

## **Criminal Justice (Sentencing etc) Bill - Call for Evidence**

### **Extern Response**

#### **Exercise of court's discretion when sentencing**

**Clause 1 outlines the purposes and principles of sentencing. It sets out the factors that the court must have regard to for the purposes of sentencing, which are: the punishment of offenders; for the protection of the public; the reduction of crime by deterrence; the rehabilitation of offenders; and, the making of reparations by offenders to persons affected by their offences.**

**Do you agree with the purposes of sentencing as outlined above?**

Yes

Extern agrees with the purposes of sentencing outlined above and particularly welcomes the inclusion of the rehabilitation of offenders as a factor the court must have regard to when sentencing. However, we are concerned that rehabilitation is positioned relatively low in the list of purposes, which risks reducing its practical emphasis in sentencing and in the wider criminal justice system. Extern agrees with the purposes of sentencing outlined above and particularly welcomes the inclusion of the rehabilitation of offenders as a factor the court must have regard to when sentencing. However, we are concerned that rehabilitation is positioned relatively low in the list of purposes, which risks reducing its practical emphasis in sentencing and in the wider criminal justice system.

We also note that the Bill provides limited detail on what “rehabilitation of offenders” should involve, or how it should be delivered in practice. From the experiences of people using, and staff delivering, Extern’s Criminal Justice Support Services, we see a lack of consistency and equality in access to rehabilitative supports. If rehabilitation is to be a meaningful sentencing purpose, it must be underpinned by a consistent and equitable approach to opportunities and access to services, regardless of location or circumstance.

In addition, we note that there is similarly limited detail on what is meant by “the making of reparations by offenders to persons affected by their offences” (for example, whether this includes compensation orders, restorative justice, diversionary restorative justice, or other approaches), which makes it difficult to provide a fully informed response on that aspect.

**Clause 1 also defines the principles of sentencing as proportionate, fair and transparent.**

**Do you agree with these being set as the principles of sentencing?**

Yes

Extern agree that sentencing should be guided by principles that are proportionate, fair and transparent, and we support these being set out clearly in legislation. We welcome the commitment to openness in how sentencing decisions are explained, particularly where the court is exercising discretion.

However, for these principles to have meaning in practice, access to rehabilitation services and opportunities in the community must also be fair and transparent. This includes timely access to housing support, substance use treatment, mental health services, employability and training, and family support.

**Clause 2 imposes a duty to follow guidance relevant to the case when sentencing an offender, unless it would be contrary to the interests of justice to do so and to give reasons in relation to sentencing.**

**Do you support the objectives of this clause?**

Yes

Extern support the objectives of this clause, in particular recognition of the power of the Mental Health (Northern Ireland) Order 1986, the Mental Capacity Act (Northern Ireland) 2016 which enables a court to deal with an offender suffering from mental health issues in the manner it considers to be most appropriate in all the circumstances. We understand that many of those who engage with our Criminal Justice Support Services often have complex needs, including poor mental health.

### **Availability and effect of suspended sentence orders**

**Clause 3 sets out when suspended sentence orders may be made and Clause 4 sets out what a suspended sentence order is and how it will be activated. Clause 5 sets out the operational period and supervision period which apply to a suspended sentence. Clause 6 sets out that a court must explain to an offender, in language the offender can understand, the reason why it is imposing requirements and the effect of them. Clause 7 sets out how a suspended sentence is to be treated.**

**Do you have any other comments on clauses 3-7 of the Bill?**

Extern broadly supports the intent of Clauses 3–7 in providing a clear framework for when suspended sentence orders can be made, how they operate, and how they are treated. We particularly welcome Clause 6, which requires courts to explain requirements in language an offender can understand and to provide copies of orders, as clarity and accessibility are essential to compliance. From Extern’s practice experience, suspended sentences that do not include community-based conditions or rehabilitative requirements may have limited deterrent effect. Where appropriate, we would favour the use of proactive, structured requirements (for example, community work or accredited programmes) alongside a suspended sentence, supported by effective supervision, to promote rehabilitation and reduce the risk of reoffending.

## **Community requirements**

**The Minister of Justice has stated that the intention behind adding community-based requirements to suspended sentences is to allow rehabilitative work to be carried out where it might be helpful to do so and to add a visible element to making reparations that could be realised via a community based sentence.**

**Do you agree with the intent behind enacting Clauses 8-10?**

Yes

Extern supports the intent behind Clauses 8–10 to add community-based requirements to suspended sentences, where this enables meaningful rehabilitative work and helps individuals make reparations. We agree that strengthening rehabilitation in the community can be beneficial and can support desistance, provided the requirements are purposeful and linked to an individual's needs.

