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Experts propose a Bail Act to replace 'antiquated' laws

By Deborah McAleese
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Northern Ireland's bail law is "inconsistent" and "complex" and relies on "antiquated concepts", the Law Commission has warned.

As part of a major shake-up of bail law and practice in the province, the Law Commission has proposed the implementation of bail legislation in Northern Ireland — the only part of the UK which does not currently have a Bail Act.

The commission has suggested that a new statutory framework for the granting of police and court bail could address "uncertainties and inconsistencies".

The commission has launched a consultation paper on the future of bail proceedings, with the aim of simplifying the current law and making it more accessible, to provide a legal framework "that will promote consistency and transparency in bail decision making", enhance public understanding of bail decisions and ensure that the law on bail conforms with human rights requirements.

One of the suggestions is to scrap the need for suspects to fork out cash as a surety when applying for bail. The commission said this was an "antiquated concept".

It added that the possibility of a suspect losing their cash, and being charged with another offence if they breach their bail, is "a disproportionately punitive response".

Concern has also been raised about conditions of bail that are placed on some suspects, such as imposing an alcohol ban on someone who is alcohol-dependent.

Professor Sean Doran, Barrister-at-Law with the Northern Ireland Law Commission, said: "On occasions, an individual decision may attract criticism." Adding that although controversial decisions are in a small minority, "perceived failings in the law of bail are often viewed by the public as symptomatic of failings in the criminal justice system as a whole".

"The subject of bail is therefore not only important in itself, but bail law and practice also have a broader part to play in the maintenance of public confidence in the criminal proceedings," he said.



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