

Written Evidence to the Northern Ireland Committee for Justice on the Victims and Witnesses of Crime Bill from the Commissioner for Older People for Northern Ireland (COPNI)

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Introduction.....	2
Summary of COPNI's Written Evidence on the Criminal Justice (Sentencing etc) Bill	2
Special Measures	4
The Criminal Evidence (Northern Ireland) Order 1999.....	4
Special Measures and Older Victims and Witnesses.....	5
Victims and Witnesses of Crime Bill.....	8
Clause 24: Special Measures in Cases involving Aggravation by Hostility	8
Clause 25: Protection from Cross-examination in Cases involving Aggravation by Hostility..	9
Implications for Older Victims and Witnesses	10
Conclusion	14

Introduction

1. This document provides Justice Committee members with the views of the Commissioner for Older People for Northern Ireland (COPNI) on the Victims and Witnesses of Crime Bill.
2. COPNI's principal aim is to "safeguard and promote the interests of older persons". Under the Commissioner for Older People Act (Northern Ireland) 2011, the Commissioner has duties to "keep under review the adequacy and effectiveness of law and practice relating to the interests of older persons" and "advise the Secretary of State, the Executive Committee of the Assembly and a relevant authority on matters concerning the interests of older persons".¹
3. In this context, COPNI has reviewed only the Special Measures provisions at Clauses 24 and 25 of the draft Victims and Witnesses of Crime Bill. This is because of their relevance to the new hate crime aggravator model introduced by the Criminal Justice (Sentencing etc) Bill.² This response therefore sits alongside COPNI's written and oral evidence submissions to the Justice Committee on the Criminal Justice (Sentencing etc) Bill.^{3 4}

Summary of COPNI's Written Evidence on the Criminal Justice (Sentencing etc) Bill

4. As the Committee will be aware, COPNI submitted written evidence on the hate crime provisions of the Criminal Justice (Sentencing etc) Bill in May 2026.^{5 6}
5. By way of summary, COPNI welcomed and agreed with Judge Marrinan's conclusion that there is sufficient evidence to warrant the inclusion of age as a protected characteristic in Northern Ireland's hate crime law.⁷ COPNI's written evidence submission sets out the reasons why the inclusion of age is important for safeguarding and protecting older people in Northern Ireland.
6. COPNI's submission also discusses the introduction of the vulnerability aggravator at Clause 36 of the Bill. Clause 36 expressly includes some older people in its definition of a vulnerable person. The Bill recognises that "old age" may be a factor that could

¹ [Commissioner for Older People Act \(Northern Ireland\) 2011](#).

² [Criminal Justice \(Sentencing etc\) Bill](#).

³ [COPNI \(2026\) 'Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice \(Sentencing etc\) Bill from the Commissioner for Older People for Northern Ireland \(COPNI\)'](#).

⁴ [Committee for Justice \(2026\) 'Official Report: Minutes of Evidence'](#).

⁵ [Criminal Justice \(Sentencing etc\) Bill](#).

⁶ [COPNI \(2026\) 'Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice \(Sentencing etc\) Bill from the Commissioner for Older People for Northern Ireland \(COPNI\)'](#).

⁷ [D. Marrinan \(2020\) 'Hate crime legislation in Northern Ireland, Independent Review'](#).

inhibit a person's ability to protect themselves.⁸ However, the vulnerability aggravator does not provide equivalent protection to the hostility-based aggravator at Clause 33 of the Bill. The vulnerability aggravator does not recognise or address hostility directed or demonstrated towards older people as a group. Likewise, it would fail to capture offences against older people not characterised as vulnerable, but who may be targeted due to their age or experience demonstrations of age-based hostility.

7. The Commissioner maintains that the inclusion of age among the protected characteristics in the hate crime provisions of the Criminal Justice (Sentencing etc) Bill is justified and thus urges the Committee to address the proposed omission of older people from vital legal protections.
8. COPNI concluded by recommending the Criminal Justice (Sentencing etc) Bill be amended to include age among the list of protected characteristics at Clause 33.⁹

⁸ [Criminal Justice \(Sentencing etc\) Bill](#).

