

# **CRIMINAL JUSTICE (COMMITTAL REFORM) BILL**

---

## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial Memorandum has been prepared by the Department of Justice (*‘the Department’*) to assist readers of the Bill and to help inform debate. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. Where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Bill gives effect to a commitment given by the Northern Ireland Executive (*‘the Executive’*) in November 2015 in the Fresh Start Agreement to tackle the impact of criminality and paramilitarism in Northern Ireland through, inter alia, the implementation of further measures to speed up criminal justice and support victims to give evidence. In keeping with that commitment, the primary objective of the Bill is to improve the operation of the criminal justice system by reforming committal proceedings, which is the procedure used to determine whether there is sufficient evidence available to justify putting a person on trial in the Crown Court. The purpose of committal is not to determine whether the accused is guilty of an offence.
4. Committal proceedings can be in the form of oral evidence, where witnesses can be called to give evidence and cross examined, or as a paper exercise, carried out based on written statements and evidence. The practice of hearing oral evidence, particularly cross-examination can have a significant impact on victims and witnesses, who may have to give (sometimes traumatic) evidence more than once.
5. Oral evidence hearings can also be lengthy, with hearings typically lasting 1-2 days. Problems are often experienced in organising witnesses to attend, which can lead to adjournments and consequently increase delay in the magistrates’ court before the case can be sent to the Crown Court. This attracts cost to the criminal justice system.
6. The Bill specifically addresses a recommendation from the Independent Three Person Panel, appointed by the Executive to report on a strategy for tackling paramilitary activity, criminality and organised crime, arising from the Fresh Start Agreement. The Panel

recommended that the practice of witnesses having to provide evidence on oath and face cross examination as part of committal proceedings should be abolished.

7. A previous attempt by the Department, in the Justice Bill 2015, enacted as the Justice Act (Northern Ireland) 2015 (*'the 2015 Act'*), to abolish the use of oral evidence at committal was unsuccessful. At that time the Assembly accepted an amendment to the Department's original clause which retained the use of oral evidence where the court deemed it to be in the interests of justice.

8. The Bill supports the delivery of a number of other commitments made by the Executive and Department of Justice regarding the reform of committal proceedings. The Bill will assist in the delivery of recommendations made in recent inspection reports by Criminal Justice Inspection Northern Ireland (CJINI) and Sir John Gillen in his report into the law and procedures in serious sexual offence cases. Reforming the committal process is also a priority in the New Decade, New Approach Deal, published in January 2020.

9. CJINI have made a number of recommendations in respect of reforming committal proceedings in the past, most recently in its Without Witness Report – A thematic Inspection of the handling of sexual violence and abuse cases by the criminal justice system in Northern Ireland, published in November 2018. Amongst the report's recommendations was that *'Once direct transfer to the Crown Court is established for murder and manslaughter cases, the DoJ should ensure that rape, serious sexual offences and child abuse offences be added to the list of specified offences under the Justice Act (Northern Ireland) 2015'*.

10. Sir John Gillen, in his report into the law and procedures in serious sexual offences, published in May 2019, made sixteen key recommendations, supplemented by more than two hundred and fifty supporting recommendations. In his key recommendations, Sir John called for: *'Radical steps to combat excessive delay in the criminal justice system. A wholly new mind-set is required, which will involve front-loading the legal system with an early-time-limited and case managed system that has at its core early joint engagement by both prosecution and defence representatives.'* To support this recommendation he made a further twenty-six recommendations aimed at tackling delay in the criminal justice system, including the following recommendation in respect of committal proceedings: - *'The Department of Justice should make provision for the direct transfer of serious sexual offences to the Crown Court, bypassing the committal process pursuant to the affirmative resolution procedure under section 11(4) of the Justice Act (Northern Ireland) 2015.'*

11. In addition to commitments made by the Executive regarding efforts to speed up the justice system, a number of commitments have also previously been made by the Department of Justice. The most significant of these includes plans by the Department to deliver recommendations arising from the Northern Ireland Audit Office Report – Speeding up Justice: avoidable delay in the criminal justice system, published in March 2018, which recommended that the Department establish an action plan and a timetable for the eradication of the committal process.

