

Charlotte's Law: A public consultation

November 2021



Department of
Justice

An Roinn Dlí agus Cirt
Máinnstríe O tha Laa

Ministerial Foreword

I understand the despair and trauma families and others endure when a loved one is killed and their remains are not located. Their pain and ongoing anguish cannot be underestimated.

That is why, during the debate in September 2020 on a Northern Ireland Assembly motion to have legislation similar to Helen's Law introduced in Northern Ireland, inspired by the campaign by Charlotte Murray's family, I expressed my intention to give careful consideration to the need for change, and if change is appropriate, how this could best be tailored for Northern Ireland.

Since then my Department has carried out a review of the position in Northern Ireland, engaging with victims' families and those agencies and bodies involved at every stage of the criminal justice process. A range of suggested solutions has been produced, some of which I have agreed for immediate implementation, while others will require changes to legislation in the next mandate if they are to be implemented.

I believe that we have a responsibility to do all that we can to help those families, and consider that a bespoke approach for Northern Ireland offers the best hope of securing disclosure.

As we approach the end of this Assembly mandate, I am determined to make important changes to bring some comfort to those who must endure the daily pain of not knowing what happened to their loved ones.

This consultation is designed to elicit your views on the need for new legislation, and on any other possible solutions. I encourage those with an interest in this area to engage with this important process, and I look forward to considering your responses.

Naomi Long, MLA

Justice Minister

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The Consultation Process

In developing this public consultation, the Review Team sought to gain a full understanding of the issues through a series of meetings with victims' families.

We also met with key stakeholders in the criminal justice agencies, monitored the implementation of Helen's Law in England and Wales and carried out desk research into the development of similar legislation in other jurisdictions internationally.

Responding to this Consultation

The Department is seeking your views on the issues raised by this consultation and any other comments that you consider relevant. If you require a hard copy of this consultation document or have any other enquiries please email your request to CharlottesLaw.Consultation@justice-ni.gov.uk or you can write to us at:

Criminal Justice Policy and Legislation Division,
Department of Justice,
Massey House,
Stormont Estate,
Belfast, BT4 3SX.

The Department will publish a summary of responses to the consultation.

Duration and Closing Date

PLEASE NOTE THAT THE CLOSING DATE FOR THIS CONSULTATION HAS BEEN EXTENDED BY ONE WEEK TO FACILITATE THE PROVISION OF RESPONSES. THE CONSULTATION WILL CLOSE ON 14 February 2022.

Alternative Formats

Copies in alternative formats can be made available on request. If it would assist you to access the document in an alternative format or language other than English please let us know and we will do our best to assist you.

Privacy, Confidentiality and Access to Consultation Responses

For this consultation, we may publish all responses except for those where the respondent indicates that they do not wish to have their response published. We will remove personal data, including individuals' names, email addresses and telephone numbers; but apart from this, we may publish the responses in full. For more information about what we do with personal data please see our consultation privacy notice at Annex B.

Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). Any such disclosures will be in line with the requirements of UK Data Protection legislation.

If you want the information that you provide to be treated as confidential, please explain why you regard it as confidential so that your explanation may be considered if the Department receives a request for the information under the FOIA or EIR.

Equality and Rural Proofing

The Department of Justice has conducted a rural needs impact assessment and equality screening exercise on the decision to consult and has identified that there is no potential adverse impact on any of the identified groups. Further screening exercises will be undertaken in relation to proposals following consideration of responses to the consultation.

Introduction

1. Helen McCourt was murdered in England in 1988. Her murderer received a life sentence with a 16 year tariff. He was released in 2020 despite having never revealed the whereabouts of Helen's remains. Following a long running and tireless campaign by her mother, Helen's Law was passed shortly after his release.
2. In Northern Ireland the campaign was strongly supported by the family of Charlotte Murray, whose body remains missing since 2012. Despite maintaining his innocence, John Miller was convicted of Charlotte's murder. Following his sentencing in 2020 the family launched a campaign to have 'Charlotte's Law' introduced in Northern Ireland, with an online petition which attracted over 10,000 signatures.
3. Charlotte's family has been joined in its campaign by the Dorrian family, who have switched the focus of their campaign from finding Lisa to getting justice for her. Lisa Dorrian disappeared on 28 February 2005, after a party at a caravan park in Ballyhalbert. Despite offers of rewards and numerous appeals for information, her body has never been found; and, to date, no one has been prosecuted in connection with her disappearance
4. This important and sensitive consultation follows a review by the Department of Justice on the criminal justice system's treatment of 'no body' murders. It seeks your views on the need to introduce legislation similar to Helen's Law, and on a small number of other legislative proposals aimed at encouraging killers to disclose information about the location of their victims' remains.