⁹ COPNI (2026) '[Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice \(Sentencing etc\) Bill from the Commissioner for Older People for Northern Ireland \(COPNI\)](#)'.

Special Measures

The Criminal Evidence (Northern Ireland) Order 1999

9. Special Measure provisions are largely legislated for in the Criminal Evidence (Northern Ireland) Order 1999 to help witnesses give their best evidence in court.¹⁰
10. Under the Criminal Evidence (Northern Ireland) Order 1999, a witness may be eligible for Special Measures if they are considered a vulnerable or intimidated witness.
11. Article 4 defines vulnerable witnesses as all witnesses under 18 years of age, and any witnesses where the quality of their evidence is likely to be diminished because of a mental disorder, a significant impairment of intelligence or social functioning, or a physical disability or physical disorder.¹¹
12. According to Article 5(5) of the Order, witnesses of the following offences are also automatically eligible for Special Measures:
 - (a) *a sexual offence,*
 - (b) *a slavery or human trafficking offence,*
 - (c) *an offence involving domestic abuse,*
 - (d) *an offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2022.*¹²
13. Article 5 defines intimidated witnesses. An intimidated witness is one who is in fear or distress about giving evidence.¹³ Unlike in Articles 4 and 5(5), this eligibility is not automatic. The court must consider whether the witness is in fear or distress and whether this fear or distress will diminish the quality of a witness' evidence. Article 5(2) requires the court to consider:
 - (a) *the nature and alleged circumstances of the offence to which the proceedings relate;*
 - (b) *the age of the witness;*
 - (c) *such of the following matters as appear to the court to be relevant, namely-*
 - (i) *the social and cultural background and ethnic origins of the witness,*
 - (ii) *the domestic and employment circumstances of the witness, and*
 - (iii) *any religious beliefs or political opinions of the witness;*
 - (d) *any behaviour towards the witness on the part of-*
 - (i) *the accused,*
 - (ii) *members of the family or associates of the accused, or*

¹⁰ [The Criminal Evidence \(Northern Ireland\) Order 1999](#).

¹¹ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 4.

¹² [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 5(4).

¹³ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 5.

(iii) any other person who is likely to be an accused or a witness in the proceedings.¹⁴

14. Article 5(3) also requires the court to consider any views expressed by the witness.¹⁵

If the court considers a witness eligible for Special Measures, the court must then determine which Measure or combination of Measures “*would, in its opinion, be likely to improve the quality of evidence given by the witness*”.¹⁶

15. Articles 11 to 18 of the Criminal Evidence (Northern Ireland) Order sets out the types of Special Measures available to witnesses:

- 11) Screening witness from accused
- 12) Evidence by live link
- 13) Evidence given in private
- 14) Removal of wigs and gowns
- 15) Video recorded evidence in chief
- 16) Video recorded cross-examination or re-examination
- 17) Examination of witness through intermediary
- 18) Aids to communication¹⁷

Special Measures and Older Victims and Witnesses

16. COPNI has engaged extensively on criminal justice issues pertinent to older people.¹⁸

To avoid repetition of our previous evidence submission on the Criminal Justice (Sentencing etc) Bill,¹⁹ this section provides the Committee with a summary of some of the key criminal justice issues for older people, particularly relevant to discussions on Special Measures.

17. Older people are statistically less likely to be victims of crime in Northern Ireland.²⁰

However, when they do become victims, the impact is often more severe due to older people’s “pre-offence status”.²¹ Because older people are more likely to live with a

¹⁴ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 5(2).

¹⁵ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 5(3).

¹⁶ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 7(2).

¹⁷ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 11 – 18.