12. In addition therefore, to abolishing oral evidence, the Bill also amends provisions within the 2015 Act which provide for the direct transfer, also referred to as direct committal, of cases to the Crown Court, without the need for a traditional committal hearing. The 2015 Act provided that an accused would be directly committed to the Crown Court, without the need for a traditional committal hearing in the following circumstances:

- Following an indication by the accused to the magistrates' court, before the court has begun to conduct committal proceedings, that they intend to plead guilty to an offence to be prosecuted on indictment (section 10 of the 2015 Act);
- Upon appearing before the magistrates' court charged with a specified offence, which the 2015 Act defines as murder and manslaughter, or inchoate forms of those offences (section 11); or
- Upon appearing before the magistrates' court charged with a non-specified offence to be prosecuted on indictment, which the court considers to be related to a specified offence of a co-accused appearing on the same occasion (section 12).
- The 2015 Act provided the magistrates' court with the discretionary power to directly commit an accused charged with a non-specified offence where the court considers that the charges are related to a specified offence charge of a co-accused who has previously been directly committed to the Crown Court for those charges (section 12).

The amendments brought forward in the Bill are aimed at extending the range of offences to which the direct committal arrangements apply, and simplifying the direct committal processes provided for in the 2015 Act.

13. The Bill repeals section 10 of the 2015 Act, removing the process for an accused to be directly committed to the Crown Court if they indicate to the magistrates' court an intention to plead guilty to an offence to be prosecuted on indictment, before the start of a traditional committal hearing. Due to the passage of time and growing calls for more extensive action and following a review of the direct committal provisions, the Department believes that providing a single mechanism to directly commit cases to the Crown Court on the basis of offence type provides a more effective approach to deliver the fundamental change required.

14. The Department therefore considers the most effective way of achieving a more extensive reform of the committal process is to define, through the Bill, a broader range of offences to be directly committed to the Crown Court under section 11. In reaching this decision a number of factors have been considered.

15. Firstly, this approach allows the Department to better address previous commitments, and concerns raised through inspection and scrutiny reports regarding particular offence types, such as offences related to paramilitary activity and serious sexual offences.

16. Secondly, basing direct committal on specific offence types allows the Department to more accurately forecast the potential volumes of cases to which direct committal is likely

to apply. Whilst a number of cases proceeding to the Crown Court result in the accused pleading guilty, limited data is available regarding the number of accused indicating an intention to plead guilty whilst the case is still in the magistrates' court. It is therefore more difficult to determine the impact on the criminal justice system of direct committal for early guilty plea arrangements. Basing direct committal on offence type will help the Department to plan more effectively for the implementation and wider rollout of direct committal and to be able to better measure the impact of the changes on the criminal justice system. The Department does however recognize the benefits to victims, witnesses and defendants of 'fast-tracking' cases in which the accused wishes to plead guilty. The Bill therefore provides measures to allow for the Crown Court to be provided with relevant information to help speed up the sentencing process, in the event that the accused enters a formal guilty plea. These provisions allow for a magistrates' court to order relevant inquiries and reports which are relevant to sentencing in the event that an accused indicates an intention to plead guilty to an offence which is to be directly committed to the Crown Court.

17. Thirdly, the Department's aim over the longer term is to eradicate the traditional committal process entirely through the rollout of direct committal. It is therefore necessary to provide a process whereby all cases to be tried in the Crown Court are directly transferred once it has been determined that the offence(s) with which the accused is charged is to be prosecuted on indictment. The plea, or anticipated plea, of the accused will have little bearing on this process. As more offence types are brought within the scope of offences to be directly committed to the Crown Court under section 11, the pool of cases eligible to be directly committed under the Early Guilty Plea transfer mechanism will become smaller. In some cases the nature of the offence type with which an accused is charged dictates entirely whether an accused will be prosecuted in the Crown Court. The criminal law provides that some offences can only be tried in the Crown Court. The Department's current plans are, therefore, to extend direct committal to those offences, which in the case of an adult, are triable only on indictment.

