- to review the adequacy and effectiveness of law and practice
- to review the operation and delivery of Victim Charter entitlements
- to promote the Victim Charter

[27] Department of Justice, Case Processing Time For Criminal Cases Dealt With At Courts In Northern Ireland April 2025 to March 2026 (August 2026). Cases may be brought to court by way of summons or charge. Where a decision is made to prosecute by way of a charge sheet, the police charge the suspect, who has been arrested, and the PPS review the charge before the first court appearance to make sure there is enough evidence for the defendant to be prosecuted (the defendant can also be released on police bail or court bail). If a case is commenced by way of a summons, this is typically issued by the PPS and is served on the defendant either by post or in person. The defendant will be required to go to court on the date stated on the summons.

[28] Ibid

[29] Department of Justice, Consultation on Victims and Witness Strategy and establishment of Victims Commissioner for Northern Ireland (May 2021), page 40. This followed input from a Reference Group made up of experts from the community, voluntary and statutory sector.

- to direct complaints and monitor outcomes (this does not extend to an advocacy role in individual cases)
- to advise and make recommendations
- to undertake or commission research.[30]

27 out of 30 respondents to the consultation were in favour of the establishment of a Commissioner Designate who would help to drive improvements for victims of crime.[31] 23 out 30 respondents were also supportive of the proposed role and functions of the Commissioner Designate.[32] There was broad support for the proposal that, in addition to the remit of representing all victims of crime, the Commissioner Designate should also be tasked to provide a focus on particularly vulnerable groups.[33]

In March 2022, the Justice Minister appointed a Commissioner Designate for a term of 3 years.[34] This was subsequently extended for a further 2 years.[35] The Commissioner Designate published a 3 year strategy covering 2022-2025 which was later extended until 2027.[36] It contains 5 strategic outcomes:

- Victims of crime are listened to and their experiences used to effect positive change for future victims.
- Victims of crime have increased participatory rights in the justice process and accessible support to address the harm caused by crime.

[30] Ibid, page 44

[31] Department of Justice, Consultation Report and Summary of Responses: Victims and Witness Strategy and establishment of Victims Commissioner for Northern Ireland (September 2021), page 54

[32] Ibid, page 57

[33] Ibid, page 64

[34] Department of Justice, Victims of Crime Commissioner Designate for Northern Ireland appointed (March 2022). The public appointment process was not regulated by the Commissioner for Public Appointments but was carried out in the spirit of the principles of the Code of Practice. The Commissioner Designate does not lay an annual report before the Northern Ireland Assembly or produce their own annual audited accounts, instead financial information relating to the office is incorporated within the Department's annual audited accounts.

[35] Department of Justice, Long extends current term of Commissioner Designate for Victims of Crime (June 2025)

[36] Commissioner for Victims of Crime Office, Strategy 2022-2025 (February 2023) and Commissioner for Victims of Crime Office, Annual Report 2025-2026 (August 2026), page 13

- Victims of crime have effective redress where their rights have not been met.
- Our politicians and Government Departments have greater awareness of the needs and concerns of victims and use this to effect positive change.
- Victims of crime and wider society have confidence in the Commission and its governance.[37]

The strategy also outlines 3 key areas of focus for the Commissioner Designate:

- Avoidable delay: the need for timely justice so that the trauma experienced by victims is not prolonged.
- Disclosure of victims' personal details: the need to restrict the volume of detail being sought and strengthen the protection afforded to victim's therapy notes, particularly for victims of sexual violence.
- Data: the need for the system to collect and publish meaningful data to enable robust analysis and monitoring of the criminal justice system.[38]

The most recent Victim Survey for 2025 carried out by the Commissioner Designate received 575 responses from victims of crime. It found that 77% of respondents were not confident they could receive justice by reporting a crime (compared to 82% in 2024).[39] 44% of respondents felt dissatisfied with how they were treated by the PSNI (compared to 51% in 2024) and 32% of respondents were dissatisfied with how they were treated by the PPS (compared to 40% in 2024).

The survey also indicated low levels of awareness of the Victim Charter entitlements and a lack of consistency in delivery. 80% of respondents had not heard of the Victim Charter. This was despite the Commissioner Designate and

[37] Commissioner for Victims of Crime Office, Strategy 2022-2025 (February 2023), page 13

[38] Ibid, page 3-5

[39] Commissioner for Victims of Crime Office, Victim Survey Report 2026 (October 2026), page 2 and Victim Survey Report 2025 (June 2025), page 5

the Justice Minister launching a public awareness campaign in 2024 aimed at promoting the rights of victims and witnesses under the charters.[40]

This lack of awareness was also evident in the most recent Northern Ireland Victim and Witness Survey which showed that 21% of victims and 27% of witnesses were aware of the relevant charters.[41] The need to implement a strategic communications solution to substantially raise the profile of the charters has also been recommended by the Criminal Justice Inspection Northern Ireland in previous inspections.[42]

In addition to the victim survey, the Commissioner Designate has also published a number of other pieces of research. This includes reports examining the experiences of victims of domestic violence and abuse within the private family law court system and the effectiveness of non-molestation orders.[43] The Commissioner Designate has also undertaken work around the mapping of services for male adult and child victims/survivors of domestic and sexual abuse.[44]

In November 2024, the Department of Justice launched a public consultation on proposals for a Victims and Witnesses of Crime Bill.[45] The consultation findings are based on 30 responses from a number of stakeholders, including victims, advocacy services, criminal justice organisations and legal professionals. The

[40] Department of Justice, Justice Minister launches Victim and Witness Charters campaign (February 2024)

[41] Department of Justice, Victim and Witness Experience of the Northern Ireland Criminal Justice System: Key Findings – 2022-2023 (August 2023)

[42] Criminal Justice Inspection Northern Ireland, The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland (July 2020), page 31 and The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland: A Follow-up Review of Recommendation Implementation (October 2023), page 15

[43] Commissioner for Victims of Crime Office, "Totally Invisible" The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland (December 2025) and Protection on Paper? The Changing Use and Effectiveness of Non-Molestation Orders in Northern Ireland (2016–2024) (July 2026)

[44] Commissioner for Victims of Crime Office, Mapping Services for Male Adult and Child Victim-Survivors of Domestic and Sexual Abuse in Northern Ireland (August 2025)

[45] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (November 2024)

main issues raised are considered further in section 3 in the context of the relevant provisions of the Bill.

2.4 Victim and Witness Strategy 2026-2032

In March 2026, the Department of Justice published a new Victims and Witnesses of Crime Strategy 2026-2032 and 2 year Action Plan.[46] It builds on the previous strategy which ran from 2021 until 2024.[47] The strategy is overseen by the Victim and Witness Steering Group with membership from a range of criminal justice organisations, the legal sector and victim representatives. It also has linkages with a range of other strategies, including the Programme for Government 2024-2027, the Policing Plan 2025-2030 and the Executive's Strategic Framework to End Violence Against Women and Girls.[48]

The strategy's scope sets out a "comprehensive, system-wide and trauma-informed framework to deliver a criminal justice system that respects all victims and witnesses of crime and meets their needs and charter rights as they encounter each part of the justice system".[49] It is structured around 5 pillars with a further 14 strategic objectives identified as key areas for action.

As part of this work, the Commissioner Designate has continued to call for justice agencies to develop an integrated Victim and Witness Needs Assessment Service in line with previous recommendations from the Criminal Justice Inspection Northern Ireland.[50] This dedicated service should span all

[46] Department of Justice, Victims and Witnesses of Crime Strategy 2026-2032 (March 2026)

[47] Department of Justice, Victim and Witness Strategy 2021-2024 (October 2021) which was followed by a one-year addendum Action Plan from October 2024 to September 2025.

[48] NI Executive, Programme for Government 2024-2027 'Our Plan: Doing What Matters Most' (March 2025) and Northern Ireland Policing Board, Policing Plan 2025-2030 (April 2025) and Northern Ireland Executive, Strategic Framework to End Violence Against Women and Girls 2024-2031 (September 2024)

[49] Department of Justice, Victims and Witnesses of Crime Strategy 2026-2032 (March 2026), page 7

[50] Criminal Justice Inspection Northern Ireland, The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland (July 2020), page 102 and The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland: A Follow-up Review of Recommendation Implementation (October 2023), page 26 and Special Measures in Northern Ireland's Criminal Courts: An Inspection of their Use and Operation (March 2026), page 7 and

aspects of the victim journey and ensure victim needs are adequately met at all stages of the process and beyond.[51] The 2 year action plan attached to the strategy contains an action to scope plans for the service during this period.[52] However, the establishment of the service continues to be impacted by budgetary constraints.[53]

There are also actions covering a range of the policy issues in the Victims and Witnesses of Crime Bill, including the establishment of the statutory Commissioner and pre-trial legal representation for complainants in serious sexual offence cases. It also contains an action to establish a new working group to deliver a plan to raise awareness of the Victim and Witness Charters.[54]

3 Part 1 of the Victims and Witnesses of Crime Bill

Part 1 of the Bill would provide for the work of the statutory Commissioner for Victims and Witnesses of Crime for Northern Ireland.

3.1 Establishment and Appointment of the Commissioner

Clause 1 of the Bill would provide for the appointment of the Commissioner by the Department of Justice. Further detail is contained in schedule 1 on the independent legal status of the Commissioner as a corporation sole distinct from the Department of Justice.[55]

By way of comparison, there are already statutory office holders which are constituted as a corporation sole, regulated by the Commissioner for Public Appointments and appointed by the Department of Justice. For example, the

Commissioner for Victims of Crime Office, Consultation on Draft Victims and Witnesses of Crime Strategy (August 2025)

[51] See also G. Horigan and K. McGuigan, 'The Victim Recovery Journey Understanding the Recovery Journey: Stages, Facilitators and Inhibitors of Recovery' Victim Support NI (May 2021)

[52] Department of Justice, Victims and Witnesses of Crime Strategy 2026-2032: Two Year Action Plan (March 2026), page 5

[53] AQW 53377/22-27 (October 2026)

[54] Department of Justice, Victims and Witnesses of Crime Strategy 2026-2032: Two Year Action Plan (March 2026), page 13

[55] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 101

Chief Inspector of Criminal Justice in Northern Ireland.[56] There are also others within the justice sector which are appointed by the First and deputy First Minister, such as the Police Ombudsman for Northern Ireland.[57] The Legal Services Oversight Commissioner for Northern Ireland is a corporation sole and is appointed by the Department of Finance, in consultation with the Lady Chief Justice.[58]

The Justice Minister also highlighted during the Second Stage debate on the Bill that the Commissioner's Office would become an Arm's Length Body (ALB) of the Department of Justice.[59] Other justice ALBs include, for example, the Criminal Justice Inspection Northern Ireland, the Northern Ireland Policing Board, the Northern Ireland Police Fund, the Office of the Police Ombudsman for Northern Ireland and the PSNI (these are Executive NDPBs).[60]

Schedule 1(2) would provide for the Commissioner's tenure as being for no longer than 5 years with eligibility for one further term of office. By way of comparison, the Chief Inspector of Criminal Justice can hold office for up to 5 years at a time with the potential for re-appointment.[61] The Police Ombudsman is appointed for a single term of 7 years and is not eligible for re-appointment.[62]

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[56] Department of Justice, Acting Chief Inspector of Criminal Justice in Northern Ireland appointed (June 2026) and Justice (Northern Ireland) Act 2002, Section 45 and Schedule 8

[57] The Executive Office, Announcement of new Police Ombudsman for Northern Ireland (June 2026) and Police (Northern Ireland) Act 1998, Section 51

[58] Legal Complaints and Regulation Act (Northern Ireland) 2016, Section 1 and Schedule 1

[59] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 99

[60] Northern Ireland Audit Office, Partnership Working: Departments and Arm's Length Bodies (March 2026), page 56 and Department of Justice, Annual Report and Accounts 2025-2026 (July 2026), page 187. There is no single formal definition of an ALB but generally they are bodies which have a role in the process of Government, but are not a Government Department, or part of one, and which accordingly operate to a greater or lesser extent at arm's length from Ministers. Examples of ALBs include Non-Ministerial Departments, Executive NDPBs, Advisory NDPBs, Public Corporations, Government Owned Companies and North/South Bodies (NIAO, page 14).

[61] Justice (Northern Ireland) Act 2002, Section 45 and Schedule 8(1). The Department has stated that the maximum number of terms that can be served is 2 with no automatic reappointment to the role. Recent appointments have been for an initial term of 3 years and extended to 5 years. See Department of Justice, New Chief Inspector of Criminal Justice in Northern Ireland appointed (October 2019) and Reappointment of Chief Inspector of Criminal Justice announced (November 2024)

[62] Police (Northern Ireland) Act 1998, Schedule 3(1)

The Legal Services Oversight Commissioner is appointed for a term of 3 years and is eligible to be re-appointed once.[63]

Schedule 1(3) would also provide that the Commissioner for Victims and Witnesses of Crime for Northern Ireland is a salaried appointment funded by the Department of Justice. It would also allow for the payment of compensation by the Department, under special circumstances, to a person who ceases to hold office before the end of their term. The Department's determination on these matters would also require approval from the Department of Finance.

The clauses relating to the establishment and appointment of the Commissioner's role highlight that it would be institutionally connected to the Department of Justice. This is also indicated in practical terms through the Commissioner's functions, including published outputs and the receipt of funding from the Department, which are explored further in the next sections.

The Commissioner's position within the wider criminal justice system is one which will also help to shape the way in which the office operates. A complex governance landscape exists across the system and the Commissioner will potentially be expected to engage with a range of organisations which have responsibilities for holding criminal justice actors to account, such as Criminal Justice Inspection Northern Ireland, the Northern Ireland Policing Board, the Police Ombudsman and HM Inspectorate of Constabulary.[64]

The Commissioner Designate is already a member of the Lady Chief Justice's Sentencing Group which oversees the publication of sentencing guidelines and guidance.[65] The Commissioner Designate has also engaged with the work of the Criminal Justice Board which is the strategic oversight group for the criminal justice system in Northern Ireland.[66] Beyond the criminal justice system, the

[63] Legal Complaints and Regulation Act (Northern Ireland) 2016, Schedule 1(3)

[64] The Police (Northern Ireland) Act 1998, Section 41(2) requires HMICFRS to inspect and report to the Department of Justice on the efficiency and effectiveness of the Police Service of Northern Ireland each year. Most recent report is at HMICFRS, The Police Service of Northern Ireland: An inspection of police effectiveness, efficiency and legitimacy (July 2026)

[65] Judiciary NI, Lady Chief Justice's Sentencing Group Report July 2022 - June 2024 (November 2024)

[66] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 106

Commissioner Designate has also formed a cross-departmental multi-agency working group, involving the Department of Health and Department of Finance, to consider the feasibility of a new model for private family law cases which indicates that issues impacting victims extend beyond criminal justice.[67]

Participation in system-wide groups may help to ensure that the views of victims and witnesses are more fully considered. It is worth noting that the Commissioner will likely be expected to comment on Departmental policy and on the work of criminal justice agencies which are within the Department's remit. It is possible that this may create tension between the Commissioner's scrutiny and participation functions, particularly if subsequently expected to comment on policies to which they have contributed.[68]

3.2 Staffing and Accounting Functions

Schedule 1(4) would allow the Commissioner to appoint and remunerate staff. The Commissioner's determination on staffing matters would also require approval from the Department of Justice and Department of Finance. Schedule 1(5) would also give the Commissioner the power to second Northern Ireland Civil Service staff from any Northern Ireland Department to the office of the Commissioner.

The Commissioner would be able to delegate any of the Commissioner's functions to a member of staff within the Commissioner's office under schedule 1(6). There is no power in the Bill to allow for the appointment of an acting Commissioner. It is possible that the power in 1(6) could potentially be utilised during a period when the post is vacant or where the Commissioner is unable to perform their functions, such as during a period of illness.

[67] AQW 39000/22-27 (January 2026) and AQW 50538/22-27 (July 2026) and Commissioner for Victims of Crime Office, "Totally Invisible" The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland (December 2025)

[68] K. Brown, 'Improving Access to Justice for Victims of Crime in Northern Ireland: The Role of a Commissioner for Victims and Witnesses of Crime' Northern Ireland Assembly Knowledge Exchange Seminar Series (April 2026), page 6

Schedule 1(10) sets out how the Commissioner's office would be funded in the form of grants from the Department of Justice. According to the Bill's EFM, this would occur in line with existing procedures for all NDPBs and the Commissioner would be invited to submit a budget bid to the Department for each financial year.[69]

Schedule 1(11) would require the Commissioner to keep proper accounting records and prepare an annual financial statement of accounts which would be submitted to the Department and the Comptroller and Auditor General for examination. The Commissioner would be the Accounting Officer and responsible for the use, including the regularity and propriety, of the grants received from the Department plus any other income or expenditure.[70] Schedule 1(11) highlights that the Department would lay the accounts and the report from the Comptroller and Auditor General before the Northern Ireland Assembly.

By way of comparison, the Police Ombudsman submits a statement of accounts to the Department of Justice and the Comptroller and Auditor General. The Comptroller and Auditor General is then responsible for examining, certifying and reporting on the statement of accounts and laying this before the Assembly.[71] This process is the same for the Chief Inspector of Criminal Justice.[72]

Schedule 1(12) would provide the Commissioner with the power to do "anything that the Commissioner considers to be appropriate for facilitating" the exercise of their functions. This includes co-operating with other bodies exercising functions relating to the victims and witnesses, whether in Northern Ireland or elsewhere. However, this power would not extend to the borrowing of money.

[69] Victims and Witnesses of Crime Bill, Explanatory and Financial Memorandum, page 14

[70] Department of Finance, Managing Public Money NI (August 2024), page 36

[71] Police (Northern Ireland) Act 1998, Schedule 3(12)

[72] Justice (Northern Ireland) Act 2002, Schedule 8(6)

- MLAs may wish to consider whether the Bill should require the Comptroller and Auditor General to lay the statement of accounts before the Assembly, in line with the process for other statutory office holders in the justice sector.