¹⁸ See, for example, COPNI (2019) ‘[Improving Access to Justice for Older Victims of Crime: Older People as Victims of Crime and the Response of the Criminal Justice System in Northern Ireland](#)’, COPNI (2019) ‘[Crime and Justice: The Experience of Older People in Northern Ireland](#)’, COPNI (2023) ‘[A Different Crime: Offending Against Older People](#)’, COPNI (2024) ‘[Growing Concern: Older Victims of Domestic Abuse in Northern Ireland](#)’, and COPNI (2025) ‘[Beyond Good Intentions: A Review of the Adult Protection Bill as Introduced](#)’.

¹⁹ COPNI (2026) ‘[Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice \(Sentencing etc\) Bill from the Commissioner for Older People for Northern Ireland \(COPNI\)](#)’.

²⁰ PSNI (2026) ‘[Financial year update, period ending 31 March 2026, providing figures for 2025/26](#)’.

²¹ COPNI (2023) ‘[A Different Crime](#)’.

long-term health condition or disability,²² live alone,²³ be widowed²⁴ and experience loneliness,²⁵ the consequences of crime can be profound and lasting. COPNI emphasises that “an older victim of crime may be subject to the same crime as a younger victim but frequently, she or he, experiences a greater impact from that crime due to pre-existing issues”.²⁶

18. Older people can also experience a number of barriers that inhibit them from reporting crime. These include “not wanting to be cut off from grandchildren, fear of loss of their home or being placed in a nursing home, fear of repercussions from (alleged) paramilitaries or because of shame and fear of stigma in their communities”.²⁷
19. When older people do report experiences of crime, they are less likely to receive a successful outcome. In 2025/26, the PSNI’s recorded sanction outcomes rate for the 65 plus age group was 17.3%, the lowest of all adult age groups. Similarly, for the 60 to 64 age group, the recorded sanction outcomes rate was 18.7%.²⁸ COPNI notes that a reluctance by some older people to give evidence in court or report certain crimes may explain why outcomes rates are often lower for crimes involving older people.²⁹
20. Older people in Northern Ireland also experience a heightened sense of fear of crime, stemming from a range of factors.^{30 31} A crime against one older person can cause fear and intimidation among older people in general. Fear of crime, thus, may influence an older victim’s decision to report crime and engage with the criminal justice system.
21. Considering these factors, older victims and witnesses may require interventions to enable them to participate fully and effectively in criminal justice proceedings, such as Special Measures.

²² 185,282 older people in Northern Ireland live with a long-term health problem or disability that limits their day-to-day activities. NISRA (2022) ‘[Census 2021 main statistics health, disability and unpaid care tables](#)’.

²³ In 2025, the number of people aged 75+ living alone is projected to be 57,560. By 2040, this figure is projected to increase to 77,924. NISRA (2018) ‘[Northern Ireland Household Projections \(2016 based\)](#)’.

²⁴ Census 2021 results showed there were 80,802 people aged 65+ who were widowed or a surviving partner from a civil partnership, equating to 24.7% of all those aged 65+. NISRA (2023) ‘[Marital and civil partnership status by broad age bands](#)’.

²⁵ 16.7% of those aged 65 to 74 and a further 22.7% of those aged 75+ report feeling lonely at least some of the time. NISRA (2026) ‘[Individual Wellbeing in Northern Ireland Report 2024/25, Data Tables](#)’.

²⁶ COPNI (2023) ‘[A Different Crime](#)’.

²⁷ Criminal Justice Inspection Northern Ireland (2023) ‘[Vulnerable Older People: An Inspection of the Criminal Justice System’s Approach to Vulnerable Older People in Northern Ireland](#)’.

²⁸ PSNI state that “sanction outcomes include charge/summons, cautions (adult and juvenile), community resolutions (formerly known as discretionary disposals), penalty notices for disorder and offences taken into consideration”. See PSNI (2026) ‘[Financial year update, period ending 31 March 2026, providing figures for 2025/26](#)’.

²⁹ COPNI (2019) ‘[Crime and Justice: The Experience of Older People in Northern Ireland](#)’.

