

EXPLANATORY MEMORANDUM TO
THE VICTIM STATEMENT REGULATIONS (NORTHERN IRELAND) 2016

2016 No. 431

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 33(6), 34(1), 34(2), 35(1) and 102(8) of the Justice (Northern Ireland) 2015 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The Statutory Rule provides, where the Director of Public Prosecutions for Northern Ireland has conduct of criminal proceedings, for when, how and by whom the opportunity to make a victim statement and supplementary victim statement is to be afforded. A member of staff of the Public Prosecution Service for Northern Ireland is to afford the opportunity to make a written victim statement after a decision to prosecute the accused is made. For any written supplementary victim statement the opportunity is to be afforded by a Family Liaison Officer of the Police Service of Northern Ireland, a member of staff of Victim Support Northern Ireland or a member of staff of the National Society for the Prevention of Cruelty to Children, on request. A copy of the victim statement is to be provided to the defence and the court before the court determines sentence.

3. Background

- 3.1 The Department of Justice, together with its statutory and voluntary sector partners, made a commitment in the Victim and Witness Action Plan 2011-12 to take forward work to formalise practice regarding victim statements. These provide victims with the opportunity to set out how a crime has affected them, where a person is found or has pleaded guilty, ahead of sentencing. While the statements have been available to the courts for some time there was no formal process or guidance relating to them. It was considered that the opportunity should be taken to improve this.
- 3.2 A formalised scheme for making of victim statements (known as victim personal statements), which avails of the assistance of Police Family Liaison Officers (for bereaved family members), Victim Support Northern Ireland (for adult victims) and the National Society for the Prevention of Cruelty to Children (for child victims and their parents), was introduced in 2013. This involves victims being provided with an information leaflet on making a victim statement (once a decision is taken to prosecute the accused), having access to Frequently Asked Questions and making the victim statement with the

assistance of those referred to above. The guidance material sets out the purpose of the victim statement, what it can and cannot contain in its use. Clear processes and procedures for the agencies and voluntary sector organisations involved were also introduced.

- 3.3 An entitlement for victims (including bereaved family members and the parent of a victim) to be afforded the opportunity to make a victim statement was set out in the Justice Act (Northern Ireland) 2015. The regulation making powers in that Act, which are exercised through this statutory rule, relate to setting out the body or person that will afford the opportunity to make a victim statement and supplementary statement; the time and manner in which this is to be afforded; and the provision of a copy of the statement to the defence and court.

4. Consultation

- 4.1 Consultation was undertaken on the provision of victim statements between 15 December 2011 and 23 March 2012. The consultation sought views on a range of issues including the development of guidance and placing an entitlement to make a victim statement in legislation. There was broad support for the proposals in that consultation paper.
- 4.2 Consultation was also undertaken on the five-year victim and witness strategy, Making a Difference, between 25 October 2012 and 18 January 2013. There was support during consultation for the provisions that were contained within that strategy.
- 4.3 There has been ongoing liaison with the Public Prosecution Service for Northern Ireland and the Police Service of Northern Ireland, as well as Victim Support Northern Ireland and the National Society for the Protection of Cruelty to Children, on the formalisation of the victim statement process. They were also consulted on the content of the regulations.

5. Equality Impact

- 5.1 Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998. The Department considered that this matter will not have a differential impact on any of the section 75 categories and, on this basis, the measure was screened out.

6. Regulatory Impact

- 6.1 A regulatory impact assessment was not carried out as the measure gives legislative effect to current processes. Any impact on the voluntary sector has been dealt with as part of their current business processes. The statutory rule, in and of itself, should not give rise to an increase in the number of individuals wishing to make a victim statement.

7. Financial Implications

- 7.1 There are no departmental spend implications. The Police Service of Northern Ireland, the Public Prosecution Service for Northern Ireland, NSPCC and Victim Support Northern Ireland have already met any implementation costs, associated with the formalisation of the victim statement process, from within their existing budgetary provision.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The proposed legislation is considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 This measure does not replicate, nor is there a requirement to maintain parity with, legislation in other administrations.

11. Additional Information

- 11.1 Not applicable.