Helen's Law

5. Helen's mother campaigned for a law that would prevent the release on licence of life sentence prisoners¹ in cases where they had not disclosed the location of their victims' remains.
6. Helen's Law was enacted at Westminster in 2020². It requires the Parole Board in England and Wales to *consider* what bearing non-disclosure of a victim's remains has on the risk that the prisoner poses to public safety.
7. The Parole Board must also take into account what, in its view, are the reasons for the non-disclosure. For example, reasons might include: whether the passage of time, illness in prison, or the prisoner's state of mind at the time of the killing makes them uncertain of the relevant details; or whether they are making a deliberate decision not to disclose the information.

¹ Life sentences are explained below – see paragraphs 25 to 36

² [Prisoners \(Disclosure of Information About Victims\) Act 2020](#)

8. During the passage of the Act, Chris Philp MP sought to emphasise the significance of Parliament’s decision to legislate in this area. He said:

“I expect the Parole Board to give significant weight to non-disclosure. The fact that Parliament has gone as far as legislating in this area will send an extremely clear message to the people taking these decisions, and I expect this to weigh heavily on the mind of Parole Board members when they take these decisions.”
9. The provisions of Helen’s Law apply only to the first release of offenders who have served their tariff period. They form no part of the Parole Board consideration when determining the re-release of offenders who were recalled to prison while on licence.
10. In October 2021 the media reported on the first two cases where Helen’s Law had played a part in preventing the release on licence of life sentence prisoners.³

Learning from other jurisdictions

11. Thankfully, ‘no body’ murders are a rare occurrence and, consequently, there are few examples of recorded approaches in other jurisdictions. The Review Team found relevant legislation only in Australia.
12. In the state of South Australia, section 6 of the Correctional Services (Parole) Amendment Act 2015⁴ prevents the Parole Board from releasing a person serving a life sentence for murder “unless the Board is satisfied that the prisoner has satisfactorily cooperated in the investigation of the offence”.
13. What the Board must take into account is spelt out in section 6(7):

“For the purposes of subsection (6), the Board must take into account any report tendered to the Board from the Commissioner of Police evaluating the prisoner’s cooperation in the investigation of the offence, including—
 - (a) the nature and extent of the prisoner’s cooperation; and*
 - (b) the timeliness of the cooperation; and*
 - (c) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner; and*
 - (d) the significance and usefulness of the prisoner’s cooperation.”*

³ Cases of Glyn Razell and David Harker

⁴ [section 6 of the Correctional Services \(Parole\) Amendment Act 2015](#)

14. Taking a different approach, the Victoria Sentencing Act 1991⁵ (as amended) focusses on the sentencing stage of the process, identifying specific factors a court should or should not take into consideration when sentencing. Section 5(2CA), inserted in 2016, states:
- “In sentencing an offender who has been found guilty of murder, conspiracy to murder, accessory to murder or manslaughter in circumstances in which the body or remains of the deceased victim have not been located, a court may have regard to whether the offender has cooperated in the investigation of the offence to identify—*
- i. the location, or last known location, of that body or those remains; and*
 - ii. the place where the body or remains of the victim of the offence may be found.”*
15. The introduction of Helen’s Law recognises the seriousness the UK Government attaches to this problem. However, the provisions of the law are limited in two respects: they do not impose a ban on prisoners’ release; and their impact may not be felt by the prisoner until the full tariff period of the sentence has been served.
16. The South Australia model goes further by preventing a prisoner’s release where they have not co-operated satisfactorily. However, like Helen’s Law, it fails to provide any incentive to the prisoner to make an early disclosure. Both models leave victims’ families with little prospect of early disclosure before the tariff period expires.
17. By contrast, the Victoria model moves the focus forward in time, giving a clear indication at the point of sentence that failure to co-operate is likely to result in a longer prison term.
18. The Review Team recognises that it may not be possible to ensure disclosure. None of the models examined provide a guarantee that the killer will reveal information required to find the body at any point in time.
19. The fact that varying solutions have been implemented in different jurisdictions supports the Review Team’s view that a range of measures, rather than a single solution, could provide the best chance of achieving disclosure.