³⁰ The 2023/24 Northern Ireland Safe Community Telephone survey found that 26% of people aged between 65 and 74, and 20% of people aged 75 plus describe the effect of fear of crime on their quality of life as ‘moderate’. Department of Justice (2025) ‘[Experience of Crime and Perceptions of Crime and Policing and Justice: Findings from the 2023/24 Northern Ireland Safe Community Telephone Survey](#)’, Tables 17b and 18b.

³¹ Factors may include living alone, reduced confidence in public spaces, past experiences that may have interrupted their sense of safety, as well as media and community reporting.

22. Research has suggested that decisions to determine whether a witness reaches the threshold of being vulnerable or intimidated are often left to “the discretion of individual police officers, prosecutors and ultimately the courts”.³² COPNI has argued that the needs of older people are not yet fully understood or addressed by the criminal justice system. As a consequence, older victims and witnesses are often not recognised as reaching the statutory thresholds that allow for consideration of Special Measures. This may lead older victims to withdraw from criminal justice processes or fail to give their best evidence in court.³³
23. The Victims and Witnesses of Crime Bill has the potential to ensure more older victims and witnesses are considered for appropriate support. However, as currently drafted, the proposals of the Bill fall short in doing so. The following sections consider this in greater detail.

³² Brown and Gordon (2024) '[Constructions of vulnerability in relation to older victims of crime](#)'.

³³ Brown and Gordon (2024) '[Constructions of vulnerability in relation to older victims of crime](#)'.

Victims and Witnesses of Crime Bill

24. Judge Desmond Marrinan, in his review of hate crime legislation in Northern Ireland, recommended that:

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:

- (i) *no person charged with any aggravated or stirring up offence may in any criminal proceedings cross-examine a witness who is the complainant either-*
 - (a) *in connection with that offence or*
 - (b) *in connection with any other offence with which that person is charged in the proceedings.*³⁴

25. This recommendation was accepted by Justice Minister, Naomi Long MLA³⁵ and is realised in Clauses 24 and 25 of the Victims and Witnesses of Crime Bill as introduced.³⁶

Clause 24: Special Measures in Cases involving Aggravation by Hostility

26. Clause 24 of the Victims and Witnesses of Crime Bill proposes to amend the Criminal Evidence (Northern Ireland) Order 1999 to extend eligibility for Special Measures to witnesses of offences involving aggravation by hostility:

- (1) *The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.*
- (2) *In Article (3) (meaning of “sexual offence” and other references to offences), after paragraph (1A) insert-*

“(1B) In this Order “an offence involving aggravation by hostility” means 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 in accordance with section 33(1) of the Criminal Justice (Sentencing etc) Act 2027.”.

³⁴ D. Marrinan (2020) ‘[Hate crime legislation in Northern Ireland, Independent Review](#)’.

³⁵ [Victims and Witnesses of Crime Bill, Explanatory and Financial Memorandum](#).

³⁶ [Victims and Witnesses of Crime Bill](#).

(3) *In Article 5(5) (offences where witnesses are eligible for assistance with giving evidence), after sub-paragraph (d) add-*

*“(e) an offence involving aggravation by hostility (see Article 3(1B)).”*³⁷

Clause 25: Protection from Cross-examination in Cases involving Aggravation by Hostility

27. Clause 25 similarly proposes to amend the Criminal Evidence (Northern Ireland) Order 1999 to protect complainants in proceedings involving an offence aggravated by hostility from being cross-examined by the accused:

(1) *The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.*

(2) *After Article 22B (complainants in proceedings involving stalking) insert-*

“Complainants in proceedings involving aggravation by hostility

22C. *No person charged with an offence involving aggravation by hostility (see Article 3(1B)) may in any criminal proceedings cross-examine in person a witness who is the complainant, either*

(a) in connection with the offence, or

(b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.”

