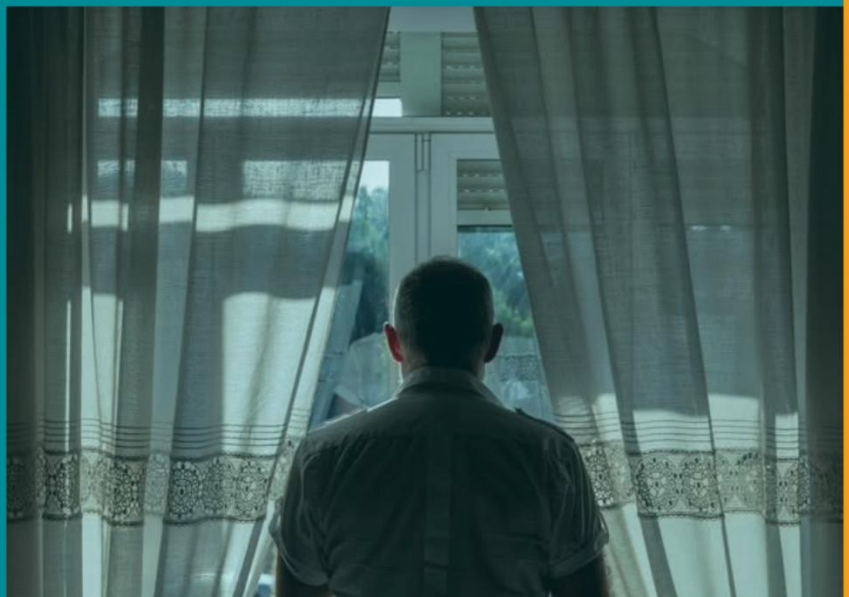
COPNI

Commissioner for **Older People** for Northern Ireland

The Case for Age: A Review of the Criminal Justice (Sentencing etc) Bill's Hate Crime Provisions



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Publication date: October 2026
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Introduction

Criminal Justice (Sentencing etc) Bill

The Criminal Justice (Sentencing etc) Bill[1] was introduced to the Northern Ireland Assembly by Justice Minister, Naomi Long MLA on 3 March 2026. The Bill seeks to strengthen the sentencing framework in Northern Ireland by introducing a range of measures: increased penalties for certain offences, new offences for assaulting those providing a public service or duty, and provisions such as 'Charlotte's Law' which addresses cases in which offenders have failed to disclose the location of a victim's remains.[2]

Of particular interest to the Commissioner for Older People for Northern Ireland (COPNI) is the Bill's new hate crime provisions. On 9 September 2024, the Justice Minister outlined to the Assembly her intention to bring forward a "statutory aggravation offence model for hate crime" as a substitution for standalone hate crime legislation due to the shortened mandate of the Northern Ireland Assembly and the limited resources of the Department of Justice (DoJ).[3] That proposed statutory aggravation offence model is realised in the Criminal Justice (Sentencing etc) Bill.[4]

Clause 33 of the Bill allows for an offence to be aggravated by hostility based on four protected characteristics: race, religion, sexual orientation and disability. Clause 33 further sets out two routes through which hostility can be established. First, an offence can be aggravated where, at the time of committing the offence or immediately before or after it, the offender demonstrates hostility towards the victim because of their actual or perceived membership of a protected group. Second, an offence can be aggravated by hostility where it is motivated, wholly or partly, by hostility towards members of a protected group.[5]

As well as this, the Bill introduces a new statutory hate crime aggravator by reason of the victim's vulnerability. Unlike the provisions at Clause 33 which focuses on hostility towards

[1] Criminal Justice (Sentencing etc) Bill as introduced.

[2] Department of Justice (2026) 'Sentencing Bill introduced to the Assembly'.

[3] Department of Justice (2024) 'Written Ministerial Statement, Hate Crime Legislation'.

[4] Criminal Justice (Sentencing etc) Bill as introduced.

[5] Criminal Justice (Sentencing etc) Bill as introduced.

protected characteristics, Clause 36 is concerned with situations where an offender targets a person's vulnerability. Under this Clause, a vulnerable person is defined as "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".[6] Clause 36 does not require proof of hostility, prejudice or discriminatory motivation. Instead, the aggravation applies where the victim was vulnerable and the offender knew, or ought reasonably to have known, of that vulnerability.

Judge Desmond Marrinan's Independent Review of Hate Crime Legislation in Northern Ireland

The hate crime provisions of the Criminal Justice (Sentencing etc) Bill follow recommendations made by Judge Desmond Marrinan in his independent review of hate crime legislation in Northern Ireland.[7]

Prior to the collapse of the Northern Ireland Executive in January 2017, the draft Programme for Government 2016 – 2021 included a commitment to develop a cross-executive action plan on hate crime.[8] It was in June 2019 that the DoJ announced that they had "commissioned an independent review of hate crime legislation in Northern Ireland, to be led by Judge Desmond Marrinan".[9] By December 2020, Judge Marrinan had published his final report.[10]

Judge Marrinan's analysis concluded that "an aggravated offence model, i.e. where a hate crime aggravation can be added to any offence and tried as such, is more appropriate than the [current] enhanced sentencing model and has a much better chance of providing an effective approach for the justice system to address hate crime".[11]

In recommending this new model, Judge Marrinan also highlighted the necessity of addressing the categories of protected characteristics. **He recommended the current protected characteristics of race, religion, sexual orientation and disability continue to receive**

[6] Criminal Justice (Sentencing etc) Bill as introduced.

[7] Judge Desmond Marrinan (2020) 'Hate Crime Legislation in Northern Ireland, Independent Review'.

[8] Northern Ireland Executive (2016) 'Programme for Government Consultation Document'.

[9] Department of Justice (2019) 'Review of Hate Crime Legislation launched'.

[10] Judge Desmond Marrinan (2020) 'Hate Crime Legislation in Northern Ireland, Independent Review'.

[11] Judge Desmond Marrinan (2020) 'Hate Crime Legislation in Northern Ireland, Independent Review', page 8.

protection under the proposed model, as well as the additional characteristics of age, sex/gender and variations in sex characteristics (Recommendation 9).[12]

COPNI's Role and Interest

COPNI has consistently maintained that **older people must be encompassed within any development of hate crime protections in Northern Ireland.** As such, the Commissioner's office welcomed Judge Marrinan's analysis that "there is sufficient evidence of hostility-based offences against the elderly to include age as a protected characteristic".[13] Thus, COPNI was disappointed that, in their January 2022 consultation,[14] DoJ only partially accepted Judge Marrinan's Recommendation 9. **This has resulted in age being absent from the list of protected characteristics at Clause 33 of the Criminal Justice (Sentencing etc) Bill, as introduced.**[15]

The Commissioner for Older People Act (Northern Ireland) 2011 created the office of COPNI.[16] Under the Act, the principal aim of the Commissioner is to "safeguard and promote the interests of older persons". Acting independently of government, the Commissioner serves as a champion for older people and delivers the role through a range of powers and duties. Of relevance to the development of hate crime legislation, the Commissioner "must keep under review the adequacy and effectiveness of law and practice relating to the interests of older persons" and "must advise the Secretary of State, the Executive Committee of the Assembly and a relevant authority on matters concerning the interests of older persons".[17] This report supports the general powers of the Commissioner by compiling and providing information and advice on a matter concerning the interests of older people. Namely, the absence of age as a protected characteristic in Northern Ireland's hate crime legislation.

[12] Judge Desmond Marrinan (2020) 'Hate Crime Legislation in Northern Ireland, Independent Review'.

[13] Judge Desmond Marrinan (2020) 'Hate Crime Legislation in Northern Ireland, Independent Review', page 17.

[14] Department of Justice (2022) 'Improving the Effectiveness of Hate Crime Legislation in Northern Ireland, A Public Consultation and Call for Views'.

[15] Criminal Justice (Sentencing etc) Bill as introduced.

[16] Commissioner for Older People Act (Northern Ireland) 2011.

[17] Commissioner for Older People Act (Northern Ireland) 2011.

The Commissioner provides this report, building on COPNI's recent written and oral evidence submissions to the Northern Ireland Assembly's Justice Committee, [18] [19] to urge a reconsideration of the exclusion of age among the protected characteristics of the Criminal Justice (Sentencing etc) Bill. Drawing on COPNI's previous work on criminal justice issues affecting older people[20] and our engagement with criminal justice partners, this review sets out COPNI's justification for the inclusion of age and its importance for providing older people with robust legal protection.

[18] 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)'.

[19] Committee for Justice (2026) 'Official Report (Hansard) Criminal Justice (Sentencing etc) Bill: Commissioner for Older People for Northern Ireland'.

[20] See, for example, COPNI (2019) 'Improving Access to Justice for Older Victims of Crime', COPNI (2019) 'Crime and Justice: The Experience of Older People in Northern Ireland', COPNI (2023) 'A Different Crime' and COPNI (2024) 'Growing Concern: Older Victims of Domestic Abuse in Northern Ireland'.

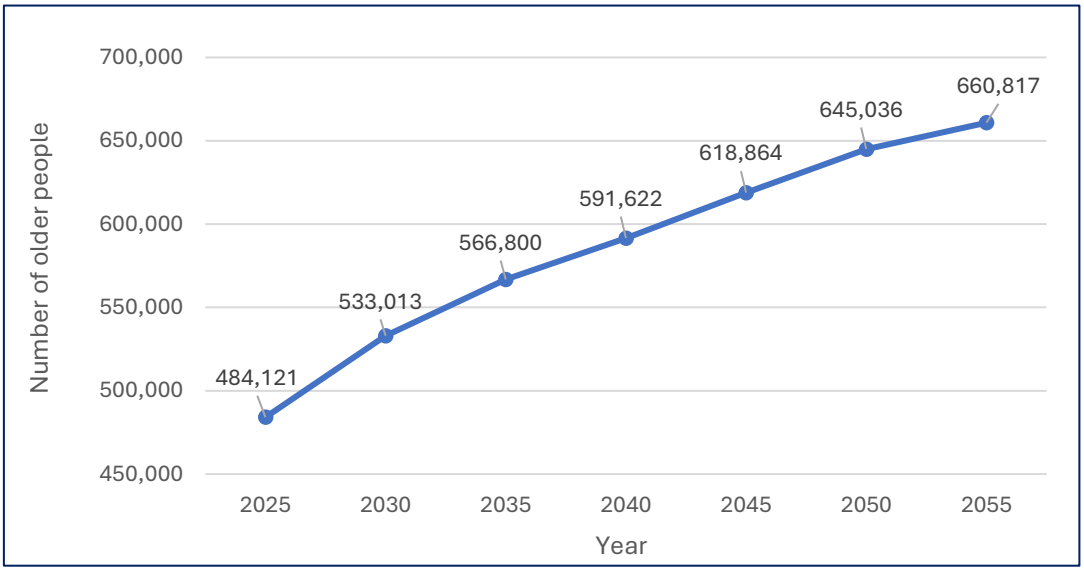
An Ageing Population

Across most of COPNI's publications, a consistent message emerges: **Northern Ireland's population is ageing**, and government must plan for the challenges and opportunities this demographic change presents.