18. Finally, since 2015 the Department has worked extensively with criminal justice organisations to plan for the introduction of direct committal. During that period a number of risks have been identified in relation to the implementation of the direct committal of an accused to the Crown Court following an indication of a guilty plea. Despite efforts to mitigate those risks, concerns remain around the operational out-workings of section 10 which could potentially have a detrimental impact on the criminal justice system. Upon implementation, section 10 would have introduced a new feature into the criminal justice system, which would allow cases to be returned from the Crown Court to the magistrates' court if a defendant did not ultimately enter a guilty plea at the arraignment hearing. In its implementation this new process introduces a number of significant risks and operational complexities, compared against the more straightforward arrangements for direct committal based on offence type. In light of commitments for more extensive reform of committal proceedings the Department has decided that a direct committal model based on offence type provides a better, and more straightforward basis, for implementing more extensive reforms to the committal process.

19. To deliver the changes outlined, the Bill amends section 11 of the 2015 Act to extend the offences which are to be directly committed to the Crown Court, without the need for a traditional committal hearing to include all offences which, in the case of an adult, can be tried only on indictment. This amendment seeks to provide a single list of offences to which direct committal will apply regardless as to whether the accused is an adult or a youth.

20. For cases where an accused is charged with an offence to which direct committal applies, the Bill provides additional clarity that any other offences which the magistrates' court considers to be related to the qualifying offence will also be directly transferred to the Crown Court at the same time.

21. The Bill also makes a number of other changes to support the direct committal process. These include, as referred to above, explicit powers for the magistrates' court to order inquiries and reports relevant to the sentencing of an accused who has indicated an intention to plead guilty to an offence(s) which has been directly committed to the Crown Court. These powers seek to provide the Crown Court with the opportunity to promptly sentence an accused, if appropriate to do so, if they plead guilty to an offence(s) which has been directly committed.

22. The Bill provides new powers for the Director of Public Prosecutions in Northern Ireland to discontinue proceedings, to which the direct transfer provisions in the 2015 Act apply, between the case being committed to the Crown Court and the presentation of an indictment setting out the charges for which the accused is to be prosecuted. The powers seek to address a situation whereby, following the direct transfer of a case to the Crown Court, there is a material change in circumstances of the case, such as new evidence emerging, which leads the prosecution to conclude that the test for prosecution is no longer met. It is anticipated that, with the introduction of direct transfer, such situations may arise more frequently as cases will be transferred to the Crown Court at an earlier stage in the criminal justice process. These are similar to powers available to prosecutors and other relevant public authorities in England and Wales through section 23A of the Prosecution of Offences Act 1985.

23. The Application to Dismiss process provided within section 14 of the 2015 Act, is amended by the Bill to ensure a consistent approach across all criminal cases to be heard in the Crown Court regarding the calling of oral evidence in advance of trial. The Bill therefore removes the option within the Application to Dismiss process to call oral evidence, thus maintaining consistency with the abolition of oral evidence as part of the traditional committal process.

24. Finally, the Bill makes some minor amendments to add flexibility to the nature of court rules required to support direct committal, by adding that further arrangements in respect of the documentation associated with direct committal can be provided for in either magistrates' court rules, or Crown Court Rules, as required.

## **CONSULTATION**

25. The Department conducted a 12 week consultation exercise in January 2012 regarding the two key policy elements of Committal Reform which feature in this Bill - the abolition of oral evidence at committal, and the introduction of the direct transfer of cases to the Crown Court, without the need for a committal hearing, in certain circumstances. In addition to the formal public consultation exercise, the Department invited consultees to participate in a focus group event to discuss the options presented in the consultation paper. The event took place on 13 March 2012. Four representative groups and one individual attended and the comments received were taken into consideration by the Department in determining the proposed way forward. The Department reported on the outcome of the consultation and proposed way forward to the Justice Committee in June 2012.

