



**Northern Ireland
Assembly**

Committee for Justice

**REPORT ON THE LEGISLATIVE CONSENT MOTION –
DOMESTIC ABUSE BILL**

NIA - 28/17-22

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Powers and Membership

The Committee for Justice is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Justice and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant subordinate legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on any matters brought to the Committee by the Minister of Justice.

The Committee has 9 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee during the current mandate has been as follows:

Mr Paul Givan (Chairman)

Ms Linda Dillon (Deputy Chairman)

Mr Doug Beattie

Ms Sinéad Bradley¹

Ms Jemma Dolan²

Mr Gordon Dunne

Mr Paul Frew

Ms Emma Rogan^{3, 4}

Ms Rachel Woods

¹ With effect from 26 May 2020, Ms Sinéad Bradley replaced Mr Patsy McGlone

² With effect from 16 March 2020, Ms Jemma Dolan replaced Mr Pat Sheehan

³ With effect from 17 February 2020, Ms Martina Anderson replaced Mr Raymond McCartney

⁴ With effect from 9 March 2020, Ms Emma Rogan replaced Ms Martina Anderson

Background

1. The [Domestic Abuse Bill](#) was introduced in the House of Commons on 3 March 2020 and the majority of its provisions apply only to England and Wales. However, the Bill includes provisions to allow the UK Government to ratify the "[Istanbul Convention](#)", which is the Council of Europe Convention on preventing and combatting violence against women and domestic violence. The UK Government signed the Convention on 8 June 2012 but has not yet formally ratified it.
2. Article 44 of the Convention requires ratifying states to take the necessary legislative or other measures to establish extra-territorial jurisdiction (ETJ) for the range of offences established by the Convention – that is, to ensure that national laws can be used to prosecute nationals or those habitually resident in the state when they commit one of the offences overseas. The range of offences specified in the Convention include:
 - Psychological violence (Article 33)
 - Stalking (Article 34)
 - Physical violence (Article 35)
 - Sexual violence, including rape (Article 36)
 - Forced marriage (Article 37)
 - Female genital mutilation (Article 38)
 - Forced abortion or forced sterilisation (Article 39)
 - Sexual harassment (Article 40)
 - Aiding or abetting and attempt in relation to Articles 33 to 39.
3. Part 6 of the Bill makes provision for ETJ for the relevant offences across the whole of the UK.
4. Courts in Northern Ireland already have ETJ in respect of a number of the offences required by the Convention. This includes female genital mutilation, forced marriage, trafficking and sexual offences against children. However, they do not have ETJ for other offences required by the Convention, including a number of sexual and violent offences.

Purpose of the Legislative Consent Motion

5. The offences in Northern Ireland to be included in the Domestic Abuse Bill provisions for extra territorial jurisdiction are:
 - Putting people in fear of violence
 - Murder and manslaughter
 - Actual bodily harm

- Grievous bodily harm
 - Grievous bodily harm with intent
 - Child destruction
 - Administering poison or noxious thing so as to endanger life or inflict grievous bodily harm
 - Administering poison or noxious thing with intent to injure, aggrieve or annoy another person
 - Rape
 - Assault by penetration
 - Sexual assault
 - Causing a person to engage in sexual activity without consent
6. The [Domestic Abuse and Family Proceedings Bill](#) includes provision for ETJ for the proposed NI domestic abuse offence. In addition, a Stalking Bill, which is also expected to include provision for prosecution of offences that occur overseas, is scheduled for introduction in the Assembly later in 2020. Until these become law, the UK Government considers the inclusion of the offence of putting people in fear of violence and sexual and violent offences to be sufficient to allow for ratification of the Convention.
7. The extension of the provisions regarding extra-territorial jurisdiction for the offences at paragraph 5 above will allow the UK Government to ratify the Convention. The Department of Justice advises that the Minister of Justice considers it appropriate that these provisions are enacted via the UK Domestic Abuse Bill. Given the legislative constraints in this mandate, it would not be possible to bring the necessary primary legislation through the Assembly within the same timescale and would prevent formal ratification of the Convention in the meantime.

Committee Consideration of the Legislative Consent Motion

8. The Committee for Justice considered a written briefing paper on the proposed Legislative Consent Motion on the Domestic Abuse Bill on 30 April 2020 and agreed that an oral briefing from Department of Justice officials on the proposed LCM was not required.
9. While content in principle with the proposal to extend the provisions in the UK Domestic Abuse Bill relating to extra-territorial jurisdiction to Northern Ireland by way of an LCM, Members requested confirmation from the Department of Justice that the proposed LCM would not interfere with the Domestic Abuse and Family Proceedings Bill or delay in any way its passage through the Assembly.

10. The Legislative Consent Memorandum was laid by the Department of Justice on 26 May 2020.
11. At the meeting on 4 June 2020 the Committee noted the confirmation provided by the Department of Justice that the LCM will have no impact on the Domestic Abuse and Family Proceedings Bill and will not affect its passage through the Assembly. The Committee agreed that it was content with the proposal to extend provisions in the Domestic Abuse Bill relating to extending the power of courts in Northern Ireland to try in the home jurisdiction certain sexual and violent offences which have been committed abroad to Northern Ireland by way of an LCM.

Conclusion

12. **Following consideration of the Legislative Consent Memorandum laid on 26 May 2020, the Committee for Justice agreed to support the Minister of Justice in seeking the Assembly's endorsement of the Legislative Consent Motion:**

“That this Assembly endorses the principle of the extension to Northern Ireland of the relevant provisions of the Domestic Abuse Bill, introduced in the House of Commons on 3 March 2020, relating to the provisions to extend the power of the courts in Northern Ireland to try in the home jurisdiction certain sexual and violent offences which have been committed abroad, so far as these matters fall within the legislative competence of the Assembly”

Appendices

Appendix 1 – Department of Justice Papers

[Department of Justice, 20 April 2020 – Briefing paper: Legislative Consent Motion: Provisions for extra territorial jurisdiction in the UK Domestic Abuse Bill](#)

[Department of Justice, 1 June 2020 – Response regarding impact of LCM on the Domestic Abuse and Family Proceedings Bill](#)

Appendix 2 – Minutes of Proceedings

[30 April 2020](#)

[4 June 2020](#)

[11 June 2020](#)

Appendix 3 – Legislative Consent Memorandum

[Department of Justice, 26 May 2020 – Legislative Consent Memorandum](#)