3.3 Removal or Suspension from Office

Schedule 1(2) would provide that the Department may remove a person from office as Commissioner (by giving notice in writing) in a number of situations, including:

- conviction for a criminal offence
- bankruptcy
- failure to discharge the functions of the Commissioner for a continuous period of 3 months, without reasonable excuse
- becoming unable, unfit or unwilling to exercise the functions of the Commissioner
- failure to comply with the terms of the appointment

The Minister described the removal provisions as "standard and important accountability safeguards that appear in legislation for other statutory commissioners".[73] The Minister noted that this would provide an accountability safeguard without allowing for removal from office for policy disagreements.

By way of comparison, legislative provisions relating to the Chief Inspector of Criminal Justice provide that the Department may dismiss the Chief Inspector only on narrowly defined grounds such as misconduct, incapacity or failure to

[73] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 101. The Minister also referred to the Interpretation Act 1954 potentially providing a "catch-all for instances we have not anticipated". Section 18(2) provides that an appointing authority has the power to remove, suspend, reappoint or reinstate, appoint another person or withhold remuneration during any period of suspension. However, the legislation establishing the statutory office holder must expressly apply Section 18(2) for it to be applicable. The Minister noted that an amendment may be necessary at Consideration Stage to make explicit reference to this part of the 1954 Act.

discharge duties.[74] Similar provision is found in the Justice Bill, which is currently before the Assembly, relating to the removal of the Northern Ireland Commissioner for the Retention of Biometric Material.[75]

The issue of suspension of statutory office holders has been topical throughout the last year.[76] The Executive Office is currently working to develop consistent policy and powers to suspend office holders appointed under statute.[77] This would include powers to suspend the Police Ombudsman provided for in primary legislation by way of a TEO-led standalone Bill.[78] As a corporation sole, the Chief Inspector for Criminal Justice is also expected to be impacted with the potential for an amendment to existing legislation or provision in the TEO-led Bill.[79]

The Minister highlighted during the Second Stage debate that it may be necessary to amend Schedule 1 of the Victims and Witnesses of Crime Bill at Consideration Stage to ensure that any new provisions extend to the Commissioner for Victims and Witnesses of Crime, depending on whether this is included within the remit of the TEO-led Bill.[80] The issues of suspension or removal of a Commissioner from office in certain circumstances were not specifically addressed within the Department's consultation on the Bill.

Separately, it is worth noting that the Public Office (Accountability) Bill was introduced at Westminster in September 2025 which, if enacted, would abolish the common law criminal offence of misconduct in public office and replace it with two statutory offences. The offence of breaching the duty to prevent death or serious injury would attract a penalty of up to 14 years' imprisonment, while

[74] Justice (Northern Ireland) Act 2002, Schedule 8(1)

[75] Justice Bill (as introduced), Schedule 1

[76] Belfast Telegraph, Work under way to allow Executive Office ministers power to suspend or dismiss any future Police Ombudsman (November 2025)

[77] Department of Justice, Victims and Witnesses of Crime Bill Oral Briefing (August 2026)

[78] AQW 33357/22-27 (November 2025)

[79] The Prisoner Ombudsman is not a corporation sole and is therefore not expected to fall within the remit of this work. The Justice (Northern Ireland) Act 2016, Section 33 and Schedule 3 have not yet been commenced with secondary legislation to be prepared to formally establish a new Office of the Prison Ombudsman for Northern Ireland.

[80] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 101

the offence of seriously improper conduct would attract a penalty of up to 10 years' imprisonment.[81] They are designed to capture the most serious acts of wrongdoing.[82]

Under the Bill as drafted, these offences would apply to holders of public office in Northern Ireland, including public bodies which are constituted as a corporation sole.[83] The Bill is currently at Report Stage in the House of Lords. In December 2025, the Finance Minister laid a legislative consent memorandum before the Assembly with a motion on the Bill's extension to Northern Ireland still to be debated in plenary.[84] This is expected to be towards the end of 2026 to align with the Bill's progress in Parliament.[85]

- MLAs may wish to seek an update from TEO around which statutory office holders the suspension powers in the proposed standalone Bill will apply to.
- MLAs may also wish to seek information on how the Commissioner's role would potentially be impacted by the Public Office (Accountability) Bill.

3.4 Functions of the Commissioner

3.4.1 Duties and Powers

Clause 3 would set out the general duties of the Commissioner which cover:

- Promoting an understanding of the rights of victims and witnesses and an awareness of matters relating to their interests.

[81] Public Office (Accountability) Bill, as amended in Committee (October 2026)

[82] Law Commission, Misconduct in Public Office (December 2020)

[83] Public Office (Accountability) Bill, as amended in Committee (October 2026), Clause 25 and Schedule 4(27)

[84] Northern Ireland Assembly, Public Office (Accountability) Bill (December 2025) and Committee for Finance Report (January 2026)

[85] Correspondence between RaISe and Department of Justice (27 October 2026)

- Keeping under review the law and practice relating to the interests of victims and witnesses to ensure that it is adequate and effective.
- Providing advice on victim and witness matters to a Northern Ireland Department or the Executive Committee of the Assembly (as soon as reasonably practicable after receipt of a request for advice and on other appropriate occasions).
- Awareness raising amongst victims and witnesses of the functions of the Commissioner, office location and ways to communicate with the Commissioner.
- Encouraging victims and witnesses to communicate with the Commissioner.
- Seeking the views of victims and witnesses concerning the exercise of the Commissioner's functions.

The Commissioner would also have a number of general powers which would be set out in clause 4 of the Bill and cover:

- Undertaking, commissioning, funding or supporting research or educational activities concerning the interests of victims and witnesses.
- Compiling information, providing advice or information and publishing any matter concerning the interests of victims and witnesses (such as the outcome of any research or educational activities or any advice provided by the Commissioner).
- Making representations or recommendations to any body or person concerning the interests of victims and witnesses.[86]

The Department's public consultation on the Bill proposed that the overarching purpose of the statutory Commissioner would be to promote the interests of all victims and witnesses of crime within the justice system and to raise awareness

[86] As discussed below, clause 6 would provide a statutory power for the Commissioner to also issue guidance on best practice in relation to any matter concerning the interests of victims and witnesses which a person exercising public functions must have regard to. Clause 6(6) would mean that the Commissioner is not permitted to issue guidance to a court or tribunal in order to protect judicial independence. However, the Commissioner would be able to make representations or recommendations concerning the interests of victims and witnesses to courts and tribunals under clause 4. Correspondence between RaISe and Department of Justice (27 October 2026).

of matters relating to their interests.[87] There was also strong support for a statutory Commissioner to have a focus on vulnerable groups of victims (21 out of 30 respondents with 4 not in support).[88]

The Commissioner Designate already has a particular focus on victims of domestic and sexual abuse and hate crime. However, it was proposed that this would not be included in the Bill to allow for future flexibility should any new aspects of vulnerability emerge that require specific focus. Consequently, specific vulnerable groups are not defined in the legislation as introduced. Clause 16(4) would require the Commissioner to specify one or more groups of victims or witnesses to whom they will have particular regard, as part of their strategic plan during their term of office.

- MLAs may wish to seek more information on the status of any representations or recommendations which the Commissioner would be able to make to "any body or person" concerning the interests of victims and witnesses under clause 4.
- MLAs should be aware that the Commissioner's representations or recommendations under this clause could also extend beyond the remit of the criminal justice system.
- MLAs may wish to consider that the Bill, as drafted, would not require a response from "any body or person" that the Commissioner makes representations or recommendations to. Clause 19, discussed further in section 3.6, would only require a charter service provider to respond to

[87] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (November 2024), page 15-17

[88] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill: Detailed Analysis of Responses (May 2025), page 5

any recommendations made in an annual report published by the Commissioner.

3.4.2 Charter Reviews and Best Practice Guidance

The requirement for the Commissioner to review the operation and effectiveness of the Victim and Witness Charter at least every 3 years (or at other times as directed by the Department) would be introduced in clause 5. The Commissioner would be required to prepare a report on any review and, when doing so, would have to consult the Department or any other person the Commissioner considers appropriate. The Commissioner would have to publish the report and send a copy to the Department, as soon as reasonably practicable.

- MLAs may wish to consider whether any statutory consultees should be listed in clause 5, beyond only the Department and "such other persons as the Commissioner considers appropriate".
- MLAs may wish to consider whether the Department, or any other charter service providers, should have to provide a formal response to the Commissioner's review within a defined timeframe.
- MLAs may wish to query whether the Commissioner will be required to give notice to charter service providers of a review being undertaken.
- MLAs may wish to consider whether the Commissioner should have the power to make proposals to the Department regarding making

amendments to the Victim Charter under clause 5.[89]

This Commissioner would also have the power under clause 6 to issue guidance on best practice relating to the interests of victims and witnesses. This would also give the Commissioner the power to revise any guidance issued. A requirement for consultation by the Commissioner with appropriate persons would also be necessary before the issue or revision of any guidance.

A "person exercising public functions" would be required to have regard to the guidance issued under clause 6 ("must have regard"). The application of this clause to a "person exercising public functions" would mean that the Commissioner could issue best practice guidance to bodies outside the criminal justice system. There is no requirement to respond or demonstrate steps taken to comply with any best practice guidance issued by the Commissioner. Under clause 6(6), the Commissioner would not be permitted to issue guidance to a court or tribunal.

3.4.3 Advisory Groups

The Commissioner would be able to establish one or more advisory groups under clause 7. The purpose of this would be to provide advice and information on matters relating to the exercise of the Commissioner's functions. The clause would allow the Commissioner to determine membership of the group(s) and reimburse members for any expenses incurred.

[89] In England and Wales, the Commissioner has a similar power to make proposals to amend the Victim Code to the Secretary of State for Justice under the Domestic Violence, Crime and Victims Act 2004, Section 49(2).

- MLAs may want to consider the way in which appointments will be made to the Commissioner's advisory groups, whether they will be required to publish membership/ key actions/ minutes and how existing structures will feed into these.

3.4.4 System Level Oversight

One issue worth noting is around whether the Commissioner is intended to operate as a system-level oversight body or as a route for dealing with individual complaints. The Bill as drafted does not include any investigation powers for the Commissioner, either at an individual or organisational level, with existing oversight and accountability bodies within criminal justice expected to perform these functions.

The Department's consultation noted the intention that the focus for the Commissioner should be at a strategic and thematic level in relation to the rights, needs and interests of all victims and witnesses of crime.[90] The majority of respondents supported this proposal as a means to help to address broader problems (20 out of 30 respondents, 3 in support but with further points to consider and 3 not in support).[91]

Clause 8 aims to reflect this through a restriction on the exercise of functions in individual cases. It would provide that the Commissioner cannot become involved in the individual case of a particular victim or witness or intervene in criminal or related proceedings. This clause would not prevent the Commissioner from considering individual cases to enable them to draw conclusions about a general issue.

[90] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (November 2024), page 24-25

[91] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill: Detailed Analysis of Responses (May 2025), page 27-31

Northern Ireland is a small closely connected jurisdiction which may result in a level of tension around the distinction between an oversight function and expectations that the Commissioner may engage directly with individual concerns. At present, the Commissioner Designate invites individuals to raise concerns, signposts them to relevant complaints processes and encourages being copied into complaints in order to monitor how agencies respond.[92]

It is also worth noting that some other Commissioners in Northern Ireland have the power to become involved in individual cases in certain circumstances. For example, the Commissioner for Older People and the Commissioner for Children and Young People both have formal investigation and evidence-gathering powers which can extend to complaints against authorities in individual cases.[93]

This sits alongside the general power to conduct investigations into the advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities. This also provides that it is an offence to obstruct these Commissioners in the course of their work which is treated as equivalent to contempt of court.[94] These Commissioners can also bring, intervene in or assist in legal proceedings.[95] The differences in powers between Commissioners is partly due to the roles being set up at different times, for a range of purposes and their varying positions in relation to the constituencies they were identified to represent.

More broadly, it may be worth considering whether there could be potential overlaps in functions between the Commissioner for Victims and Witnesses of

[92] Commissioner for Victims of Crime Office, Make a Complaint and K. Brown, 'Improving Access to Justice for Victims of Crime in Northern Ireland: The Role of a Commissioner for Victims and Witnesses of Crime' Northern Ireland Assembly Knowledge Exchange Seminar Series (April 2026), page 5

[93] Commissioner for Older People Act (Northern Ireland) 2011, Section 13 and the Commissioner for Children and Young People (Northern Ireland) Order 2003, Article 16

[94] See the Commissioner for Children and Young People (Northern Ireland) Order 2003, Article 22 and the Commissioner for Older People Act (Northern Ireland) 2011, Section 19. It is also an offence to obstruct an inspection by the Chief Inspector of Criminal Justice under the Justice (Northern Ireland) Act 2002, Section 48.

[95] Commissioner for Older People Act (Northern Ireland) 2011, Section 10 and the Commissioner for Children and Young People (Northern Ireland) Order 2003, Article 14

Crime and other Commissioners. For example, the Victims and Witnesses of Crime Commissioner's general duties cover the promotion of an understanding of the rights of victims and witnesses and an awareness of matters relating to the interests of victims and witnesses.[96]

These are similar to the duties of the Children's Commissioner which cover the promotion of an understanding of the rights of children and young persons aged up to 18 years (or 21 years for those who have a disability or are care experienced) and an awareness of matters relating to their best interests.[97] It may be worth considering whether there would be a potential overlap in functions where victims and witnesses are children and young people.

- MLAs may wish to consider how the Commissioner's role will operate in practice and whether there is a tension between an oversight function and expectations of accessibility and responsiveness from victims and witnesses.
- MLAs may wish to consider whether the limits of the role are clearly set out in terms of not advocating for individual victims or witnesses or investigating individual cases and how this will be communicated to a wider public audience.
- MLAs may wish to consider whether there is a tension between the Commissioner's general duties outlined in clause 3 (seeking views/ encouraging communication/ raising awareness) and the restriction on involvement in individual cases in clause 8.
- MLAs may wish to query whether there is the potential for overlap between the functions of the Commissioner and other existing Commissioners

[96] Victims and Witness of Crime Bill (as introduced), Clause 3

[97] The Commissioner for Children and Young People (Northern Ireland) Order 2003, Article 7

and how they will interact. It may also be worth raising whether a Child's Rights Impact Assessment was conducted.[98]

3.5 Charter Service Providers

Part 1 of the Bill would provide that the Commissioner must monitor compliance with the Victim Charter by charter service providers. Under clause 9 a "charter service provider" would cover the following criminal justice agencies:

- the Police Service of Northern Ireland
- the Public Prosecution Service for Northern Ireland
- the Probation Board for Northern Ireland
- the Belfast Harbour Police
- the Belfast International Airport Constabulary
- the Department in respect of functions exercised by the Northern Ireland Prison Service, the Youth Justice Agency, the Northern Ireland Courts and Tribunals Service and compensation services.[99]

The Department would also be able to specify other criminal justice agencies by way of regulations. These regulations would be subject to the negative resolution procedure (laid before the Assembly by the Department and would take effect when its 'comes into force' date is reached). Before making these, the Department would have to consult the Commissioner and other criminal justice agencies.[100]

During the Second Stage debate on the Bill, the Minister noted that there is no policy intention to extend the definition of a charter service provider to non-core

[98] This was requested by RaISe on 22 July but was not provided in the documents supplied by the Department on 27 July 2026.

[99] Relevant compensation legislation is defined as the Criminal Damage (Compensation) (Northern Ireland) Order 1977 and the Criminal Injuries Compensation (Northern Ireland) Order 2002

[100] A criminal justice agency is defined as a body or person which has any functions relating to victims, witnesses in criminal investigations or criminal proceedings or any other aspect of the criminal justice system.

criminal justice agencies.[101] It is worth noting that other non-core criminal justice organisations investigate offences and potentially engage with victims. For example HMRC, the National Crime Agency, the Health and Safety Executive for Northern Ireland, the Information Commissioner's Office, the Northern Ireland Environment Agency (Department of Agriculture, Environment and Rural Affairs) and the Northern Ireland Trading Standards Service (Department for the Economy). These organisations are not listed as service providers in the Victim Charter.

- MLAs may wish to consider whether the Office of the Police Ombudsman for Northern Ireland (PONI) should be included in clause 9. The expansion of Victim Charter obligations to PONI was previously recommended by CJINI in 2025.[102] The Department has advised RaISe it intends to add PONI as a charter service provider by way of regulation and MLAs may wish to seek more information on this.[103]
- The Victim and Witness Care Unit, Victim Support NI and NSPCC Young Witness Service are listed as service providers in the Victim Charter. The Department has advised RaISe it intends to add these by way of regulation and MLAs may wish to seek more information on this.
- MLAs may wish to consider the other non-core criminal justice organisations and whether any of these should be considered for inclusion as charter service providers. It may be worth asking

[101] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 100

[102] Criminal Justice Inspection Northern Ireland, An Inspection of the Office of the Police Ombudsman for Northern Ireland's Investigation of Abuse of Position Concerns and Complaints (March 2025), page 46

[103] This is also noted in PONI's submission to the Committee. PONI, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026)

whether these organisations would be considered to have the status of “any body or person” the Commissioner could make representations or recommendations to without any requirement for a response under clause 4 and/or a “person exercising public functions” that the Commissioner could issue best practice guidance to under clause 6.

- MLAs may wish to query whether the Parole Commissioners for Northern Ireland should be considered for inclusion at some point in the future as a charter service provider under clause 9.

3.5.1 Provision of Information and Statistics

As part of the duty to monitor compliance with the Victim Charter, the Commissioner would be able to request any information considered necessary from a charter service provider under clause 10. A charter service provider must, as far as is appropriate and reasonably practicable, comply with such a request.