(3) *In Article 23 (child complainants and other child witnesses)-*

(a) in paragraph (3), after subparagraph (ce) insert-

“(cf) an offence involving aggravation by hostility (see Article 3(1B));”;

(b) in paragraph (4)(a), for “or (ce)” substitute “, (ce) or (cf)”.

(4) *In Article 24 (direction prohibiting accused from cross-examining particular witnesses)-*

(a) in paragraph (1), after “22B” insert “, 22C”;

(b) in paragraph (3)(e), after “22B”, in both places it occurs, insert “, 22C”.

(5) *In Article 26(1) (defence representation for purposes of cross-examination), after “22B,” insert “22C,”.*

(6) *In Article 27(1) (warning to jury), after “22B,” insert “22C.”*³⁸

³⁷ [Victims and Witnesses of Crime Bill](#), Clause 24.

³⁸ [Victims and Witnesses of Crime Bill](#), Clause 25.

Implications for Older Victims and Witnesses

Absence of Age as a Protected Characteristic

28. Clauses 24 and 25 of the Victims and Witnesses of Crime Bill are expressly linked to the hostility aggravator at Clause 33 of the Criminal Justice (Sentencing etc) Bill.³⁹
29. As it currently stands, age is absent from the list of protected characteristics at Clause 33 of the Criminal Justice (Sentencing etc) Bill.⁴⁰ In other words, older people who are targeted, wholly or partly, because of their age or who experience demonstrations of hostility towards their age will not be afforded the protection of the principal hate crime aggravator model in Northern Ireland.⁴¹
30. This absence means that the amendments proposed by Clauses 24 and 25 of the Victims and Witnesses of Crime Bill have little benefit for older people. **Because age is not included as a protected characteristic, the legal framework is not capable of recognising age-based hostility which, in turn, means it is not capable of triggering the automatic eligibility for Special Measure protections offered in Clause 24 and the prohibition of personal cross-examination provided in Clause 25 of the Victims and Witnesses of Crime Bill.**⁴²
31. In sum, older victims who are targeted, wholly or partly, because of their age or who experience demonstrations of hostility towards their age are not recognised in the legislative framework and not afforded the protection of automatic eligibility for Special Measures by reason of age-based hostility or the protection of being prohibited from being cross-examined by the offender.
32. The absence of age in the Criminal Justice (Sentencing etc) Bill⁴³ thus has practical consequences for older victims, leaving them unable to benefit from automatic eligibility for these enhanced protections.

Absence of Aggravation by Reason of the Victim's Vulnerability

33. Despite the absence of age as a protected characteristic, some older people are included in the Criminal Justice (Sentencing etc) Bill through the introduction of an aggravation by reason of the victim's vulnerability. The Bill expressly includes "old age"

³⁹ [Criminal Justice \(Sentencing etc\) Bill](#), Clause 33.

⁴⁰ [Criminal Justice \(Sentencing etc\) Bill](#), Clause 33.

⁴¹ COPNI (2026) 'Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice (Sentencing etc) Bill from the Commissioner for Older People for Northern Ireland (COPNI)'.

⁴² [Victims and Witnesses of Crime Bill](#), Clauses 24 and 25.

⁴³ [Criminal Justice \(Sentencing etc\) Bill](#).

as a factor which may significantly impair a person's ability to protect themselves from violence, abuse, neglect or exploitation.⁴⁴