Demographic Trends

By way of context, **the number of people aged 60 plus in Northern Ireland is projected to grow by over 36% between 2025 and 2055**. There are already more older people aged 60 plus in Northern Ireland than there are children aged 14 or under. In 2025, there were approximately 351,000 children compared to over 484,000 older people. By 2055, there will be less than 280,000 children and more than 660,000 older people.[21]

FIGURE 1. *Projected number of older people aged 60 plus in Northern Ireland, 2025-2055.*[22]



[21] NISRA (2025) '2022-based Population Projections for Northern Ireland, Principal Projection – Population by Age and Sex (2022-2072)'.

[22] NISRA (2025) '2022-based Population Projections for Northern Ireland, Principal Projection – Population by Age and Sex (2022-2072)'.

Government Planning for an Ageing Population

In 2024, COPNI published *At the Centre of Government Planning*, a report which served as advice to government during the drafting of its 2024-2027 Programme for Government.[23] **The Commissioner's office argued and continues to argue that the Executive must effectively plan for the consequences of an ageing population**, most recently in our *Ready or Not* report.[24] An increasing proportion of older people will likely result in:

- increased pension costs;
- labour shortages;
- increased demand for health and social care services;
- increased demand for suitable, age-appropriate social housing;
- increased demand for effective transportation services; and
- increased prevalence of age discrimination due to the absence of age discrimination legislation in the provision of goods, facilities and services.

COPNI has warned that these are only some of the critical issues caused or exacerbated by population ageing. **An ageing population will also present significant challenges for the criminal justice system**. A larger proportion of older people will affect both the demand for justice services and the way in which those services are delivered. As Northern Ireland continues to age, older people will likely represent a larger proportion of victims of crime. As such, **there are new demands on the criminal justice system to respond and become more attuned to the diverse, distinct needs of older people, and to consider how effectively it responds to those needs**.

Since 2016,[25] the Commissioner's office has continually advised government to incorporate preparation for an ageing population into cross-government planning. COPNI has also warned that "without effective planning by the Executive, departments and other public bodies, the challenges posed by an ageing population will have devastating social consequences, in particular for older people".[26]

[23] COPNI (2024) 'At the Centre of Government Planning: The Programme for Government and Preparing for an Ageing Population'.

[24] COPNI (2026) 'Ready or Not: The Ageing Population'.

[25] See, for example, COPNI (2016) 'Programme for Government 2016-2021, Consultation Response from the Commissioner for Older People for Northern Ireland', COPNI (2016) 'Suggested New Outcome – Programme for Government 2016-2021' and COPNI (2021) 'Programme for Government Draft Outcomes Framework Consultation, Response from the Commissioner for Older People for Northern Ireland'.

[26] COPNI (2024) 'At the Centre of Government Planning: The Programme for Government and Preparing for an Ageing Population', page 10.

Ageism

Though COPNI has consistently highlighted the challenges associated with an ageing population, the Commissioner also celebrates the benefits and opportunities that come with living longer lives. An ageing population is a sign of improved healthcare, living standards and quality of life. Longer life expectancy means individuals may have more opportunities to contribute to their families, communities and economies with many older people playing important roles as caregivers, volunteers and employees.

That said, **the positive aspects of ageing can often be undermined by the prevalence of ageism**. The World Health Organization (WHO) explains how age is one of the first things we notice about people and often it can be "used to categorise and divide people in ways that lead to harm, disadvantage and injustice".[27] The WHO define ageism as "the stereotypes (how we think), prejudice (how we feel) and discrimination (how we act) towards others or ourselves based on age".[28] They report that half of the world's population is ageist towards older people.[29] This aligns with COPNI's research. **In 2024, COPNI published *Are you Ageist*, which found that almost half of older people had experienced ageism in some form in Northern Ireland**. This is despite 83% of older people feeling they play an active role in society.[30]

Ageism can cause a wide range of harms. Centre for Ageing Better found that, at a societal level, ageism can have adverse effects on health and financial equality, social cohesion, health and social care services, as well as the economy. Likewise, at the individual level, ageism can negatively impact mental and physical health, as well as employment outcomes and financial wellbeing.[31] Ageism can be particularly significant when negative attitudes about age become self-directed. Self-directed ageism can modify an older person's own thinking, behaviour and often can result in a "corresponding tendency to engage in unhealthy behaviours such as smoking, drinking or being physically inactive". People who internalise self-ageist attitudes have "worse medication compliance and are less likely to seek healthcare and to go for check-ups".[32]

[27] World Health Organization (n.d.) 'Ageism'.

[28] World Health Organization (2025) 'Ageing: Ageism'.

[29] World Health Organization (2025) 'Ageing: Ageism'.

[30] COPNI (2024) 'Are you Ageist'.

[31] Centre for Ageing Better (2023) 'Ageism: What's the harm?'.

[32] Centre for Ageing Better (2023) 'Ageism: What's the harm?', page 3.

The media can play a central role in shaping and influencing attitudes towards older people and ageing. Older age groups are often under-represented in advertising, television and films. When they are, it is often in ways that are negative or inaccurate.[33] This was evident during the Covid-19 pandemic where older people had an increased risk of contracting the virus, but mitigating the impact of Covid-19 on them was portrayed as "unmanageable". Such attitudes, among others, had a negative impact on the way older people were treated during the pandemic and, as a result, the deaths of older people were "more readily accepted" by the wider population.[34]

Ageism and negative attitudes towards older people are also prevalent in the criminal justice system. The Criminal Justice Inspection Northern Ireland (CJINI) in their inspection of the justice system's approach to vulnerable older people in Northern Ireland, note how older people are less likely to be taken seriously by law enforcement bodies. Their inspection refers to the UN Independent Expert on the enjoyment of all human rights by older persons who states **"a great majority of violations and abuses involving older persons are tolerated or suppressed. The lack of awareness of age as a factor that might incite violence, abuse and discrimination contributes to this invisibility and lack of protection of older victims"**.[35] **Considering this in the context of hate crime legislation, failure to recognise age as a factor underpinning hostility risks leaving such conduct unidentified and unaddressed within the current legislative framework.**

[33] Centre for Ageing Better (2023) 'Ageism: What's the harm?'.

[34] S. Shimoni (2023) 'The unprotectables: A critical discourse analysis of older people's portrayal in UK newspaper coverage of Covid-19' as discussed in COPNI (2024) 'Are You Ageist', page 27.

[35] United Nations (2021) 'Report on ageism and age discrimination', page 14 as discussed in CJINI (2023) 'An Inspection of the Criminal Justice System's Approach to Vulnerable Older People in Northern Ireland', page 12.

Crime and Older People

Anyone can become a victim of crime. Regardless of age, its impact on victims can be significant and long-lasting. However, **older people often have distinctive experiences of crime, as well as unique barriers to accessing and engaging with criminal justice services**. This chapter discusses some of the key issues pertinent to crime against older people. While this section is not intended as a definitive account of crime against older people, it identifies emerging trends that underscore the need for enhanced legal protections for older victims, especially in the context of Northern Ireland's ageing population.

Trends in PSNI Crime Statistics

In Northern Ireland, older people are statistically less likely to be victims of crime than younger people. Figure 2 shows the recorded number of victims of crime in Northern Ireland in the period June 2025 to May 2026. In that period, there were just over 4,000 victims of crime aged 65 or over. In the same year, there were 7,356 victims aged between 35 and 39. Figure 3 shows the number of victims of crime in the 35 to 39 and 65 plus age groups over the past 10 years.[36]

When older people do become victims of crime and report so, they are more likely to experience poor crime outcomes rates. Outcomes rates indicate the percentage of crimes which have resulted in "charge/summons, cautions (adult and juvenile), community resolutions (formerly known as discretionary disposals), penalty notices for disorder and offences taken into consideration".[37] **In 2025/26, the police recorded sanction outcome rate for the 65 plus age category was 17.3%, the lowest across all adult age categories** (see Figure 4).[38]

[36] PSNI (2026) 'Monthly update, period ending 31 May 2026, Pivot Table 2'.

[37] PSNI (2025) 'Annual Trends in Police recorded crime 1998/99 to 2024/25, Pivot Table 3'.

[38] PSNI (2025) 'Annual Trends in Police recorded crime 1998/99 to 2024/25, Pivot Table 3'.