Clause 11 would require that charter service providers must provide statistics to the Commissioner. They must also collect and retain the data 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 Data Protection Impact Assessment produced by the Department indicates that the statistical outputs provided to the Commissioner are intended to be anonymised and will not include personal information.[104]

The Department would be required to bring forward regulations setting out how the particular statistics are to be determined. These would be subject to the

[104] Provided through correspondence between RaISe and Department of Justice (27 July 2026)

draft affirmative procedure meaning that they may not be made unless a draft has been laid before and approved by a resolution of the Assembly. The regulations would also be able to specify the form, manner and timeframes for sharing these statistics with the Commissioner.

Regulations made by the Department may also require a charter service provider to provide a report to the Commissioner, alongside statistics, setting out how the provider has produced the statistics and the steps taken to ensure their accuracy. The Department is required to consult with the Commissioner and such charter service providers as the Department considers appropriate before making regulations.

- As the detail around the statistics will be set via regulation, MLAs may wish to seek further information on the data which service providers will be required to produce to demonstrate charter compliance and accountability. It may be worth querying how the Bill will ensure that the different service providers report performance data consistently and how this will be quality assured to allow for system-wide comparisons.
- MLAs may wish to consider whether accompanying guidance or protocols for engagement with service providers around requests for statistics and information will be developed, taking account of the existing oversight and reporting mechanisms already in place for agencies across the criminal justice system.
- The Bill would give the Commissioner powers around requesting and retaining information alongside the collection of victim related statistics and disclosures from charter service providers. MLAs may wish to satisfy themselves that

appropriate data protection safeguards for sensitive personal information are reflected in the Bill and its practical outworkings.

3.5.2 Witness Charter Extension

Clause 12 would give the Department the power to extend clause 10 (compliance with the Victim Charter) and clause 11 (statistics relating to the Victim Charter) to cover the Witness Charter by way of regulation. These may not be made unless a draft has been laid before and approved by a resolution of the Assembly (draft affirmative procedure).

This would mean that the Commissioner would be required to monitor compliance with the Witness Charter by any charter service provider specified in it. These charter service providers would also be required to provide requested statistics or information to the Commissioner. Under clause 12, the Department would be required to consult on the making of regulations with such charter service providers as it considers appropriate and the Commissioner.

In its non-statutory format, the Commissioner Designate's role is centred on advocating for victims who have suffered harm and feeding victim experiences into policy and practice. The Department of Justice's consultation on the role of the statutory Commissioner explicitly included witnesses within the remit of the office.[105] The majority of respondents to the consultation supported this (25 out of 30 respondents with 2 not in support).[106]

The potential expansion of the Commissioner's remit to monitor compliance and collect statistics associated with the Witness Charter may help in identifying systemic issues across the criminal justice system. It may also be worth

[105] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (November 2024), page 15

[106] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill: Detailed Analysis of Responses (May 2025), page 2-4

considering the resource implications for charter service providers and the timeframe envisaged for this remit expansion.

- MLAs may wish to consider whether the inclusion of the power to expand the Commissioner's remit under clause 12 to monitor compliance and collect statistics associated with the Witness Charter will have resource implications for charter service providers and the timeframe envisaged for this remit expansion.

3.5.3 Duty to Cooperate

Clause 13 would provide that the Commissioner may request that a charter service provider co-operates in any way that enables the Commissioner to carry out their functions. It would also place a duty on the charter service providers to respond to such a request confirming that they will comply so far as reasonably practicable or, stating that they will not comply, and the reason for this.

The issue of whether the Commissioner's role should be extended in the future to include a remit wider than the justice sector may be worth consideration. It was included in the public consultation with support expressed by respondents (18 out of 30 respondents, 5 not in support and 1 not initially).[107] A number of responses noted that the harm caused by crime is often not a justice issue as it extends into other areas, such as Health, Education and Communities.[108]

The Department noted that the role could potentially be expanded at a future point with further discussion and agreement.[109] It may be worth seeking more

[107] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (November 2024), page 17 and Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill: Detailed Analysis of Responses (May 2025), page 7-10

[108] Victim Support Northern Ireland, Response to Victims and Witnesses of Crime Bill Consultation (May 2025), page 8 and Commissioner for Victims of Crime Office, Consultation on proposals for inclusion in a Victims & Witnesses of Crime Bill (February 2025), page 4

[109] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill: Summary of Responses (May 2025), page 5

information on the process for this given that the delegated powers in the Bill only relate to expanding the Commissioner's remit to overseeing the Witness Charter. It may be worth considering whether Government Departments should be required to cooperate with the Commissioner under this clause.

As noted above, clause 4 of the Bill would also provide that the Commissioner can make representations or recommendations to "any body or person" concerning the interests of victims and witnesses but there is no requirement for a response to these. Clause 6 would also allow the Commissioner to issue best practice guidance to a "person exercising public functions".

- MLAs may wish to query whether the Bill should include a power to extend the cooperation duty to cover Government Departments working across other key areas, such as health, housing, finance (civil law reform), given the impact that these often have in shaping the experience of victims.
- MLAs may also wish to seek more information on the process for how the Commissioner's remit might be extended beyond justice at some point in the future under the Bill as drafted.

3.5.4 Summary of Complaints

Clause 14 of the Bill would require charter service providers to record complaints relating to alleged breaches of Victim Charter or Witness Charter obligations. The charter service providers would also have to send a report to the Commissioner each year summarising any complaints as soon as reasonably practicable after the end of the financial year.

The summary report would cover complaints received, the outcome of those complaints that have been resolved and the status of those which have not been resolved. The Data Protection Impact Assessment produced by the

Department indicates that this would involve a high-level summary report and would not include personal information.[110]

- MLAs may wish to consider how the duty on charter service providers to report complaints will interact with existing complaints procedures used by agencies.[111]
- MLAs may wish to consider whether a timeframe should be added to clause 14 for charter service providers to send a report to the Commissioner on complaints.

3.6 Plans and Annual Reports

Clauses 16-19 of the Bill would relate to the Commissioner's strategic plan, business plan and annual reports. Clause 16 would require the Commissioner to prepare a strategic plan setting out:

- objectives and priorities for their term of office
- how the Commissioner proposes to achieve them
- the outcomes the Commissioner will use to monitor the achievement of the objectives and priorities.

The Commissioner would also have to specify groups of victims or witnesses to whom they will have particular regard and give clear reasons for this. In determining this, the Commissioner must seek and take into account the views of the Department, providing reasons for any departure from those views. The Commissioner may also review and revise the strategic plan at any time during their tenure.

In preparing or revising the plan, the Commissioner would be required to consult the Department and other persons the Commissioner considers

[110] Provided through correspondence between RaISe and Department of Justice (27 July 2026)

[111] This is also noted in the PSNI's submission to the Committee. PSNI, Response to Call for Evidence on Victims and Witnesses of Crime Bill (September 2026)

appropriate. The Commissioner would have to publish any plan prepared or revised under this section and send a copy to the Department. The Department would then have to lay a copy of any plan sent to it before the Assembly.

Clause 17 would require the Commissioner to send a business plan to the Department setting out how the Commissioner's functions will be exercised in respect of each financial year. This would cover:

- the actions the Commissioner proposes to take to achieve the objectives and priorities set out in the strategic plan
- the timetable
- the estimated costs
- the expected outcomes.

Clause 17 would also allow the Commissioner to review and revise the business plan. Each business plan would be required to be prepared and sent to the Department at least 1 month before the beginning of each financial year.

Clause 18 would require 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, alongside any charter service provider named in the report. The Department would also have to lay a copy of the report before the Assembly. The report would have to include:

- an assessment of the extent to which the Commissioner's objectives and priorities were met in the financial year
- a review of the steps taken by the Commissioner in that year to fulfil each of their functions
- a review of issues identified by the Commissioner in that year as being relevant to victims and witnesses
- a review of any statistics provided to the Commissioner in that year
- a review of any reports on complaints sent to the Commissioner relating to that year
- any recommendations made by the Commissioner in connection with monitoring compliance with the Victim Charter.

- MLAs may wish to consider whether the Bill should require the Commissioner to lay strategic plans and annual reports before the Assembly.

In addition, clause 19 would require a charter service provider to respond to any recommendations made in an annual report published by the Commissioner. The response would have to provide comments on each recommendation and specifically state what action the charter service provider has taken, or will take, to address the recommendation. Alternatively, the charter service provider would be able to provide an explanation as to why it has not taken, or does not propose to take, any action on the recommendation.

A charter service provider's response would have to 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 would have to provide an explanation to the Commissioner for the delay.

- MLAs may wish to consider how the duty on charter service providers to respond to the Commissioner's recommendations in an annual report will interact and align with governance processes linked to the wider landscape of existing oversight and accountability bodies within criminal justice.
- Under clause 4, the Commissioner would have the power to make recommendations to "any body or person" concerning the interests of victims and witnesses. Clause 19 only requires charter service providers to respond to recommendations contained in an annual report. MLAs may wish to consider whether there should be a wider duty on charter service providers, and potentially other

public bodies, to respond to recommendations made in any other reports produced by the Commissioner within a certain timeframe.

3.7 Not in the Bill: Domestic Homicide Reviews

Another separate area considered within the Department's public consultation on the Bill was a potential future role for the Commissioner in Domestic Homicide Reviews (DHRs). DHRs were introduced in December 2020 under the Domestic Violence, Crimes and Victims Act 2004.[112] The overarching purpose of a review is to prevent future domestic homicides by learning any lessons from a victim's death and improving practice to identify, support and safeguard against domestic and sexual abuse.[113] At present, oversight of the process is provided by a Senior Oversight Forum, chaired by the Department, which comprises representatives from the PSNI, Probation Board, Department of Health and others. Individual DHRs are led by an independent Chair.

The consultation considered a couple of potential options, suggesting that the process could be managed by the Commissioner's office with the Commissioner chairing the Senior Oversight Forum. Alternatively the Commissioner could have a role in overseeing and quality assuring the implementation of DHR recommendations by relevant agencies.[114]

The majority of respondents supported the idea of the Commissioner having an oversight and quality assurance role (15 out of 30 respondents in favour of an oversight and quality assurance role and 5 respondents in favour of the Commissioner chairing the forum).[115] The Department has acknowledged that further work would be needed to determine any future role for the

[112] Domestic Violence, Crime and Victims Act 2004, Section 9

[113] Department of Justice, Long introduces Domestic Homicide Reviews and appoints panel chairs (December 2020)

[114] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (November 2024), page 27-30

[115] Department of Justice, Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill: Detailed Analysis of Responses (May 2025), page 38-41

Commissioner in DHRs and therefore this is not included in the Victims and Witnesses of Crime Bill. The Commissioner Designate has suggested that the Bill could include an enabling provision which could be activated in future to allow the Commissioner to act as a monitoring mechanism for DHRs.[116]

4 Other Jurisdictions: Commissioner for Victims and Witnesses of Crime

4.1 England and Wales

In England and Wales, the statutory Commissioner's remit encompasses both victims and witnesses. Established in 2004, the functions of the Commissioner include promoting the interests of victims and witnesses, encouraging good practice in relation to the protection of their rights and to monitor compliance with the Code of Practice for Victims of Crime.[117] The Code establishes minimum standards for services that criminal justice bodies may provide to victims of crime.[118]

If requested, the Commissioner can also give advice on victims and witnesses to Ministers.[119] A separate Witness Charter exists outlining standards of care for both prosecution and defence witnesses.[120] However, the Commissioner appears to be, in practice, a predominantly victim-focused body with a more limited focus on witnesses of crime.

The role of the Commissioner is a statutory appointment made by the Secretary of State for Justice.[121] The appointment is regulated by the Commissioner for Public Appointments and is for an initial period of 3 years with a maximum of 2

[116] Commissioner for Victims of Crime Office, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026)

[117] Domestic Violence, Crime and Victims Act 2004, Section 49

[118] Ministry of Justice, The Code of Practice for Victims of Crime in England and Wales (October 2025)

[119] Domestic Violence, Crime and Victims Act 2004, Section 50

[120] Ministry of Justice, Witness Charter (December 2013)

[121] Domestic Violence, Crime and Victims Act 2004, Section 48

periods of tenure.[122] The Victims and Prisoners Act 2024 included provision for the Commissioner to lay their reports before Parliament.[123]

In recent years, the role of the Commissioner has been criticised for lacking sufficient powers to enable the effective performance of its statutory functions.[124] A number of changes have been made to enhance the powers of the Commissioner since its establishment.[125] The Victims and Prisoners Act 2024 introduced a new Victims' Code compliance framework and granted the Commissioner the power to make reports on whether criminal justice bodies are providing services to victims in accordance with the code. This allows the Commissioner to make recommendations which the relevant body must respond to within 56 days.[126]

The 2024 Act also introduced a duty for criminal justice organisations to cooperate with the Commissioner in any way considered necessary for the exercise of their functions.[127] It also provided that criminal justice inspectorates must consult the Commissioner regarding their future programmes of inspection.[128]

Amendments to the role of the Commissioner under the 2024 Act also included the right to be consulted by the Secretary of State in both the preparation of, and revisions to, the Victims' Code.[129] However, the duty to collect data on compliance with the Code and report to the Secretary of State has been left with local Police and Crime Commissioners with no role for the Commissioner.[130]

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[122] Ministry of Justice, Framework Document between the Ministry of Justice and the Commissioner for Victims and Witnesses (December 2025), page 7

[123] Victims and Prisoners Act 2024, Section 22. Prior to this the Secretary of State was responsible for laying a copy of a report before Parliament.

[124] P. Cox et al. 'Constitutionalising Regulatory Governance: The Case of the Victims' Commissioner' *Public Law* (2025) 283-306

[125] See House of Commons Library, Victims and Courts Bill 2024-2025 (May 2025), page 37-39 for further discussion

[126] Victims and Prisoners Act 2024, Section 22

[127] Ibid

[128] Victims and Prisoners Act 2024, Sections 23-26

[129] Victims and Prisoners Act 2024, Section 3 and Section 4 (not yet commenced)

[130] Victims and Prisoners Act 2024, Section 8 (not yet commenced)

The Victims and Courts Act 2026 has since sought to amend this by introducing provision at a national level for the Commissioner to complete a new annual report on whether, and how, criminal justice bodies are providing services to victims and witnesses in accordance with the Victims' Code.[131]

The Commissioner's role does not currently involve investigating criminal justice bodies or individual cases. It does not have the power to intervene or take enforcement action where there is evidence of non-compliance with the Victims' Code. Individual experiences are used instead to identify systemic issues which are addressed through reporting, cooperation and engagement. New changes brought in through the Victims and Courts Act 2026 will permit the Commissioner to exercise their functions in relation to an individual victim or witness, if the case raises issues of public policy.

Once these legislative provisions are commenced, the Commissioner will be able to intervene if the case would promote the interests of other victims and witnesses beyond the individual.[132] However, the Ministry of Justice has highlighted that this is not intended to turn the Commissioner into a complaints-handler as existing complaints routes will continue to provide avenues for victims to seek a resolution to their particular concerns.[133]

The legislation will allow the Commissioner to request cooperation from local authorities and social housing providers in relation to anti-social behaviour. This is yet to be commenced but will expand the category of bodies covered by the work of the Commissioner, but only in relation to anti-social behaviour. The local authority and social housing providers will be required to comply with the Commissioner's request, so far as it is appropriate and practicable to do so.[134]

In England and Wales, a Domestic Abuse Commissioner was established by the Domestic Abuse Act 2021.[135] The Commissioner is an independent

[131] Victims and Courts Act 2026, Section 10 (not yet commenced)

[132] Victims and Courts Act 2026, Section 8 (not yet commenced)

[133] Ministry of Justice, Victims and Courts Bill Explanatory Notes (May 2025)

[134] Victims and Courts Act 2026, Section 9 (not yet commenced)

[135] Domestic Abuse Act 2021, Part 2

statutory office holder and has a number of functions which cover encouraging good practice in relation to the prevention of domestic abuse and how public authorities identify, protect and support victims, survivors and their children.[136] A framework document issued by the Home Secretary deals with matters relating to the Commissioner's governance, funding and staffing.[137]

The Commissioner has the power to prepare reports on any matter relating to domestic abuse and to submit those reports to the Secretary of State. The Commissioner is required to publish these and to arrange for them to be laid before Parliament.[138] Government Departments and Public Authorities, which broadly relate to policing and health and social care,[139] must cooperate with and respond to any recommendations made in a report published by the Commissioner within 56 days.[140] This must cover an explanation of the action taken, or proposed, in response to the recommendation or why any action has not been taken.

The 2021 Act restricts the exercise of the Commissioner's functions in relation to individual cases, providing that the Commissioner may not intervene or exercise any function in an individual case.[141] However, this restriction does not prevent the Commissioner from considering individual cases and drawing conclusions from them, for the purpose of identifying or understanding general issues at a national level.

In addition, the Commissioner has a statutory role in relation to Domestic Abuse Related Death Reviews (previously Domestic Homicide Reviews).[142] As part of

[136] Domestic Abuse Act 2021, Section 7

[137] Domestic Abuse Act 2021, Section 11 and Home Office, Domestic Abuse Commissioner: Framework Document (January 2022)

[138] Domestic Abuse Act 2021, Section 8

[139] This includes a range of criminal justice bodies, such as the Crown Prosecution Service, Police Forces, the Parole Board and the Criminal Cases Review Commission. It also covers local authorities, NHS Trusts and Foundation Trusts and the Care Quality Commission.

