

Barnardo's Northern Ireland

Justice (Sexual Offences and Trafficking Victims) Bill

Amendments proposed by the Department of Justice

Barnardo's NI thanks the Committee for Justice for sharing the proposed amendments drafted by the Department of Justice and for inviting Barnardo's NI to provide further views and comments on those amendments. This briefing relates specifically to the amendments proposed by the Department of Justice and builds upon the key points set out in our substantive written and oral evidence provided to the Committee.

Below we provide comment on the amendment in relation to abuse of positions of trust, the amendment to the long title of the Bill, and the potential for an amendment in relation to removing the defence of reasonable punishment (equal protection).

1. Abuse of positions of trust amendment

- 1.1. Barnardo's NI warmly welcomes the intention of the Department of Justice to strengthen protection for children by widening the existing abuse of positions of trust provisions. While the proposed amendment is a welcome first step, it is too narrow in scope as currently drafted and will not protect all children who are at risk of abuse by an adult in a position of trust. It is crucial that abuse of trust protection is extended to include anyone with any caring responsibilities for children and is not limited to sporting or religious settings.
- 1.2. This legislative change should reflect the importance of relationships for children, particularly vulnerable children, and the lasting impact that abuse of trust within an adult-child relationship can have on that child. The focus of abuse of trust cases should be on the trust and relationship between the adult and child, rather than the title the adult holds. In cases captured under abuse of trust offences, the adult is abusing both their position of trust, and the trust placed in them by the child.

- 1.3. Barnardo's NI recognises that the amendment proposed by the Department allows for additional activities to be added or removed through regulation, thereby building-in scope to widen these provisions.

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While we welcome this flexibility to widen the scope in future, we believe this legislation should be as strong as possible from the outset. Children deserve protection in the law now, no matter what the setting, and should not have to wait until an incident of abuse in an additional setting is exposed to receive that protection.

- 1.4. We know that perpetrators of child abuse and exploitation deliberately seek out loopholes in the law, and settings where they will go undetected. As the age of consent to sexual activity is 16 years old, children who are 16 and 17 years old do not have as much protection in the law as children under the age of 16. The argument of consent can be used as a defence by perpetrators in non-statutory settings. If the scope of this amendment is too narrow, perpetrators may still have a wide range of organisations they can target to avail of those remaining loopholes.

2. Long title and equal protection amendment

- 2.1. Barnardo's NI supports the proposed amendment by the Department of Justice to change the long title of the Bill to 'certain rules of law and procedure for the purpose of protecting people from harm'. We believe this amended long title reflects the function of this Bill as an important piece of child protection legislation. Additionally, we believe this change to the long title of the Bill sets out a wider scope for the Bill, bringing an amendment to remove the defence of reasonable punishment clearly within the scope of this Bill.
- 2.2. Barnardo's NI strongly urges the Committee for Justice to consider bringing forward an amendment to the Justice Bill which would remove the defence of reasonable punishment for assault on children. Given the weight of evidence submitted to the Committee, both in writing and orally, in support of an equal protection amendment, and the clear public support for such a change in the law¹, we believe it is incumbent on the Committee to consider how to bring forward such a change.
- 2.3. Barnardo's NI recommends that the Committee considers an amendment to the Justice Bill which would amend the Law Reform (Miscellaneous

¹ NICCY (2017) Changing Perceptions: Equal Protection for Children NICCY's work and survey results on attitudes to physical punishment.

Provisions) (Northern Ireland) Order 2006 to remove the defence of 'reasonable punishment' for parents and carers who are accused of assault against a child. This amendment would not create a

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new offence, rather it would remove a legal defence for an existing offence.

2.4. Barnardo's NI recommends that this change in the law is accompanied by an awareness raising campaign targeted to parents to make them aware of the change in the law, and where help and advice is available if they need or want parenting support. Legislative change can be a powerful driver for changing public attitudes, and we want to support parents and carers as this change comes into effect. Through our parenting support services and programmes, we work closely with parents and carers to share information and highlight positive parenting and boundaries setting with their children.

For further information, please contact:

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