26. The majority of respondents to the consultation supported both the abolition of oral evidence at committal and the introduction of a system to directly transfer serious cases from the magistrates' court to the Crown Court in certain circumstances.

27. In more recent years Committal Reform has been a central initiative in the Department's plans to tackle avoidable delay in Crown Court cases and the proposals have been subject of a number of inspection reports by agencies and individuals into various aspects of the justice system including delay. Where relevant recommendations have been made, the Department has considered these, and where recommendations have been accepted, the content of the draft Bill has been revised accordingly.

28. The remaining elements of the Bill are consequential to the introduction of direct committal and have not been subject to further public consultation. However, in order to ensure the efficacy of the forthcoming changes, the Department has consulted extensively with key criminal justice partner organisations, including Office of the Lord Chief Justice (OLCJ), the Public Prosecution Service (PPS), the Police Service of Northern Ireland (PSNI), the Northern Ireland Courts and Tribunals Service (NICTS) and the Northern Ireland Prison Service (NIPS).

29. In overall terms respondents to the initial consultation have been positive about the proposals, as have those conducting the various inspection reports focusing on this area of the justice system, and where adjustments were required, they have been made.

## **CONSULTATION DOCUMENTATION**

2012 Consultation document:

[https://wayback.archive-it.org/11112/20150928081747/http://www.dojni.gov.uk/index/public-consultations/archive-consultations/speeding\\_up\\_justice\\_consultation\\_on\\_reform\\_of\\_committal\\_proceedings.pdf](https://wayback.archive-it.org/11112/20150928081747/http://www.dojni.gov.uk/index/public-consultations/archive-consultations/speeding_up_justice_consultation_on_reform_of_committal_proceedings.pdf)

2012 Equality assessment

[https://wayback.archive-it.org/11112/20150928081751/http://www.dojni.gov.uk/index/public-consultations/archive-consultations/reform\\_of\\_committal\\_proceedings\\_equality\\_screening\\_form.pdf](https://wayback.archive-it.org/11112/20150928081751/http://www.dojni.gov.uk/index/public-consultations/archive-consultations/reform_of_committal_proceedings_equality_screening_form.pdf)

2012 Summary of Responses:

<https://wayback.archive-it.org/11112/20150928081420/http://www.dojni.gov.uk/index/public-consultations/archive-consultations/early-guilty-pleas-and-committal-reform-report-on-responses-and-way-forward-report.pdf>

## **OPTIONS CONSIDERED**

30. In its response to the Three Person Panel Report, the Executive accepted the Panel's recommendation that the Department should bring forward draft legislation to further reform committal proceedings to remove the need for oral evidence before trial. The Department therefore reviewed the options presented in the 2012 consultation (as outlined below) the outcome of which proposed that taking oral evidence from a witness in committal proceedings should be abolished. It was also found this should extend to cases prosecuted under the Justice and Security (Northern Ireland) Act 2007 and to extra-territorial offences. After revisiting the 2012 consultation within the context of the current criminal justice arrangements, the Department remains convinced that the proposals brought forward in 2012 represent the most appropriate approach to delivering the recommendation.

The Reform of Committal proceedings consultation paper launched in 2012 sought views on the following proposals:-

- (i) the abolition of the taking of oral evidence from a witness at committal proceedings (though the accused would still be entitled to make representations on their own behalf);
- (ii) extending this reform to include cases brought under the Justice and Security (Northern Ireland) Act 2007 and to extra-territorial offences.

31. In addition, the paper sought views on the scope for more fundamental reform – including enabling the direct transfer of cases to the Crown Court in certain circumstances. The paper sought views on extending the range of cases which can be directly transferred to the Crown Court.

32. The majority of consultees supported the proposals on the above matters for which the Department presented its initial legislative proposals in its Justice Bill of 2015.