⁵ [Victoria Sentencing Act 1991, s.5\(2CA\)](#)

Options considered

20. In considering what range of measures might be available, the Review Team explored the reasons that suspects may have for not disclosing information on the location of their victim's remains:
 - they may be innocent;
 - they may believe their guilt cannot be established without the remains, or that details of how the victim died can be hidden;
 - they may feel that withholding this information gives them some continuing control over the victim or the victim's family; or
 - they may not remember what they did, due to mental health or addiction issues.
21. Depending on the reason for the failure to disclose, there may be different points at which the offender might be more inclined to provide information; or different approaches that could facilitate disclosure.
22. The Review Team considered the various stages of the criminal justice process and the opportunities for encouraging disclosure at each stage. Flowing from the review a total of 23 measures were recommended, extending from the earliest stages of the investigation to the eventual parole hearing.
23. A full list of the recommendations is included at Annex A. Some of these require no change to current practice and can be implemented administratively with relative ease. These have been accepted by the Minister and work on their implementation is under way.
24. Implementation of other measures, if accepted, would require a change to legislation, and it is on these that we seek your views. These proposed measures centre around potential options at the sentencing stage, early post sentence and at the parole stage. They are discussed in detail below.

Sentencing

25. Where a person is convicted of murder the only sentence available is a life sentence.
26. When a life sentence is imposed the Court must also set a tariff, being the minimum period the offender must spend in prison before being eligible to apply for release on licence for the rest of their life.
27. This tariff period is required by statute to be such that the Court considers appropriate to:

“satisfy the requirements of retribution and deterrence reflecting the seriousness of the offence or the combination of the offence and other offences associated with it.”⁶

28. In setting the tariff, the Court takes sentencing guidance into consideration. Current sentencing guidance, issued by the Northern Ireland Court of Appeal, sets two levels of culpability for murder, each with its own ‘starting point’ for the calculation of the appropriate tariff.⁷
29. These are known as the ‘normal’ starting point and the ‘higher’ starting point.
30. The ‘normal’ starting point is 12 years, and should be applied in cases involving the killing of an adult victim, arising from a quarrel or a loss of temper between two people known to each other⁸.
31. The ‘higher’ starting point is 15 or 16 years, and applies where the offender’s culpability was exceptionally high or the victim was in a particularly vulnerable position⁹. Murders falling into this category include features which make the crime especially serious, such as contract killings; politically motivated killings; killings done for gain or intended to defeat the ends of justice; killings where the victim was providing a public service or was targeted because of their race, religion or sexual orientation; those where there was evidence of significant violence, maltreatment, humiliation of the victim before the killing; or cases of multiple murders.
32. In the most serious cases, for example where a number of factors attracting the higher starting point are present, or where there is a large number of killings, the starting point may be adjusted, potentially up to 30 years; and where the murder was a terrorist, sexual or sadistic one, or involved the murder of a prison officer on duty or a young child, the starting point could be at least 20 years.¹⁰
33. In exceptional cases the Court may impose a whole life tariff, where the prisoner may be imprisoned for the rest of his or her natural life¹¹. This type of tariff is reserved for ‘particularly serious’ murders and has only been used in Northern Ireland once since its introduction¹². The term ‘particularly serious’ is not defined in legislation, but is left to the Courts to interpret in light of the individual circumstances of each case.

⁶ [The Life Sentences \(Northern Ireland\) Order 2001](#)

⁷ [Guidance is set out in R-v-McCandless 2004, NICA](#)

⁸ Ibid para 9

⁹ Ibid para 9

¹⁰ Ibid para 9

¹¹ [Article 5 of the Life Sentences \(NI\) Order 2001](#)

¹² R-v-Hamilton. The sentence was reduced on appeal.

