

Submission by the NSPCC Northern Ireland to the NI Assembly
Criminal Justice Bill

August 2012

Introduction

1. The NSPCC is grateful for the opportunity to provide written evidence to the Assembly Justice Committee on a number of provisions in the Criminal Justice Bill and in particular Clauses 1, 3, 4, 5 and 6.
2. The NSPCC is the lead NGO in child protection and uniquely has powers under the Children (NI) Order 1995 as an authorised person to use a number of legal remedies to protect children. We are also a core member of the new Safeguarding Board for Northern Ireland (SBNI) and are a member of the Strategic Management Board of Public Protection Arrangements Northern Ireland (PPANI) as provided for by article 49 and 50 of the Criminal Justice (NI) Order 2008. We have been very involved with Public Protection Arrangements since the inception of the Multi Agency Sex Offender Risk Assessment and Management arrangements (MASRAM) in 2002. The NSPCC also provides services to children who engage in harmful sexual behaviour and therapeutic recovery services for those who have been abused.

Review of indefinite offender notification requirements

3. The current provisions of indefinite notification date back to the now repealed Sex Offenders Act 1997 which was introduced to England, Wales and NI. This required indefinite notification requirements on individuals convicted on a qualifying offence¹.
4. The Bill introduces a provision for a qualifying offender to apply for a review to the Chief Constable after 15 years. From our own practice experience of sex offenders we know that some, despite all attempts at rehabilitation, will remain a significant risk for the duration of their lives. Where a paedophile has sexually abused a child registration should be for life.
5. If the Committee and Assembly do approve the Clause in the Bill an important safeguard will also be that within the PPANI Manual of Practice it is possible for a qualifying offender to be brought into assessment and risk management arrangements if there are future concerns². This could helpfully be highlighted in the Committee debate.

¹ Superseded by the Sexual Offences Act 2003 and set out in Section 82

² http://www.publicprotectionni.com/uploads/PDF/PPANI_Manual_of_Practice.pdf

6. The Schedule of the Bill sets the initial review for lifetime notification applications as 8 years for someone under 18 and 15 years for those 18 and over and we support special measures for young people. While young people will have committed a very serious offence in the first instance to acquire this level of notification requirement, we do support difference of treatment for this age group. Research has shown that treatment provision can be successful with young people and most young people who demonstrate harmful sexual behaviour do not go on to become adult sex offenders.³⁴
7. The Schedule to the Bill sets out factors for the Chief Constable to consider when arriving at a determination to deregister an individual and these are set out in Paragraph 3 (2) (a) to (k). We would suggest some further factors the Committee may consider helpful to include in this or request the Department of Justice to highlight in guidance (9 below):
- The need for the welfare and protection of the victim(s) to be paramount;
 - In cases involving sex offenders who have abused children, child protection and safeguarding must be a prime consideration and the Chief Constable's assessment of a sex offenders application to be removed from notification arrangements should include views and evidence from children's social care professionals and any views from victims as appropriate;
 - Risk assessments must be informed by empirical, objective evidence, and any decision taken based on transparent and clear criteria. Decisions taken must be well documented;
 - A lack of reported incidents or concerns does not automatically equate to a lack of risk. Risk assessments for the purposes of considering deregistration should not be based on absence of evidence that a risk exists but rather on **positive evidence** that the risk once posed by the offender has been substantially reduced, and that the offender poses no current or future risk to the public.
8. It is helpful that the Schedule provides for statutory guidance to be produced on the issue and process. NSPCC would like to see the welfare and protection of children being paramount and it should deal with situations where an agency or agencies have a contrary view to the police that an individual does continue to pose a risk, guidance needs to set in place a process for dealing with this.

