

Bail in Criminal Proceedings

What's it all about?

The NI Law Commission checks laws in Northern Ireland – seeing if the laws work well and making recommendations on how they might be better.

Recently we have been looking at the law around bail. We looked closely at what happens here, checked out what happens in other countries and we have spoken to lots of different groups.

This paper* is about what we think of what we've found, and how the law on bail might be better.

Now, we are asking everyone in Northern Ireland for their ideas and we want to hear from YOU.

* This is only a summary of a much bigger paper – if you would like to read the whole document you can download from www.nilawcommission.gov.uk



**Northern Ireland
Law Commission**

promoting lawreform in Northern Ireland

What is bail?

When a person is suspected of a crime, or when they've been arrested for a crime or charged with a crime – someone has to decide what should happen to them while the crime is being investigated or before the trial takes place. Should the person be kept in a police station, or a prison or somewhere else (this is called being remanded in custody)? Sometimes the person will be let go until they have to go to court – this is called being released on bail.

Before the court is involved it is up to the police to say yes or no to bail. Once the court is involved, they make the decision.

We found that there were lots of different laws and rules about bail – everything is very complicated and sometimes the laws and rules seem to say different things. The whole situation can be confusing, particularly when it comes to what should happen to children and young people under 18 years of age.

So, what do YOU think?

We would like to hear what you think about all the questions below, but also feel free just to give us your views on the bits you find most interesting

Most people seem to agree that someone who has been charged with an offence – but not yet been tried and found guilty – should be released on bail, unless there are good reasons not to let them go.

There are three reasons why an adult may not be given bail

1. there is a risk that the person will not turn up for their trial
2. there is a risk that the person will interfere with witnesses or try other ways to avoid justice
3. there is a risk that the person will commit more crimes while they are out on bail

Do you think that it should be written clearly in law that people, who are not convicted, have a right to bail – so long as there are not good reasons to refuse them?

Do you think the 3 reasons for refusing bail to adults are fair?

Would you add any other reasons?

Should they be the same for everyone even if the crime they are charged with is very serious e.g. murder?

What if the person is already on bail for other offences?

The rules are different for children and young people – they must be given bail unless the offence is on a list of very serious offences and they would be a danger to the public.

Do you agree with this or should the same three reasons for adults be used?

Should the court consider the age of the child and what is best for them?

Sometimes there can be problems finding somewhere for the young person to live while they are on bail and this can affect the decision whether to release them or not. They may be remanded in custody because they have nowhere else to live

Should the law say that children and young people cannot be remanded in custody just because they have nowhere to live?

Where do you think a young person on bail should live if their parents or children's home will not take them back?

When deciding about bail the police and the courts think about a number of things ... how serious is the crime?, what is the background of the accused?, do they have community ties?, have they been on bail before?

What things do you think the police and courts should consider when deciding whether to release a person on bail?

Should these things be written into law?

A person who is released on bail by the courts may have to promise to return to trial or pay a certain amount of money if they fail to turn up. Whether the promise is made or not a person commits an offence if they do not turn up for trial.

Do you think that people should be asked to make a promise to pay if they do not return to trial?

Should children and young people be asked to pay if they do not turn up to trial?

Sometimes a child or young person on bail has to make other promises too – for example, they may have to go to a police station every day, or stay away from a particular area, or not see certain friends (these are called bail conditions). Some people feel that such conditions should take into account the young person's needs around school or work and family. Some children and young people on bail get support from the Youth Justice Agency.

Do you think there should be detailed rules about bail conditions?

Should rules say how and what conditions should be given to children and young people on bail?

Should the rules be made into a law that the police and courts would have to follow?

What kind of support do you think children and young people need while they are on bail?

Although they don't have to, the Police and the Public Prosecution Service (PPS) sometimes let victims of alleged offences know what is happening in their case – for example whether the accused was given bail.

Should there be a law saying that police and PPS must keep victims informed?

Should all victims be kept informed or only those who have been a victim of a very serious offence or those who say they want to be kept informed?

In some countries parents and guardians have to attend court when their children are appearing, they may have to guarantee that they will return to court or that they will keep to their bail conditions.

What things do you think parents and guardians here should have to do while their children are on bail?

Thank you for your help!