### **Extension of direct committal offences**

33. In order to meet commitments arising in relation to offences which should be removed from the traditional committal process, and be directly committed to the Crown Court, the Department considered three options: -

Option 1 – Extend direct committal to Indictable Cases Process (ICP) offence types

The Indictable Cases Process (ICP) was rolled out across Northern Ireland in May 2017 following a successful pilot in the Ards area in 2015. The process applies to offences of murder / manslaughter, serious assault cases, serious drugs cases and conveying a list A article into or out of prison.

Option 2 – Extend direct committal to offences triable only on indictment

Option 3 – Extend direct committal to serious and specified offences listed in schedule 1 and schedule 2 respectively, to the Criminal Justice (Northern Ireland) Order 2008.

34. In assessing the options the Department considered a range of factors including likely case volumes; the extent to which the offences falling within each option would meet Departmental commitments arising from agreements and scrutiny reports such as Fresh Start, various CJINI reports, Sir John Gillen’s review into the law and procedures in serious sexual offences, and the NIAO report on avoidable delay in the Crown Court, together with the deliverability of each option. The Department concluded that extending the roll out of direct committal to offences which are triable only on indictment (Option 2) provided the best basis for tackling delay in Crown Court cases.

**OVERVIEW OF THE BILL**

35. The Bill contains six clauses and one schedule.

**COMMENTARY ON CLAUSES**

A short commentary on clause 4 is provided below. Clauses 1-3 and 5-6 are regarded as self-explanatory.

**Abolition of preliminary investigation and mixed committals**

Clause 1: Abolition of preliminary investigations

Clause 2: Abolition of mixed committals: evidence on oath not to be given at preliminary inquiry

Clause 3: Consequential amendments and repeals

**Direct committal for trial: miscellaneous amendments**

Clause 4: Direct committal for trial: miscellaneous amendments

This clause makes a number of amendments to the direct committal for trial provisions in Chapter 2 of Part 2 of the Justice Act (Northern Ireland) 2015.

Subsection (2) amends section 9 of the Justice Act (Northern Ireland) 2015 to provide operational clarity to criminal justice practitioners that cases to which Article 45 of the Magistrates’ Courts (Northern Ireland) Order 1981, or Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998 apply, shall only be directly committed to the



Crown Court, subject to meeting the criteria set out in section 11, after a magistrates' court has decided not to deal summarily with the case.

Subsection (3) repeals section 10 of the Justice Act (Northern Ireland) 2015 which provides for the direct transfer to the Crown Court of an accused, upon his or her indication to a magistrates' court (before it has begun to conduct traditional committal proceedings) of an intention to plead guilty to an offence to be prosecuted on indictment.

Subsection (4) amends section 11 of the 2015 Act to amalgamate and streamline sections 11 and 12 of the 2015 Act following the decision by the Department to extend the list of offences to which direct committal will apply. The subsection extends the application of direct committal to include all offences which, in the case of an adult, would be considered to be triable only on indictment. This applies irrespective of the age or circumstances of the accused or the procedural route by which the accused comes to be tried on indictment. The test for the court is whether the offence is, in the case of an adult, triable only on indictment. The subsection also provides the Department with the power to bring forward an order(s) to designate any other offence(s) to which direct committal under Chapter 2 of Part 2 of the 2015 Act will apply. The amendment brings within section 11 the process originally provided for in section 12 of the 2015 Act, whereby an accused, charged with an offence not falling within the direct committal offence types, can be directly committed to the Crown Court if the offence is related to an offence for which a co-accused has been directly committed.

Subsection (4) also introduces other changes to support the introduction of direct committal.