FIGURE 2. *Number of recorded victims of crime in Northern Ireland by victim age group, June 2025-May 2026.*[39]

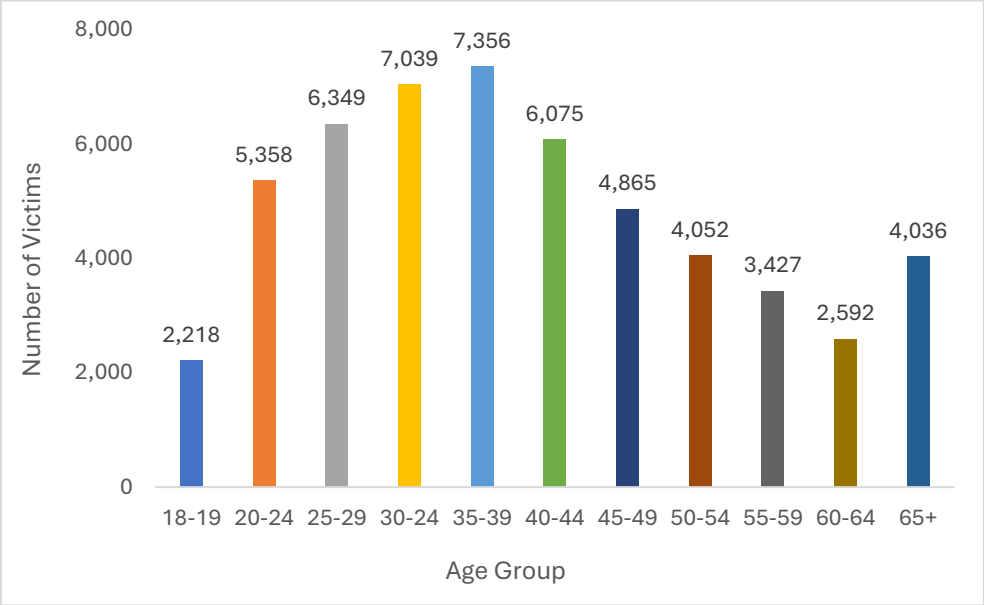
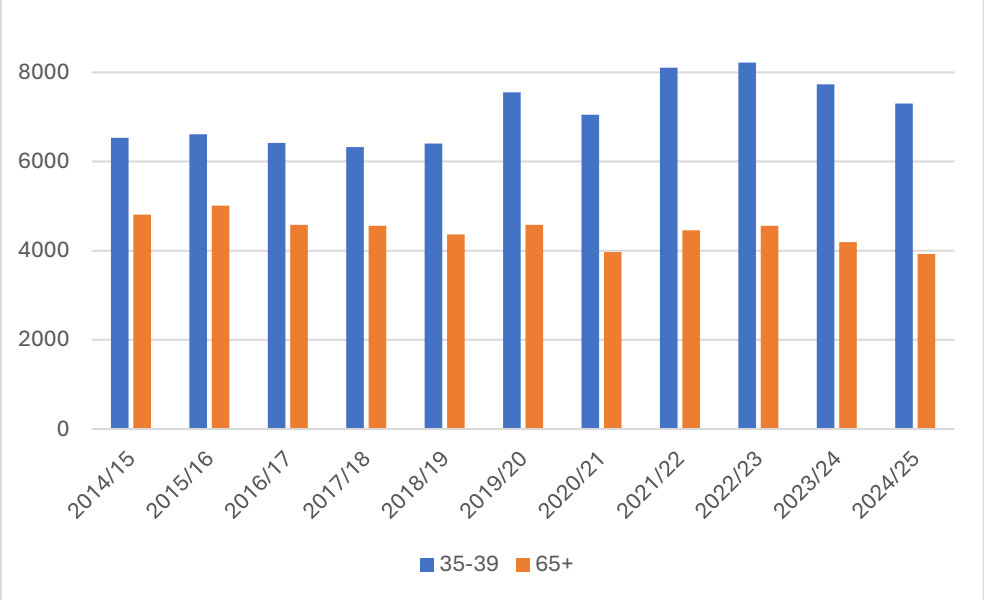


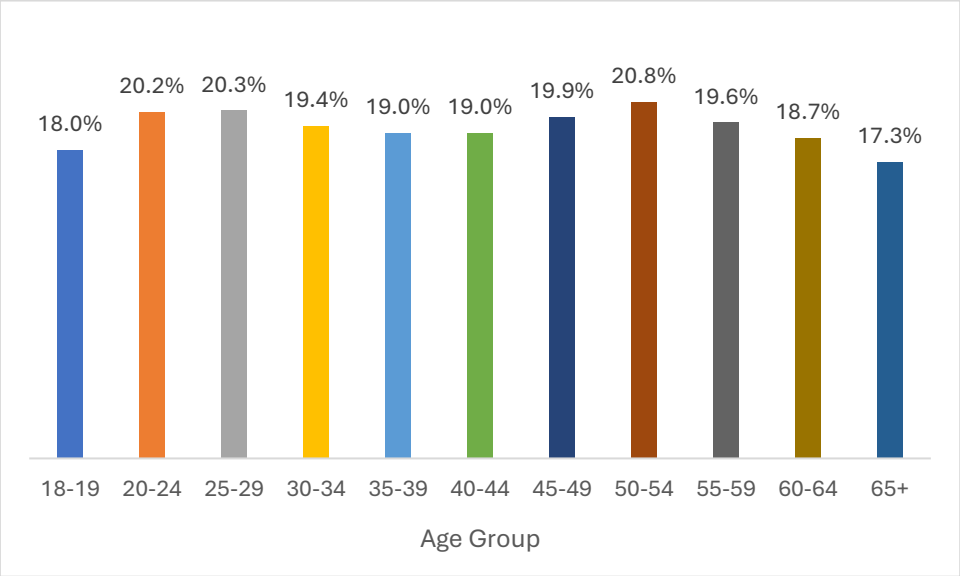
FIGURE 3. *Number of recorded victims of crime in the 35-39 and 65+ victim age groups, 2024/25.*[40]



[39] PSNI (2026) 'Monthly update, period ending 31 May 2026, Pivot Table 2'.

[40] PSNI (2025) 'Annual Trends in Police recorded crime 1998/99 to 2024/25, Pivot Table 3'.

FIGURE 4. *Police recorded sanction outcomes rate in Northern Ireland by victim age group, 2025/26.*[41]



However, such statistics offer only a limited view of crime against older people. They must be considered alongside evidence of the impact of crime on older people, the underreporting of crimes by older victims and possible reasons for the poor outcomes rate of crimes involving older people.

Older People's Pre-offence Status

COPNI's *A Different Crime* report found that, **when older people do experience crime, the impact on them is often more severe due to their "pre-offence status"**.[42]

In Northern Ireland, older people are more likely to live with poor health with 17.4% of people aged 65 plus reporting 'bad or very bad' general health.[43] Similarly, older people are more likely to live with a disability. Northern Ireland's Census 2021 results found that over half of

[41] PSNI (2026) 'Financial year update, period ending 31 March 2026, providing figures for 2025/26'.

[42] COPNI (2023) 'A Different Crime', page 9.

[43] NISRA (2022) 'Census 2021, Main statistics for Northern Ireland, Statistical bulletin, Health, disability and unpaid care'.

the population aged 65 plus (56.8%) had a limiting long-term health problem or disability.[44] Multimorbidity[45] also increases steadily with age.[46]

In 2025, the projected number of people aged 75 plus living alone was 57,560. By 2040, this figure is set to increase to almost 78,000.[47] Census 2021 showed that over 80,000 people aged 65 plus in Northern Ireland are widowed.[48]

Levels of social isolation and loneliness are significant among older people. 16.7% of those aged between 65 and 74 and a further 22.7% of those aged 75 plus report feeling lonely at least some of the time.[49]

These pre-existing issues mean that, when an older person does become a victim of crime, the impact on them can be profound and lasting. COPNI notes 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"**.[50]

Fear of Crime among Older People

While it is true that, statistically, older people are less likely to be victims of crime, it is also true that **many older people experience high levels of fear of crime**. Because of their "pre-offence status", older people are from a "social grouping that is pre-disposed (i.e., pre-offence) to be fearful of crime".[51] In 2023/24, 26% of people aged between 65 and 74 and 20% of people aged 75 plus described the effect of fear of crime on their quality of life as 'moderate'.[52]

In their inspection of the criminal justice system's approach to vulnerable older people, the CJINI engaged with victims' groups and stakeholder organisations on issues relating to vulnerable older people. These organisations "spoke at length about the impact of fear of crime". Many reported that fear of crime "can impact confidence levels and personal

[44] NISRA (2022) 'Census 2021, Main statistics for Northern Ireland, Statistical bulletin, Health, disability and unpaid care'.

[45] Multimorbidity is the presence of two or more long-term health conditions.

[46] COPNI (2026) 'Voices of Concern'.

[47] NISRA (2018) 'Northern Ireland Household Projections (2016 based)'.

[48] NISRA (2023) 'Census 2021, Marital and civil partnership status by broad age bands'.

[49] NISRA (2026) 'Individual Wellbeing in Northern Ireland Report 2024/25, Data Tables'.

[50] COPNI (2023) 'A Different Crime', page 13.

[51] COPNI (2023) 'A Different Crime', page 35.

[52] DoJ (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'.

independence", leading to significant implications for older people's health and wellbeing.[53] COPNI similarly notes that "fear of crime is not just an emotional sensation nor simply a negative psychological experience. It can have serious practical consequences in an individual's life such as changing if and when a person goes outside their home".[54]

Brown and Gordon note that older people's increased fear of crime may, in part, be "due to the fear of the impact of being a victim of crime, rather than simply the risk of the likelihood of being a victim".[55] This echoes the above discussion on older people's pre-offence status. Fear of crime among older people can thus stem from a range of factors such as living alone, reduced confidence in public spaces or past experiences that may have interrupted their sense of safety. Media reporting and community reports can also heighten older people's anxieties. Brown and Gordon found that "a crime against an older person in a neighbourhood can increase fear amongst other older people in that locality".[56] As such, **a crime committed against one older person can cause fear and intimidation among older people in general**.

To give a real-world example of the impact of fear of crime, CJINI identified older people "who refused to have mobility aids erected on the outside of their homes, despite their need, because of a fear that it made them easily identifiable".[57]

Underreporting of Crime by Older Victims

COPNI maintains that recorded crime statistics offer only a limited view of offending against older people due to the significant underreporting of crimes by older people. CJINI identified a number of barriers that can prevent older people from reporting experiences of 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".[58]

[53] CJINI (2023) 'An Inspection of the Criminal Justice System's Approach to Vulnerable Older People in Northern Ireland', page 56.

[54] COPNI (2023) 'A Different Crime', page 37.

[55] Brown and Gordon (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', page 54.

[56] Brown and Gordon (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', page 157.

[57] CJINI (2023) 'An Inspection of the Criminal Justice System's Approach to Vulnerable Older People in Northern Ireland', page 56.

