



Response to - Justice (Sexual Offences and Trafficking Victims) Bill Call for Evidence

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Prepared by

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HERe NI is a registered charity (XR62377)
and a Company Limited by Guarantee
(NI053306).

Northern Ireland Charity Number:

Cara Friend is a registered charity (CR55118)
and a Company Limited by Guarantee
(NI619350)

Northern Ireland Charity Number: NIC106210.

We give full and informed consent to the disclosure internally and to the general public of this consultation response in full.

Introduction

HERe NI (previously LASI), established in 2000, is a regional organisation that works across all areas of Northern Ireland (NI) and the boarder counties to support lesbian and bisexual (LB) women and their families. We advocate for and support LB women and their families and improve the lives of LB women across Northern Ireland. We do this in lots of different ways; through providing information; peer support; facilitating training; lobbying government and agencies on LB women's issues; offering a community space for meeting and much more. HERe NI is the only women focused organisation within the NI LGBTQ+ sector.

Cara-Friend has been serving the LGBTQ+ community in Northern Ireland for over 40 years founded in 1974, we work with young LGBTQ+ people aged 12–25. We provide regional LGBTQ+ youth groups across Northern Ireland, one-to-one support for individuals, LGBTQ+ awareness training for professionals and volunteers working in a variety of different areas, community development, the LGBT Switchboard, the LGBTQ+ Inclusive Schools Programme and the Domestic and Sexual Violence project, supporting LBTI women and girls across the region.

The Gendered Violence project is a joint project between Cara Friend and HERe NI and it is aimed at LGBTQ+ women and girls aged 12 years+ who are at risk of domestic and sexual violence or abuse. The Gendered Violence Worker offers training to professionals who work with women and girls who may be at risk of domestic and sexual violence and abuse to highlight the issues that are specific to the LGBTQ+ community. The Gendered Violence Worker also supports LGBTQ+ victims of abuse with one to one support, mindfulness and meditation along with personal development activities.

We have contributed to the extensive Women's Policy Group response and endorse that response to the consultation.

We would take this opportunity to highlight some points around LGBTQ+ experiences. Often when LGBTQ+ people do report domestic violence, there is a lack of adequate recording, often making the LGBTQ+ community a hidden population in this area. We recommend that all section 75 groups should be monitored inclusive of sexual orientation and gender identity. If monitoring sexual orientation and gender identity is standard procedure, this will remove the onus on the individual to 'come out' in an environment they are not sure will be welcoming. Everyone has a sexual orientation and gender identity and we need to stop othering those who are not heterosexual and/or cis gender (their gender matches that assigned at birth). Policies and procedures should be co-designed with representatives of section 75 groups as specialists and experts to ensure there are no oversights – for example, even when recorded, bisexual people are often mis-recorded based on the gender of their current partner. There must be mandatory training on best practice such as using gender neutral pronouns and sexual orientation awareness. We recommend the Department considers this guide for service providers from Galop.¹

¹ <http://www.galop.org.uk/wp-content/uploads/For-Service-Providers-Barriers.pdf>

Provisions arising from the Gillen Review of serious sexual offence cases to exclude the public from all serious sexual offence hearings and to introduce anonymity for defendants' pre-charge

We support the extension of anonymity for complainants including after death as this may encourage greater reporting. We also support Judge Gillen's comments² that Northern Ireland is a small place and banning the public from trials would mitigate them becoming public spectacle. Any breaches of anonymity should be dealt with seriously.

We are content with the anonymity of defendants before charge however once charged we contend that a defendant should continue to be named. This means that serious sexual offences are treated the same way as other offences and would go some way to mitigate the myth that false reports are common – which allowing anonymity would reinforce. Naming defendants can also encourage other complainants to come forward

Provisions to give effect to the outcome of a review of the law on child sexual exploitation and sexual offences against children to include live streamed images in the definition of exploitation for sexual purposes and to create a new offence of adults masquerading as children online

We endorse the response to this Bill provided by the National Society for the Prevention of Cruelty to Children (NSPCC) in relation to this provision.

Provisions to create a new offence of up-skirting and down blousing alongside a number of other sex offence adjustments to ensure the law operates as intended in these areas

We welcome provisions to create these new offences however we do not believe that summary conviction is appropriate as it falls behind sentencing guidelines for the same crimes in Great Britain. We share concerns submitted by the Irish Congress of Trade Unions around stipulating the perpetrators intent this language has proven problematic elsewhere in the practical implementation of the law.

We would highlight that forcing an individual to expose scars and targeting sexual or emotional abuse towards parts of the body that the person may be ashamed of or detached from are all methods of domestic abuse. These methods are often used toward someone from the trans community. However, this issue is not something that only impacts the trans community. It could also impact on people who have had a mastectomy or those who are intersex³.

Provisions to adjust the modern slavery strategy and improve services for potential victims of slavery and exploitation

² Gillen Report, p. 138 <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/gillen-report-may-2019.pdf>

³ <https://avaproject.org.uk/wp/wp-content/uploads/2016/03/Domestic-Violence-a-resource-for-trans-people-in-Brighton-and-Hove.pdf>

Any support services must be adequately resourced, communicated and evaluated. We refer to our introduction and the need for training for support providers to ensure the particular needs of LGBTQ+ people are met.

A legislative fix to re-instate four offences incorrectly removed into Schedule 2 of the Magistrates' Courts Order 1981 to allow for the summary prosecution of these indictable offences under Article 45 of that Order

We cannot comment on these amendments as we have not seen the wording. In general, the summary prosecutions of these offences must at least match other neighbouring jurisdictions to ensure these crimes are taken as seriously in Northern Ireland.

Abolition of the rough sex defence

We have previously submitted evidence on the consent to harm for sexual gratification. We support calls for a new offence – that the sexual activity was reckless or negligent to such a degree that a reasonable person must know that serious injury or death would be the likely outcome.

An extension to existing revenge porn provisions to include a threat of publication

We support this extension, however we would ask that 'revenge porn' as a term is no longer used. recommend that the Department instead use terms such as "image based sexual assault or abuse" to refer to these types of offences.

American research has demonstrated that LGBTQ+ people are more than 4 times more likely to be victims of image based sexual abuse than heterosexual people, with 17% of respondents reporting either having an image shared without their consent, or having someone threaten to share an image⁴. It is well documented that bisexual women in particular are the demographic most vulnerable to rape, sexual assault, domestic violence and stalking, so it is likely there would be a high incidence of related crimes experience by bisexual women.

Provisions to widen the scope and strength of the current law on abuse of trust We endorse the response to this Bill provided by the National Society for the Prevention of Cruelty to Children (NSPCC) and their briefing titled 'Close the Loophole Campaign' which would widen abuse of trust to other settings.⁵

⁴ Nonconsensual Image Sharing : one in 25 Americans has been a victim of 'revenge porn' (December 2016) [Data & Society — Nonconsensual Image Sharing](#)

⁵ Briefing from NSPCC on 'Close the Loophole': <http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/justice/primary-legislation/justice-etc-bill/nspccmerged-briefing-r.pdf>