³ http://www.community.nsw.gov.au/docswr/_assets/main/documents/adolescents_literature_review.pdf

⁴ <http://www.csom.org/pubs/juvbrf10.html>

Notification requirements for qualifying EEA offenders

9. This section introduces a new provision requiring qualifying offenders to notify the police on entrance to Northern Ireland. We believe this a very important provision for a number of reasons. Currently the onus on finding and requiring an offender to register lies with the police and through application for a notification order⁵. This places additional unnecessary responsibility on the police and is problematic where an individual enters the jurisdiction unknown to the authorities. In the Republic of Ireland the Sex Offenders Act 2001 requires that the individual registers with the authorities on entry to the country and this seems a very sensible provision which the NSPCC supports; indeed it is something which other jurisdictions in Great Britain may wish to consider. The provision relates to the European Economic Area (EEA) state territories but it is something which the Committee may wish to ask for clarification on in relation to extent to any qualifying offence outside of the jurisdiction.

Sex Offender Prevention Orders

10. The provision of Sex Offence Prevention Orders has become an important tool for agencies involved in Public Protection but are framed in such a way in the 2003 Act that they restrict what an individual can't do. We welcome a move to issue positive requirements and this should work well, for example, in relation to accommodation requirements and where an offender is required to live or to compel an offender to undergo an anger management course.

Trafficking

11. The new provisions within the Bill in relation to trafficking are welcome new safeguards which bring NI into line with EU directives on human trafficking by ensuring that those who seek to traffic adults or children across international borders are not immune from prosecution in Northern Ireland and addressing internal trafficking for the purposes of sexual exploitation.

⁵ Section 97 Sexual Offences Act 2003

12. In September 2011, in partnership with Barnardo's in Northern Ireland, the NSPCC published a Policy and Practice briefing "*Separated Children and Child Trafficking in Northern Ireland*"⁶ which highlighted the findings of a scoping study undertaken by the two agencies. This showed that while the incidence of trafficked children in Northern Ireland is small, it is important to recognise this can be a hidden problem and difficult to identify. Research indicates 'there can be a lack of awareness by the general public and some practitioners which is enhanced by a culture of disbelief'. However, if this is addressed, more cases of child trafficking can be identified (Pearce et al, 2009). The report recommended that professionals who come into contact with separated/trafficked children in Northern Ireland should be trained to understand and effectively respond to their needs. Awareness-raising, embedding knowledge and building professionals' confidence about the issue of separated children, and child trafficking in particular, is vital for effective safeguarding. This should apply to those in the criminal justice system as well as professionals in education, social services, health and the voluntary sectors.

13. The committee will be aware that the Public Prosecution Service is currently consulting on its "*Policy for Prosecuting Cases of Human Trafficking*" in which they propose to "work closely with the police, other colleagues in the criminal justice system and the voluntary sector to identify ways to increase disruption, prevention, investigation and prosecution as well as improving victim and witness care and protection. It is recognised that non-governmental organisations will often have greater experience of victims and their differing needs and that a criminal justice route is not the only way of responding to trafficking; criminal (and civil) law may need to be used in conjunction with support services for victims." The proposed legislative provisions will strengthen further the inter-agency approach to tackling the issue of trafficking.

Other issues

14. Under the Sexual Offences Act 2003, children who have committed a sexual offence are subject to the same notification requirements as adults. Although the length of their notification period is automatically halved, and they have the possibility of varying a notification direction, this does not go far enough in recognising and attempting to meet the rights, needs and vulnerabilities which are specific to children. No consideration is given to how such requirements may affect the lives of

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http://www.nspcc.org.uk/Inform/policyandpublicaffairs/northernireland/separated_children_child_trafficking_wdf84819.pdf

young people, how regular contact with criminal justice agencies may lead to them being stigmatised at a young age, or to how the notification requirements could be tailored to better fit in with the reality of children's everyday lives, for example in relation to their attendance at school and their widespread use of social networking sites. As such, the current requirements do not constitute a child centred and welfare-based approach to their management. On a wider issue the Committee may wish to consider if a review should be conducted into the effectiveness, proportionality and impact of the current and proposed notification requirements on young people who have sexually offended.

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