34. Having established the appropriate starting point, the Court calculates the tariff by adding or subtracting time to reflect the aggravating and mitigating factors of the case.
35. It is important to note that any factor which helps the Court determine the appropriate starting point cannot then be identified as an aggravating or mitigating factor to further influence the tariff.
36. Aggravating and mitigating factors were identified by the Court of Appeal as follows (emphasis added):

“Aggravating factors relating to the offence can include: (a) the fact that the killing was planned; (b) the use of a firearm; (c) arming with a weapon in advance; (d) concealment of the body, destruction of the crime scene and/or dismemberment of the body; (e) particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time.

“Aggravating factors relating to the offender will include the offender’s previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than to risk.

“Mitigating factors relating to the offence will include: (a) an intention to cause grievous bodily harm, rather than to kill; (b) spontaneity and lack of pre-meditation.

“Mitigating factors relating to the offender may include: (a) the offender’s age; (b) clear evidence of remorse or contrition; (c) a timely plea of guilty.”¹³

37. The 16 year tariff set by the Court in John Miller’s sentence was calculated to reflect all the circumstances of the case, taking into consideration all the aggravating and mitigating factors.
38. In his sentencing remarks, Judge Fowler QC acknowledged the devastating impact that not finding Charlotte had on her family. He said the disposal of her body was not *“transient concealment”* but had been carried out to *“deprive Charlotte’s family of any form of closure”* and that *“Their ability to grieve the loss of their loved one has been denied by the defendant.”*
39. He went on to say: *“This has caused and will continue to cause the family considerable pain, distress and hurt. I regard this as the most serious aggravating feature of this case.”*

¹³ [R v McCandless, para 9](#)

40. The Department recently carried out a significant review of sentencing policy in Northern Ireland and, following extensive public consultation, published its Way Forward report in April 2021¹⁴.
41. Chapter 4 of the consultation specifically considered tariff setting in murder cases. The decisions flowing from that chapter of the consultation included that legislation should provide the following:
 - the normal starting point will be 15 years for adult offenders;
 - the higher starting point will be 20 years;
 - ‘exceptional culpability’ will reflect the factors already identified in case law;
 - whole life tariffs will be available for ‘rare and exceptionally serious’ murders; and
 - where a whole life tariff is imposed the judge will be required to be satisfied beyond reasonable doubt that the offender must be kept in prison for the rest of their life.
42. Legislating to specify aggravating or mitigating factors was not considered desirable, the preference being to leave these as matters for sentencing guidance.
43. Against this backdrop the Review Team considered the potential for encouraging disclosure at the point of sentence.

Choice of starting point for tariff calculation

44. While the recency of the decisions of the sentencing policy review militates against making a change, it is considered important to take views in the context of current developments.
45. In light of calls by victims’ families to treat ‘no body’ murders in the most serious murder category, the questions are: is the current position on categorisation of murders legally sound; or should failing to reveal the whereabouts of the victim’s body place murders in the very serious category?
46. In sentencing John Miller, the tariff was calculated using the ‘normal’ starting point and the Court recognised the concealment of Charlotte’s body as a significant aggravating factor.
47. One option put forward by victims’ families to encourage early disclosure is that ‘no body’ murders should be sentenced using the higher starting point. They argue that the fact that no information is given as to how the victim died should

¹⁴ [Sentencing Policy Review - Way Forward](#)

lead to a presumption that the circumstances of the murder were the worst imaginable.

48. To give this proposition informed consideration it is important to understand the principles of criminal law and the underlying rationale for the distinction between factors determining the seriousness of the offence and those factors which the court must subsequently take into consideration as aggravating and mitigating factors.
49. The law requires adherence to the overarching presumption of innocence until proven guilty. All aspects of a conviction must be proved to the criminal standard, which is 'beyond all reasonable doubt'. Applying this principle, it cannot be assumed that a murder where the killer decides not to reveal the victim's remains elevates the murder into the particularly serious category.
50. As detailed above, those murders which the Courts have identified as falling within the most serious category include an element of significant gravity in the commission of the murder. They include murders of particularly vulnerable victims; multiple murders; and murders of those who put themselves in harm's way to serve the public. They do not presently include concealment of the body, destruction of the crime scene and/or dismemberment of the body, all of which the Northern Ireland Court of Appeal has identified as aggravating factors¹⁵.
51. Concealment of the victim's remains has significant impacts on victims' families and on the ability to successfully prosecute the case. However, such factors are separate from the act of the murder itself. It is such matters that the court must take into consideration as aggravating factors in its determination of the appropriate tariff, having selected a "starting point".
52. Legislating to make concealment of a body a factor placing a murder in the very serious category would send a clear message to the public that such cases can expect to receive the highest tariffs. However, it would also be a significant departure from established case law.
53. Such a change could call into question the status of other matters identified as aggravating factors, potentially opening the debate on whether any murder with a current aggravating factor should qualify as a serious murder. This could undermine the current distinction in the categorisation of murders which guides the judiciary to select a tariff starting point.
54. Your views are sought on the desirability or otherwise of such a change.