- It amends Chapter 2 of Part 2 of the 2015 Act to provide that in cases where an accused is directly committed to the Crown Court for a qualifying offence under that Chapter, the magistrates' court shall at the same time directly transfer any other offence(s) for which the accused is charged that it considers to be related. The subsection defines a related offence as one which the court determines could be included on the same indictment as the offence which is to be directly committed.
- It amends Chapter 2 of Part 2 of the 2015 Act to allow for certain functions of the magistrates' courts, other than those related to committal proceedings, to continue after a case has been directly committed for trial. This provision seeks to maintain consistency with existing arrangements for cases which proceed to the Crown Court through the traditional committal process. This amendment is designed to allow, for example, an accused who is alleged to have breached the conditions of his or her bail in respect of an offence(s) which has been directly committed to the Crown Court, to be brought before a magistrates' court to answer those allegations. Magistrates' courts sit more frequently than Crown Court, and at a greater number of venues across Northern Ireland and this amendment facilitates prompt access to a court so that such allegations can be heard. This in turn is important in order to protect the administration of justice, particularly where there is a risk a defendant might attempt to interfere with the criminal justice process.

Subsection (5) makes some minor amendments to section 13 of the 2015 Act to add flexibility to the nature of court rules required to support the direct committal process, by adding that further arrangements in respect of the documentation associated with direct committal can be provided for in either magistrates' court rules, or Crown Court Rules. This change is primarily designed to allow Crown Court Rules to provide further detail on arrangements for serving documents containing the evidence on which the directly committed charge is based, should those documents not be available to the magistrates' court at the point when the accused is to be directly committed to the Crown Court.

Subsection (6) provides the magistrates' court with powers to order the making of inquiries and reports relevant to the sentencing of the accused, should an accused indicate an intention to plead guilty to the offence(s) to be directly committed to the Crown Court. The purpose of this change is to provide the Crown Court with documentation required to support the early disposal, if appropriate, of the case should the accused enter a guilty plea at an early stage in the Crown Court. The subsection provides that the prosecution and the accused must be provided with the opportunity to put forward their views prior to the magistrates' court making a decision regarding the ordering of relevant inquiries or reports.

Subsection (7) provides new powers for the Director of Public Prosecutions for Northern Ireland to discontinue proceedings, directly transferred to the Crown Court under Chapter 2 of Part 2 of the 2015 Act, between committal and the time that an indictment has been presented in the Crown Court. The clause also sets out the arrangements for discontinuing proceedings in such circumstances. Discontinuance does not prevent the subsequent institution of proceedings by the appropriate means.

Subsection (8) amends the process whereby the accused or their representatives can apply to dismiss charges on which they have been directly committed for trial under section 14 of the 2015 Act. This change is designed to maintain consistency with the Department's commitments to remove the option for victims and witnesses to be called to provide oral evidence on oath in advance of trial.

Subsection (9) makes a number amendments to Schedule 2 to the 2015 Act, which are mostly minor in nature, or consequential to the changes made to Chapter 2 of Part 2 of the 2015 Act by this Bill. The most substantive change made by the subsection relates to an amendment to paragraph 8 of Schedule 2 to the 2015 Act, which in turn amends the Criminal Procedure and Investigations Act 1996, to define a timeframe in which a prosecutor must disclose to the defence copies of, or provide access to, material which could reasonably be considered to undermine the prosecution case or assist the case of the accused in cases directly transferred under Chapter 2 of Part 2 of the 2015 Act. The duty on the prosecution is to provide this material as soon as is reasonably practicable after the service of the notice of committal and the evidence on which the charge(s) is based as referred to in the revised section 13(2A) of the 2015 Act. The Bill also amends Schedule 2 to the 2015 Act so that in cases directly committed to the Crown Court a Crown Court judge may grant a criminal aid certificate at any time after reading a copy of the notice of committal.

Subsection (10) updates a reference in section 102(7) of the 2015 Act relating to the arrangements by which the Department can bring forward an order to extend the list of specified offences.

Subsection (11) repeals section 57 of the Justice Act (Northern Ireland) 2016 following the amendment made to section 9 of the 2015 Act by this Bill.

Clause 5: Commencement and transitional provisions, etc.

Clause 5 provides that the provisions relating to the abolition of oral evidence from the traditional committal process, and direct committal will not apply to proceedings instituted before the Department has commenced the relevant provisions of the Bill. Paragraph 4 of Schedule 8 to the 2015 Act provides further definition as to when proceedings are instituted.