[58] CJINI (2023) 'An Inspection of the Criminal Justice System's Approach to Vulnerable Older People in Northern Ireland', page 40.

Similarly, in a response to the DoJ's consultation on a draft Victims and Witnesses of Crime Strategy for Northern Ireland, COPNI noted how the poor outcomes rates for crimes involving older people may discourage older people from coming forward and reporting experiences of crime: "If older people perceive that reporting crime is unlikely to result in meaningful action, prosecution or resolution, they may be less likely to come forward, report their experiences and receive support. This erosion of trust contributes to a cycle where underreporting and poor outcomes reinforce each other, which can deepen older people's sense of vulnerability and marginalisation within the justice process".[59]

When older people do report a crime, they often experience barriers to engaging with criminal justice processes. Older people may experience a reluctance to give evidence in court and may fear reporting certain crimes. Some may also delay reporting a crime due to limited awareness that what they have experienced constitutes a crime. Other older victims may not want to pursue a justice response. COPNI maintains that these factors and others may help to explain why crime outcomes rates for crimes involving older people are so low.[60] Likewise, Brown and Gordon argue that to improve the poor outcome rates for crimes involving older people, "consideration needs to be given to how to improve levels of reporting" by older victims.[61]

Trends in Offending against Older People

COPNI found that "when viewed from a macro level, there are significant, identifiable trends and recurring attitudes underpinning much offending against older people".[62] Participants in COPNI's *A Different Crime* study highlighted several factors in the targeting of older victims. Namely:

- the perception of physical weakness of the victim;
- the perception of the victim's limited social connectedness;
- the perception of the victim's increased fear to report and pursue criminal proceedings; and

[59] COPNI (2025) 'Response to Consultation on a Draft Victims and Witnesses of Crime Strategy 2025-2030', pages 2-3.

[60] COPNI (2019) 'Crime and Justice: The Experience of Older People in Northern Ireland'.

[61] Brown and Gordon (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', page 219.

[62] COPNI (2023) 'A Different Crime', page 22.

- the perception of increased obstacles for authorities to gather evidence and prosecute crimes.[63]

Probation staff who engaged with COPNI during the study also noted that "only rarely did an offender admit to targeting older people" because there was "great stigma attached to any person suspected of targeting older people".[64] Staff also emphasised that many offenders were ashamed and empathised with their victims because of their age and similarity to older relatives. **Probation Officers, while reluctant to attribute age as an element in the targeting of the victim, noted how "offenders felt that committing crimes against older people involved fewer risks"**.[65]

These considerations demonstrate that age is not tangential to offending against older people but rather that offending against older people is often influenced by attitudes and perceptions linked to age, and therefore, relevant to discussions on hostility-based offending.

[63] COPNI (2023) 'A Different Crime'.

[64] COPNI (2023) 'A Different Crime', page 23.

[65] COPNI (2023) 'A Different Crime', page 23.

Evidence of Age-based Hostility

Evidence of Northern Ireland's ageing population and of the distinctive aspects of crime against older people inform COPNI's position on hate crime provisions in Northern Ireland. COPNI has consistently maintained that older people must be encompassed within any development of hate crime protections.

Having welcomed Judge Desmond Marrinan's review and subsequent recommendation that age should be included among the protected characteristics of hate crime legislation here, COPNI remains disappointed that the DoJ has not taken his recommendation forward. This has resulted in age being absent from the list of protected characteristics at Clause 33 of the Criminal Justice (Sentencing etc) Bill. Its omission is an area of profound concern for the Commissioner. This chapter sets out COPNI's rationale for the inclusion of age as a protected characteristic in the Criminal Justice (Sentencing etc) Bill.

FIGURE 5. *Clause 33(1) of the Criminal Justice (Sentencing etc) Bill.*[66]

33.-(1) It may be specified as an allegation alongside a charge of an offence against a person ("A") that the offence is aggravated by-

(a) racial hostility,
(b) religious hostility,
(c) hostility related to sexual orientation, or
(d) hostility related to disability.

[66] Criminal Justice (Sentencing etc) Bill as introduced.

Age as a Protected Characteristic in Other Jurisdictions

Scotland

As in Northern Ireland, Scotland too had their hate crime laws independently reviewed. In 2017, Lord Bracadale was asked by the Scottish Government to consider Scotland's current hate crime legislation and make recommendations "where the evidence pointed to a need for change".[67] Lord Bracadale's review also considered whether new statutory aggravations should be created. In his final report, he concluded that **"there is sufficient evidence of hostility-based offences against the elderly" in Scotland to warrant the inclusion of age as a protected characteristic** and, therefore, recommended "there should be a new statutory aggravation based on age hostility".[68]

As of 1 April 2024, Section 1(2) of the Hate Crime and Public Order (Scotland) Act 2021 includes age as a protected characteristic.[69] **The Scottish Government acknowledge that "there might only be a relatively small proportion of crimes relating to malice and ill-will towards a person because of their age". However, they also note that such crimes "should be treated in the same way as other hate crimes"**.[70]

In 2024/25, the first year of age being included as a protected characteristic in Scottish hate crime legislation, **there were 48 hate crimes recorded by police with an aggravation of**

[67] Lord Bracadale (2018) 'Independent Review of Hate Crime Legislation in Scotland', page v.

[68] Lord Bracadale (2018) 'Independent Review of Hate Crime Legislation in Scotland', page 48.

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

[70] Scottish Government (n.d.) 'Hate Crime and Public Order (Scotland) Bill Information Note, Age'.

age.[71] In the same year, there were 88 charges reported with an aggravation of age.[72] [73] More recently, in 2025/26, there were 44 charges reported with an age aggravation.[74] [75]

Scotland and Northern Ireland have similar constitutional, cultural and socio-economic contexts. As such, **COPNI considers Scotland to be a particularly relevant comparator**. In 2024, there were 1,526,859 older people (aged 60 plus) in Scotland, equating to 27.5% of the total population. In the same year, there were 470,585 older people in Northern Ireland, representing 24.4% of the population. By 2044, older people will represent 31.8% of Scotland's population and 31.6% of Northern Ireland's.[76] In this context, **Northern Ireland should consider aligning its hate crime law with Scotland's**. The inclusion of age within Scottish hate crime law has enabled the identification and recording of age-based hostility. By doing so, the Scottish Government has arguably taken steps to future-proof its hate crime legal framework by recognising age as a characteristic warranting protection. COPNI would argue that this may reflect an awareness that, as the proportion of older people increases, it is likely that the number of older victims of crime will also increase, thereby planning for the consequences of an ageing population. Northern Ireland could benefit from incorporating age in the hate crime provisions of the Criminal Justice (Sentencing etc) Bill, ensuring the legislative framework here is capable of recognising such offending.

[71] Scottish Government (2026) 'Hate crimes recorded by the police in Scotland, 2024-25, Table 3'.

[72] These figures are from two separate systems (Scottish police and the Crown Office and Procurator Fiscal Service). Thus, there are definitional and operational differences between them. The 48 hate crimes refer to cases that were reported to or otherwise came to the attention of Scottish police, while the 88 charges refer to when a charge is reported to the Crown Office and Procurator Fiscal Service by the police. The Crown Office and Procurator Fiscal Service can also amend a charge that is reported to them as part of the process of considering what action to take. For example, this may lead to a charge reported without a hate crime aggravation having an aggravation added (if the circumstances of the offence mean it is considered to fall under the scope of the legislation and there is enough evidence to prove the aggravation). See Scottish Government (2026) 'Hate crimes recorded by the police in Scotland, 2024-25' and Crown Office and Procurator Fiscal Service (2025) 'Hate crime in Scotland, 2024-25, Background'.

[73] Crown Office and Procurator Fiscal Service (2025) 'Hate crime in Scotland, 2024-25, data tables'.

[74] Crown Office and Procurator Fiscal Service (2026) 'Hate crime in Scotland, 2025-26, data tables'.

[75] Crown Office and Procurator Fiscal Service state that "Additional checks were carried out on charges reported in 2025-26 with an aggravation related to age. These identified some instances where the aggravation had been wrongly applied. These aggravations have been removed and are not included in the 2025-26 figures. These checks were not carried out on charges reported in 2024-25, so it is possible that the 2024-25 figure overestimates the number of age aggravated offences in this year". See Crown Office and Procurator Fiscal (2026) 'Hate crime in Scotland, 2025-26'.

[76] All calculations from the Office for National Statistics (2026) '2024-based national population projections'.

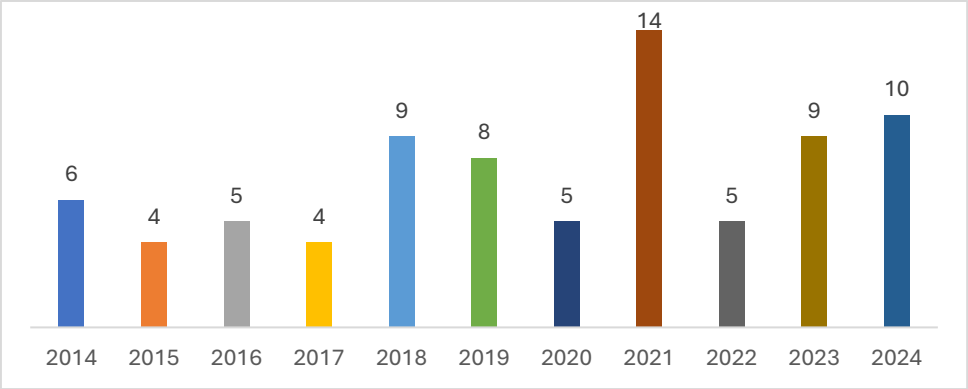
Austria

Section 283 of the Austrian Criminal Code 1974 includes age among the protected characteristics of its hate crime law.[77] Austria reports hate crime data to the Organization for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR). In 2024, the most recent reporting year, **Austria reported 102 hate crimes with a bias based on age**.[78]

Canada

Subparagraph 718.2 (a)(i) of Canada's Criminal Code dictates that a judge must consider when sentencing "evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor".[79] [80] **In 2024, there were 10 hate crimes recorded by Canadian police with an age motivation, the second highest prevalence since recording started in 2014** (see Figure 6).[81]

FIGURE 6. *Police-reported hate crimes by age motivation in Canada, 2014-2024.*[82]



[77] OSCE Office for Democratic Institutions and Human Rights (n.d.) 'Hate crime legislation in Austria, Criminal Code of Austria (1974, as amended 2020) (excerpts related to Hate Crimes)'.