[140] Domestic Abuse Act 2021, Section 15 and Section 16

[141] Domestic Abuse Act 2021, Section 19

[142] Victims and Prisoners Act 2024, Section 19 which amends the Domestic Violence, Crime and Victims Act 2004 to insert Section 8A. DHRs were renamed to recognise deaths from domestic abuse-related suicide.

this, a copy of any report containing conclusions from a review must be sent to the Domestic Abuse Commissioner as soon as reasonably practicable after completion. The Commissioner has established an oversight mechanism to monitor the implementation of recommendations and hold agencies to account.[143]

4.2 Scotland

The Victims, Witnesses, and Justice Reform (Scotland) Act 2025 provides for the creation of the office of Victims and Witnesses Commissioner for Scotland.[144] Scotland's Programme for Government 2026-2031 contains a commitment to appoint the Victims and Witnesses Commissioner.[145]

The Commissioner is intended to be independent of the Scottish Government and criminal justice agencies. The Commissioner will also be accountable to the Scottish Parliament with ongoing funding provided by the Parliament.[146] The Commissioner will be appointed by the King, following nomination by the Scottish Parliament, for a single term only of up to 8 years.[147]

In terms of the Commissioner's functions, they will be expected to promote and support the rights and interests of victims and witnesses through a range of activities. This includes engagement with victims, witnesses and victim support services, monitoring compliance with statutory duties, promoting best practice and producing research and making recommendations.[148]

[143] Domestic Abuse Commissioner, Learning from Loss: Ensuring the Lessons from Domestic Homicide Reviews Lead to Change (July 2025) and Lack of funding to learn from domestic abuse related deaths "deeply concerning", says Domestic Abuse Commissioner (May 2026)

[144] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Part 1 (not yet commenced)

[145] Scottish Government, Programme for Government 2026 – 2031 (September 2026), page 68

[146] Scottish Parliament Information Centre, Victims, Witnesses, and Justice Reform (Scotland) Bill (June 2023), page 10

[147] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Schedule 1

[148] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 2 (not yet commenced)

The Commissioner will have to produce 3 year strategic plans and annual reports.[149] The legislation also contains a duty on specified criminal justice agencies to respond to a request to cooperate with the Commissioner[150] and a power that requires those persons to which recommendations are addressed, as part of the Commissioner's annual report, to respond within a specified timescale.[151] The Commissioner can also publicise a failure to comply with a requirement to respond.[152]

Furthermore, the Commissioner will be able to conduct investigations into whether the Scottish Government and other criminal justice agencies have had regard to the interests of victims and witnesses in carrying out their functions.[153] This is supported by a power to gather information.[154] The investigation power will be subject to a restriction preventing the Commissioner from directly intervening in individual cases.[155] However, this approach does not preclude the Commissioner from considering individual cases in order to understand the national picture.[156]

Initially the Commissioner's remit will be limited to the criminal justice system. However, the Scottish Government intends to extend the Commissioner's functions to the civil justice system so that they have a role in supporting the rights and interests of people involved in civil proceedings.[157] The legislation

[149] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 10 and Section 18 (not yet commenced)

[150] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 23 (not yet commenced)

[151] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 19 (not yet commenced)

[152] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 20 (not yet commenced)

[153] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Sections 11-14 (not yet commenced)

[154] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Sections 15-16 (not yet commenced). Failure to comply can be referred to the Court of Session which may make enforcement orders or treat the matter as contempt of court. See Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 16 (not yet commenced).

[155] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 8 (not yet commenced)

[156] Scottish Government, Victims, Witnesses, and Justice Reform (Scotland) Bill Policy Memorandum (April 2023), page 19

[157] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 3 (not yet commenced)

allows for the Commissioner's remit to be extended in this way through secondary legislation.[158]

5 Background: Aggravation by Hostility

Part 2 of the Bill would extend special measures and the prohibition on cross-examination in person by defendants in cases involving aggravation by hostility. This section provides background information on the existing legislative framework for these and covers the statutory aggravator model for hate crime which would be implemented through the Criminal Justice (Sentencing etc) Bill. The relevant recommendations from Judge Marrinan's Independent Review of Hate Crime Legislation in Northern Ireland and public consultation undertaken by the Department of Justice are discussed in section 5.3.[159] The position in other jurisdictions is explored in section 7.

5.1 Existing Legislative Framework

5.1.1 Special Measures

Special measures provisions for prosecution and defence witnesses are legislated for in Articles 4 and 5 of the Criminal Evidence (Northern Ireland) Order 1999. Under this legislation, witnesses under the age of 18 in criminal proceedings at the time of the hearing are automatically eligible for special measures without further qualification.[160]

[158] Scottish Parliament Information Centre, Victims, Witnesses, and Justice Reform (Scotland) Bill (June 2023), page 11

[159] Judge Marrinan, Hate Crime Legislation Independent Review (December 2020) and Department of Justice, Consultation on Hate Crime Legislation in Northern Ireland (January 2022)

[160] Criminal Evidence (Northern Ireland) Order 1999, Article 4(1) and Article 9(3), 9(4) and 9(4A). The Lady Chief Justice's revised Practice Direction, issued in December 2025, highlights the 'primary rule' which requires the court to give a direction for a special measure to assist a child witness and that in such cases an application to the court is not required. Judiciary NI, Case Management in the Crown Court including Protocols for Vulnerable Witnesses and Defendants (December 2025), page 22

In addition, a witness who is the complainant in respect of the following offences is automatically eligible for special measures (unless the witness informs the court that they do not wish to be eligible):

- a sexual offence
- a slavery or human trafficking offence
- an offence involving domestic abuse or
- an offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2022.[161]

Whilst eligibility for consideration is automatic for these groups, a formal special measures application has to be made by the PPS, served on the court and the defendant's representatives in advance of an oral application being made at court. It will then be for the judge to determine whether special measures are granted.[162]

The PPS provided RaISe with figures on the total indictable prosecutions where special measures applications were made for automatic eligibility offences covering the period of January to December 2025. Sexual offence cases had the highest percentage of special measures applications (59%) with domestic abuse cases having the lowest (39%).[163] Given the small number of cases involving human trafficking and stalking, a percentage figure is not applicable.[164]

The 1999 Order also makes provision for special measures to be introduced for certain vulnerable witnesses where the court considers that the quality of evidence is likely to be diminished. This can be because they suffer from a mental health disorder as defined by the Mental Health (Northern Ireland) Order

[161] Criminal Evidence (Northern Ireland) Order 1999, Article 5(4)

[162] The court can also, of its own motion, raise the issue of whether a special measures direction should be given under Article 7(1)(b)

[163] Correspondence between RaISe and PPS (19 October 2026). Figures relate to the period January to December 2025. There were 283 sexual offence indictable prosecutions with 166 involving applications for special measures and 297 domestic abuse indictable prosecutions with 116 involving applications for special measures. Note that domestic abuse cases are cases that have been submitted to the PPS by the PSNI with a domestic abuse flag during this period.

[164] From January to December 2025, there were 6 human trafficking indictable prosecutions with 4 involving applications for special measures and 7 stalking indictable prosecutions with 5 involving applications for special measures.

1986, have a significant impairment of intelligence and social functioning or have a physical disability or are suffering from a physical disorder.[165] A witness will be expected to evidence that one of these grounds is met. In determining whether a witness is eligible, the court must also consider any views expressed by the witness.[166]

The 1999 Order also makes provision for intimidated witnesses but this category of eligibility is not automatic. Intimidated witnesses are those who are in fear or distress about giving their evidence in court.[167] For an application to be successful, the court must be satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress.

In determining whether a witness is eligible, the court must take into account a range of factors. In particular, this includes the nature and alleged circumstances of the offence, the age of the witness, the social and cultural background and ethnic origins of the witness, the domestic and employment circumstances of the witness, any religious beliefs or political opinions of the witness and any behaviour towards the witness by the accused (or members of the family or associates of the accused).[168]

The fact that a witness is eligible for special measures does not necessarily mean that they will be granted by the court. The judiciary will usually grant applications for those witnesses who are automatically eligible but the court has to satisfy itself that the special measure requested (or combination of these) is likely to maximise the quality of the evidence before granting an application.[169] The court must also consider whether any measure might inhibit evidence being tested by a party to the proceedings.[170] Applications for special measures can

[165] Criminal Evidence (Northern Ireland) Order 1999, Article 4(2)

[166] Criminal Evidence (Northern Ireland) Order 1999, Article 4(4). The Lady Chief Justice's revised Practice Direction, issued in December 2025, highlights that the court in any given case must take account of the age, maturity and development (intellectual and emotional) of a vulnerable witness and their role in the trial. Judiciary NI, Case Management in the Crown Court including Protocols for Vulnerable Witnesses and Defendants (December 2025), page 22

[167] Criminal Evidence (Northern Ireland) Order 1999, Article 5(1)

[168] Criminal Evidence (Northern Ireland) Order 1999, Article 5(2)

[169] Criminal Evidence (Northern Ireland) Order 1999, Article 7(2)

[170] Criminal Evidence (Northern Ireland) Order 1999, Article 7(3)

be contested on the basis that they would interfere with a defendant's ECHR Article 6 right to a fair trial.[171]

The types of special measures available, with the agreement of the court, can also be found in the 1999 Order:[172]

- Screens to shield a witness from the accused in court.
- Live link facilities to enable a witness to give evidence during the trial from outside the court through a televised link to the court room. A witness could be accommodated either within the court building or in a suitable location outside the court, such as a Remote Evidence Centre.[173] This can also allow for a specified person to accompany a witness while giving evidence by live link.
- Giving evidence in private which involves the exclusion of members of the public and the press from court in cases involving sexual offences or intimidation by someone other than the accused.
- The removal of wigs and gowns by judges and barristers is available for vulnerable and intimidated witnesses at the Crown Court.
- Video recorded evidence allows for pre-recorded video evidence of a witness to be played in court as the evidence in chief.
- Aids to communication can be permitted to enable a witness to give their best evidence whether through a communicator or interpreter, or through a communication aid or technique, as long as the communication can be independently verified and understood by the court.
- A Registered Intermediary can be used to facilitate better communication between a witness and those asking questions of them. A Registered

[171] Department of Justice, Consultation on Hate Crime Legislation in Northern Ireland (January 2022), page 72

[172] Criminal Evidence (Northern Ireland) Order 1999, Article 11-18 and Public Prosecution Service, Special Measures

[173] There are Remote Evidence Centres in Belfast and Craigavon, in addition to the existing NSPCC-operated facility in Derry-Londonderry. Department of Justice, Implementation of the Gillen Review in to Serious Sexual Offences Progress Update (September 2025)

Intermediary can be involved during an Achieving Best Evidence (ABE) interview or during a court hearing.[174]

Digitally recorded cross-examination or re-examination is also listed in Article 16 of the Order.[175] This is where any further evidence is recorded in advance of the trial (cross-examination and re-examination) and played on the day of trial. However, this measure has not yet been implemented. The Department of Justice intends to pilot pre-recorded cross-examination in serious sexual offence cases involving very young complainants but this remains subject to resolving a number of outstanding issues and securing funding.[176]

In 2025, Crown Court records show 587 special measure types dealt with.[177] Of these, 343 were granted, 110 withdrawn, 39 refused or dismissed and 95 recorded as 'other'. The most frequently recorded types were evidence by live link (204), video-recorded evidence-in-chief (161) and evidence by live link from a court witness room (100). Smaller numbers were recorded for examination through an intermediary (21), screening a witness from the accused (17) and removal of wigs and gowns (7). No applications for evidence to be given in private were recorded. The figures should be interpreted with caution as more than one type of special measure may be requested in an individual application.

In December 2025, the Lady Chief Justice published an updated Practice Direction on Case Management in the Crown Court.[178] This incorporates the protocol for vulnerable witnesses which sets out the steps necessary to encourage, facilitate and support the attendance and participation of witnesses to give their best evidence in trials.

[174] Registered Intermediaries are communication specialists who assist vulnerable victims, witnesses, suspects and defendants with significant communication deficits to communicate their answers more effectively during police interview and when giving evidence at trial.

[175] Criminal Evidence (Northern Ireland) Order 1999, Article 16

[176] AQW 50537/22-27 (July 2026)

[177] Correspondence between RaISe and Department of Justice (15 October 2026). Figures relate to the period January to December 2025.

[178] Judiciary NI, Case Management in the Crown Court including Protocols for Vulnerable Witnesses and Defendants (December 2025)

It highlights the need for the trial process, as far as possible, to be adapted in individual cases to assist witnesses when giving evidence in criminal proceedings. It also notes the importance of a Ground Rules Hearing in providing an opportunity to plan any adaptations to questioning and/or the conduct of a trial that may be necessary to facilitate the evidence of a vulnerable person.[179] An updated Practice Direction containing similar provision for cases in the Magistrates' Court was published in June 2026.[180]

In March 2026, Criminal Justice Inspection Northern Ireland published an inspection report looking at the use of special measures in the criminal justice system.[181] This reiterated the need for an enhanced Victim and Witness Needs Assessment Service within the Victim and Witness Care Unit.[182] It also noted inconsistences in the approach to special measures used by both the PSNI and PPS, particularly around ensuring early identification of needs.[183]

5.1.2 Protection from Cross-Examination

The Criminal Evidence (Northern Ireland) Order 1999 makes specific legislative provision prohibiting a non-represented defendant from cross-examining in person the alleged victim of a sexual offence, domestic abuse offence or stalking offence.[184]

Similar provision is made in the 1999 Order in relation to child complainants and other child witnesses.[185] In cases where the statutory prohibition on cross-

[179] Ibid, page 26-29

[180] Judiciary NI, Criminal Case Management in the Magistrates' Court (June 2026)

[181] Criminal Justice Inspection Northern Ireland, Special Measures in Northern Ireland's Criminal Courts (March 2026), page 18-21

[182] Previously recommended in Criminal Justice Inspection Northern Ireland, The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland (July 2020), page 102 and The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland: A Follow-up Review of Recommendation Implementation (October 2023), page 26

[183] Criminal Justice Inspection Northern Ireland, Special Measures in Northern Ireland's Criminal Courts (March 2026), page 37

[184] Criminal Evidence (Northern Ireland) Order 1999, Article 22, Article 22A and Article 22B. Article 22A was inserted by the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, Section 24 and Article 22B was inserted by the Protection from Stalking Act (Northern Ireland) 2022, Section 3.

[185] Criminal Evidence (Northern Ireland) Order 1999, Article 23

examination in person by a non-represented defendant does not apply, the court can, on an application by the prosecution, or of its own motion, make a direction preventing an unrepresented defendant from cross-examining a witness in person.[186] The court can make such a direction if it considers that this would improve the quality of evidence given by the witness and that it would not be contrary to the interests of justice.

Where a court orders that a defendant is prevented from cross-examining a witness in person, it must invite the defendant to arrange for a legal representative to carry out cross-examination on his/her behalf.[187]

If the accused notifies the court that no legal representative is to act for him/her for the purpose of cross-examining the witness, or gives no notification to the court, the court must consider whether it is necessary in the interests of justice for the witness to be cross examined by a legal representative appointed to represent the interests of the accused.

If the court decides that it is necessary in the interests of justice for the witness to be cross-examined, the court must appoint a qualified legal representative chosen by the court to cross-examine the witness in the interests of the accused. A legal representative appointed by the court is paid for by the Department of Justice.[188]

5.2 Criminal Justice (Sentencing etc) Bill

Currently, Article 2 of the Criminal Justice (No. 2) (Northern Ireland) Order 2004 allows for an enhanced sentence, if an offence has been aggravated by hostility.[189] An offender must be convicted of an existing crime, such as assault. There is a requirement at sentencing to state in open court that the base offence was aggravated by hostility and to treat this as an aggravating factor i.e.

[186] Criminal Evidence (Northern Ireland) Order 1999, Article 24

[187] Criminal Evidence (Northern Ireland) Order 1999, Article 26

[188] Judge Marrinan, Hate Crime Legislation Independent Review (December 2020), page 468-469

[189] The Criminal Justice (No. 2) (Northern Ireland) Order 2004, Article 2

a more serious offence. If hostility is proven, it does not increase the maximum penalty for the base offence.

The 2004 Order covers crimes against people based on their race, religion or sexual orientation, or if they are disabled. However, there has been widespread criticism of the enhanced sentencing model over a number of years, including in relation to how often it is being used.[190] The most recent figures show that 19 defendants were dealt with in the Crown Court in 2025-2026 in cases considered by a PPS prosecutor to have involved hate crime which was aggravated by hostility (an increase of 4 from 2024-2025). 8 of the 19 defendants convicted during 2025-2026 were recorded as having received an enhanced sentence due to the aggravating feature of the offence(s) involved (this compared with 3 out of 14 in 2024-2025 and 2 out of 8 in 2023-2024).[191]

The Criminal Justice (Sentencing etc) Bill, if enacted, would repeal the provisions of the 2004 Order relating to enhanced sentencing. It would also introduce a new statutory aggravation model for prosecuting hate crimes which was recommended by Judge Marrianan's Independent Review of Hate Crime Legislation in Northern Ireland.[192] This model would provide that an allegation of aggravation can be specified alongside a charge of an offence.

This would cover racial hostility, religious hostility, hostility related to sexual orientation or hostility related to disability. This approach would not involve the creation of new offences but instead, would see an existing offence, such as an assault, being motivated by or demonstrating hostility in respect of one or more protected characteristics.

Under the provisions in the Bill, the court would have to state and record that an offence is aggravated by hostility on conviction and the reasons for this. If satisfied beyond reasonable doubt that the offence was aggravated by hostility,

[190] Northern Ireland Human Rights Commission, Racist Hate Crime: Human Rights and the Criminal Justice System in Northern Ireland (September 2013) and Judge Marrinan, Hate Crime Legislation Independent Review (December 2020), page 111-132

[191] Public Prosecution Service, PPS publishes statistical bulletin on cases involving hate crime for 2025-2026 (September 2026)

[192] Judge Marrinan, Hate Crime Legislation Independent Review (December 2020), page 111-132

the court would also be required to treat this as a factor that increases the seriousness of the offence when determining the sentence to be imposed within existing ranges.