¹⁵ [R v McCandless, para 9](#)

Post-Sentence Disclosure

55. Section 49 of the Judicature (Northern Ireland) Act 1978¹⁶ provides for the reconsideration of a sentence or other order made by the Crown Court within 52 days of its imposition.
56. Examination of court records shows that this power was exercised in more than 170 cases since 2003. Reasons for its use included cases where there was a change in circumstances, making the original order unsuitable or inappropriate.
57. The option of introducing a provision allowing for a tariff reduction by the Court where a significant disclosure is made post sentence was considered by the Review Team. This could encourage disclosure early in the custodial term at a point where a recently sentenced prisoner, who chose not to divulge information in the hope of avoiding conviction or maintaining control, may be persuaded that it is to their advantage to give up the information.
58. Such a provision could have wider application than solely in relation to no body murder cases; and there may be prisoners already serving sentences who might wish to avail of such new arrangements.
59. To obtain the maximum benefit from any change consideration should be given to allowing applications to be made by any eligible life sentence prisoner for a specified period post commencement of the provision. Thereafter the arrangements would apply to new prisoners for a specified period after their final sentence determination.
60. This approach would raise a number of complex issues, potentially requiring the Court in future cases to specify that portion of the tariff which was attributed to the aggravation or seriousness of failing to disclose important information¹⁷.
61. Your views are sought on the desirability or otherwise of such post sentence adjustment of tariff where a significant disclosure is made.

Parole Hearing

62. Release at the end of the tariff period is not guaranteed. It is the role of the independent Parole Commissioners for Northern Ireland (PCNI) to consider whether a prisoner is suitable for release once the tariff period has passed. The PCNI's decision on whether to release a prisoner on licence or not is made on the basis of an assessment of risk.

¹⁶ [Section 49 of the Judicature \(Northern Ireland\) Act 1978](#)

¹⁷ Any assessment of portion of tariff attributed to non-disclosure would need to be considered against any decisions to place no body cases in the serious murder category or to retain non-disclosure as an aggravating factor.

63. The PCNI may only direct release where the Commissioner considering the case is satisfied that it is no longer necessary for the protection of the public to retain the offender in custody¹⁸. If their assessment is that the prisoner can be managed safely in the community then they are released on licence for the rest of their life, or until they are recalled to prison for breaching a licence requirement.
64. The Parole Commissioners Rules (Northern Ireland) 2009¹⁹ provide significant discretion to the Parole Commissioners to direct information from any party to inform the parole review, and to consider applications from any person to be a witness in the parole review process.
65. In determining if the test for release is met, the Parole Commissioners assess:
- all information relating to the offence for which the prisoner was sentenced and all information relating to the offender during his or her time in prison, including any progress towards rehabilitation;
 - whether they have accepted their guilt for the offence or not;
 - their insight into the offence;
 - their remorse; and
 - their empathy for the victim.
66. Failure to disclose the location of the victim's remains would be taken into consideration in assessing these risk factors, potentially indicating that one or more of them has not been addressed, and leading to a conclusion that the prisoner still poses too high a level of risk to be released.
67. The options of legislating to introduce Helen's Law or the harder hitting "no body means no release" option were considered by the Review Team.
68. The "no body means no release" approach would remove the PCNI's role in such cases, setting non-disclosure as opposed to risk as a mandatory bar to release.
69. Past experience has shown that, with the passage of time, disclosure may become highly fallible and inconclusive. Making release conditional on disclosure could effectively prevent a prisoner from ever being released, treating such offenders fundamentally differently from other life sentence prisoners. This would trigger human rights issues and potentially make such provision unlawful.