However, we have concerns about how this will operate in practice. The Bill sets out positive intentions but provides very limited detail on what the requirements will look like, who will deliver and oversee them, the quality standards to be applied, and how fairness of access will be ensured—particularly as Extern know from practice that many programmes and support services already have capacity constraints. A genuinely effective approach must be holistic. For example, where someone has mental health needs alongside addiction, community-based requirements will not succeed if they cannot access timely statutory services and wraparound supports. Without properly planned and funded provision to meet demand, there is a risk that unmet need will fall disproportionately on the voluntary and community sector. Extern also feel there is a lack of clarity on what is meant by a “visible element to making reparations” - we would caution against focusing on public perceptions of being punitive, and instead emphasise measurable, person-centred outcomes (e.g. engagement with health and social care and other supports), not simply attendance or completion.

## **Life sentences**

**Clause 18 makes provision so that, where a court makes an order under paragraph (1) or (3) of the Life Sentences (Northern Ireland) Order 2001 (the 2001 Order), the court must state in ordinary language the reason for imposing a life sentence and explain in ordinary language to the offender the effect of such a decision.**

**Do you agree with the intention behind this clause?**

Yes

Extern Agree with intention behind Clause 18 that court must use ordinary language the reasons behind imposing a life sentence and the effect of such a decision, particularly in recognition of the prevalence of neurodiversity amongst those who engage with Extern's criminal justice support services.

## **Public Workers etc**

**Clause 37 introduces a new offence of assault on a public worker and defines a public worker as being a person employed or engaged to provide a service to the public, performing a public duty or delivering a public service. Clause 38 proposes introducing a new aggravator if an offence is committed against a public worker who is acting in the exercise of functions as a public worker.**

### **Do you have any other comments on Clauses 37 to 39 of the Bill?**

Extern supports the intent of Clauses 37–39 to strengthen protections for those delivering public services and recognises the need to deter and respond robustly to assaults on frontline staff. However, we are concerned about a lack of definition and clarity around what constitutes a “public worker” and who is covered by these provisions.

While the proposed definition is helpful, Extern seeks assurance that it explicitly includes not only statutory sector staff but also community and voluntary sector workers delivering comparable frontline public duties and services. We would welcome clearer wording to avoid ambiguity and ensure consistent protection across all sectors.

## **Any Other Comments on the Bill**

### **Do you have any other comments or views on the Criminal Justice (Sentencing etc) Bill?**

Thank you for the opportunity to respond to the call for evidence on the Criminal Justice (Sentencing etc) Bill. Our comments draw on Extern’s experience of providing trauma-informed, needs-led criminal justice support services which recognise the challenges faced by our service users. Across the Bill, we support a sentencing framework that is fair, proportionate and transparent, and that balances public protection with meaningful rehabilitation. We particularly welcome the explicit inclusion of rehabilitation within the purposes of sentencing, as this aligns with what Extern sees daily in practice: that sustained reductions in reoffending are most achievable when sentencing decisions are linked to realistic opportunities for change in the community. However, we remain concerned that rehabilitation is positioned relatively low among the stated purposes, and that the Bill provides limited detail about what “rehabilitation of offenders” (and “making of reparations”) should involve in practice. If rehabilitation is to be a meaningful sentencing purpose, it must be underpinned by clear expectations, consistent decision-making, and equitable access to appropriate supports.

From Extern’s experience delivering criminal justice support services, people who come into contact with the justice system frequently present with complex, intersecting needs, including trauma histories, substance use, poor mental health, neurodiversity, housing instability, poverty and social exclusion. Sentencing that is focused primarily on punitive measures, without addressing these underlying drivers, risks entrenching harm and failing to improve long-term public safety. We therefore encourage the Department to strengthen the Bill’s recognition of needs-led, trauma-informed and person-centred approaches—whether in

custody, in the community, or through suspended sentences with requirements—so that courts can have confidence that rehabilitative outcomes are achievable and measurable.

Extern has concerns about quality of opportunity and how this might impact on sentencing. In the past, lack of engagement with statutory services might reasonably have been weighed in sentencing decisions; increasingly, however, individuals are unable to access services in the first place. Extern has supported people whose referrals to community addiction or mental health services have been declined or delayed, sometimes repeatedly, leaving them without any realistic chance to demonstrate engagement or progress. This can be unfairly disregarded in sentencing, with non-engagement interpreted as lack of motivation rather than lack of access. If the Bill is to emphasise community-based rehabilitation—particularly through community-based requirements attached to suspended sentences—then planning, standards and resources must match that ambition. Otherwise, there is a risk that expectations placed on individuals, courts and responsible officers cannot be met, and that unmet need will fall disproportionately onto the voluntary and community sector without sustainable funding.

Extern also welcomes provisions that improve understanding and accessibility, including requirements for courts to explain orders and their effects in ordinary language. This is particularly important given the prevalence of neurodiversity and communication needs among people engaged with our criminal justice services. Finally, we would welcome greater clarity and definition in several areas of the Bill to support consistent application in practice—for example, what constitutes “vulnerability” for the purpose of aggravation; what is meant by a “visible element” of reparations (with a preference for measurable, person-centred outcomes rather than performative punitiveness); and reassurance that protections for “public workers” explicitly include community and voluntary sector staff delivering frontline public services.