Judge Marrinan's Review noted that under this model, for the first time in Northern Ireland, there would be substantive hate crime offences where the hate/hostility issue in a trial would have to be determined by a jury (or district judge in summary proceedings). In many cases, this would require the giving of evidence by complainants and other witnesses.[193]

The Minister committed that the wider recommendations from Judge Marrinan's Review relating to special measures would be included in the Victims and Witnesses of Crime Bill.[194] Further background on Part 6 of the Criminal Justice (Sentencing etc) Bill in respect of aggravation by hostility can be found in the RaISe Bill paper on the Criminal Justice (Sentencing etc) Bill.[195]

5.3 Independent Review of Hate Crime Legislation

In addition to the statutory aggravation model, Judge Marrinan's Independent Review of Hate Crime Legislation included recommendation 24:

- Complainants in criminal proceedings involving the proposed aggravated offences or stirring up offences should automatically be eligible for consideration of special measures when giving evidence, including the use of live links or screens.
- Protection for complainants in hate crime/hate speech criminal proceedings should be provided as follows: no person charged with any aggravated offence or stirring up offence may, in any criminal proceedings, cross-examine a witness who is the complainant either in

[193] Ibid, page 467

[194] Northern Ireland Assembly Committee for Justice, Official Report: Ministerial Briefing: Mrs Naomi Long MLA, Minister of Justice (05 February 2026), page 11

[195] Northern Ireland Assembly, Criminal Justice (Sentencing etc) Bill Paper NIAR 65-2026 (May 2026), page 107

connection with that offence or in connection with any other offence with which that person is charged in the proceedings.[196]

The Department published an initial response to the Independent Review in July 2021. This included a commitment to legislate for the extension of special measures and prohibiting cross-examination by defendants.[197] In 2022, the Department then held a 'Phase One' consultation on a range of issues from the review, including special measures and cross-examination.[198] There were over 130 respondents to the questions on these and the main issues raised are considered further in the context of the relevant provisions of the Bill.

Recommendation 24 includes reference to protection for complainants in criminal proceedings involving stirring up offences. Stirring up hatred is conduct which encourages others to hate a particular group. The Public Order (Northern Ireland) Order 1987 contains offences relating to 'stirring up hatred or arousing fear' and form part of the law relating to hate speech.[199] However, Judge Marrinan's Review identified that there have been very few prosecutions and convictions under the 1987 Order.[200]

Judge Marrinan made a further recommendation, containing a number of separate but interlinked parts, in relation to the stirring up offences provided for in the 1987 Order (recommendation 14 (a) - (k)). [201] The Department plans for recommendation 14 to be split across two consultation phases. The 'Phase One' consultation considered recommendation 14 (d) and (e) relating to the dwelling defence and 14 (g) relating to the role of the Director of the PPS.[202]

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[196] Judge Marrinan, Hate Crime Legislation Independent Review (December 2020), page 472

[197] Department of Justice, Review of Hate Crime Legislation in Northern Ireland: Departmental Response (July 2021), page 11

[198] Department of Justice, Consultation on Hate Crime Legislation in Northern Ireland (January 2022)

[199] The Public Order (Northern Ireland) Order 1987, Part III

[200] Judge Marrinan, Hate Crime Legislation Independent Review (December 2020), page 608. Figures for October 2025 – September 2026 show that there were fewer than 3 convictions at courts for offences related to stirring up hatred or arousing fear, prosecuted under the 1987 Order. See AQW 53963/22-27 (October 2026)

[201] Judge Marrinan, Hate Crime Legislation Independent Review (December 2020), page 29

[202] Department of Justice, Consultation on Hate Crime Legislation in Northern Ireland (January 2022), page 47-64 and Department of Justice, Improving the effectiveness of Hate Crime Legislation in

The Department has indicated that the remainder of recommendation 14 will be considered as part of a 'Phase Two' consultation proposed for the next mandate. The outcome of this 'Phase Two' consultation will inform the development of any future legislation, including consideration of extending special measures to complainants in criminal proceedings involving the proposed stirring up offences.[203]

6 Part 2 of the Victims and Witnesses of Crime Bill

6.1 Clause 24: Special Measures

Clause 24 of the Bill would amend the Criminal Evidence (Northern Ireland) Order 1999 to provide that complainants are eligible for assistance with giving evidence in cases dealing with an offence involving aggravation by hostility.

Clause 24 would insert a definition of an offence involving aggravation by hostility into Article 3 of the 1999 Order. As noted elsewhere, this definition is dependent on the provisions contained in the Criminal Justice (Sentencing etc) Bill being enacted.[204] It would mean an offence of any kind in respect of which an allegation that the offence is aggravated by hostility is specified alongside the charge of the offence.

It would also add complainants in proceedings relating to an offence aggravated by hostility to the list eligible for assistance with giving evidence in Article 5. This is in addition to the existing automatic eligibility offences of sexual offences, human trafficking, stalking and domestic abuse.

In practice, this would mean that a formal special measures application would have to be made by the PPS, served on the court and the defendant's representatives in advance of an oral application being made at court. It would

Northern Ireland Summary of Phase One Consultation and Call for Views Responses and Way Forward (March 2023), page 29-43

[203] Correspondence between RaISe and Department of Justice (27 October 2026)

[204] Criminal Justice (Sentencing etc) Bill (as introduced), Clause 33

then be for the judge to determine whether special measures should be granted in cases where an offence involves aggravation by hostility.

The Department's 'Phase One' consultation included a question on automatic eligibility for consideration of special measures. The consultation summary indicated there was a general split in respondents (64 agreed and 62 disagreed of the 132 respondents).[205] Individuals and organisations that agreed with automatic eligibility for consideration of special measures generally took the view that this would encourage victims to remain part of the court process. Of the individuals who disagreed with automatic eligibility for consideration of special measures, a number noted general disagreement with hate crime legislation.

The special measures provided for under clause 24 to support complainants in cases involving aggravation by hostility would be available to those contained within the list in clause 33(1)(a)-(d) of the Criminal Justice (Sentencing etc) Bill. If enacted, this would cover complainants in cases aggravated by racial hostility, religious hostility, hostility related to sexual orientation or hostility related to disability.

As noted in the RaISe Bill paper on the Criminal Justice (Sentencing etc) Bill, Judge Marrinan's Review recommended additional protected characteristics which would not initially be included under the statutory aggravation model in the Bill.[206] These are age, sex/gender (including gender identity) and variations in sex characteristics. Victims within one of these groups would not be automatically eligible for special measures under clause 24 of the Victims and Witnesses of Crime Bill.

In addition, clause 36 of the Criminal Justice (Sentencing etc) Bill, if enacted, would provide that an allegation of aggravation by reason of a victim's vulnerability can be specified alongside a charge of an offence. A vulnerable

[205] Department of Justice, Improving the effectiveness of Hate Crime Legislation in Northern Ireland Summary of Phase One Consultation and Call for Views Responses and Way Forward (March 2023), page 47

[206] Northern Ireland Assembly, Criminal Justice (Sentencing etc) Bill Paper NIAR 65-2026 (May 2026), page 113-123

person in this context means a person under the age of 18 or "*a person whose ability to protect himself or herself from violence, abuse, neglect or exploitation is significantly impaired through physical or mental disability or illness, old age or for any other reason*". Some of this might already be captured through the existing special measures regime under Article 4 of the Criminal Evidence (Northern Ireland) Order 1999 but it may be worth further consideration.

- MLAs may wish to seek an update on the implementation of a Victim and Witness Needs Assessment Service and query how criminal justice organisations will ensure the early identification of special measures under the provisions of clause 24.
- MLAs may wish to query how effective quality assurance mechanisms will be put in place across the criminal justice system to monitor compliance and outcomes in cases involving aggravation by hostility where special measures are sought.
- MLAs may wish to give further consideration to the limited list of witnesses who would be automatically eligible for special measures support under clause 24, given the additional protected characteristics recommended for inclusion by Judge Marrinan within a statutory aggravation model.
- MLAs may also wish to give further consideration to whether automatic eligibility for special measures should include offences aggravated by reason of a victim's vulnerability (the vulnerability aggravator in clause 36 of the Criminal Justice (Sentencing etc) Bill).

6.2 Clause 25: Protection from Cross-Examination

As with clause 24, this provision is dependent on the enactment of the provision creating a statutory aggravator for hostility in the Criminal Justice (Sentencing etc) Bill. Clause 25 would amend the Criminal Evidence (Northern Ireland) Order 1999 by inserting new Article 22C.

This would 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. It would also amend 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.

Article 26 of the 1999 Order would also be amended to provide that where a court orders that a defendant is prevented from cross-examining a witness in person by virtue of new Article 22C, it must invite the defendant to arrange for a legal representative to carry out cross-examination on his/her behalf.

If the accused does not appoint a legal representative, the court would have to consider whether it is necessary in the interests of justice for the witness to be cross-examined by a legal representative appointed to represent the interests of the accused. In cases where this is necessary, the court would have to appoint a qualified legal representative to cross-examine the witness in the interests of the accused. Under this amendment, a legal representative appointed by the court would be paid for by the Department of Justice.

In addition, article 27 of the 1999 Order would be amended to include reference to complainants in proceedings involving aggravation by hostility. This would provide that in cases where there is a jury, the judge must consider whether it is necessary to provide a warning that negative conclusions should not be drawn from the fact that the accused was not allowed to question the witness personally.

The Department's 'Phase One' consultation included questions on the prohibition of cross-examination by defendants. Of the 132 responses, there was a split in respondents who agreed or disagreed that victims of hate crime

would benefit from protection from in-person cross-examination (61 respondents agreed and 64 respondents disagreed).[207]

A range of organisations agreed that victims of hate crime would benefit from protection from cross-examination in person, including those representing victims of hate crime, the PSNI, the Probation Board and women's groups. The Department also noted that some respondents may have misunderstood the concept of protection from in-person cross-examination by the perpetrator to mean protection from any cross-examination of the victim which may have influenced the overall responses.[208] A court will have to strike a balance under ECHR Article 6, between protecting the defendant's right to a fair trial and ensuring that witnesses who give evidence in a case are enabled to do so to the best of their ability.

- MLAs may wish to give further consideration to the limited list of witnesses who would be automatically eligible for protection from cross-examination in person under clause 25, given the additional protected characteristics recommended for inclusion by Judge Marrinan within a statutory aggravation model.
- MLAs may also wish to give further consideration to whether protection from cross-examination in person should include offences aggravated by reason of a victim's vulnerability (the vulnerability aggravator in clause 36 of the Criminal Justice (Sentencing etc) Bill).[209]

[207] Department of Justice, Improving the effectiveness of Hate Crime Legislation in Northern Ireland Summary of Phase One Consultation and Call for Views Responses and Way Forward (March 2023), page 50

[208] Ibid, page 49

[209] The Commissioner for Older People has also called for protection from cross-examination in person and automatic eligibility for special measures in cases involving the vulnerability aggravator.

7 Other Jurisdictions: Special Measures and Protection from Cross-Examination

7.1 England and Wales

In England and Wales, vulnerable and intimidated witnesses are eligible for special measures under the Youth Justice and Criminal Evidence Act 1999.[210] Complainants in respect of certain offences are automatically eligible for special measures (unless they inform the court that they do not wish to be eligible). Article 17 covers sexual offences, slavery or human trafficking offences and offences involving domestic abuse. Schedule 1A also covers a number of other violent offences where a witness will be eligible for assistance.[211] There is no specific provision for victims of hate crime to be automatically eligible for special measures.

The decision around whether any special measure should be used in a particular case is left to the court. The court will have to determine whether the special measure (or combination of them) would be likely to improve the quality of evidence given by the witness. As part of determining whether to make a special measures direction, the court will also need to consider whether it would inhibit evidence being effectively tested by a party to the proceedings.[212]

The range of special measures available under the 1999 Act are broadly similar to those contained in the Criminal Evidence (Northern Ireland) Order 1999. However, pre-recorded cross-examination and re-examination for vulnerable witnesses has been available in all Crown Courts since 2020.[213] For

Commissioner for Older People for Northern Ireland, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026), page 13

[210] Youth Justice and Criminal Evidence Act 1999, Section 16 and Section 17

[211] Youth Justice and Criminal Evidence Act 1999, Schedule 1A

[212] Youth Justice and Criminal Evidence Act 1999, Section 19

[213] Ministry of Justice, New courtroom protections for vulnerable victims available nationwide (November 2020)

complainants of sexual and modern slavery offences, it has been available since 2022.[214]

Separately, various changes to the current law on special measures are contained within the Courts and Tribunals Bill.[215] The clauses relate to the use of screens, companions for witnesses, exclusion of the public from court, editing of pre-recorded evidence and victim personal statements.[216] These clauses are based largely on recommendations made by the Law Commission as part of a review of the use of evidence in sexual offences prosecutions.[217]

The Youth Justice and Criminal Evidence Act 1999 also prohibits unrepresented defendants from personally cross-examining adult complainants and child witnesses in trials of certain offences.[218] This legislation also gives the courts the power to prohibit cross-examination of witnesses by unrepresented defendants in other circumstances, including where the court is satisfied that the circumstances merit a prohibition and that it would not be contrary to the interests of justice. There is no specific provision in the 1999 Act allowing for unrepresented defendants to be prohibited from personally cross-examining victims of hate crimes.

7.2 Scotland

In Scotland, hate crime legislation was updated following a Review of the legislation by Lord Bracadale.[219] The relevant provisions can now be found in the Hate Crime and Public Order (Scotland) Act 2021.[220] However, this legislation does not provide specific special measures provisions for victims of hate crime.

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[214] Ministry of Justice, Pre-recorded evidence for rape victims available nationwide (September 2022)

[215] Courts and Tribunals Bill (as brought from the Commons October 2026), Clauses 11-16

[216] For more detail see House of Commons Library, Courts and Tribunals Bill 2024-2026 (March 2026), page 84 - 94

[217] Law Commission, Evidence in Sexual Offences Prosecutions: A Final Report (July 2025)

[218] Youth Justice and Criminal Evidence Act 1999, Sections 34-40

[219] Lord Bracadale, Independent Review of Hate Crime Legislation in Scotland: Final Report (May 2018)

[220] Hate Crime and Public Order (Scotland) Act 2021

At present, the special measures scheme for criminal proceedings is set out in the Criminal Procedure (Scotland) Act 1995 which has been amended a number of times over the years.[221] This provides that child witnesses and those who are "deemed vulnerable" are entitled to standard special measures when they give evidence in court.[222] Standard special measures include the use of a live television link, a screen and a supporter being present while they give their evidence.[223]

A "deemed vulnerable" witness includes those who have been the victim of certain offences, including sexual offences and offences relating to domestic abuse. A victim of hate crime would not fall within the category of a "deemed vulnerable" witness and instead may be eligible for special measures on other grounds, such as a significant risk that the quality of their evidence will be diminished by reason of fear or distress in connection with giving evidence at the hearing.[224] This would require a Vulnerable Witness Notice on the use of standard special measures to be submitted to the court.[225]

Other special measures, such as the exclusion of the public during the taking of the evidence of a vulnerable witness, are available on application to the court.[226] Even in cases where a witness is "deemed vulnerable", they do not have an absolute right to the further special measures under this part of the legislation and the need for this will be assessed by the court.

More recently, the Government introduced a new rule that a witness under the age of 18, giving evidence as a victim of or witness to certain serious offences, is entitled to pre-record their evidence ahead of trial unless a specific exception

[221] Criminal Procedure (Scotland) Act 1995, Section 271-271M as amended by the Vulnerable Witnesses (Scotland) Act 2004, Part 1, the Victims and Witnesses (Scotland) Act 2014, Sections 10-22 and the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019, Section 1 etc.

[222] Criminal Procedure (Scotland) Act 1995, Section 271(1)(c)

[223] Criminal Procedure (Scotland) Act 1995, Section 271A(14) and 271J-271L

[224] Ibid

[225] The procedure has been simplified for notifying the courts of the intention to use standard special measures in cases involving child witnesses and "deemed vulnerable" witnesses. See Scottish Courts and Tribunals Service, Simplified notification procedure for standard special measures for vulnerable witnesses (June 2025) and Criminal Procedure (Scotland) Act 1995, Section 271AA

[226] Criminal Procedure (Scotland) Act 1995, Section 271H and Section 271HB

to this rule is applied for and granted by the court.[227] In determining this, the court must satisfy itself that the risks to the fairness of proceedings outweigh any potential risks to the interests of the witness. The Government has also committed to extending this presumption to other adult witnesses "deemed vulnerable".[228]

Separately, the Criminal Procedure (Scotland) Act 1995 provides that an accused in a sexual offence case is not permitted to carry out his or her defence in person.[229] The legislation provides for the appointment of a solicitor by the court in such cases.[230] The 1995 Act also prohibits a person from conducting their own defence in certain types of offence involving a child witness under the age of 12 who is to give evidence in the trial.[231]

In addition, there is provision for the court to prohibit a person from conducting their own defence in any other case if a vulnerable witness is giving evidence in the trial.[232] This enables the court to make an order prohibiting the accused from conducting their own defence where it is satisfied that this is in the interests of the vulnerable witness. However, the court should not make an order where there is a significant risk of prejudice to the fairness of the trial. This provision could potentially apply to victims in cases involving hate crimes.

7.3 Republic of Ireland

In the Republic of Ireland, hate crime legislation was updated through the Criminal Justice (Hate Offences) Act 2024.[233] There is no specific provision for special measures for hate crime victims under this legislation. Instead a victim

[227] Criminal Procedure (Scotland) Act 1995, Section 271BZA

[228] Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019, Section 3 would insert Section 271BZD into the Criminal Procedure (Scotland) Act 1995 (not yet commenced)

[229] Criminal Procedure (Scotland) Act 1995, Section 288C

[230] Criminal Procedure (Scotland) Act 1995, Section 288D

[231] Criminal Procedure (Scotland) Act 1995, Section 288E

[232] Criminal Procedure (Scotland) Act 1995, Section 288F

[233] Criminal Justice (Hate Offences) Act 2024 and Department of Justice, Home Affairs and Migration, New hate crime legislation comes into force (December 2024)

will be assessed in line with provisions contained in the Criminal Justice (Victims of Crime) Act 2017.[234]

This provides that an individual assessment should be carried out, by the Garda Síochána or the Police Ombudsman, for all victims to identify any protection needs they might benefit from, including special measures in the course of the investigation or court proceedings.