[78] OSCE Office for Democratic Institutions and Human Rights (2024) 'Hate Crime Reporting, Austria'.

[79] Government of Canada (n.d.) 'Criminal Code (R.S.C., 1985, c. C-46)'.

[80] Government of Canada (n.d.) 'Definition of Hate Crime'.

[81] Statistics Canada (2025) 'Police-reported hate crime, by type of motivation, selected regions and Canada (selected police services)'.

[82] Statistics Canada (2025) 'Police-reported hate crime, by type of motivation, selected regions and Canada (selected police services)'.

New Zealand

Section 9(1)(h) of New Zealand's Sentencing Act 2002 states that "in sentencing or otherwise dealing with an offender the court must take into account the following aggravating factors to the extent that they are applicable in the case: … that the offender committed the offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability".[83] **From 1 August 2019 to 30 June 2024, there were 172 offences flagged in New Zealand for perceived hate motivation by age**.[84]

United States of America

There are several states in the United States of America (USA) that expressly include age as a protected characteristic in their hate crime laws.[85] **The state of Florida, however, includes 'advanced age' as one of its protected characteristics**. Section 775.085, Florida Statutes states: "(1)(a) The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, or advanced age of the victim…".[86] **In 2022, Florida reported one hate crime where anti-advanced age was the motivation for the hate crime**.[87] **In 2023, they reported two, accounting for 0.6% of all hate crimes recorded in Florida**.[88] When compared with Northern Ireland, hate crime reporting is low in Florida. In 2022, there were just 229 hate

[83] Sentencing Act 2002.

[84] New Zealand Police (n.d.) 'NIA data on offences and non-criminal incidents flagged for perceived hate motivation'.

[85] For instance, New Mexico, New York, Louisiana, and Michigan. There is limited data available on the prevalence of hate crimes where age was the motivating factor in the USA. This is because hate crimes laws vary considerably between states. "At the federal level, hate crime laws include crimes committed on the basis of the victim's perceived or actual race, color, religion, national origin, sexual orientation, gender, gender identity, or disability". "The bias categories included in state laws vary" widely across jurisdictions. As such, while some states explicitly include age as a protected characteristic, others do not. As a result, data on age-motivated hate crimes is not consistently available. See U.S. Department of Justice (2025) 'Hate Crimes, Laws and Policies' and 'Hate Crimes, State Data'.

[86] Online Sunshine (n.d.) 'The 2025 Florida Statutes, Section 775.085, Evidencing prejudice while committing offense; reclassification'.

[87] Florida Attorney General Ashley Moody (2023) 'Hate Crimes in Florida, January 1, 2022 – December 31, 2022'.

[88] Florida Attorney General Ashley Moody (2024) 'Hate Crimes in Florida, January 1, 2023 – December 31, 2023'.

crimes reported there[89] and 311 in 2023.[90] Comparatively, in the period April 2025 to March 2026, there were 2,508 hate crimes recorded by the PSNI in Northern Ireland.[91]

Age-based Hostility in Northern Ireland

The section above demonstrates that age-based hate and hostility offending exists and is capable of being recognised within hate crime legislative frameworks. **Turning to Northern Ireland, the underreporting of crimes by older people here remains a significant issue**. Older people can face a range of barriers to reporting crime.[92] Namely, older victims may fear retaliation, particularly if they know their perpetrator. Where this is the case, older victims may also feel reluctant to report if they rely on the perpetrator for care, financial support or companionship. Also, some older people can feel embarrassment or shame about being victimised or worry others will think they were naïve. Many may not identify the behaviour as criminal, thus not reporting it as such. Older people can lack confidence in the criminal justice system or experience communication and accessibility barriers that can make engagement with criminal justice processes difficult. **COPNI concurs with Age UK's view that the underreporting of crimes by older people must be taken into account when considering the inclusion of age as a protected characteristic in hate crime legislation**.[93]

Northern Ireland also lacks reliable data on older victims of crime. COPNI has consistently called on criminal justice agencies to improve the consistency of their data collection and analytics.[94] Without improved statistical information, we will continue to struggle to understand the nature and extent of offending against older people here. This is particularly relevant in the context of hate crime. **Currently, the PSNI does not include age in their hate motivated crime statistics**.[95] This significantly limits the available evidence on the prevalence of such crimes against older people. This approach is also inconsistent with that of transgender

[89] Florida Attorney General Ashley Moody (2023) 'Hate Crimes in Florida, January 1, 2022 – December 31, 2022'.

[90] Florida Attorney General Ashley Moody (2024) 'Hate Crimes in Florida, January 1, 2023 – December 31, 2023'.

[91] PSNI (2026) 'Hate Motivation Statistics, Financial year update, period ending 31 March 2026'.

[92] COPNI's *Growing Concern* report discusses a number of barriers older victims of domestic abuse can face in reporting their experiences and receiving support, many of which are also relevant here. See COPNI (2024) 'Growing Concern: Older Victims of Domestic Abuse in Northern Ireland'.

[93] AgeUK (2021) 'Law Commission, Hate crime laws: a consultation'.

[94] COPNI (2024) 'Growing Concern: Older Victims of Domestic Abuse in Northern Ireland'.

[95] PSNI (n.d.) 'Hate Motivation Statistics'.

identity hate crimes despite that group also being omitted from the protected groups in the Criminal Justice (Sentencing etc) Bill.[96]

Anecdotal reporting shows that people have been targeted, in part or wholly because they are older or have experienced demonstrations of hostility towards their age. However, Northern Ireland's justice agencies do not gather statistics on hate motivated crime against older people. The absence of official statistical evidence, therefore, is merely a commentary on the PSNI's decision not to record instances of age-based hate. **The absence of official statistical evidence also does not mean that such crimes do not exist. Rather, it reflects limitations in data collection**. Likewise, in response to the Law Commission's consultation on reforms to hate crime law in England and Wales, the Magistrates Association agreed that evidence of hostility towards older people because of their age may be difficult to find but argued that "this did not necessarily mean that older people should not enjoy hate crime protection".[97]

The exclusion of age from the protected characteristics at Clause 33 means that courts would be unable to formally state that an offence was aggravated by age-based hostility, even where such hostility was demonstrated. **If the Bill does not include age as a protected characteristic, courts will be unable to formally recognise and record age-based hostility under the statutory aggravation provisions, even where there is evidence of such hostility. This risks perpetuating the lack of formal recognition and statistical evidence of age-based offending**.

Moreover, COPNI is concerned by a fundamental inconsistency in the DoJ's approach. On the one hand, age is excluded from the list of protected characteristics at Clause 33 on the basis of insufficient evidence.[98] Yet, the Bill separately introduces an aggravator by reason of vulnerability at Clause 36 that expressly recognises "old age" as a factor which may significantly impair a person's ability to protect themselves from violence, abuse, neglect or exploitation, even without official statistical evidence.

The vulnerability aggravator at Clause 36 does not recognise or capture hostility directed towards older people as a group. Rather, it focuses on an individual's capacity to

[96] See, for example, PSNI (2025) 'Transgender Identity Incidents and Crimes Recorded by the Police in Northern Ireland 2009/10 to 2024/25'.

[97] Law Commission (2021) 'Hate crime laws: Final report', page 231.

[98] In response to correspondence from COPNI, the Department of Justice confirmed to the Justice Committee that "to date it has been difficult to identify findings which evidence the need for age related protections in respect of hate crime". See Department of Justice (2026) 'Department of Justice response letter – COPNI paper on hate crime protected characteristics'.

protect themselves from harm. That said, **the inclusion of "old age" in the vulnerability aggravator provisions of the Bill indicates the Department's acceptance that age is a relevant factor in the offending against, and victimisation of older people, even in the absence of official statistical information**. COPNI finds it difficult to reconcile that acceptance with a refusal to recognise age as a protected characteristic, particularly where the absence of statistical evidence is itself a consequence of age not being recorded as a motivation for hostility or hate. Indeed, the Department cannot reasonably rely on an absence of statistical evidence while maintaining a recording framework that does not capture age-based hostility.

The current approach risks creating a circular position in which the absence of evidence is, in part, a consequence of the decision not to recognise or record age as a motivating factor. It is misleading to argue that there is insufficient evidence to justify age being included as a protected characteristic in the Bill, simply because of a choice not to collate evidence. Moreover, **the current drafting of the Bill creates the gratuitous and harmful contradiction that age matters, but only in a limited and partial way**.

Motivation Test and Demonstration Test

When briefing the Justice Committee, DoJ officials indicated that a hate crime must be motivated by hostility or hatred towards a person's group identity. The Committee heard, on 27 November 2025, that the Department had considered including sex as a protected characteristic in the Bill but that "there was not a lot of evidence that people were motivated to assault or attack someone purely out of hostility or hatred driven by the fact that they are a woman or because they are a man".[99] Applying this reasoning to age suggests that the Department has concluded there is insufficient evidence of crimes motivated by age-based hostility or hatred in Northern Ireland to justify its inclusion as a protected characteristic in the Bill. However, **the Criminal Justice (Sentencing etc) Bill, as currently drafted, goes beyond motive alone**.

FIGURE 7. *Clause 33(2) of the Criminal Justice (Sentencing etc) Bill.*[100]

33.-(2) An offence committed by A is aggravated by hostility of one of the kinds mentioned in subsection (1) if-

(a) at the time of committing the offence, or immediately before or after doing so, A demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of-

i. a racial group,

ii. a religious group,

iii. a sexual orientation group, or

iv. a disability group; or

(b) the offence is motivated, wholly or partly, by hostility towards members of a group referred to in paragraph (a) based on their membership of that group.

[99] Northern Ireland Assembly YouTube (2025) 'Committee for Justice – Thursday 27 November 2025'.

[100] Criminal Justice (Sentencing etc) Bill as introduced.