34. Although COPNI identified several issues with the Criminal Justice (Sentencing etc) Bill's sole reliance on the vulnerability aggravator, the Commissioner welcomed its introduction as it may provide protections for vulnerable older people often viewed as 'easy targets'.⁴⁵
35. Thus, **COPNI was disappointed that 'an offence involving aggravation by reason of vulnerability' was not proposed at Clauses 24 and 25 of the Victims and Witnesses of Crime Bill to be included among the list of offences at Article 5(5) of the Criminal Evidence (Northern Ireland) Order.** This omission means victims of such offences will not be automatically eligible for Special Measures and offenders will not be prohibited from personally cross-examining witnesses of such offences.
36. It is COPNI's view that, where an offence is aggravated by reason of the victim's vulnerability, that victim should have the same automatic eligibility for Special Measures as a victim of an offence aggravated by hostility.
37. COPNI acknowledges that older victims, particularly those whose vulnerability has been exploited, may already qualify for Special Measures under Articles 4 and 5 of the Criminal Evidence (Northern Ireland) Order 1999, with age expressly relevant under Article 5(2) of the Order.⁴⁶ As such, a victim of a vulnerability-aggravated offence may already qualify for Special Measures where the court can satisfy itself that the victim meets the vulnerability threshold at Article 4 of the Order or that the victim is in fear or distress about giving evidence, and that fear and distress is likely to diminish the quality of their evidence. **It is COPNI's view, however, that older victims of vulnerability-aggravated offences should not have to establish that threshold but that they should have the same automatic eligibility for consideration of Special Measures as victims of hostility-aggravated offences,** under Article 5(5) of the Criminal Evidence (Northern Ireland) Order 1999.⁴⁷
38. The offending behaviour likely to be associated with offences aggravated by reason of vulnerability may create in the older victim exactly the fear and distress that Special Measures are designed to address. In sum, COPNI is arguing for automatic eligibility to Special Measures for such victims in the same manner as victims of hostility-based offences.

⁴⁴ [Criminal Justice \(Sentencing etc\) Bill](#), Clause 36.

⁴⁵ COPNI (2026) 'Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice (Sentencing etc) Bill from the Commissioner for Older People for Northern Ireland (COPNI)'.

⁴⁶ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Articles 4 and 5.

⁴⁷ [The Criminal Evidence \(Northern Ireland\) Order 1999](#), Article 5(4).

Legislative Gap

39. Thus, both the Criminal Justice (Sentencing etc) Bill and the Victims and Witnesses of Crime Bill leave older people in an anomalous position.
40. The current drafting of the Criminal Justice (Sentencing etc) Bill “indicates acceptance that age matters, but only in a limited and partial way” through the exclusion of age from the list of protected characteristics but the inclusion of “old age” as a factor which may significantly impair a person’s ability to protect themselves from harm.⁴⁸ Likewise, the amendments to the Criminal Evidence (Northern Ireland) Order 1999, proposed in the Victims and Witnesses of Crime Bill, protect witnesses of offences aggravated by hostility but not witnesses of offences aggravated by reason of vulnerability.⁴⁹
41. In this way, the combination of the two Bills maintains a serious gap in protection for older people.
42. An older victim targeted, wholly or partly, because of their age or who experiences a demonstration of hostility towards their age will fall between both regimes due to the absence of age at Clause 33 of the Criminal Justice (Sentencing etc) Bill, unless they satisfy the evidential thresholds of the vulnerability aggravator at Clause 36 of the Bill.
43. For an older victim to be protected under the vulnerability aggravator at Clause 36 of the Criminal Justice (Sentencing etc) Bill, they must be identifiably vulnerable, and the offender knew or ought to have known of that vulnerability. As a consequence, this excludes older victims “who are independent, physically mobile or not outwardly identifiable as vulnerable”.⁵⁰ Yet, even if this evidential threshold is reached, the older victim will then not be automatically eligible for Special Measures or prohibited from being cross-examined by the offender, due to the absence of ‘an offence aggravated by reason of vulnerability’ at Clauses 24 and 25 of the Victims and Witnesses of Crime Bill. By the time the vulnerability aggravator at Clause 36 of the Criminal Justice (Sentencing etc) Bill is engaged, the statutory criteria relating to the victim’s vulnerability and the offender’s knowledge of it have already been met. Yet, that does not trigger the automatic eligibility that is afforded to witnesses in hostility-aggravated cases.
44. Given that Clauses 24 and 25 are expressly triggered by the hostility aggravator at Clause 33 of the Criminal Justice (Sentencing etc) Bill, the statutory gateway is the nature of the offending. The rationale, however, for the additional protections afforded by Clauses 24 and 25 is the impact to the witness and their ability to give their best

⁴⁸ COPNI (2026) ‘[Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice \(Sentencing etc\) Bill from the Commissioner for Older People for Northern Ireland \(COPNI\)](#)’.