In conducting the assessment, a number of matters can be taken into consideration, such as the type and nature of the alleged offence, whether the victim has suffered considerable harm due to the severity of the alleged offence and the personal characteristics of the victim. This can include his or her age, gender, gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, communications difficulties, relationship to, or dependence on, the alleged offender and any previous experience of crime.[235]

Special measures in court proceedings may include making an application under the Criminal Evidence Act 1992 to enable victims to give evidence via live television link, through an intermediary, from behind a screen or other similar device.[236] Amendments were also made via the 2017 Act to prohibit the wearing of wigs and gowns and for video-recorded statements being admissible in evidence in circumstances relating to victims aged under 18.[237] The court may also exclude members of the public from proceedings and restrict questioning regarding a victim's private life.[238] The legislation also requires a prosecutor to

[234] The Criminal Justice (Victims of Crime) Act 2017, Section 15

[235] The Criminal Justice (Victims of Crime) Act 2017, Section 15(2)

[236] Criminal Evidence Act 1992, Part III. The 2017 Act expanded the provisions relating to the giving of evidence via live television link, through an intermediary and from behind a screen from a list of specified offences to all victims. In addition, it provided that the court, in deciding whether to grant these special measures, must have regard to the need to protect the victim from secondary and repeat victimisation, intimidation or retaliation, taking into account (i) the nature and circumstances of the case and (ii) the personal characteristics of the victim. See Criminal Evidence Act 1992, Section 14AA.

[237] The Criminal Justice (Victims of Crime) Act 2017, Section 14B and Section 16

[238] The Criminal Justice (Victims of Crime) Act 2017, Section 20 and Section 21

have regard to an assessment in considering whether a victim requires special measures during court proceedings.[239]

Separately, the 1992 Act covers protection against cross-examination by the accused in cases involving relevant offences, such as sexual offences, domestic abuse and offences involving violence or the threat of violence to a person.[240] This allows the court to direct that the accused may not personally cross-examine a witness unless it is of the opinion that the interests of justice require the accused to conduct the cross-examination personally. This provision does not explicitly include victims in cases involving hate crimes.

8 Background: Protection of Complainants in Sexual Offence Cases

Part 2 of the Bill would provide for complainants in sexual offence cases to be represented in pre-trial hearings and make oral/written submissions concerning disclosure of third party material in respect of which the complainant has a reasonable expectation of privacy and evidence of previous sexual history.

This section provides background information on the recommendations made by Sir John Gillen's Review into the Law and Procedures in Serious Sexual Offences in Northern Ireland.[241] It also covers the existing scheme providing legal advice for complainants in sexual offence cases and the approach to disclosure of third party material by criminal justice organisations. The position in other jurisdictions is explored in section 10.

[239] The Criminal Justice (Victims of Crime) Act 2017, Section 19

[240] The Criminal Evidence Act 1992, Section 14C

[241] Department of Justice, Gillen Review Report into the Law and Procedures in Serious Sexual Offences in Northern Ireland (May 2019)

8.1 Pre-Trial Independent Legal Representation

Published in 2019, recommendation 40 of Sir John Gillen's Review stated that publicly funded legal representation should be granted to all complainants in all serious sexual offence cases in the following circumstances: [242]

- to afford relevant information and general legal advice on a time limited basis throughout the process up to the commencement of the trial, with the option of bringing such matters to the attention of the court prior to trial
- where complainants wish to exercise the right to appear in court to object to disclosure of private material to the accused's defence team or to ensure it is restricted to the minimum necessary and
- where complainants wish to appear in court to object to the introduction of their previous sexual history.[243]

The report noted that there was strong support for the introduction of independent legal representation for complainants from a range of organisations, including the Law Society of Northern Ireland, the PSNI, the Women's Aid Federation, Victim Support Northern Ireland, Nexus and the Northern Ireland Commissioner for Children and Young People.[244]

The Gillen Review highlighted that complainants of sexual assault can face a higher risk of re-traumatisation through the criminal justice process than in other crimes.[245] The report also noted the level of under-reporting and high attrition rates[246] associated with sexual offences which has also been acknowledged as

[242] Ibid, page 187

[243] The review also contained recommendations on cross-examination on previous sexual history at chapter 8, page 251-273. Recommendation 89 stated that: The Department of Justice should carry out an exercise to determine the extent of admission of previous sexual experience in trials in Northern Ireland. Legislation concerning admission of previous sexual experience should be revisited in light of such an exercise. Recommendation 90 called for a greater emphasis on firm judicial case management in this area. The Department advised the research on previous sexual history was not yet available in October 2026.

[244] Ibid, page 180

[245] Ibid, page 181

[246] Attrition is the proportion of reported sexual violence offences that do not progress through the criminal justice system to conviction stage, but instead drop out at various points along the way.

an issue in other parts of the UK, Republic of Ireland and internationally.[247] The absence of legal representation for complainants was identified by Sir John Gillen as a contributing factor in this.[248]

For cases that do progress through the system, the most recent figures from the PPS indicate that 243 defendants were dealt with in the Crown Court in relation to a sexual offence during 2024-2025. Of the 243 defendants, 74% were convicted of at least one offence (i.e. of any offence). Just under two-thirds (65%) were convicted of a sexual offence. The overall conviction rate in 2024-2025, at 74%, compared with 72% in 2023-2024.[249]

During 2024-2025, 75 defendants were dealt with in the Crown Court for an offence of rape. Of these defendants, 50 (67%) were convicted of at least one offence (i.e. of any offence). 20 defendants (27%) were convicted of an offence of rape. In addition, the median number of days for the issue of a prosecution decision in the Crown Court in cases involving sexual offences reduced from 212 days in 2023-2024 to 133 days in 2024-2025.[250]

At an Executive level, there are a number of strategies relevant in this space with the Programme for Government 2024-2027 containing commitments relating to improving outcomes for victims and survivors of violence against women and girls.[251] The Domestic and Sexual Abuse Strategy 2024-2031, led by the Department of Justice and Department of Health, also covers a range of services aimed at tackling domestic and sexual abuse, in partnership with the

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Research indicates that a victim may withdraw from the process for many reasons, including to avoid trauma, fear of a perpetrator, delay and their experience of going through the criminal justice system. See Commissioner for Victims of Crime Office, A 'Second Assault': The Impact of Third Party Disclosure Practice on Victims of Sexual Abuse in Northern Ireland (November 2023)

[247] The Department committed to publishing research into attrition rates in relation to serious sexual offences, setting out baseline figures and the underlying reasons for attrition in response to Gillen Review recommendation 1. See Department of Justice, Implementation of the Gillen Review in to Serious Sexual Offences Progress Update (September 2025). The Department advised this research was not yet available in October 2026.

[248] Ibid, page 181

[249] Public Prosecution Service, Statistical Bulletin: Cases Involving Sexual Offences 2024-2025 (November 2025), page 10

[250] Ibid, page 8

[251] NI Executive, Programme for Government 2024-2027 'Our Plan: Doing What Matters Most' (March 2025), page 32-35

voluntary and community sector, building on learning from the Gillen Review and other developments.[252]

In seeking to address Gillen Review recommendation 40, the Department of Justice launched the Adult Sexual Offences Legal Advisor (SOLA) pilot scheme in 2021 to provide publicly funded legal advice to adult complainants in serious sexual offence cases. Since its launch, over 2,200 people have received support through the scheme.[253]

However, the SOLAs (or other independent legal representatives) do not currently represent the interests of complainants at pre-trial hearings or at trial. SOLAs are already engaged in making written submissions to the court in relation to the disclosure of third party material but do not currently assist complainants in relation to previous sexual history applications.[254]

The extension of SOLA provision to children and young people aged 17 and under has also taken place, with more than 400 child victims benefiting from support provided by a CSOLA since its launch in 2025.[255] SOLAS and CSOLAs are qualified solicitors and are based within Victim Support NI with both pilot schemes expected to run until March 2027.[256] An evaluation is expected to be completed by early 2027 to inform recommendations for a permanent service.[257]

[252] Department of Justice, Domestic and Sexual Abuse Strategy and Action Plans 2024-2031 (September 2024)

[253] AQW 52852/22-27 (September 2026)

[254] Public Prosecution Service, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026)

[255] Department of Justice, Long launches free legal support service for child victims of serious sexual offences (February 2025)

[256] AQW 52852/22-27 (September 2026) and Department of Justice, Long extends Sexual Offences Legal Advisers (SOLA) scheme (November 2024)

[257] Correspondence between RaISe and Department of Justice (28 October 2026)

8.2 Third Party Material Disclosure Applications

What is Third Party Material?

- In broad terms, disclosure is the process in criminal law by which someone charged with a crime is provided with copies of, or access to, material from the investigation that is capable of undermining the prosecution case against them and/or assisting their defence. Disclosure is governed by the Criminal Procedure and Investigations Act 1996.[258]
- The disclosure of third party material forms part of this process. Third Party Material is material held by a third party (i.e. a person, organisation or a Government Department), other than the investigating and prosecuting authority, within or outside the UK.[259] A third party is not involved directly in the case but may hold information relevant to it. This may include medical, educational, social service records or notes from a counselling session.
- Where it is relevant to a reasonable line of enquiry, whether this points towards or away from a suspect, the PSNI may need to request material from a third party about a victim to ensure a fair trial (a third party material request can also be made by the defence but this is more likely to occur later in the investigation timeline).[260] Third party material can be requested during the investigation of any type of crime, however, a number of reports have indicated particular issues surrounding how and why it is requested in sexual offence cases right across the UK.[261]

[258] Criminal Procedure and Investigations Act 1996

[259] Home Office, Third Party Material Case File Review Report (April 2024), page 4

[260] PSNI, Service Instruction on Disclosure SI0323 (April 2026)

[261] For example, Scottish Courts and Tribunals Service, Improving the Management of Sexual Offence Cases: Final Report from the Lord Justice Clerk's Review Group (March 2021) and Ministry of

In Northern Ireland, the Gillen Review dedicated a chapter to improving disclosure within the criminal justice system.[262] A series of reports from CJINI over the last decade have also had a focus on the issue of disclosure and improving file quality.[263] These highlighted the complexity of the challenges associated with third party material, including the proliferation of digital material and managing the volume of material which often covers a broad range of personal information.

The Information Commissioner's Office published a report in 2022 making a series of recommendations for police forces and prosecutors across the UK, including the PSNI and PPS, around improving compliance with data protection principles when seeking access to, or disclosing, the personal information of victims in the course of criminal investigations and proceedings.[264] The report highlighted the data minimisation principle and raised concerns about the practice of relying on a victim's consent as the lawful basis for obtaining and processing a wide range of third party materials.[265]

In 2023, the Commissioner Designate for Victims of Crime published a report entitled 'Second Assault' which highlighted the impact that disclosure of victim's counselling records can have on their mental health and confidence in the criminal justice system.[266] It noted that victims of sexual crime can find themselves choosing between healthcare and justice. The report made a number of recommendations, including that new legislation should be

Justice, End-to-End Rape Review Report on Findings and Actions (August 2021) and Information Commissioner's Office, Who's Under Investigation? The processing of victims' personal data in rape and serious sexual offence investigations (May 2022)

[262] Department of Justice, Gillen Review Report into the Law and Procedures in Serious Sexual Offences in Northern Ireland (May 2019), page 322-356

[263] Criminal Justice Inspection Northern Ireland, An Inspection of the Quality and Timeliness of Police Files (incorporating Disclosure) Submitted to the PPS (November 2015) and Without Witness: A Thematic Inspection of the Handling of Sexual Violence and Abuse Cases by the Criminal Justice System in Northern Ireland (November 2018) and A Follow-Up Review of the Without Witness Sexual Violence and Abuse Inspection (March 2021) and An Inspection of File Quality, Disclosure and Case Progression and Trial Recovery from the COVID-19 Pandemic (June 2023)

[264] Information Commissioner's Office, Who's Under Investigation? The processing of victims' personal data in rape and serious sexual offence investigations (May 2022)

[265] Ibid, page 47-49

[266] Commissioner for Victims of Crime Office, A 'Second Assault': The Impact of Third Party Disclosure Practice on Victims of Sexual Abuse in Northern Ireland (November 2023)

introduced governing the access and disclosure of third party material based on learning and best practice from other common law regions.[267]

In 2025, there were 403 cases in the Crown Court with at least one disclosure order. 146 (36.2%) of these cases were classified as sexual offences.[268] However, neither the Department of Justice nor the Northern Ireland Courts and Tribunals Service (NICTS) record information on the number of times third party material has been used at trial in sexual offence cases, including how it was used.[269] Information on whether the application to seek the third party material came from the PSNI, PPS or the defence is not held by the Department or the NICTS.[270]

A number of non-legislative changes have already been made aimed at addressing some of the issues associated with practice around third party disclosure. In December 2025, the Lady Chief Justice issued a revised Practice Direction on Case Management in the Crown Court 02/2019 which sets out the approach to be taken to third party disclosure applications and includes a number of new templates for use in sexual offence cases.[271]

This specifies that where a defence application is made for access to third party materials, then a complainant will have an opportunity to make representations to the court before any order is made. However, this does not set out any timeframe for objections to be made by a complainant.[272] In June 2026, an updated Practice Direction was published containing similar provision for cases involving rape and other serious sexual offences being prosecuted in the Youth Court.[273]

[267] Ibid, page 31

[268] Correspondence between RaISe and Department of Justice (28 October 2026)

[269] Ibid

[270] Ibid

[271] Judiciary NI, Case Management in the Crown Court including Protocols for Vulnerable Witnesses and Defendants (December 2025), page 13-20

[272] Ibid, page 17

[273] Judiciary NI, Criminal Case Management in the Magistrates' Court (June 2026), page 11-17

In September 2026, the PSNI and PPS launched a 5 year joint strategy for investigating and prosecuting serious sexual offences.[274] This includes a number of actions relating to disclosure, including a commitment to review disclosure processes across both organisations and how disclosure decisions and applications are communicated to victims. It also states that Disclosure Management Documents will be completed in all cases involving serious sexual offences in compliance with revised Crown Court Practice Direction 02/2019. In addition, it commits to producing joint guidance on the disclosure of third party material.[275]

9 Clause 26: Protection of Complainants in Sexual Offence Cases

Clause 26(1) of the Bill would amend the Criminal Evidence (Northern Ireland) Order 1999 by inserting new Article 27G in relation to complainant participation in applications for witness summons.

New Article 27G(1) would make provision in relation to an application made for a witness summons, where a person is to be tried on indictment for a sexual offence, and the evidence, document or thing which is proposed to be required contains information which relates to the complainant. In addition, this is information for which the complainant could have a reasonable expectation of privacy.

New Article 27G(2) would provide that a complainant must be given an opportunity to make oral or written representations to the court about the application. The complainant would also be entitled to be present at any application hearing and to be legally represented at any application hearing (whether or not the complainant is present).

New Article 27G(3) would include provision for delegated legislative power in relation to court rules. Under this, rules of court may require the serving of

[274] PSNI and PPS, Joint Strategy for Investigating and Prosecuting Serious Sexual Offences: April 2026 – March 2031 (September 2026)

[275] Ibid, page 17-18

notice and documents upon the complainant, make provision for the manner of service and for the manner in which confidential or sensitive information is to be treated. In particular, this would include information being disclosed, or withheld from, parties to the proceedings. These court rules would be subject to negative resolution.[276]

Respondents to the Department's public consultation expressed strong support for the proposal to legislate to govern access to and disclosure of third party material in serious sexual offence cases (21 out of 30 agreed, 1 disagreed and 8 did not answer).[277] Respondents highlighted the importance of protecting complainants' privacy and preventing re-traumatisation, noting that victims might be deterred from seeking therapy if their counselling notes could be shared with the defence. The need for judicial oversight was referenced as an essential element to ensure the rights of both the accused and the complainant are protected.

Clause 26(2) of the Bill would provide for the amendment of Article 30 of the 1999 Order which relates to procedure around evidence or questions about a complainant's sexual history.[278] Article 28 of the 1999 Order provides that if at a trial a person is charged with a sexual offence, then, except with the leave of the court, no evidence may be adduced, and no question may be asked in cross-examination, by or on behalf of any accused at the trial, about any sexual behaviour of the complainant.[279]

Article 28 of the 1999 Order also provides that the court may give leave in relation to any evidence or question only on an application made by or on behalf of an accused. It sets out the circumstances in which leave may be granted.[280] Article 30 of the 1999 Order sets out the procedure for applications under Article

[276] Judicature (Northern Ireland) Act 1978, Section 52, Section 53A and Section 119

[277] Department of Justice, Responses to the Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (May 2025), page 64

[278] The Criminal Evidence (Northern Ireland) Order 1999, Article 30

[279] The Criminal Evidence (Northern Ireland) Order 1999, Article 28(1)

[280] The Criminal Evidence (Northern Ireland) Order 1999, Article 28(2)-(8)

28. This specifically states that applications shall be heard in the absence of the complainant.[281]

Clause 26(3) of the Bill would amend Article 30 of the 1999 Order to remove the reference to applications being heard "in the absence of the complainant" and clause 26(4) would insert a new paragraph 30(1A). This would state that a complainant must be given an opportunity to make oral or written representations to the court about the application relating to the complainant's sexual history. Under this paragraph, the complainant would also be entitled to be present at any application hearing and to be legally represented at any application hearing (whether or not the complainant is present).