Clause 33(2) expressly includes situations in which hostility towards a protected group is demonstrated before, during or after committing an offence. By doing so, **the Bill makes a clear distinction between a demonstration of hostility (Clause 33(2)(a)) and a motivation based on hostility (Clause 33(2)(b))**. The inclusion of the 'demonstration test' broadens the scope of situations addressed by the Bill. While motive may be more difficult to evidence, demonstrations of hostility can be more easily evidenced through language, actions or patterns of behaviour before, during or after a crime.

COPNI found that almost half of older people in Northern Ireland have experienced some form of ageism.[101] While not all of these incidents amount to criminal ones, **there can be little doubt that older people are experiencing demonstrations of hostility based on their age**. Consequently, the 'demonstration test' undermines the DoJ's argument that there is insufficient evidence of crimes motivated by age-based hostility or hate to include age on the list of protected characteristics in the Bill. The relatively low evidential threshold of the 'demonstration test' means that **hostility need only be expressed at any point before, during or after the offence, rather than proven as a motivating factor**. That such incidents may be unrecognised, unreported and underrepresented in data speaks to older people's limited awareness that these experiences could constitute a crime. Indeed, the hate crime section of the PSNI website states that "evidence is NOT the determining factor in defining a hate crime. The perception of the victim or any person is the determining factor".[102] Thus, if older people do not perceive (or are not supported by the state through legislation to perceive) a demonstration of hostility, such as verbal abuse or threatening behaviour, as a crime or consider it too minor to report, such incidents will continue to be omitted from official data.

The inclusion of age as a protected characteristic in this Criminal Justice (Sentencing etc) Bill should not be contingent solely on prosecution rates or statistical visibility, but on the need to ensure that age-based hostility and demonstrations of it are recognised and addressed within the legal framework.

[101] COPNI (2024) 'Are you Ageist'.

[102] PSNI (n.d.) 'Hate Crime'.

Vulnerability Aggravator

The Criminal Justice (Sentencing etc) Bill also introduces a new aggravator by reason of the victim being vulnerable. **This vulnerability aggravator includes some older people in that it recognises "old age" as a factor that may impair a person's ability to protect themselves**.

FIGURE 8. *Clause 36(1) and 36(2) of the Criminal Justice (Sentencing etc) Bill.*[103]

36.-(1) It may be specified as an allegation alongside a charge of an offence against a person ("A") that the offence is aggravated by reason of the victim's vulnerability, but this is subject to subsection (6).

(2) An offence committed by A is aggravated by reason of the victim's vulnerability, if at the time of committing the offence-

(a) the victim was a vulnerable person, and
(b) A knew, or ought reasonably to have known, that the victim was a vulnerable person.

FIGURE 9. *Clause 36(7) of the Criminal Justice (Sentencing etc) Bill.*[104]

36.-(7) In this section, "vulnerable person" means-

(a) a person under the age of 18, or
(b) 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.

[103] Criminal Justice (Sentencing etc) Bill as introduced.

[104] Criminal Justice (Sentencing etc) Bill as introduced.

The vulnerability aggravator may provide protections for vulnerable older people. Tellingly, **the introduction of the vulnerability aggravator signals recognition by the Department that harming vulnerable older people should not be tolerated and is unusually pernicious**. As such, Clause 36 is welcomed by the Commissioner.

These protections sit alongside those being introduced through the new Adult Protection Bill.[105] The Adult Protection Bill has "the potential to reshape the entire safeguarding landscape, better protecting adults from abuse and harm…The Bill would provide a framework for prevention, protection and accountability across the board".[106] **Together, both the vulnerability aggravator under this Criminal Justice (Sentencing etc) Bill and the provisions of the Adult Protection Bill, if implemented properly and resourced fully, could better protect vulnerable adults and hold perpetrators to account**. COPNI, therefore, emphasises the need for the DoJ to work collaboratively with the Department of Health (DoH) in taking forward a cross-departmental approach that prioritises the protection of vulnerable older people.

However, in COPNI's view, **the vulnerability aggravator at Clause 36 does not provide equivalent protection to the hostility-based aggravator at Clause 33**. The two provisions are distinct in both purpose and effect. Clause 36 focuses on an individual victim's vulnerability and capacity to protect themselves from harm. Thus, it does not recognise or address hostility directed or demonstrated towards older people as a group, nor does it capture offending motivated wholly or partly by prejudice, hostility or discriminatory attitudes related to age.

Older People and Vulnerability

Among other problematic issues, **relying solely on the vulnerability aggravator would imply that all older people are vulnerable**. COPNI has consistently highlighted that older people are not a homogeneous group in that they embody multiple identities relating to gender, race, ethnicity and sexuality, while also having differing backgrounds, experiences, health needs and living situations. Older people also represent a wide, and increasing, age range from 60 to over 100. A reliance solely on the vulnerability aggravator would therefore fail to capture offences against older people not characterised as vulnerable.

[105] Adult Protection Bill.

[106] COPNI (2025) 'Beyond Good Intentions: A Review of the Adult Protection Bill as Introduced', page 4.

Older people themselves are often reluctant to be labelled as vulnerable, with many rejecting "the idea that as a group they should be generally classed as vulnerable".[107] Moreover, in the *A Different Crime* study, COPNI noted how it may be "counter-cultural" to discuss the proposition that older people are at an increased risk of being acutely impacted by crime and that "addressing the increased vulnerabilities of a particular demographic could be interpreted as an act of disempowering that same grouping".[108] In this manner, the Criminal Justice (Sentencing etc) Bill's reliance on vulnerability alone could be argued to disempower older people experiencing crimes.

Of course, there is ample evidence that older people as a group are more vulnerable than other sections of society in terms of physical, mental, social, financial and other circumstances. This, in itself, creates a conceptual difficulty within the Bill. **If, in practice, vulnerability is interpreted narrowly, many older victims subjected to crimes which could carry a vulnerability aggravator element will fall outside the protection afforded by Clause 36. If interpreted broadly, the word 'vulnerable' in the term 'vulnerable older person' risks becoming redundant, as most older people would fall within that description simply by virtue of age-related circumstances**.

Yet notably for this discussion, there is a reluctance among justice agency professionals, as well as offenders to "recognise increases in physical, mental, social, and financial challenges as aspects of older age" meaning they are often "inclined to attribute the targeting of a particular victim to a perceived vulnerability rather than age per se".[109] In other words, justice agencies, professionals in the justice system and offenders use terminology such as 'old', 'older' and 'advanced age' on a regular basis about specific victims but simultaneously do not comprehend that these cases of specific victimhood constitute a deep-rooted trend of hostility to all people considered 'older'.

Ultimately, **the vulnerability aggravator at Clause 36, while offering modest protection for some older victims of crime (those deemed vulnerable), does not increase protection for all older people**. For clarity, the contents of Clause 36 offer no specific protection for older people (vulnerable or not) who are subject to hate crime or crimes with an element of hatred/hostility to older people.

[107] COPNI (2019) 'Crime and Justice: The Experience of Older People in Northern Ireland', page 10.

[108] COPNI (2023) 'A Different Crime', page 13.

[109] COPNI (2023) 'A Different Crime', page 24.

Suggestions that Clause 36 is a substitute for the protections offered to protected groups identified at Clause 33 are specious and improperly shift the focus from the perpetrator's hostility to the victim's vulnerability. Standing alone, **Clause 36 would leave unaddressed the intrinsic wrongness of a crime against an older person in which there is demonstrable hate or hostility towards the victim due to age**.

Evidential Hurdles

As it is, the Bill means that an older person could experience any crime, motivated by hostility towards their age, but due to the absence of age at Clause 33 of this Bill, the offence will not be recognised as aggravated by age. If the older victim in this scenario is not identifiably vulnerable, the offence will also not be recognised as aggravated by reason of the victim's vulnerability. Clause 36 requires proof, not only that the victim was vulnerable but that the offender knew or ought reasonably to have known the victim was vulnerable. As such, **the protection afforded by the vulnerability aggravator is conditional and subject to a defined legal threshold**. Only some older victims will fall within the scope of Clause 36. **The vulnerability aggravator therefore operates selectively rather than as a general protection for older people as a group**.

Clause 36(6) further narrows the scope of the vulnerability aggravator. It prevents the vulnerability aggravator from being applied where the victim's vulnerability already forms part of the underlying offence. In practice, this means in certain offences involving older victims, vulnerability cannot be relied upon twice, both as an element of the offence and again as an aggravating factor at sentencing. For example, where an offence already specifically relates to the exploitation, neglect or abuse of a vulnerable person, the prosecution may be unable to rely upon Clause 36 to establish a basis for sentencing linked to aggravation for that same vulnerability. As such, **even some vulnerable older victims would likely fall outside the scope of the vulnerability aggravator at Clause 36**.

Cumulatively, **the limitations in scope of Clause 36 further reinforce the need for a separate hostility-based framework capable of addressing offending against older people linked to their age (i.e. inclusion at Clause 33), rather than through a vulnerability aggravator**. Moreover, the sole reliance on the vulnerability aggravator would likely mean that older people do not see themselves or their needs fully reflected in the justice system. The current minimalist approach adopted in the Bill would discourage many older people from reporting and engaging in criminal justice processes. This also means that some trends in offending against older people would continue to go unrecognised and unaddressed,

contributing to the cycle in which absence of official evidence leads to an absence of intervention by the authorities.

The Need for Aggravation by Hostility and Aggravation by Vulnerability

COPNI maintains that it is entirely consistent to recognise both that older people are a diverse group, many of whom are robust, independent and resilient, and that older people as a group experience increased risk to certain forms of harm, exploitation and victimisation. These propositions are not contradictory. However, they demonstrate why vulnerability alone cannot substitute for the inclusion of age as a protected characteristic.

The vulnerability aggravator addresses impairment and susceptibility to harm. The hostility aggravator addresses prejudice, discriminatory attitudes and targeting linked to group identity. The two concepts are legally and conceptually distinct.

