

Response ID ANON-PS8R-ASSF-T

Submitted to A consultation on the proposed expansion of Out of Court Disposals including Penalty Notices in the Justice Act (Northern Ireland) 2011
Submitted on 2025-09-25 13:22:28

Your Details

What is your name?

Name (optional):

Damian Walsh

What is your email address?

Email (optional):

secretary@policefedni.com

How are you responding?

On behalf of an organisation

If you are responding on behalf of an organisation, please specify the name of your organisation below and provide your organisation's email address.:

The Police Federation for Northern Ireland

Prosecutorial fines

1 Do you agree that the Department should explore providing the Public Prosecution Service with additional powers for prosecutors to offer penalty points alongside a Prosecutorial fine to offenders for low-level driving offences such as speeding and driving without insurance?

Not Answered

Please provide your rationale:

Yes. It will keep the matter out of the court with potentially a similar outcome on the offender without having to attend court. There would need to be consultation between the PSNI and PPS in respect of the 'file type' to be submitted regarding this type of file and the offending history of the offender will have to be taken into account.

2 Do you agree that the maximum amount of a Prosecutorial fine, as provided for in Part 3 of the Justice Act (NI) 2015, should be increased from its current level which is equivalent to a level 1 fine on the standard fine scale (£200)? If so, what do you consider the amount should be increased to?

The maximum amount of a Prosecutorial fine should be increased to £500 (Level 2)

Please provide you rationale:

Yes. As it currently stands, a Level 1 fine is relatively low and the fine should be increased to be equivalent to the Level 2 fine. This will show that the Courts are taking matters seriously, act as a deterrent and provides an outcome for any victim.

Penalty Notices

3 Do you agree that PSNI should have the power to issue a Penalty Notice under the Justice Act (NI) 2011 to the offences listed below where PSNI consider it to be an appropriate disposal in accordance with available guidance? (a) Common Assault contrary to section 42 of the Offences against the Person Act 1861. (b) Assault Occasioning Actual Bodily Harm (AOABH) contrary to section 47 of the Offences against the Person 1861. (c) Assault on Police contrary to section 66 of the Police (NI) Act 1998.

Q3 - PND's - (a) Common Assault:

Yes

Q3 - PND's - (b) Assault Occasioning Actual Bodily Harm:

No

Q3 - PND's - (c) Assault on Police:

No

Please provide your rationale:

(a) Yes. I do believe that in certain circumstances and where appropriate criteria is met that it could be issued for this type of offence

(b) No. The increased level of injury suffered and violence used means this offence should not be disposed of with a penalty notice. The impact on the

victim will also be more severe and as such a penalty notice will not be appropriate.

(c) No. This expansion aims to extend penalty notices to include a wider array of low-level offences. The Police Federation's view is that Assault on Police is far from a low-level offence. Despite this, we note that a Community Resolution Notice can currently be issued for this offence. In our view, if this proposal is progressed, it must solely be for an offence where no injury is sustained by an officer.

I would highlight our recent Police Federation public campaign entitled 'Let them Protect' which was supported by the PSNI Chief Constable, the Northern Ireland Policing Board and The Justice Minister. In our view, any assault on Police where an injury is sustained must be brought before the courts and is neither suitable for a CRN or a Penalty Notice.

The views of the victim of the assault must be considered when considering a disposal method. We would also highlight, a clear difference from prosecution through the courts is the lack of a potential compensation order.

Drugs Offences

4 Do you agree that, where PSNI consider a case suitable, police officers should have the power to issue a Penalty Notice under the Justice Act (NI) 2011 for the offences proscribed in section 5(2) of the Misuse of Drugs Act 1971 listed below? - (a) Possession of a Class A controlled drug
(b) Possession of a Class B controlled drug (c) Possession of a Class C controlled drug

Q4. Drugs Offences - (a) Possession of a Class A controlled drug:

Yes

Q4. Drugs Offences - (b) Possession of a Class B controlled drug:

Yes

Q4. Drugs Offences - (c) Possession of a Class C controlled drug:

Yes

Please provide your rationale:

Yes. A suitable criteria must be agreed with PSNI regarding the suitability of this disposal method.

5 Do you agree that a wider rollout of drugs educational courses, subject to available funding, would provide a suitable means of dealing with cases involving offenders who are caught with a small quantity of drugs for personal use?

Yes

Please provide your rationale including any views as to how such an approach may be funded?:

Yes. There are already drug and alcohol awareness courses and their attendance is seen as a criteria when considering a CRN as a disposal method when criteria are met by the offender. We are not opposed to an expansion of this programme.

Other Offences

6 Do you agree with the Department's proposals to add the offences listed in the consultation paper (section 5.40) to the list of offences for which a Penalty Notice under the Justice Act (NI) 2011 Part 6, Chapter 1, Schedule 4 can be issued?

Unsure

Please provide your rationale including any offences listed to which you would disagree.:

We agree and disagree as outlined below.

The Theft Act (NI) 1969

- Section 9(1)(b) - Burglary (Non-dwelling).
- Section 21(1) - Handling / receiving stolen goods.
- Section 24(1) - Going equipped for theft.

Answer: Agree.

The Theft (NI) Order 1978

- Article 5(1) - Making off without payment.

Answer: Agree.

