

Department of Justice

Consultation on Sentence Reduction for Guilty Pleas

**Response from the Commissioner Designate
for Victims of Crime for Northern Ireland**

July 2025

1. General Comments

- 1.1 The Commissioner Designate welcomes the opportunity to provide input into this consultation to feed into the policy debate regarding sentence reduction for guilty pleas in Northern Ireland.
- 1.2 Sentence reduction following a guilty plea can be contentious and problematic for many victims and evokes profound emotion and passion directly linked to the trauma they have suffered as victims of crime.
- 1.3 While the issue of sentence reduction following a guilty plea has been examined before, the timeframe for progressing this issue has been disappointingly slow. Many of the issues flagged in the Department's 2012 consultation 'Encouraging Earlier Guilty Pleas' and a subsequent Criminal Justice Inspection NI report in 2013 set out similar concerns and recommendations. This is far too long for victims to wait. Whilst procedural changes may have been implemented in the last decade, the issues identified in these earlier reports have not been addressed.
- 1.4 There are many nuances, as articulated under the 'specific comments' section below, but overall, victims who have engaged with this office are broadly in favour of changes to the current system of sentence reduction for guilty pleas.
- 1.5 Victims have overwhelmingly expressed their dissatisfaction about how the current system of sentence reduction for guilty pleas operates in Northern Ireland, which most believe to be too lenient and lacking consistency.
- 1.6 They have also expressed frustration at the lack of clarity and transparency regarding guilty pleas and the effect this can have on their sense of justice.
- 1.7 Among concerns that have been raised by victims with this office are that sentencing in Northern Ireland is generally perceived to be more lenient when compared with neighbouring jurisdictions. This perception is sometimes fuelled by lack of understanding of how sentencing works and what specific sentences involve, or misleading reporting of sentences handed down by the courts. There is, however, some validity to this perception on account of different sentencing frameworks between jurisdictions, differences in how sentencing reductions are applied, and what would appear on the face of it to be differences in length of custodial sentences passed for similar offences, particularly for more serious crime types such as homicide.

- 1.8 The Commissioner Designate therefore welcomes the forthcoming review of further sentencing issues. Consideration of a more formal sentencing guideline body provides the opportunity to strike a better balance between the flexibility and expertise of our current case law approach and the need for clarity, consistency and improved public understanding of our sentencing framework.
- 1.9 The Commissioner Designate can see the benefits of Option 2 as an interim solution however she is concerned about the length of time required to adopt a law that would require guidelines to be put in place before the development and implementation of such guidelines. She is therefore **more supportive of Option 3** which clearly outlines a sliding scale of reduction based on the timing of the plea. Whilst this does create the hurdle of a legislative process to amend, potential changes to legislation will inevitably be considered as part of the planned review of sentencing and any resulting amends can be factored into any legislative timetabling to support this.
- 1.10 As with all new policies, this approach will need to be monitored and evaluated, and evidence / learning from this monitoring should inform future revisions following the broader sentencing review.

2. Specific Comments

Appropriateness of sentence reduction

- 2.1 It is important to note at the outset that not all victims of crime support reductions in sentencing. Many believe that the severity of the crime and the manner in which it was committed merits the maximum possible sentence. The nature of the offence can often influence this viewpoint with concerns raised about any reductions in cases such as serious sexual assault, child abuse, coercive control, and murder.

‘Sentencing is not only punishment for a crime, its aim should be to send out a clear deterrent message and to protect the public, it should never be allowed to be used as a bargaining tool’ (Murder case)

- 2.2 Some victims strongly believe that the incentive of a reduction in sentence should only be offered once, at the start of the first court appearance and that no further

sentence reduction should be possible once that point has passed. This view arises particularly in cases where the perpetrator has been caught red-handed or there has been violent or controlling offending.

***'If sentence reductions are to be considered at all, they should only apply when a guilty plea is entered at the earliest possible stage - ideally before formal charges are brought or at first appearance. Anything after that, especially once a trial date is set, should not be considered "early" under any definition.'* (Murder case)**

- 2.3 The majority of victims engaging with our office do accept the policy intention behind such reductions and recognise that such a policy can spare victims the trauma of having to face long delays before trial and the prospect of having to give evidence.

Are we achieving the policy intention?

