

THE **LAW SOCIETY**
OF NORTHERN IRELAND



**Committee for Justice (Northern Ireland
Assembly)**

Call for Evidence

**JUSTICE (SEXUAL OFFENCES AND
TRAFFICKING VICTIMS) BILL**

**Response of the Law Society of
Northern Ireland**

October 2021

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ABOUT THE LAW SOCIETY

The Law Society of Northern Ireland (the Society) is a professional body established by Royal Charter and invested with statutory functions primarily under the Solicitors (Northern Ireland) Order 1976 as amended. The functions of the Society are to regulate responsibly and in the public interest the solicitor's profession in Northern Ireland and to represent solicitors' interests.

The Society represents over 2,800 solicitors working in approximately 470 firms, throughout Northern Ireland, in the public sector and in business. Members of the Society thus represent private clients, small, medium, and large enterprises, government bodies and third sector organisations. This makes the Society well placed to comment on policy and law reform proposals across a range of topics.

Since its establishment, the Society has played a positive and proactive role in helping to shape the legal system in Northern Ireland.

October 2021

RESPONSE

Introduction:

The Law Society (the Society) supports the key strands within the legislation, as well as the areas for planned amendments to the Bill. The Bill is an important step in introducing provisions which will strengthen the current law and provide additional protection for victims and the most vulnerable in society.

Anonymity and Privacy:

The Society is fully supportive of the provisions within the Bill which implement aspects of the Gillen review. In relation to the exclusion of the public from all serious sexual offence hearings, it is the view of the Society that this continues to be a considerable issue for complainants, many of whom are deterred from advancing their case due to the fact that the public are present during the giving of their evidence. The overriding objective should be for all parties to be able to give their best evidence in a safe environment. There is also an argument for only accredited members of the press to be present during trials of this nature as this would assist in the observance of anonymity and would prevent details being made public through other means such as social media.

Moreover, the Society are also supportive of the proposals around the introduction of anonymity for defendant's pre-charge. Once an accused is named in the press or social media, the result is an automatic societal punishment in advance of a conviction, and a footprint is created that lasts forever. An increase in the penalty for breach of anonymity should act as a deterrent going forward.

In addition, the Society views 25 years as an appropriate period for anonymity of complainants after death, which would align with Article 10 of the European Convention on Human Rights.

Sexual Offences and Criminal Conduct:

The Society is supportive of provisions within the Bill to create new offences of up-skirting and down-blousing.

The Society is also supportive of the provisions within the Bill which give effect to the outcome of the review of the law on child sexual exploitation and sexual offences against children as these will help to better protect children from sexual exploitation. It is important that legislation and policy should adapt to emerging practices and trends which impact on the safety and wellbeing of children and young people. The Society fully supports measures which protect children and contribute towards their safety in all aspects of their lives. In line with the strong feelings expressed by other stakeholders and indeed the

NSPCC's 'Close the Loophole' campaign to widen the scope and strengthen provisions of the current law on abuse of trust, the Society understands that the time is right to implement this important step to protect children from sexual abuse in various settings.

Given the results from the Department of Justice's consultation on 'Consent to serious harm for sexual gratification: not a defence', in which the overwhelming majority of respondents considered the current law insufficient, the Society welcomes reforms in this area.

Prevention Orders:

The Society is supportive of Prevention Orders within the Bill as an important supportive tool for victims and as a measure of protection for the most vulnerable in society.

Trafficking and Exploitation:

The Society is supportive of the aspects within the Bill which make amendments to modern slavery provisions in the Northern Ireland Human Trafficking Act to extend support to victims of slavery, servitude and forced or compulsory labour. Support for potential victims of slavery, servitude and forced or compulsory labour is currently in place in other UK jurisdictions, therefore it is welcomed that this support will be mirrored in NI to ensure equal treatment and access to assistance for all victims of such crimes.

In relation to the provision of the Bill which removes the statutory requirement to produce an annual Modern Slavery Strategy, the Society are supportive of a move towards the publication of the Strategy on a bi-annual or tri-annual basis at most as it is vital that the strategy is responsive and malleable to reflect any growth in this area. In relation to the Modern Slavery Strategy itself, the Society believe that a human rights-based approach, centred around victims, must be the focus of any strategy and its subsequent practical implementation to ensure an improved approach to dealing with victim's protection and to safeguard their rights. It is also important to ensure that every victim and potential victim is provided with knowledge of how to access legal advice, assistance, and representation.

CONCLUSION

The Society welcomes the opportunity to submit a response in respect of the Call for Evidence on the Justice (Sexual Offences and Trafficking Victims) Bill.

Overall, the Society supports the principles behind the Bill to enhance public safety by implementing elements of the Gillen review of serious sexual offences and the review of the law on child sexual exploitation and sexual offences against children, and to improve services for victims of trafficking and exploitation.