Further, the aggravation by reason of hostility under Clause 33 will likely represent the primary and most publicly recognisable hate crime framework within the Bill. By contrast, the vulnerability aggravator under Clause 36 will likely only be used in a narrower category of cases where the statutory threshold can be established. **Justice agencies in Northern Ireland have already been criticised by CJINI for failures to recognise and appropriately respond to the needs of older victims within the justice process**.[110] There is therefore a real risk that the practical effect of the Bill will be to afford greater visibility, recognition and protection to groups protected under Clause 33 than to older people addressed only through Clause 36.

Inconsistency with Other Protected Characteristics

The draft Bill's approach to age is also inconsistent with the treatment of disability as a protected characteristic. The Bill recognises that disabled people can be targeted because of their vulnerability or perceived vulnerability, but also because of hostility towards them due to their group identity. COPNI considers that a similar approach should apply to age.

In response to the Law Commission's consultation on hate crime reforms in England and Wales, the similarity between age and disability was mentioned: "motivation cannot be

[110] CJINI (2023) 'An Inspection of the Criminal Justice System's Approach to Vulnerable Older People in Northern Ireland'.

explained on the basis of vulnerability alone. Vulnerability may create dependency circumstances, but it cannot explain premeditated cruelty with regard to some crimes against older people, any more than it can in relation to disability hate crime".[111] **While vulnerability may increase exposure to harm for many older people, it does not in itself account for the deliberate or discriminatory nature of hate crimes or demonstrations of hostility experienced by older people**.

In sum, **Clause 36 does not provide automatic protection for all older people**. The aggravator applies only where the victim's ability to protect themselves is "significantly impaired" and where the offender knew, or ought reasonably to have known, of that vulnerability. **This creates both an evidential and legal threshold which will not be met in many cases involving older victims**. Older people who are independent, mobile or not outwardly identifiable as vulnerable may therefore fall outside the scope of the provision, even where they are targeted because of their age. A person can be targeted because they are older without being significantly impaired. Likewise, a crime may be aggravated by both hostility and vulnerability. The two are not mutually exclusive. An older person's vulnerability may coexist with hostility directed or demonstrated towards them because of their age. Therefore, **the inclusion of age as a protected characteristic alongside the vulnerability aggravator would provide a more coherent and effective framework for recognising and responding to harm experienced by older people**.

[111] Law Commission (2021) 'Hate crime laws: Final report', page 230.

Secondary Legislation

Clause 35 of the Criminal Justice (Sentencing etc) Bill gives the DoJ power to add other kinds of hostility by which an offence may be aggravated. In other words, power to add other protected characteristics at a later date.

FIGURE 10. *Clause 35(1) of the Criminal Justice (Sentencing etc) Bill.*[112]

> *35.-(1) The Department may by regulations amend section 33 so as to-*
>
> *(a) add further kinds of hostility by which an offence may be aggravated;*
> *(b) specify the circumstances in which an offence is aggravated by hostility of a kind added;*
> *(c) specify one or more offences in respect of which an allegation that the offence is aggravated by hostility of the kind added may not be made under section 33(1).*

Age should be included within the protected characteristics of the Bill. However, the Commissioner's office understands that a final decision on whether to include age among the protected characteristics will be informed by findings from Phase 2 of the Hate Crime Consultation, expected to be undertaken after the Criminal Justice (Sentencing etc) Bill has passed through the Northern Ireland Assembly. [113] **That possibility reflects the Department's acknowledgement of the significance of including age as a protected characteristic in hate crime legislation here**.

That said, **COPNI is concerned that reliance on including age through secondary legislation risks delaying the introduction of such protections for older people**. There is no clear timeline for when Phase 2 of the DoJ's consultation will occur or when regulations may be brought forward. In the context of the forthcoming Northern Ireland Assembly election

[112] Criminal Justice (Sentencing etc) Bill as introduced.

[113] Department of Justice (2026) 'Department of Justice response letter – COPNI paper on hate crime protected characteristics'.

in 2027, there is a real risk that this issue may be deferred for a significant period. This approach would represent a choice to leave older people without protections for a more extended period than necessary. Moreover, the inclusion of protected characteristics through primary legislation also provides greater legal certainty and scrutiny than reliance on secondary legislation, which is subject to a more limited form of Assembly oversight.

The Criminal Justice (Sentencing etc) Bill should not represent another example of slow legislative change for older people. By way of context, older people in Northern Ireland continue to face age discrimination in the provision of goods, facilities and services. Despite calls from COPNI, among other bodies, since 2014, there has been no legislative change.[114] Northern Ireland remains the only region in the UK and Ireland that does not have protections of this type in place.[115] [116] This remains a significant gap in Northern Ireland's equality legislation, a decade on from when such legislation was promised in the 2011-2015 Programme for Government.[117] Against that backdrop, COPNI urges government to consider the substantial implications of delaying the inclusion of age within the Criminal Justice (Sentencing etc) Bill. Deferring this issue to secondary legislation leaves older people without the protections afforded to other groups for an indeterminate period.

As the case for inclusion of age among the protected characteristics has already been established by the government's own independent review,[118] it should be included on the face of the Criminal Justice (Sentencing etc) Bill.

[114] See, for example, COPNI (2013) 'Hope, Confidence, Certainty: Corporate Plan 2013-2015' and COPNI (2024) 'Are You Ageist'.

[115] Equal Status Act, 2000.

[116] Equality Act 2010.

[117] Northern Ireland Executive (2012) 'Programme for Government 2011-2015'.

[118] Judge Desmond Marrinan (2020) 'Hate Crime Legislation in Northern Ireland, Independent Review'.

Victims and Witnesses of Crime Bill

The Victims and Witnesses of Crime Bill was introduced to the Northern Ireland Assembly by Justice Minister, Naomi Long MLA on 22 June 2026.[119] COPNI submitted written evidence to the Justice Committee on the Special Measure provisions of the Bill on 6 October 2026.[120] These provisions are expressly relevant to the hate crime provisions of the Criminal Justice (Sentencing etc) Bill. This section therefore provides a summary of the Commissioner's view of Clauses 24 and 25 of the Victims and Witnesses of Crime Bill.

Crucially, **the provisions of the Victims and Witnesses of Crime Bill as introduced, illustrate the impact on older victims and witnesses of crime that exclusion from Clause 33 of the Criminal Justice (Sentencing etc) Bill would cause**. As the following discussion shows, by leaving age out of the protected characteristics in the Criminal Justice (Sentencing etc) Bill, older victims and witnesses are likely to receive less support under Clauses 24 and 25 during legal proceedings.

FIGURE 11. *Clauses 24 and 25 of the Victims and Witnesses of Crime Bill.*[121]

Special measures in cases involving aggravation by hostility

24.-(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*

[119] Victims and Witnesses of Crime Bill.

[120] COPNI (2026) '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)'.

[121] Victims and Witnesses of Crime Bill.

specified alongside the charge of the offence in accordance with section 33(1) of the Criminal Justice (Sentencing etc) Act 2027.".

(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)).".

Protection from cross-examination in cases involving aggravation by hostility

25.-(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 sub-paragraph (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,".

Clauses 24 and 25 of this Victims and Witnesses of Crime Bill are expressly linked to the hate crime aggravator model introduced in the Criminal Justice (Sentencing etc) Bill. Clause 24 proposes to amend the Criminal Evidence (Northern Ireland) Order 1999[122] to include "an offence involving aggravation by hostility" to the list of offences that witnesses of are automatically eligible for Special Measure protections. Clause 25 similarly proposes to amend the Order to prohibit a person accused of an offence aggravated by hostility from cross-examining a witness who is the complainant.

Criminal Evidence (Northern Ireland) Order 1999

Special Measures are a series of provisions that assist vulnerable and intimidated witnesses in giving evidence in court. Under the Criminal Evidence (Northern Ireland) Order 1999,[123] Special Measures include:

- screens to shield the witness from the accused;
- live link facilities to enable the witness to give evidence from outside the court;
- the removal of wigs and gowns by judges and barristers;
- giving evidence in private through the exclusion of the public and press from the court;
- video-recorded evidence and cross-examination;
- communication aids; and
- a registered intermediary to facilitate communication between the witness and those asking questions.

The Criminal Evidence (Northern Ireland) Order 1999 similarly dictates eligibility for Special Measures. In accordance with the Order, vulnerable and intimidated witnesses can be eligible for Special Measures. Article 4 of the Order defines vulnerable witnesses as all witnesses under the age of 18 and any witness whose quality of evidence is likely to be diminished by a mental disorder under the Mental Health (Northern Ireland) Order 1986,[124] a significant impairment of intelligence and social functioning, or a physical disability or physical disorder. Vulnerable witnesses are automatically eligible for Special Measures.

Article 5 of the Criminal Evidence (Northern Ireland) Order 1999 defines intimidated witnesses as those who are in fear or distress about giving evidence. Unlike for vulnerable witnesses, eligibility for Special Measures is not automatic for intimidated witnesses. Instead, the court

[122] The Criminal Evidence (Northern Ireland) Order 1999.

[123] The Criminal Evidence (Northern Ireland) Order 1999.

[124] The Mental Health (Northern Ireland) Order 1986.

must satisfy itself that the witness' fear or distress is likely to diminish their quality of evidence. To do so, the court must consider the nature and alleged circumstances of the offence, the age of the witness, their social and cultural background, their domestic and employment circumstances, their religious beliefs or political opinions, as well as any behaviour towards the witness on the part of the accused or any associates of the accused.

Article 5(5) of the Order also sets out offences which witnesses of are automatically eligible for Special Measures. These are:

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

Clause 24 of the Victims and Witnesses of Crime Bill proposes to add "an offence involving aggravation by hostility" to this list of offences.

Impact on Older Victims and Witnesses

As it currently stands, the changes proposed in the Victims and Witnesses of Crime Bill are unlikely to benefit older victims and witnesses.

Clauses 24 and 25 are expressly linked to the Criminal Justice (Sentencing etc) Bill which currently does not include age among the protected characteristics of its hate crime provisions. **The absence of age not only means that older people who are targeted, wholly or partly, because of hostility towards their age or who experience demonstrations of hostility towards their age are not protected by the new hate crime aggravator model, but also that these older victims will not be automatically eligible for Special Measures and similarly will not be prohibited from being personally cross-examined by the offender**. In other words, the legal framework as proposed is not capable of recognising such offending and in turn, is not capable of triggering automatic eligibility for these enhanced protections for older victims.