- 2.4 The Criminal Justice (Northern Ireland) Order 1996 provides the primary legislative provision underpinning sentencing reductions for guilty pleas. The provision can be set in the context of two key public interest considerations.
1. reduction in the trauma and uncertainty for victims and families, who have the prospect of a trial and potential cross-examination hanging over them, and
 2. a more efficient use of court resources by incentivising those who are going to plead guilty to do so as early as possible.
- A plea can also act as a mechanism for the defendant to demonstrate genuine remorse for the crime committed which can be beneficial to victims, the timing of which however may be indicative of how much weight can be given to this.
- 2.5 The earliest opportunity to enter a guilty plea at Crown Court in NI is at arraignment, generally the first appearance at the Crown Court for a defendant. It should be noted that given the current delay in implementing committal reform, arraignment stage in Northern Ireland is at a later point than what it is for the accused in England and Wales.
- 2.6 In the absence of a Sentencing Council in Northern Ireland, guidance regarding sentencing reductions for guilty pleas is governed by NI Court of Appeal Judgements. The *R v Coyle [2024]* judgement indicates that reductions can range from around 33% for pleas entered at the earliest opportunity reducing to

a maximum of 20-25%¹. Our system is therefore relying on an incentive of between 8-13% to encourage those who are guilty to admit so at the earliest opportunity.

- 2.7 2023 data tell us that less than 13% or about one in eight defendants entered a guilty plea at this stage of proceedings. That means that 7 in 8 are not taking the opportunity to plead at the earliest possible opportunity.²
- 2.8 As outlined at 4.31 of the consultation document, 62% of Crown Court cases overall are resolved through guilty pleas. This effectively means that almost 50% of defendants change their plea at a late or very late stage.
- 2.9 Given this level of performance, the Commissioner Designate is clear that the policy intention underpinning this process is not being achieved and is in fact damaging victim confidence in the fairness and effectiveness of our justice system.
- 2.10 **To answer question 4 of the consultation document, it does not seem feasible that the current arrangements remain unchanged if improvements are to be achieved for victims of crime.**
- 2.11 **To answer questions 5, 6, and 7 of the consultation document, our current system must change to achieve the policy intent of encouraging timely guilty pleas, increase public confidence in the system and greater clarity on how sentences may be adjusted.**

Timing of guilty pleas

- 2.12 Whilst many victims acknowledge the intention behind reductions, lack of clarity and perceived inconsistency regarding the levels of reduction that will be given particularly close to the trial has caused further harm and distress for some.
- 2.13 In some of the examples shared with this office, it is clear that not only did the victims not feel any benefit from the plea, but the timing of the late plea would have meant that all the preparatory prosecutor resources to get trial ready would also have been expended reducing the potential resource savings for the state.

¹ Up to 1/6 reduction in murder cases, R v Turner [2017]

² Data extracted from Causeway and provided in an Early Guilty Plea paper provided to the Criminal Justice Board, June 2024

'I would have welcomed an early guilty plea way before trial dates are set but in my case that didn't happen mines was a full court case with a hung jury and then another trial where he pleaded guilty ... and he still received a lesser sentence because he saved me going through another trial. Needless to say I wasn't at all happy.' (Childhood Sexual Abuse case)

'He only pleaded guilty at the 11th hour, just before trial. Yet he was still given a reduced sentence, sparing us nothing. We were robbed of justice, of the truth, and of the chance to face him in court.' (Murder case)

- 2.14 Late or last-minute guilty pleas can also equate to a loss of control for the victim. Where there may have been ample opportunity for a plea at an earlier stage, such late pleas can be perceived as manipulation and control over the victim by a defendant.

'A plea made under pressure of overwhelming evidence, after years of denial and deceit, is not an act of remorse. It is manipulation.' (Murder case)

'To think that someone sets out to commit a serious crime, then basically lies throughout the justice process about their actions or involvement in that crime, in order to escape the consequences and then may get credited with a reduction in their sentence for admitting their guilt at the last minute, is just appalling' (Murder case)

- 2.15 The Commissioner Designate is clear that any policy which aims to incentivise guilty people to admit their guilt early in the process must clearly outline what reductions will be made at what stage of the process. Such a scheme must be transparent and clearly understood by victims, those accused and the wider public if we are to improve confidence in our justice system.

- 2.16 To assist in the understanding of this process by all, Judges should clearly advise the accused of this process at early court hearings.

Current level of reductions given

2.17 Whilst guilty pleas can of course spare victims the additional trauma of having to give evidence and face cross-examination, victims often feel that the level of sentence reductions given, particularly for late pleas does not adequately reflect the seriousness of the crime. This can be particularly galling if the perpetrator who has been on remand, then walks free from the court on the day of the plea.