Clause 26(5) of the Bill would insert provision into Article 30(3) of the 1999 Order. Article 30(3) of the 1999 Order sets out the provision that may be made by rules of court around the procedure for applications relating to evidence or questions about a complainant's sexual history.[282]

New paragraphs 30(3)(d) and 30(3)(e) would provide that rules of court may make provision, in such cases as the rules may specify, requiring the serving of notice and documents upon the complainant, and make provision for the manner of service. These court rules would be subject to negative resolution.[283]

Respondents to the Department's public consultation expressed strong support (24 out of 30 agreed, 1 disagreed and 5 did not answer) for making legislative provision to allow a complainant to be represented at hearings of pre-trial applications in serious sexual offences cases to object to the disclosure of private material or the introduction of previous sexual history.[284]

The consultation noted that this role would be carried out by the SOLA service in all but the most exceptional cases.[285] Over the last 10 years, there have been

[281] The Criminal Evidence (Northern Ireland) Order 1999, Article 30(1)

[282] The Criminal Evidence (Northern Ireland) Order 1999, Article 30

[283] Judicature (Northern Ireland) Act 1978, Section 52, Section 53A and Section 119

[284] Department of Justice, Responses to the Consultation on Proposals for Inclusion in a Victims and Witnesses of Crime Bill (May 2025), page 48

[285] Ibid, page 61

approximately 159 applications in the Crown Court per year for third party material disclosure and to admit previous sexual history.[286] The Department advised RaISe that it anticipates that the SOLAs would be representing complainants at approximately 160 pre-trial applications per year once the roles are extended.[287]

- MLAs may wish to consider whether the Victim Charter should be updated to place an obligation on the PSNI to inform a complainant of the existence of legal advice and representation in sexual offence cases at the outset of the process, as recommended by the Gillen Review.[288]
- MLAs may wish to ask for further detail on the level of information and evidence that would be shared with a complainant's legal representative (SOLA) in cases for which they are providing representation.
- MLAs may wish to consider whether the detail left to the rules of court in new Article 27G(3) should be contained within the Bill. These would make provision for the serving of notice and documents upon the complainant, the manner of service and the way in which any confidential or sensitive information is to be treated. It may be worth querying whether this would cover time limits for a complainant to notify their objection to an application for third party material disclosure.
- MLAs might wish to seek more detail on what "evidence, document or thing" could be covered

[286] Correspondence between RaISe and Department of Justice (28 October 2026)

[287] Ibid

[288] Department of Justice, Gillen Review Report into the Law and Procedures in Serious Sexual Offences in Northern Ireland (May 2019), page 187

by information which "the complainant could have a reasonable expectation of privacy to" in clause 26. For example, could this include psychiatric, therapeutic or counselling records, health and social care records, medical records unrelated to the sexual offence, education or employment records, private electronic communications etc. It may be worth considering whether this should be detailed in the Bill or in rules of court.

- Clause 26 provides a statutory basis for the Lady Chief Justice's revised Practice Direction on Case Management in the Crown Court 02/2019.[289] It does not extend to making statutory provision for cases involving rape and other serious sexual offences being prosecuted in the Youth Court which are contained in a separate Practice Direction.[290] MLAs may wish to query whether this could result in a gap in protection for complainants.

9.1 Human Rights and Data Protection Considerations

During the Second Stage debate on the Bill, some MLAs raised the issue of balancing a defendant's Article 6 right to a fair trial with a complainant's Article 8 right to privacy. The Minister stated that the provisions in clause 26 would not place restrictions on defendants making an application for disclosure as part of the trial process. Instead it would provide the complainant with an opportunity to respond and to be given prior notice of the detail of the application, allowing them to obtain independent legal advice on their Article 8 rights.

[289] Judiciary NI, Case Management in the Crown Court including Protocols for Vulnerable Witnesses and Defendants (December 2025), page 13-20

[290] Judiciary NI, Criminal Case Management in the Magistrates' Court (June 2026), page 11-17

The Minister noted that the Bill aims to "limit the use of expansive and non-specific requests for deeply sensitive material and ensure that there are adequate notification requirements when third party material about a complainant is sought by the defence".[291] However, she also emphasised that clause 26 is not seeking to change the disclosure processes at the investigatory stage as provided for in the Criminal Procedure and Investigations Act 1996.

The Department's Human Rights Memorandum also sets out that clause 26 would help to meet the requirements of Articles 54 and 56 of the Istanbul Convention, which was ratified by the UK in 2022.[292] These articles relate to the sexual history and conduct of the victim only being permitted when it is relevant and privacy protections for victims during investigations and court proceedings.[293]

The important role of the judiciary in balancing the rights of the complainant with those of the defendant was also noted by the Minister during the Second Stage debate. She stated that "each application will still be considered by a judge, either on papers or at any other hearing where it is required, and they (complainant and defendant) will be able to make representations to the judge. It will then be for the judge to make a ruling on what is appropriate".[294]

The European Court of Human Rights (ECtHR) has commented on the balance required in sexual offences cases between the Article 6 right of the defendant and the Article 8 right of the complainant, stating that "in the assessment of the question whether or not in such proceedings an accused received a fair trial, account must be taken of the right to respect for the private life of the alleged victim. Therefore, the court accepts that in criminal proceedings concerning sexual abuse certain measures may be taken for the purpose of protecting the

[291] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 118

[292] Provided through correspondence between RaISe and Department of Justice (27 July 2026)

[293] The Council of Europe, The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (April 2011), Article 54 and Article 56

[294] Northern Ireland Assembly, Official Report 30 June 2026, Vol 197 No 2, page 119

victim, provided that such measures can be reconciled with an adequate and effective exercise of the rights of the defence".[295]

The ECtHR has also laid down principles governing disclosure which confirm that the logic of balancing countervailing rights applies in relation to the disclosure (and non-disclosure) of evidence in criminal proceedings.[296] This suggests that the fairness of the proceedings as a whole do not depend on a single instance of non-disclosure, but on the overall measures that courts have adopted to ensure the defendant's fair trial.[297]

The Department has also prepared a Data Protection Impact Assessment (DPIA) covering clause 26 of the Bill.[298] The third party material disclosure process would involve the handling of personal data about complainants in serious sexual offence cases.

This is already part of existing court processes but the DPIA notes that, if the Bill is enacted, there would be a new statutory application form which the defendant would have to complete setting out the personal information being sought and reasons why. The PPS would then contact the complainant to notify them of the application. The DPIA also states the court rules setting out this application process and forms would be supplemented by guidance and training on the new process for legal professionals, PPS, judiciary and court staff.

In addition, the DPIA notes that the Northern Ireland Courts and Tribunals Service would potentially have to record the details of a complainant who wishes to be represented at a pre-trial hearing. This would be shared with the Victim Support NI SOLA service, who would be responsible for providing the legal representation. This information would also be shared with the PPS Prosecutor.

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[295] *SN v Sweden* App No 34209/96 at [47] and *Aigner v Austria* App No 28328/03 at [37] in Law Commission, Evidence in Sexual Offence Prosecutions: A Final Report (July 2025), page 184

[296] *Rowe and Davis v UK* App No 28901/95 (Grand Chamber Decision) at [60] in Law Commission, Evidence in Sexual Offence Prosecutions: A Final Report (July 2025), page 564

[297] Law Commission, Evidence in Sexual Offence Prosecutions: A Final Report (July 2025), page 564

[298] Ibid

- MLAs may wish to consider what processes will be put in place by the Department to monitor and review the operation of clause 26, including any impact on the rights of defendants.
- MLAs may also wish to consider asking whether the Department intends to collect data on the number of disclosure applications in sexual offence cases and the outcomes of those applications.
- MLAs may wish to query any planned new guidance or training for legal professionals on the approach detailed in clause 26 via the Judicial Studies Board, Law Society, Bar Council, PPS and NICTS.
- As noted above, the detail of the statutory application process for third party material disclosure will be contained in court rules. MLAs may wish to consider requesting further information on the detail of how this process will operate, including how the PPS would ensure that a complainant is made aware of an application.

10 Other Jurisdictions: Protection of Complainants in Sexual Offence Cases

This section provides information on legal representation for victims in sexual offence cases in other jurisdictions. It also considers other approaches taken to the issue of disclosure of personal information in respect of which victims have a reasonable expectation of privacy. The examples of Canada and Australia have been raised by a number of stakeholders in evidence submitted to the Committee for Justice.[299]

10.1 England and Wales

In 2025, the Law Commission published a report which made recommendations in relation to the law and procedure in sexual offence cases in England and Wales. The report called for a bespoke regime for complainants' personal records in sexual offence cases, including counselling records.[300]

The Law Commission also recommended a new structured discretion model involving a two-stage framework that prohibits the use of sexual behaviour evidence unless (1) it has substantial probative value in relation to a matter in issue in the proceedings, which is of substantial importance in the context of the case as a whole, and (2) its admission would not significantly prejudice the proper administration of justice.[301]

As part of this, the court would be required to consider factors including protection of the complainant's legal rights (including respect to private life and dignity), the interests of justice (including the defendant's right to a fair trial), and

[299] Victim Support NI, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026), page 9 and Commissioner for Victims of Crime Office, Response to Call for Evidence on Victims and Witnesses of Crime Bill (October 2026), page 21 and Mental Health Champion, Scrutiny of Third Party Material Disclosure Provisions within the Victims and Witnesses of Crime Bill (August 2026)

[300] Law Commission, Evidence in Sexual Offence Prosecutions: A Final Report (July 2025), page 16

[301] Ibid, page 17

the risk of introducing or perpetuating myths or misconceptions within the trial.[302]

Linked to these matters, the report recommended a right to be heard supported by independent legal advice and representation for complainants when applications are made for the compelled production (both pre- and post-charge) of their personal records and the admission of their sexual behaviour evidence.[303]

The UK Government has not issued a formal response to the Law Commission's final report.[304] However, the Courts and Tribunals Bill, currently before the House of Lords, includes clauses which are based on the Law Commission's report. [305] Clause 7 would introduce a new framework governing the admissibility of evidence about the previous sexual behaviour of the complainant. Under this, there would continue to be a general prohibition on the accused asking questions or adducing evidence about the complainant's sexual behaviour, unless the court has given leave to do so.

However, the new admissibility test differs from the two-stage test suggested by the Law Commission. Under clause 7, the court would only be able to give leave to admit sexual behaviour evidence if satisfied that (1) the evidence has "substantial probative value" in relation to a matter which is in issue in the proceedings and is of "substantial importance in the context of the case as a whole" or (2) it is important explanatory evidence.

In addition, the Law Commission's recommendations around giving the complainant a right to be heard in respect of applications to admit sexual behaviour evidence, and access to independent legal advice, assistance and representation in respect of such applications are not reflected in the Bill. However, the Ministry of Justice has stated that a new national Independent

[302] Ibid

[303] Law Commission, Evidence in Sexual Offence Prosecutions: Overview of Key Recommendations in Final Report (July 2025), page 2

[304] UK Parliament, Statement on the Use of Evidence in Sexual Offence Prosecutions (December 2025)

[305] Courts and Tribunals Bill (as brought from the Commons October 2026)

Legal Advisor service for adult rape victims will be launched in 2027.[306] This follows pilot schemes run in London and Northumbria.[307]

Separately, the Victims and Prisoners Act 2024 introduced new provisions in relation to police requests for victims' data from third parties during the investigatory stage (such as medical or social services bodies, employers or counselling services).[308]

This requires the police and other specified law enforcement organisations to ensure that any requests made for such data are relevant, necessary and proportionate for law enforcement purposes and in line with a new Code of Practice which provides procedural safeguards for requests.[309] In addition, a counselling information request must only be made by police if the information sought is likely to have substantial probative value to a reasonable line of enquiry.[310] These provisions came into force in January 2026.[311]

10.2 Scotland

In sexual offence investigations, the Police Service of Scotland and the Crown Office and Procurator Fiscal Service (COPFS) will give consideration to whether any health, social work, educational or other sensitive, personal records will be relevant. The COPFS policy provides that sensitive personal records should be obtained only where their recovery is necessary for the proper investigation and prosecution of crime.[312]

[306] Ministry of Justice, Government launches new national Legal Advisors service for rape victims and expands Operation Soteria into the courtroom (March 2026)

[307] O. Smith, 'London Pilot of Free Legal Advice for Sexual Violence Complainants' Loughborough University (July 2026)

[308] Victims and Prisoners Act 2024, Section 28 which inserted Chapter 3A into the Police, Crime, Sentencing and Courts Act 2022

[309] Home Office, Victim Information Requests: Code of Practice (January 2026)

[310] Police, Crime, Sentencing and Courts Act 2022, Section 44A(4)

[311] The Victims and Prisoners Act 2024 (Commencement No. 8) Regulations 2025 and Home Office, New Rules on Police requesting Counselling Notes come into Force (January 2026)

[312] Crown Office and Procurator Fiscal Service, Sensitive Personal Records Policy (October 2020)

In the first instance, written consent will be sought from the complainer to recover the records. However, a formal application can also be made to the court for the records if necessary. [313] A complainer can object to this and obtain legal aid for representation in relation to that court process.

Furthermore, the main provisions restricting the use of sexual history and character evidence are set out in the Criminal Procedure (Scotland) Act 1995.[314] Concerns around the operation of sexual history and character evidence have been highlighted in a number of reports in recent years.[315]

In 2021, a review conducted by Lady Dorrian into the management of sexual offences recommended that there should be independent legal representation (ILR) for complainers in sexual offence cases where there is an application to use evidence relating to the sexual history or character of the complainer.[316]

Section 106 of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025, once commenced, would give the complainer a right to ILR. Specifically, it would:

- require the prosecution to provide the complainer with information on the application to allow sexual history and character evidence
- allow the complainer to be represented by a legal representative in relation to that application
- provide for the disclosure of relevant evidence to that legal representative (this would be disclosed by the prosecution following approval by the court)
- allow the legal representative to make representations to the court on the application

[313] Criminal Procedure (Scotland) Act 1995, Section 301A

[314] Criminal Procedure (Scotland) Act 1995, Section 274 and Section 275 as amended by the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002, Section 8

[315] Equality and Human Rights Commission Scotland, The Use of Sexual History and Bad Character Evidence in Scottish Sexual Offences Trials (August 2020) and HM Inspectorate of Prosecution in Scotland, Inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995 (October 2022)

[316] Scottish Courts and Tribunals Service, Improving the Management of Sexual Offence Cases: Final Report from the Lord Justice Clerk's Review Group (March 2021), page 12

- allow the legal representative to appeal a court decision, made in advance of the trial, to grant an application.[317]

In April 2025, the Scottish Government announced a new pilot allowing complainers in rape and attempted rape cases to access free independent legal advice. The three-year national pilot provides access, where desired, to an experienced court practitioner to assist complainers for giving evidence and better understand their existing rights. It is delivered by the Law Clinic at the University of Glasgow.[318]

10.3 Republic of Ireland

In the Republic of Ireland, the disclosure of counselling records in sexual offence cases has been the subject of debate and criticism for a number of years. As a result, section 19A was inserted into the Criminal Evidence Act 1992, which came into force in May 2018.[319]

This created a procedure for the right of the accused to a fair trial and the right of a victim to privacy to be weighed up by a trial judge in considering whether counselling records should be disclosed in a sexual offence case.[320] The type of records which the procedure applies to has recently been broadened to also include a "child protection record, a medical record or a social work record in relation to which there is a reasonable expectation of privacy".[321]

This procedure includes provision for instances where the complainant objects to disclosure, allowing for disclosure hearings and representation for a

[317] Victims, Witnesses, and Justice Reform (Scotland) Act 2025, Section 106 (not yet commenced)

[318] University of Glasgow, Scottish Government pilot to improve victims' experiences of the criminal justice system (April 2025)

[319] Criminal Law (Sexual Offences) Act 2017, Section 39 inserted Criminal Evidence Act 1992, Section 19A (commenced by the Criminal Law (Sexual Offences) Act 2017 (Commencement) (No. 2) Order 2018)

[320] Oireachtas Library and Research Service, Bill Digest No. 1 of 2026: Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2026 (January 2026) and Policy and Legislative Briefing Paper: Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 – Head 19: Disclosure of Counselling Records in Sexual Offence Cases (November 2025)

[321] Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026, Section 23

complainant via legal aid subject to certain conditions.[322] It also covers a number of factors to be considered by a judge when deciding if a record should be disclosed, including:

- the extent to which the record is necessary for the accused to defend the charges against him
- the probative value of the record
- the reasonable expectation of privacy with respect to the record
- the potential prejudice to the right to privacy of any person to whom the record relates
- the public interest in encouraging the reporting of sexual offences
- the public interest in encouraging complainants of sexual offences to seek counselling
- the effect of the determination on the integrity of the trial process
- the likelihood that disclosing, or requiring the disclosure of, the record will cause harm to the complainant including the nature and extent of that harm.[323]

However, reports and research findings indicate that section 19A did not operate as the Oireachtas intended, due to the lack of disclosure hearings and overuse of the waiver provided for in section 19A(17).[324] The waiver provided that section 19A does not apply "where a complainant or witness has expressly waived his or her right to non-disclosure of a counselling record without leave of the court".