Moreover, as currently drafted, Clauses 24 and 25 only cover hostility-based offending. **Unfortunately, the Victims and Witnesses of Crime Bill does not propose to include 'an offence involving aggravation by reason of vulnerability' to the list of offences at Clause 5(5) of the Criminal Evidence (Northern Ireland) Order 1999.** This omission means vulnerable older people, often viewed as 'easy targets' will similarly not be automatically

eligible for Special Measure provisions. In COPNI's view, where an offence is aggravated by reason of the victim's vulnerability, that victim should have the same eligibility for Special Measures as a victim of an offence aggravated by hostility. **The Commissioner acknowledges that older victims 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)**. A victim of a vulnerability-aggravated offence may, in particular, 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 testifying, and that fear and distress is likely to diminish the quality of their evidence. **However, it is COPNI's view that older victims of vulnerability-aggravated offences should not have to establish those thresholds but that they should have the same automatic eligibility for consideration of Special Measures and of prohibiting personal cross-examination as victims of hostility-aggravated offences under Article 5(5) of the Criminal Evidence (Northern Ireland) Order 1999**.[125]

Clauses 24 and 25 of the Victims and Witnesses of Crime Bill are expressly triggered by the hostility aggravator at Clause 33 of the Criminal Justice (Sentencing etc) Bill. As such, the statutory gateway is the nature of the offending. However, the rationale for the additional protections afforded by Clauses 24 and 25 is the impact on the witness and their ability to give their best evidence in court. **A victim's need for protection is, thus, not diminished because the offender's motive was exploitation of vulnerability, rather than hostility**. In fact, the offending behaviour likely to be associated with offences involving aggravation by vulnerability may create in the older victim exactly the fear and distress these provisions are designed to address.

Considering this, **COPNI recommends that the Victims and Witnesses of Crime Bill be amended to include 'an offence involving aggravation by reason of vulnerability' to the list of offences warranting automatic eligibility for Special Measures and prohibition of the offender from cross-examining the witness**. Implemented alongside the inclusion of age at Clause 33 of the Criminal Justice (Sentencing etc) Bill, society would then possess a more complete and robust framework for older victims and witnesses.

[125] The Criminal Evidence (Northern Ireland) Order 1999.

Conclusions

Older people in Northern Ireland "are a section of society that urgently requires protection from hate crime. **The development of hate crime laws to protect older people in Northern Ireland must not simply represent a symbolic effort but instead, must manifest a profound commitment by legislators and criminal justice agencies to tackle a pernicious, divisive and increasing type of offending"**.[126]

The Criminal Justice (Sentencing etc) Bill affords protection to only some older people. The vulnerability aggravator at Clause 36 applies where "old age" significantly impairs a person's ability to protect themselves from violence, abuse, neglect or exploitation. Clause 36 thus does not protect older people as a group. By contrast, the inclusion of age as a protected characteristic at Clause 33 would extend legal protection to a much larger proportion of older people.

Ultimately, the issue is whether Government is prepared to take steps to reduce both the frequency of crimes against older people and the impact of crime on them. The presence or absence of interventions indicate "the type of value system and society in which citizens choose to live". **The OSCE highlights that "laws – especially criminal laws – are an expression of society's values. Hate crime laws both express the social value of equality and foster the development of those values"**.[127] [128]

The OSCE further states that "where a prosecution and sentence takes account of the bias motive, such public acknowledgement reassures the victim that his or her experience has been fully recognised. This in turn can inspire trust in other members of the community that hate crimes will not go unpunished".[129] As currently drafted, the requirement under Clause 34 to formally recognise and record hostility-based aggravation provides both public acknowledgement and data visibility. The exclusion of age, however, prevents this mechanism from operating in respect of older victims. Older people often do not see themselves or their

[126] COPNI (2022) 'Improving the Effectiveness of Hate Crime Legislation in Northern Ireland, Response from the Commissioner for Older People for Northern Ireland', page 5.

[127] COPNI (2023) 'A Different Crime', page 41.

[128] OSCE (2009) 'Hate Crime Laws, A Practical Guide', page 7.

[129] OSCE (2009) 'Hate Crime Laws, A Practical Guide', pages 21-22.

needs fully reflected in the criminal justice system. **Including age as a protected characteristic in the new hate crime aggravator model of the Criminal justice (Sentencing etc) Bill would send a message, that the targeting of older people and demonstrations of hostility towards them will not be tolerated and will be dealt with accordingly**.

The Criminal Justice (Sentencing etc) Bill as introduced already contains the legal architecture necessary to recognise age-based hostility. **The omission of age as a protected characteristic is therefore not a matter of feasibility, but of policy choice**. Hate crimes against older people may involve mixed motives including vulnerability, opportunity and hostility. Thus, the aggravation by hostility and aggravation by reason of vulnerability are not mutually exclusive and can operate together, particularly given that the law recognises offences may be driven "wholly or partly" by hostility. The current draft of Clause 33 already accommodates offences where hostility operates alongside other factors, including vulnerability and perceived vulnerability. The inclusion of age would therefore not require any structural change to the aggravator model.

The inclusion of age as a protected characteristic, alongside the vulnerability aggravator, would provide a more complete and effective framework for recognising and addressing harm experienced by older people. **Furthermore, the inclusion of age as a protected characteristic, alongside the inclusion of the vulnerability aggravator in the Victims and Witnesses of Crime Bill would ensure older victims and witnesses would enjoy greater supports and protections**. At this juncture, the DoJ has two opportunities to strengthen the legal protections of older people across Northern Ireland.

In conclusion, COPNI maintains that the inclusion of age in the list of protected characteristics in the hate crime provisions of the Criminal Justice (Sentencing etc) Bill is justified. Such a decision by legislators would greatly strengthen protections for an increasingly 'at risk' section of our society, and in so doing strengthen our society as a whole.

Recommendations

Recommendation One

COPNI recommends that the Criminal Justice (Sentencing etc) Bill be amended to include age as a protected characteristic at Clause 33.

Recommendation Two

COPNI recommends that the Victims and Witnesses of Crime Bill be amended to extend victim eligibility for Special Measures and to prohibit victims from being personally cross-examined by their perpetrator in cases where vulnerability is formally alleged as an aggravating factor. In other words, in cases where Clause 36 of the Criminal Justice (Sentencing etc) Bill is engaged.

Appendix One: Case Studies

FIGURE 12. *Case Study One.*[130]

An 89-year-old female and her son were on their way to visit a third party when they encountered the defendant, who was unknown to them, on the street.

The defendant demanded of the woman, "what are you looking at, you dirty old w- b-" before the defendant then grabbed her and pulled her to the ground.

When her 69-year-old son tried to intervene, the defendant assaulted him, leaving him with a broken finger.

Both victims sustained injuries.

Police were called to the scene and made an arrest shortly thereafter at a nearby address.

Defence counsel confirmed the 26-year-old was entering guilty pleas to the two assaults.

As a result of this incident, the defendant received a 10-month custodial sentence on each count of assault to run concurrently.

COPNI Case Study One Analysis

COPNI is of the opinion that this case is an example of one that would benefit from the inclusion of age as a protected characteristic at Clause 33 of the Criminal Justice (Sentencing etc) Bill. Clause 33(2) of the Bill includes situations in which hostility towards a protected group is demonstrated before, during or after committing an offence. In this case, the offender's use of abusive and ageist language during the course of committing an assault would constitute a demonstration of hostility under the Bill, in COPNI's view. As such, this case study highlights the gap in the legal framework proposed by the Criminal Justice (Sentencing etc) Bill and evidences the need for age to be included as a protected characteristic at Clause 33.

[130] Information provided to COPNI from the Public Prosecution Service (PPS) and Inside the Courtroom NI.

FIGURE 13. *Case Study Two.*[131]

A man broke into an older couple's home at approximately 6am. He was discovered by the 78-year-old woman. She called out to her husband, a 79-year-old, who was still in bed, before running to a neighbour's house for help.

The older man was then subjected to a "sustained assault". The offender "jumped on his back and pushed him onto the bed. Once on the bed, the defendant applied a stranglehold to the man's neck, twisted him around and then started throwing punches…He continued to hold his victim by the neck, in the victim's own words 'strangling me'. The defendant then held his victim by the neck, held him against the wall and strangled him, punching him about the head and ribs…He pulled and twisted his victim's ear, shouting 'I'm going to pull your ears off' and stuck his finger in his victim's ear and deeply twisted it, before the victim managed to push the defendant off".

The older man sustained significant head and facial injuries. Later, he experienced chest pains which doctors confirmed were "consistent with stress-induced cardiomyopathy or heart failure". The older woman was also treated in hospital with heart issues.

A prosecutor said the case had multiple aggravating features, including the age of both victims. The man was sentenced to four years and eight months in jail. The judge also imposed a restraining order banning the man from entering the area where his victims live for the next ten years.

The couple have been left so traumatised that they have been unable to return to their home of 45 years. The older woman, in her victim impact statement, said "I miss the person I was before this happened". She further wrote that her husband's deterioration since the incident "is heartbreaking to watch and that the impact on them has been profound and enduring".

COPNI Case Study Two Analysis

In COPNI's view, this is a further example of a case that would benefit from the inclusion of age as a protected characteristic at Clause 33 of the Criminal Justice (Sentencing etc) Bill. The prosecutor confirmed that the age of the victims was an aggravating factor in this case. Yet, as currently drafted, Northern Ireland's legislation is not capable of recognising or

[131] See BBC (2026) 'Burglar who attacked pensioner, 79, during 'sustained assault' jailed' and Belfast Telegraph (2026) 'Pictured: Thug whose violent raid on elderly couple's NI home left them so afraid they moved out'.

recording it as such. This case also highlights the profound and lasting impact crime can have on older victims, extending beyond the immediate physical harm to affect their emotional wellbeing, sense of security, independence and quality of life. This example underscores the need for enhanced legal protections for older victims of crime. In sum, this case study further justifies the inclusion of age as a protected characteristic at Clause 33.

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