2.18 The lack of certainty in the current process prevents prosecutors being able to give a realistic expectation of likely reductions that may be given when taking views about the acceptance of a plea late in the process. This can lead to victims being further distressed when they see reductions in the range of 20-25% of sentence.

‘A tactical plea made under pressure of evidence, after months or years of lies, should not qualify for leniency. It retraumatises families and undermines justice.’ (Murder case)

Such ambiguity is also likely to impact on defendants’ decision-making as they will not know with certainty what level of reduction will be made.

2.19 The Commissioner Designate believes that the current incentive structure does not provide sufficient differentiation between an early plea and one entered close to or on the day of trial. In line with the Coyle judgement, defendants can currently benefit from 25% reduction for a guilty plea on the day of trial compared to a 33% reduction if they had pleaded at arraignment. Given the delays in our system, victims are effectively waiting years between these two points.

2.20 To answer question 8 and 9 of the consultation document, the levels of reduction that can be applied are not correct and the time when those levels apply are not appropriate.

2.21 Our office has been made aware of cases where a sentence reduction was given for a late guilty plea in advance of a retrial on the same charge, after a full trial was already conducted. Any reduction, let alone a significant reduction, should surely have passed by this stage.

2.22 If the desire is to alter behaviour, by incentivising guilty defendants to plead at the earliest opportunity, then the differences between stages must be large enough to alter behaviour. Otherwise, defendants may simply wait to the next

stage in the hope that victims may withdraw from proceedings – given our current delays such a tactic may prove fruitful.

- 2.23 The current uncertainty about levels of reduction coupled with insufficient differentiation between stages only serves to fuel concerns that guilty pleas are being used tactically by perpetrators who are in fact *'gaming the system'* rather than acting out of genuine remorse or consideration for the victim.

Comparisons with neighbouring jurisdictions

- 2.24 It is broadly recognised that public understanding of sentencing is not strong and knowledge of how community based and suspended sentencing works is low. There is also a widespread perception, amongst victims that have engaged with the Commissioner Designate, that sentencing in this jurisdiction is lenient particularly when compared with England and Wales.
- 2.25 Devolution of course provides the opportunity for Northern Ireland to diverge or align with sentencing policy elsewhere in the UK and there is no legal obligation to ensure that sentences passed in Northern Ireland are commensurate with those passed elsewhere. Where divergence does occur however it is incumbent on local politicians to both understand our policies and be prepared to justify them.
- 2.26 To answer question 10 of the consultation document, there should be a statutory requirement for guidance on sentence reductions, provided by the Executive.
- 2.27 The introduction of a statutory scale for sentencing reduction provides the Executive with the opportunity to ensure greater clarity as to the legislators' intent on this issue thereby increasing understanding and confidence in the process. Clearly defined points and levels of reduction in legislation will ensure greater clarity and consistency, while always maintaining a level of discretion for Judges to utilise their knowledge and expertise to explain if any divergence is necessary.
- 2.28 To answer question 19 directly, there is undoubtedly benefit to be realised in raising awareness of the sentence reduction arrangements.

'Really early' guilty pleas

- 2.29 The Commissioner for Victims of Crime Office reached out to victims specifically to seek their views on this proposal set out at sections 7.17 – 7.19

of the consultation document. As with so many other issues affecting victims, this office received a wide range of views on the adoption of special sentence reductions for really early guilty pleas for serious sexual offences, as outlined in the Gillen review.

- 2.30 Some had reservations that this would increase the perceived leniency of sentencing of such cases, downplaying the seriousness of sexual offences:

‘I already feel strongly that the sentences for so many domestic and sexual crimes in this country are nowhere near harsh enough to act as an adequate deterrent and so I would be concerned that further reductions could somewhat make light of the crimes themselves. However, I do recognise the fact that in order to entice perpetrators to plead guilty early on in the process, the reduction would have to be significant.’ (sexual abuse case)

- 2.31 A recurring point centred on what was meant by ‘really early’, without any specificity as to when in the process this would apply. Is this at the scene, at the police station...? Such considerations would need to be very clearly thought out and ensure clarity and consistency in approach.

‘The “really early” needs to be defined, perpetrators thrive in grey areas/ambiguity.’ (Sexual abuse case)

‘Too often, consistency and transparency is lacking in the criminal justice system, so it would be imperative that this did not add to that’ (Domestic abuse/coercive control case)

- 2.32 The office also heard from victims who are entirely opposed to such a provision being considered.