Clause 6: Short title

## **FINANCIAL EFFECTS OF THE BILL**

36. The implementation of the provisions in the Bill require significant changes to the existing processes within key criminal justice organisations including the PPS, PSNI, NICTS and NIPS. A Committal Reform Programme has been established, with representatives from relevant criminal justice organisations, to deliver the necessary changes.

37. The main aim of direct committal is to transfer cases to the Crown Court more quickly than at present, and consequently shorten the overall length of time it takes to complete these cases. In effect, there will be a rebalancing of resources - less work will be done in the lower court tier (magistrates' court) but more work will be done in the higher court tier (Crown Court). A business case is being prepared to capture the relevant costs for criminal justice organisations and these costs will be factored into prioritised plans for future budget periods.

38. Capital expenditure – relating to IT development – is largely complete and any remaining costs will be met from existing capital budgets.

## **HUMAN RIGHTS ISSUES**

39. All proposals are considered to be Convention compliant.

## **EQUALITY IMPACT ASSESSMENT**

40. The Department conducted an equality screening exercise on both key components of the Bill - abolishing oral evidence at committal, and the direct transfer of cases in certain circumstances to the Crown Court without the need for committal proceedings. The Department recognizes that young males are disproportionately over represented in the criminal justice system, however these measures which aim to speed up the justice system

and reduce the trauma experienced by witnesses as a whole are fair and equal to all section 75 groups. The screening exercise also highlighted that for youth defendants delay can have a greater negative impact compared to adult defendants as lengthy criminal proceedings can have a detrimental effect on individuals at a key developmental stage.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

41. The Department has not conducted a Regulatory Impact Assessment as the Bill is not anticipated to have any impact on business, charities or the voluntary sector.

## **DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN**

42. A Data Protection Impact Screening Exercise has been carried out. Whilst the changes deliver fundamental reforms to the operation of the criminal justice system in respect of cases to be prosecuted in the Crown Court, it is not anticipated there will be significant change to the volume of data collected and processed to investigate and prosecute Crown Court cases. The screening exercise highlighted that abolishing the use of oral evidence as part of the traditional committal process may have a positive impact by reducing the information gathered from victims and witnesses who will no longer be called upon to provide oral evidence as part of committal proceedings. All data will be processed in line with the robust procedures and protocols already in place for investigating and prosecuting criminal cases.

## **RURAL NEEDS IMPACT ASSESSMENT**

43. A Rural Needs Impact Assessment has been carried out. In general, it is anticipated that the provisions will have a positive impact. In serious cases where an accused has been charged by PSNI in connection to a crime, there is often a correlation between the time taken to progress a case, and the number of occasions the case appears in court. Whilst it may not be a requirement that victims and witnesses attend court on every occasion that a case is listed, some may wish to monitor progress of the case in person. This has a greater impact on those living further from the relevant courthouse. Similarly, abolishing oral evidence as part of the committal process will mean that there is no requirement for victims and witnesses to attend the committal hearing, for those cases which do not immediately fall within the direct transfer arrangements.

44. In relation to defendants, the changes will have negligible change on those defendants remanded in custody. As resolving cases more quickly should lead to fewer hearings in courts, it is anticipated the changes will have a positive impact on those defendants not remanded into custody, as it is anticipated there should be fewer journeys to court.

## **LEGISLATIVE COMPETENCE**

45. At Introduction, the Minister of Justice, Naomi Long MLA, had made the following statement under section 9 of the Northern Ireland Act 1998:

*This Memorandum refers to the Criminal Justice (Committal Reform) Bill as introduced in the Northern Ireland Assembly on 2 November 2020 (Bill 11/17-22)*

---

*“In my view the Criminal Justice (Committal Reform) Bill would be within the legislative competence of the Northern Ireland Assembly.”*

#### **SECRETARY OF STATE CONSENT**

46. The Secretary of State had consented under section 8 of the Northern Ireland Act 1998 to the Assembly considering this Bill.