Public Order (Northern Ireland) Order 1987

- Article 9 – Use of works / displays of material.
- Article 18(3) – Riotous behaviour.
- Article 19(1)(b) – Provocative conduct in a public place.
- Article 20 – Obstructive sitting, etc. in a public place.
- Article 23A – Entering a public building as a trespasser.
- Article 23B Wilfully neglecting or failing to comply with direction to leave a public building.

Answer: Disagree. It is rare that a lone offender will be involved in these offences, thereby offenders will be working as a group potentially leading to more serious offences.

Criminal Justice and Public Order Act 1994

- Section 68 – Aggravated trespass.
- Section 69 – Failing to comply with direction to leave land.

Answer: Agree.

The Road Traffic (NI) Order 1995

- Article 32 – Leaving a vehicle in a dangerous position.
- Article 33(1)(a) – Intentionally, or without lawful authority, or reasonable cause, causes anything to be left on or over a road.
- Article 33(1)(b) – Intentionally, or without lawful authority or reasonable cause, interferes with a motor vehicle, trailer, or cycle.
- Article 33(1)(c) – Intentionally, or without lawful authority or reasonable cause, interferes (directly or indirectly) with traffic equipment.
- Article 38 – Pedestrian endangering own safety or that of others.

Answer: Agree.

The Licensing Order (Northern Ireland) 1996

- Article 41(1)(a)(i) – Selling intoxicating liquor in licensed premises outside permitted hours.
- Article 41(1)(a)(ii) – Permitting consumption of intoxicating liquor in licensed premises outside permitted hours.

35

- Article 41(1)(b) – Purchasing intoxicating liquor in licensed premises outside hours.
- Article 41(1)(c) – Consuming intoxicating liquor in licensed premises outside hours.
- Article 41(1)(d) – Taking intoxicating liquor from licensed premises outside hours.
- Article 64(a) – Riotous, Disorderly or Indecent behaviour on licensed premises.
- Article 64(b) – Behaviour likely to cause a breach of the peace on licensed premises.

Answer: Disagree. These offences are likely to impact on any future Licensing application and formal court disposals may be required to ensure the offending is considered in any Licensing application. PSNI may raise such offending at Licensing applications.

The Public Processions (Northern Ireland) Act 1998

- Section 6(7) – Taking part in, or organising, an unnotified public procession or where the date, time or route differ from the notice requirements.
- Section 13 – Possessing and consuming intoxicating liquor at public processions.
- Section 14 – Breaking up public processions / Preventing or hindering a lawful public procession.

Answer: Disagree. Given the tensions relating to parades and the potential for significant public disorder, we are not supportive of this proposal.

The Fraud Act 2006

- Section 1(2)(a) – Fraud by false representation.
- Section 1(2)(b) – Fraud by failing to disclose information.
- Section 1(2)(c) – Fraud by abuse of position.
- Section 6 – Possession etc. of articles for use in fraud.
- Section 11 – Obtaining services dishonestly.

Answer: Disagree. Given the nature of mainly vulnerable victims in relation to this type of offending and abuse of position/trust we are not supportive of this proposal.

Justice Act (Northern Ireland) 2011

- Section 36 - Throwing of articles capable of causing injury at a regulated match.
- Section 37 - Indecent, sectarian, threatening, abusive or insulting chanting, etc. at a regulated match.
- Section 38 - Going onto the playing area at a regulated match.
- Section 39 - Possession of fireworks, flares, etc at a regulated match.

36

- Section 40 - Possession or permitting of intoxicating liquor on a vehicle travelling to a regulated match.

Answer: Agree. Suitable criteria must be agreed with PSNI.

Common law

- Public nuisance

Answer: Agree

7 Are there any additional offences you think the Department should consider extending the Penalty Notices powers provided in the Part 6, Chapter 1 of Justice Act (NI) 2011 to?

No

Please provide your rationale:

Ancillary Changes

8 Do you agree with the Department's proposal that the ability to issue Penalty Notices should apply equally to related forms of offences listed in Schedule 4 of the Justice Act (NI) 2011 as it does for the substantive versions of the offences listed? i.e. Where an offender has attempted, or aided and abetted, or conspired etc to commit an offence listed in the Schedule 4 of the 2011 Act.

Yes

Please provide your rationale:

Answer: Yes, offences on the periphery of the main offence should be included where suitable and meet the criteria agreed with PSNI.

Penalty Notice Amount

9 The Department is proposing an increase in the amount payable in respect of the various Penalty Notice offences. Do you agree that, given that there have been no changes to the Penalty amounts since the legislation was commenced in 2012, the Penalty Notice amounts should be increased?

Yes

Please provide your rationale including what an appropriate increase in Penalty amount should be.:

Answer: Yes, I agree that the Penalty amount should increase. I believe that the amount should be £150

Payment Arrangements

10 Please provide views as to any improvements to the payment arrangements for Penalty Notices which might encourage more people to pay? E.g. online payment, part payment etc

Provide views below:

Answer: Consider a mechanism to allow people a period of time to pay the fine. Defaulting on the fine can lead to the preparation of a file by police and a court appearance – where the same fine is imposed with time to pay granted to the defendant.

A further default following a court appearance leads to PSNI officers being tasked to resolve the matter. This task should fall to an outside agency to collect outstanding monetary fines.