¹⁸ [Article 46 of and Schedule 4 to the Criminal Justice \(Northern Ireland\) Order 2008 set out the powers of the Parole Commissioners](#)

¹⁹ [The Parole Commissioners Rules \(Northern Ireland\) 2009](#)

70. Whilst not as extreme an option, putting Helen's Law into legislation would send a strong public message; requiring each independent Parole Commissioner to take failure to disclose into consideration in review deliberations.
71. New legislation for Northern Ireland could also be crafted to place a more robust requirement on PCNI than that required of the English Parole Board by Helen's Law. A requirement to specifically address the issue of risk associated with the non-disclosure, rather than simply to take the non-disclosure and reasons for it into account would provide victims with a clearer understanding of decisions taken.
72. Your views are sought on the introduction of legislative provision similar to Helen's Law and on whether the Parole Commissioners should be required to specifically address in their decision: whether the prisoner's failure to disclose details about the victim's remains reflects an increased or a level of risk or danger to the public which warrants their continued detention in prison.

Conclusion and next steps

73. Thank you for your engagement with this consultation and for sharing your thoughts on this important issue. The consultation questions are summarised at Annex C with comment boxes to facilitate responses.
74. At the conclusion of the consultation period all responses will be analysed. A report with recommendations on each of the issues examined will then be prepared and presented to the Minister for Justice.
75. The Minister's decisions will be published and work on any agreed legislative changes flowing from this consultation will be taken forward with a view to making changes early in the next Assembly mandate.

Annex A

Charlotte's Law Review decisions

1. At investigation stage
 - *PSNI provide a notice making the suspect aware of the importance of disclosure to victims' families and of potential consequences for the suspect of failing to disclose information.*
 - *A strong focus on effective communication between the Family Liaison Officer and victims' families must be maintained, so that all relevant information is fully considered.*
2. At prosecution stage
 - *The PPS continue its practice of making the point to the Judge about non-disclosure being a relevant issue in sentencing.*
 - *No requirement for charging multiple related offences alongside a murder charge.*
 - *The Department is supportive of PPSNI's continued investment in helping victims navigate what can be an unfamiliar and daunting prosecution process.*
3. At point of conviction
 - *Potential be explored for an indication to be given by the Court, to defence Counsel, that it expects to be addressed specifically on the impact on the tariff of the offender's willingness to disclose the location of the victim's remains.*
4. At pre-sentence report stage
 - *Probation officer to reinforce and discuss the aggravating effect of non-disclosure on the likely sentence.*
5. At point of sentence
 - *Consult on including no body murders in the very serious murder category for the purpose of establishing the appropriate starting point*
 - *If decision is not to place no body murders in the very serious murder category, retain failure to disclose as a non-statutory aggravating factor*
 - *Do not make disclosure a mitigating factor*

- *Do not make a whole life tariff mandatory*
6. Post sentence disclosure
- *Consult on introduction of a review of tariff for early post sentence disclosure*
7. In prison
- *Work with NIPS and PBNI on moving focus of work with long term prisoners to addressing offending, victim awareness and undertaking possible restorative work at an early stage.*
 - *Explore the possibility of the Court directing such a programme where a life sentence is imposed.*
 - *Explore the use of 3rd party intermediaries to encourage disclosure.*
 - *Support the ongoing programme of prison improvements including the provision of in-cell telephony which may further reduce reluctance to provide information to Crimestoppers.*
8. At pre-parole stage
- *PBNI be required to explain the possible impact of non-disclosure on the Parole Commissioner's release decision.*
9. At parole stage
- *Consult on the introduction of provision equivalent to Helens Law.*
 - *Consult on including statutory provision requiring PCNI to address how the non-disclosure impacts on the risk the prisoner continues to pose.*
 - *No further change required to address victims' views at parole hearings.*
10. Victims and witnesses
- *Encourage victims and witnesses to continue to engage with the Department in its important victim and witness work.*
 - *Recognise the Crimestoppers telephone line as an important source for information and that it should continue to be promoted and supported.*
11. Consultation
- *Seek public's views as above and any other ideas.*

Freedom of Information and Privacy Notice

FREEDOM OF INFORMATION ACT 2000 – CONFIDENTIALITY OF CONSULTATIONS

For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity will be published. We will remove email addresses and telephone numbers from these responses; but apart from this, we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice.

Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR) (EU) 2016/679.

If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the Department should receive a request for the information under the FOIA or EIR.

