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FROM: CLARE MCCORMICK

DATE: 17 FEBRUARY 2021

TO: CHRISTINE DARRAH

PROTECTION FROM STALKING BILL

SUMMARY

Business Area: Criminal Law Branch – Criminal Justice Policy & Legislation Division, Access to Justice Directorate.

Issue: Responding to questions raised by the Justice Committee at its meeting of 21 January 2021.

Restrictions: Official – Policy in development.

Action Required: Members to note the written response to questions raised.

BACKGROUND

Members will recall that, during the 21 January 2021 oral briefing session on the Stalking Bill, officials agreed to provide the following information:

- The reason why the term ‘whether public or private’ is included in Clause 1(4) (f) and why ‘loitering in any place’ is not sufficient.

- What tariffs/penalties are provided for the offence of threatening or abusive behaviour under the Offences Against the Person Act.
2. Responses to each of the questions are set out below.

DETAIL

3. The addition of ‘whether public or private’ at Clause 1(4)(f) was included as the dictionary definition of loitering refers to waiting around without apparent purpose. Some definitions restrict the definition to a ‘public’ place and others do not.
4. We therefore included ‘private’ to make it clear that for the purposes of the Bill, loitering in a private place as well as a public one should be included.
5. The inclusion of “private” is also to ensure there isn’t a gap where an offender may claim to be allowed to do, or act as they wish within the property limits of their own home or a private dwelling they have access to, which they then use to stalk their victim.
6. Under the Offences Against the Person Act 1861, there is no lesser threatening or abusive behaviour offence as such. Only ‘threats to kill’ are available in the Act with a maximum sentence of 10 years on indictment.
7. Members may wish to note that the penalties in the Bill, will go further than the current harassment offences in the Protection from Harassment (NI) Order 1997.
8. The new offence of stalking, which is comparable to the offence of putting people in fear of violence, will increase the sentence to a maximum of 10 years (compared to 7 years) on conviction on indictment. On summary conviction, the sentence increases to 12 months (compared to 6 months).
9. Turning to the new offence of threatening and abusive behaviour, comparable to the current harassment offence, this will see the sentence increase to 5 years



(compared to 2 years) on conviction on indictment. On summary conviction, the sentence again increases to 12 months (compared to 6 months).

10. I trust this is helpful to Members of the Committee.

CLAIRE MCCORMICK
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