⁴⁹ [Victims and Witnesses of Crime Bill](#), Clauses 24 and 25.

⁵⁰ COPNI (2026) ‘[Written Evidence to the Northern Ireland Committee for Justice on the Criminal Justice \(Sentencing etc\) Bill from the Commissioner for Older People for Northern Ireland \(COPNI\)](#)’.

evidence in court. A victim's need for protection is not diminished because the offender's motive was exploitation of vulnerability, rather than hostility.

45. For a complete, robust and effective framework for older victims, the Criminal Justice (Sentencing etc) Bill must be amended to include age among the protected characteristics. As a consequence of age being a protected characteristic through inclusion in the Criminal Justice (Sentencing etc) Bill, older witnesses of offences involving hostility based on age would then be granted automatic eligibility for Special Measures and would also be prohibited from being personally cross-examined by the offender.
46. Likewise, the Victims and Witnesses of Crime Bill must also be amended to include the vulnerability aggravator among the offences where witnesses are granted automatic eligibility for consideration for Special Measures and are prohibited from being cross-examined by offenders. Only then can we be confident that older victims and witnesses of offences aggravated by hostility and vulnerability are afforded equivalent protections.

Conclusion

47. As currently drafted, the Criminal Justice (Sentencing etc) Bill and the Victims and Witnesses of Crime Bill risk allowing older victims and witnesses to fall through legislative gaps.
48. The effect of excluding age from the protected characteristics of Northern Ireland's hate crime law and the absence of the vulnerability aggravator from the list of offences at Article 5(5) of the Criminal Evidence (Northern Ireland) Order 1999 mean many older people in Northern Ireland will not benefit from these new protections, despite their need.
49. In our response to the Department's consultation on a Victims and Witnesses of Crime Strategy,⁵¹ COPNI noted the "erosion of trust" between older victims and criminal justice system's ability to achieve a successful outcome, especially given the PSNI's recorded sanction outcomes rate.⁵² Our *A Different Crime* report highlights that "if the low Crime Outcomes rate for older people is attributable to a loss of confidence in the justice system, it falls to justice agencies to address this situation".⁵³ Restoring older victims' confidence in the justice system requires "actions that demonstrate that the criminal justice system values and protects older victims and witnesses".⁵⁴
50. Yet, as currently drafted, the Criminal Justice (Sentencing etc) Bill and the Victims and Witnesses of Crime Bill do not demonstrate this principle. Indeed, they risk doing the opposite. As it stands, older victims of age-based hostility offences are not recognised in either Bills, and older victims of offences aggravated by reason of vulnerability do not get access to the same automatic protections. This contributes to the existing limited visibility of older victims and witnesses in the justice system, as well as their lack of confidence in the justice system's ability to protect and secure justice for them.
51. In sum, the Commissioner reiterates her recommendation that the Criminal Justice (Sentencing etc) Bill should be amended to include age among the protected characteristics at Clause 33.
52. The Commissioner also respectfully asks the Committee for Justice to consider her recommendation that the Victims and Witnesses of Crime Bill should also be amended to include 'an offence involving aggravation by reason of vulnerability' among the offences that warrant automatic eligibility for Special Measures and prohibit the offender from personally cross-examining the witness in such cases.

⁵¹ Department of Justice (2025) '[Draft Victims and Witnesses of Crime Strategy 2026-2032](#)'.

⁵² COPNI (2025) '[Consultation on Draft Victims and Witnesses of Crime Strategy 2025-2030](#)'.

⁵³ COPNI (2023) '[A Different Crime](#)'.

⁵⁴ COPNI (2025) '[Consultation on Draft Victims and Witnesses of Crime Strategy 2025-2030](#)'.