‘I understand the perspective stated in the Gillen Report that an early plea would relieve complainants of the burden of giving evidence and afford them some measure of early closure, but I do think that it is important to consider that for many victims, a chance to face their perpetrator in court, to have their say and to have their voices heard, is the only step towards them achieving any such closure. In my personal experience, with domestic and sexual crime, women have been silenced by their perpetrator for so long and so having a platform through which their voice

can be heard, can be a healing and cathartic step. That is not, of course, to minimise the potential trauma and stress that having to face their perpetrator in court and give evidence surely poses, but I think worth taking into consideration at this stage.' (Domestic abuse case)

- 2.33 One victim of child sexual abuse expressed frustration at the thought of potential further reductions in sentencing, stating that sentencing is already lenient for such offences and perpetrators get 50% remission on their prison sentence while victims carry the trauma for the rest of their lives.
- 2.34 Victims commented on the message that could be sent by singling out solely this offence for increased reductions in an environment where we are committed to ending violence against women and girls with a focus on dismantling the underlying attitudes and beliefs that help fuel this.

'By singling out sexual violence for reduced sentences, the court is minimizing the severity of these crimes' (Child sexual abuse case)

'It is my view that it is a complete insult to victims of horrendous crimes, especially child sexual abuse to even consider this proposal' (Child sexual abuse case)

'To downplay the seriousness of serious sexual offences is deeply problematic, particularly when public perception appears to be that sexual offences are not taken seriously, when sentences already seem so lenient (from what is reported in the media), and reporting and conviction rates are so low. If these offences are 'singled out' then what message does that send, at a time that we are supposed to be addressing VAWG in NI' (Child Sexual Abuse case)

- 2.35 The Commissioner Designate recognises the value that could be felt by some victims, particularly of sexual abuse, if a defendant, following competent legal advice were to plead guilty at the police station. Given the nature of such cases, where the defence typically focuses on consent if the victim was an adult at the time or complete denial if the victim was a child, it is difficult to foresee what level of reduction would be required to incentivise a plea at this early stage. Such a change in behaviour may be easier achieved in other crime types.

- 2.36 Any consideration of this for all crime types would need to be taken in line with a consideration of what levels of reduction would be applied in the round at each stage. So, for example, a statutory sliding scale could provide for a 33% reduction at the police station that dropped off to 20% at arraignment dropping down to potentially 5% or zero closer to the day.
- 2.37 When debating levels of reductions, it must also be remembered that, given our existing committal process, arraignment in NI, where 33% reduction is possible for a guilty plea is later in the process than arraignment in England and Wales. There is an argument therefore to potentially postpone any consideration of increased levels of reductions for 'really early' guilty pleas until the full effects of planned committal reform are in place.
- 2.38 Given the sensitivity surrounding this issue and the lack of specificity regarding the finer details of how this would work within the current system it is difficult to form a concrete opinion.

It may be advisable to pause consideration of introducing reductions for 'really early' guilty pleas until existing issues within the sentencing regime have been addressed. This question would be much easier to contemplate in the context of an improved, clearer sentencing regime whereby committal stage has been abolished and current practice has been rationalised with regard to how much a sentence is reduced and when as the consequence of a guilty plea. It would also provide a more logical starting point for victims of crime who may wish to contribute to public consultation on 'really early' pleas, as they would be better able to assess whether such pleas feel like justice being served in the context of improvements which have already been made, not merely theorised. Such consultation could be timed to coincide with the further work planned around sentencing, allowing for more time to fully consider this thorny issue.

3 Summary

- 3.1 Victims of crime face significant challenges throughout our justice system with many never getting as far as a guilty plea or verdict. For those that do the type and duration of sentence applied impacts on their sense of closure and opinion on whether or not justice was indeed served. Any scheme therefore that impacts on this perception must be seen to meaningfully benefit victims and avoid confusion or distress.

3.2 The Commissioner Designate believes that a sliding scale with clearly defined significant reductions at key stages can help provide clarity and aid understanding of this process. As with many areas of criminal justice, it is also vitally important that we capture key data metrics regarding the operation of this scheme, such as plea rates, timings of pleas, crime types and offender characteristics, to ensure that we can more fully evaluate its effectiveness in achieving policy intent in the future.

If you would like to discuss any of these points in further detail, please contact the office via:

Tel: 028 9052 6607

Email: policy@cvocni.org