This issue has also been acknowledged by the Supreme Court in case law where it noted the importance of the statutory right to non-disclosure set out in section 19A, adding that a waiver of this right must be "fully informed".[325] The Supreme Court also remarked on the need for such consent to be informed by

[322] Criminal Evidence Act 1992, Section 19A(16)

[323] Criminal Evidence Act 1992, Section 19A(10)

[324] T. O'Malley, Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (July 2020) and S. Leahy, 'The Realities of Rape Trials in Ireland: Perspectives from Practice' University of Limerick (June 2021)

[325] *DPP v AM* [2025] IESC 16 at [84]

independent legal advice.[326] In 2025, the UN Committee for the Elimination of Discrimination Against Women (CEDAW) expressed concern that the Republic of Ireland was not adequately protecting the privacy of survivors regarding counselling notes from therapy sessions.[327]

Since then, the Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026 has been enacted which contains amendments to the law on the disclosure of counselling records in sexual offence cases. This removes the waiver of the right to non-disclosure so that disclosure hearings must take place in court wherever such records are sought by the accused.[328]

In the Republic of Ireland, separate legal representation and legal aid is available to complainants of rape and certain specified offences in connection with an application to question them about other sexual experiences, under the Criminal Law (Rape) Act 1981.[329] In 2020, the O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences recommended that consideration be given to extending this to complainants in sexual assault trials, where an application is made to ask questions about other sexual experiences.[330] This was enacted in 2024.[331]

10.4 Canada

At a federal level, Canada's Criminal Code contains several provisions outlining how and if the sexual history evidence of a complainant or evidence in the possession of a third party can be used in sexual offence prosecutions. In June 2026, legislative amendments were made through the Protecting Victims Act

[326] Ibid at [85]

[327] UN Committee on the Elimination of Discrimination against Women, Concluding Observations on the Eighth Periodic Report of Ireland (July 2025), page 8

[328] Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026, Section 23 and Department of Justice, Home Affairs and Migration, Minister Jim O'Callaghan's transformative new laws to combat domestic, sexual and gender-based violence pass all stages in the Oireachtas (July 2026)

[329] Criminal Law (Rape) Act 1981, Section 4A

[330] T. O'Malley, Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (July 2020), page 84

[331] Criminal Law (Sexual Offences and Human Trafficking) Act 2024, Section 7

(Bill C-16) aimed at strengthening the procedures around when sexual history evidence and therapeutic records can be adduced.[332]

Section 276 of the Criminal Code governs the admissibility of evidence about a complainant's sexual history. There are distinct procedures for applications brought by the defence and the prosecutor.[333] A defence application under section 276 will outline the details of what they want to introduce as evidence and its relevance. Section 276 states that evidence of a complainant's other sexual history cannot be used to infer that, by reason of that activity, the victim is more likely to have consented or is less worthy of belief.[334]

The judge will determine if the evidence is admissible using the test in section 276(2) and the factors in section 276(3). The test outlined in section 276(2) requires that the court must be satisfied that the evidence is relevant to an issue at trial and has "significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice" (when sought to be adduced by the accused).[335]

Section 276(3) provides that the judge must also consider the following factors:

- the interests of justice, including the right of the accused to make a full answer and defence
- society's interest in encouraging the reporting of sexual assault offences
- whether there is a reasonable prospect that the evidence will assist in arriving at a just determination in the case
- the need to remove from the fact-finding process any discriminatory belief or bias
- the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury

[332] Parliament of Canada, Bill C-16: An Act to amend certain Acts in relation to criminal and correctional matters (child protection, gender-based violence, delays and other measures) (June 2026)

[333] Criminal Code, Section 276.01 to Section 276.05 for defence and Section 276.06 to Section 276.09 for the prosecutor.

[334] Criminal Code, Section 276(1) and 276(2)

[335] Criminal Code, Section 276(2)

- the potential prejudice to the complainant's personal dignity and right of privacy
- the right of the complainant and of every individual to personal security and to the full protection and benefit of the law and
- any other factor that the judge, provincial court judge or justice considers relevant.[336]

A number of procedural safeguards were recently strengthened within the Criminal Code. For example, the notice period for a copy of an application being given to the prosecutor and the clerk of the court was extended from 7 to 60 days prior to the hearing.[337] For defence applications, a copy must be given to the complainant and direct delivery of this is not permitted.[338] Defence applications must also be supported by an affidavit.[339]

In the case of a defence application, a complainant is entitled to make submissions and be represented by counsel at a hearing to determine whether the evidence is admissible.[340] In addition, the judge must provide reasons for any determination made on the admission of sexual activity evidence.[341]

The Canadian Criminal Code also requires the courts to conduct a balancing exercise in sexual offence cases before admitting private records in possession of a third party. This involves a two stage process with a hearing being held at the first stage on an application made by the defence to determine if the record should be produced to the court for review. The second stage involves the court reviewing the record and deciding whether it should be produced to the

[336] Criminal Code, Section 276(3)

[337] Criminal Code, Section 276.01(4), Section 276.06(4) and Section 276.1(3)

[338] Criminal Code, Section 276.01(5)

[339] Criminal Code, Section 276.01(2)

[340] Criminal Code, Section 276.02(2)-(3)

[341] Criminal Code, Section 276.02(4)

defence. In 2026, the Criminal Code was updated to establish a heightened test for therapeutic records as compared to other types of records.[342]

A therapeutic record is now defined as "any form of record, regardless of its contents, that was produced in the course of psychiatric treatment or any therapy or counselling provided by a health care professional who is entitled under the laws of a province or of a foreign state to provide the treatment, therapy or counselling".[343]

A defence application for production of a record must be made in writing and set out:

- particulars identifying the record or the therapeutic record that the accused seeks to have produced and the name of the person who has possession or control of it
- in the case of a record, the grounds on which the accused relies to establish that the record is likely relevant to an issue at trial or to the competence of a witness to testify and
- in the case of a therapeutic record, the grounds on which the accused relies to establish that the therapeutic record contains evidence that could raise a reasonable doubt as to the accused's guilt.[344]

The Code also highlights that any one or more of the following assertions by the accused are insufficient grounds to establish that a record should be produced to the court:

- that the record or therapeutic record exists
- that the record or therapeutic record relates to medical or psychiatric treatment, therapy or counselling that the complainant or witness has received or is receiving

[342] Parliament of Canada Library, Legislative Summary of Bill C-16: An Act to amend certain Acts in relation to criminal and correctional matters (child protection, gender-based violence, delays and other measures) (February 2026), page 12

[343] Criminal Code, Section 278.1

[344] Criminal Code, Section 278.12(3)

- that the record or therapeutic record relates to the incident that is the subject matter of the proceedings
- that the record or therapeutic record may disclose a prior inconsistent statement of the complainant or witness
- that the record or therapeutic record may relate to the credibility of the complainant or witness
- that the record or therapeutic record may relate to the reliability of the testimony of the complainant or witness merely because the complainant or witness has received or is receiving psychiatric treatment, therapy or counselling
- that the record or therapeutic record may reveal allegations of sexual abuse of the complainant by a person other than the accused
- that the record or therapeutic record relates to the sexual activity of the complainant with any person, including the accused
- that the record or therapeutic record relates to the presence or absence of a recent complaint
- that the record or therapeutic record relates to the complainant's sexual reputation
- that the record or therapeutic record was made close in time to a complaint or to the activity that forms the subject matter of the charge against the accused.[345]

A person who has possession or control of the record or therapeutic record and the complainant are entitled to make submissions at the review hearing and to be represented by counsel.[346] In determining whether to order the production of a record or therapeutic record to the court for review, the court shall take a number of factors into account, including the extent to which it is necessary for the accused to make a defence, its probative value and the nature and extent of the reasonable expectation of privacy associated with record/ therapeutic record. The court can also consider society's interest in encouraging the

[345] Criminal Code, Section 278.12(4)

[346] Criminal Code, Section 278.13(2)-(3)

reporting of sexual offences and in encouraging the obtaining of treatment by complainants of sexual offences.[347]

In determining whether a therapeutic record should then be produced to the accused, a judge must be satisfied that it contains evidence that is likely to raise a reasonable doubt as to the accused's guilt and that is not available from any other source.[348] A number of procedural safeguards were also recently strengthened within the Criminal Code, similar to those governing sexual activity evidence. The application must be given to the complainant (albeit not directly by the accused), in addition to the prosecutor and the person who has control of the record or therapeutic record, at least 60 days before the hearing.[349]

10.5 Australia

Independent legal representation is available for complainants in sexual offences in relation to applications to admit sensitive records evidence in a number of Australian States. In particular, there is a well-established model in New South Wales where independent legal representation is provided under the Sexual Assault Communications/Counselling Privilege (SACP).[350] This means that legislative provisions prevent the compelled production, or the adducing into evidence, of protected material except with leave of a court.

In New South Wales, the SACP applies to a "protected confidence" which is defined as "a counselling communication that is made by, to or about a victim or alleged victim of a sexual assault offence".[351] A "counselling communication" is defined as:

[347] Criminal Code, Section 278.14(1)-(2)

[348] Criminal Code, Section 278.16(2)-(3)

[349] Criminal Code, Section 278.12(5)-(7)

[350] There is similar SACP provision in Queensland. There are also federally funded government pilots for independent legal representation underway in Victoria, the Australian Capital Territory and Western Australia. Ministers for the Department of Social Services, Supporting victims and survivors of sexual violence - piloting new legal services models (September 2023)

[351] Criminal Procedure Act 1986 (NSW), Section 296(1)-(4)

- made in confidence by a person (the “counselled person”) to another person (the “counsellor”) who is counselling the person in relation to any harm the person may have suffered or
- made in confidence to or about the counselled person by the counsellor in the course of that counselling or
- made in confidence about the counselled person by a counsellor or a parent, carer or other supportive person who is present to facilitate communication between the counselled person and the counsellor or to otherwise further the counselling process or
- made in confidence by or to the counsellor, by or to another counsellor or by or to a person who is counselling, or has at any time counselled, the person.[352]

The protected confider (typically the complainant) has standing to appear if a document is sought to be produced or evidence is sought to be adduced that would disclose a protected confidence.[353] A court must also ensure that the protected confider has had a reasonable opportunity for legal advice.[354] Since 2011, public funding has been available for legal representation for protected confiders through the Sexual Assault Communications Privilege Service (SACPS).[355]

In determining whether to grant an application for leave, the court must be satisfied that the public interest in preserving the confidentiality of protected confidences and protecting the complainant from harm is substantially outweighed by the public interest in admitting into evidence information of substantial probative value.[356] However, recent research has identified

[352] Criminal Procedure Act 1986 (NSW), Section 296(4). The term “harm” is defined as including “actual physical bodily harm, financial loss, stress or shock, damage to reputation or emotional or psychological harm (such as shame, humiliation and fear)” in Section 295(1).

[353] Criminal Procedure Act 1986 (NSW), Section 299A

[354] Criminal Procedure Act 1986 (NSW), Section 299

[355] Judicial Commission of New South Wales, Sexual Assault Trials Handbook (August 2025)

[356] Criminal Procedure Act 1986 (NSW), Section 299D

concerns that protections in relation to counselling communications are not always routinely enforced in the courts.[357]

Separately, Tasmania is an outlier as the only jurisdiction which appears to impose an 'absolute' privilege on sexual assault counselling communications in all criminal proceedings (a complete barrier to the disclosure of the information unless the complainant consents).[358] The absolute privilege has been in place for over two decades.[359] It applies to any communications made, in confidence, "by (or to) a victim of a sexual offence to a counsellor in the course of counselling or treatment of the victim by the counsellor for any emotional or psychological harm suffered in connection with the offence".[360]

The privilege prohibits the disclosure, production, adducing of, and admissibility of sexual assault counselling communications as evidence, unless the complainant consents.[361] Tasmania has also enacted qualified privileges (that is, privileged unless the court grants permission) for other protected confidences and medical communications.[362]

[357] Australian Law Reform Commission, Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence (January 2025) and M. Iliadis et al. 'Protecting sexual assault victims' private records in criminal trials through independent legal representation' Criminology Research Advisory Council (July 2026)

[358] Evidence Act 2001 (Tas), Section 127B

[359] Australian Law Reform Commission, Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence (January 2025), page 374-375

[360] Evidence Act 2001 (Tas), Section 127B(1)

[361] Evidence Act 2001 (Tas), Section 127B(5)

[362] Evidence Act 2001 (Tas), Section 127A and Section 126B

11 Clause 27: Limitation of Power to Dismiss Charges involving Death or Serious Physical Harm of a Vulnerable Person

Clause 27 would make a technical fix relating to an issue that will arise when committal reform is implemented in Northern Ireland. The Justice Act (Northern Ireland) 2015 provides for direct committal to the Crown Court for trial where an accused person is charged with a serious offence, including murder and manslaughter. Once commenced, this legislation would remove the traditional committal process with the majority of cases being directly transferred to the Crown Court at the first court appearance in the Magistrates' Court.[363] It is anticipated that direct committal will be implemented during the current Assembly mandate.[364]

The Application to Dismiss procedure was legislated for as part of the committal reform provisions.[365] This is a procedure which allows the defence to apply to the Crown Court to have the charge (or charges) dismissed. Essentially, Applications to Dismiss will replace existing 'No Bill' applications for cases directly committed.[366] A Crown Court judge can order a 'No Bill' in respect of any indictable offence that an individual has been charged with, if they consider that there is insufficient evidence to justify putting that individual on trial for it. Therefore the charge for the indictable offence would then be dropped and the individual would not have to face trial for it.

Clause 27 would amend sections 7 and 7A of the Domestic Violence, Crime and Victims Act 2004 to take account of the forthcoming changes.[367] This part of the 2004 Act covers evidence and procedures for trials in relation to the death or serious physical harm of a child or vulnerable adult.

[363] Justice Act (Northern Ireland) 2015, Chapter 2 (not yet commenced)

[364] AQW 53094/22-27 (October 2026)

[365] Justice Act (Northern Ireland) 2015, Section 14 (not yet commenced)

[366] Department of Justice, Legal Aid - Remuneration for Cases Directly Committed to the Crown Court (May 2026), page 11

[367] Domestic Violence, Crime and Victims Act 2004, Section 7 and Section 7A

This includes cases where a defendant is charged, within the same proceedings, with a section 5 offence (causing or allowing a vulnerable person to die) and murder or manslaughter in relation to the same death.[368] The section 5 offence may be of particular relevance in cases where there are two caregivers and it is likely that one caused the death/harm and the other did not take reasonable steps to prevent this (but there is no admissible evidence implicating one over the other).

It is worth noting that the Justice Bill (as introduced) contains an amendment aimed at closing an existing gap in the law in relation to the 'No Bill' procedure in this type of case. The amendment would mean that a judge can enter a 'No Bill' on a charge of murder or manslaughter only if the judge also enters a 'No Bill' on the related charge under section 5 of the Domestic Violence, Crime and Victims Act 2004.[369] This restriction is considered necessary due to the evidential difficulties in this type of case and to remove the risk of the more serious charge of murder/manslaughter potentially being dismissed before all of the evidence is heard.

Clause 27 of the Victims and Witnesses of Crime Bill is seeking to replicate this restriction in relation to the new 'Application to Dismiss' procedure which will replace the 'No Bill' procedure on the introduction of direct committal.[370] Clause 27 would insert section 7(3B) into the 2004 Act. This would provide 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 (causing or allowing the death of a child or vulnerable adult) under the 2004 Act is also dismissed (using the application to dismiss procedure).

Clause 27 would also insert section 7A(5A) into the 2004 Act which would provide that where a defendant has been charged with a relevant offence (attempted murder, grievous bodily harm or non-fatal strangulation), as well as

[368] Domestic Violence, Crime and Victims Act 2004, Section 5

[369] Justice Bill (as introduced), Clause 25 which would insert Section 3A into Section 7 of the Domestic Violence, Crime and Victims Act 2004. Further information on this can be found in Northern Ireland Assembly, Justice Bill Paper NIAR 089-2024 (September 2024), page 65.

[370] Justice Act (Northern Ireland) 2015, Section 14(2) (not yet commenced)

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 (using the application to dismiss procedure).

12 Part 3: General

12.1 Statutory Regulations

Clause 28 of the Bill would provide that regulations and orders made by the Department under the Bill may contain such incidental, supplementary, transitional, transitory or savings provisions as appear to the Department to be necessary or expedient. This covers the delegated powers set out in the Bill and would mean that they can be exercised in a way that includes these specific matters.[371]

Table 1 summarises the delegated powers contained in the Bill.

[371] More general information on the use of secondary legislation can be found in: House of Lords Delegated Powers and Regulatory Reform Committee, Democracy Denied? The urgent need for rebalance power between Parliament and the Executive (November 2021) and House of Lords Secondary Legislation Scrutiny Committee, Government by Diktat: A Call to Return Power to Parliament (24 November 2021)

Table 1: Delegated Powers in the Victims and Witnesses of Crime Bill

Relevant Clause	Description	Assembly Procedure
9 on charter service providers	The Department may make regulations specifying other criminal justice agencies as charter service providers.	Negative (clause 9(1)(g) and clause 28(2))
11 on statistics relating to the Victim Charter	The Department must make regulations setting out how the particular statistics to be provided to the Commissioner are to be determined. The Department may make regulations specifying the form, manner and timeframes for sharing these statistics with the Commissioner. The Department may make regulations requiring charter service providers to provide a report to the Commissioner, alongside statistics, setting out how the statistics have been produced and the steps taken to ensure their accuracy.	Draft Affirmative (clause 11(3), 11(4), 11(5) and clause 28(1))

Relevant Clause	Description	Assembly Procedure
12 on extending compliance to the Witness Charter	The Department may make regulations to extend any provision that applies in relation to the Victim Charter to the Witness Charter.	Draft Affirmative (clause 12(1) and clause 28(1))
26 on complainant participation on application for a witness summons in sexual offences	New article 27G(3) of the Criminal Evidence (Northern Ireland) Order 1999 relating to third party material: Rules of court may, in such cases as rules may specify, require the serving of notice and documents upon the complainant, make provision for the manner of service and make provision for the manner in which confidential or sensitive information is to be treated. New paragraph 30(3)(d) and 30(3)(e) of the Criminal Evidence (Northern Ireland) Order 1999 relating to previous sexual history: Rules of court may make provision, in such cases as rules may specify, requiring the serving of notice and documents upon the complainant and make provision for the manner of service.	Negative resolution under the Judicature (Northern Ireland) Act 1978 (clause 26(1) and clause 26(5))

Source: Victims and Witnesses of Crime Bill (June 2026) and Delegated Powers Memorandum (July 2026)

12.2 Commencement

Clause 29 of the Bill would make provision for commencement. Under clause 29(1), Part 3 of the Bill would come into operation on the day after the day of Royal Assent (this covers the Regulations and Orders, Commencement and Short Title).

Clause 29(2) would provide that the other provisions in the Bill would come into operation on such day or days as the Department of Justice may by order appoint.