Privacy Notice

Data Controller Name: Department of Justice

Address: Department of Justice
CJPLD
Massey House
Stormont Estate
Belfast
BT4 3SG

Email: CharlottesLaw.Consultation@justice-ni.gov.uk

Data Protection Officer Name: DOJ Data Protection Officer

Telephone: (028) 90378617

Email: DataProtectionOfficer@justice-ni.gov.uk

Being transparent and providing accessible information to individuals about how we may use personal data is a key element of the Data Protection Act (DPA) and the EU

General Data Protection Regulation (GDPR). The Department of Justice (DoJ) is committed to building trust and confidence in our ability to process your personal information and protect your privacy.

Purpose for processing

We will process personal data provided in response to consultations for the purpose of informing the development of our policy, guidance, or other regulatory work in the subject area of the request for views. We will publish a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents, but will include the names of organisations responding.

If you have indicated that you would be interested in contributing to further Department work on the subject matter covered by the consultation, then we might process your contact details to get in touch with you.

Lawful basis for processing

The lawful basis we are relying on to process your personal data is Article 6(1)(e) of the GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a Government Department.

We will only process any special category personal data you provide, which reveals racial or ethnic origin, political opinions, religious belief, health or sexual life/orientation when it is necessary for reasons of substantial public interest under Article 9(2)(g) of the GDPR, in the exercise of the function of the department, and to monitor equality.

How will your information be used and shared

We process the information internally for the above stated purpose. We don't intend to share your personal data with any third party. Any specific requests from a third party for us to share your personal data with them will be dealt with in accordance the provisions of the data protection laws.

How long will we keep your information?

We will retain consultation response information until our work on the subject matter of the consultation is complete, and in line with the Department's approved Retention and Disposal Schedule [DoJ Retention & Disposal Schedule](#)

What are your rights?

You have the right to obtain confirmation that your data is being [processed, and access to your personal data](#)

You are entitled to have personal data [rectified if it is inaccurate or incomplete](#)

You have a right to have personal data [erased and to prevent processing](#), in specific circumstances

You have the right [to 'block' or suppress processing](#) of personal data, in specific circumstances

You have the right to [data portability](#), in specific circumstances

You have the right to [object to the processing](#), in specific circumstances

You have rights in relation to [automated decision making and profiling](#).

How to complain if you are not happy with how we process your personal information

If you wish to request access, object or raise a complaint about how we have handled your data, you can contact our Data Protection Officer using the details above.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you can complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
casework@ico.org.uk

Consultation Questions and Response Form

What is your Name? (optional)

What is your email address? (optional)

What is your organisation? (optional)

Question 1. Do you consider that in life sentence tariff setting, concealment of the victim's body should continue to be treated as an aggravating factor?

Yes/No - Please provide reasons for your response.

If yes, please proceed to question 3.

Question 2. Do you consider that in Life sentence tariff setting, concealment of the victim's body should place the murder in the very serious murder category?

Yes/No - Please provide reasons for your response.

Question 3. Do you consider that a review of tariff for early post sentence disclosure should be introduced?

Yes/No - Please provide reasons for your response.

Question 4. If yes to Question 3: should the post sentence period for a disclosure to be considered be (i) 2 months; (ii) 6 months; or (iii) other?

Please provide reasons for your response.

Question 5. If yes to Question 3, should the provision apply to (i) all life sentence prisoners; or (ii) just to those convicted of 'no body' murders?

Please provide reasons for your response.

Question 6. Do you consider that a provision equivalent to Helens Law should be introduced?

Yes/No - Please provide reasons for your response.

Question 7. Do you consider that the Parole Commissioners should specifically address prisoners' failure to disclose details about victims' remains in their decisions?

Yes/No - Please provide reasons for your response

Question 8. Do you consider any further changes are required or that a different approach might achieve disclosure from an offender?

Yes/No - If yes, please set out your suggestions.

Question 9. Do you consider that there are any equality issues raised by this consultation which could have a significant and disproportionate impact on any of the Section 75 groups?

Yes/No - If yes please specify the possible impact and the group or groups that you consider will be affected.

If you require a hard copy of this consultation document or have any other enquiries please email your request to CharlottesLaw.Consultation@justice-ni.gov.uk or you can write to us at:

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