

# Disability Action

## INTRODUCTION

- 1 Disability Action is a pioneering Northern Ireland charity working with and for people with disabilities. We work with our members to provide information, training, transport awareness programmes and representation for people regardless of their disability; whether that is physical, mental, sensory, hidden or learning disability.
- 2 21% (369,390) of adults and 6% (105,540) of children in Northern Ireland have a disability and the incidence is higher here than in the rest of the United Kingdom. Over one quarter of all families here are affected.
- 3 As a campaigning body, we work to bring about positive change to the social, economic and cultural life of people with disabilities and consequently our entire community. In pursuit of our aims we serve 45,000 people each year.
- 4 Our network of services is provided via our Headquarters in Belfast and in three regional offices in Carrickfergus, Derry and Dungannon.
- 5 Disability Action welcomes the opportunity to respond to this draft and to aid our response has put the relevant page/paragraph of the draft in brackets at the end of our comments.

## SPECIFIC COMMENTARY

- 6 Disability Action believes that the contact details in this consultation document should include a textphone or dedicated SMS number to enable deaf people the same access as those who are hearing. This is not the case in either the Clerk of the Justice Committee nor the Attorney General.

## GENERAL COMMENTARY

- 7 The Department of Justice has informed the Committee of eight amendments that it plans to bring forward for consideration during the Committee stage of the Bill. In addition to those parts Jim

Wells has an amendment on abortion and there is another amendment to the Coroners Act, all 8 are listed below:-

Drafted as to ascertain to the Coroners Act (Northern Ireland) 1959 the Attorney's proposed amendment now reads as follows:-

8 Provision of Information to the Attorney General for Section 14.

14a-(1) The Attorney General may by notice in writing to any other person who has provided health care to a deceased person, requires that person to produce any document or to give any other information which in the opinion of the Attorney General may be relevant to the question of whether a direction should be given to the Attorney General under section 14.

(2) The person may not be required to produce any document or give any other information under this section if that person could not be compelled to produce that document or give that information in civil proceedings in the High Court.

(3) In this section 'document' includes information recorded in any form and references to producing a document include in relation to information recorded otherwise than in legible form references to providing a copy of the information in a legible form.

(4) A person who fails without reasonable excuse to comply with a requirement under this section commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

Disability Action agrees with all four clauses, we would however say that, fines not exceeding level 5 on the standard scales does not mean anything to us. It must be proportionate with the cost of failure to provide such information.

9 Part 4 – Victims and Witnesses – Sharing Victim and Witness Information

The amendment proposed is intended to provide for a more effective mechanism through which victims can automatically be provided with timely information about the services available, that is Victim Support Services, Witness Services at Court, and the Access to Information Release Schemes. Most importantly the

victims would not be obliged to avail of services, rather the purpose of the proposed change is to ensure that they are provided with the relevant information so that they can make an informed decision about the services on offer to them.

Subject to Legislative Counsels view the effect of this amendment is likely to be the insertion of a single new clause into the Bill setting out that certain information would be shared between specific organisations for the purpose of informing victims and witnesses about available services.

Disability Action agrees with the proposed amendment particularly as you have shared them with the Northern Ireland Human Rights Commission.

10 Part 5 – Criminal Records – Publication of the Code of Practice

We are proposing an amendment to the power of the Department to publish the Code of Practice provided for in clause 39 (2) of the Bill (which inserts a new subsection (4A) to section 113B of the 1997 Act). This new subsection provides for a statutory Code of Practice to which chief officers of police must have regard.

There has always been the intention that the Code of Practice would be published. The amendment would make it clear that the Code *must* be published and is being made at the suggestion at the Attorney General.

Disability Action agrees with this proposed amendment.

11 Part 5 – Criminal Records – Exchange of Information between Access NI and Disclosure and Barring Service for barring purposes.

However following legal advice it has become clear that a specific statutory power is required to allow to Access NI to share information with DBS which will be used for barring purposes. Again this is a minor amendment and should require no more than a single new clause, however this is an important additional safeguard for vulnerable groups and should assist in ensuring that inappropriate persons are unable to get work with such groups.

Disability Action agrees with this proposed amendment.

12 Part 5 – Criminal Records – Review of Criminal Record Certificates where convictions or disposals have not been filtered

Under what we propose an amendment will be required to section 117 of the 1997 Act which covers disputes about the accuracy of certificates. We think this will require a new clause in the Bill to provide for the introduction of the scheme and the drawing up of guidance by the Department setting out how it will operate.

The Bill already contains amendments to the 1997 Act designed to improve the efficiency and effectiveness of the criminal records disclosure system. We wish to introduce the review mechanism as soon as possible and the Justice Bill will be first opportunity to do so. An additional benefit of the review mechanism and it will make it more compatible with Article 8 of the European Convention on Human Rights and reduce the scope for legal challenge to the current filtering system.

Disability Action is glad to see that it targets a consultation with key stakeholders on the draft guidance.

13 Part 8 – Miscellaneous – Duty of Solicitors to advise client about early guilty appeal

Clause 78 creates a statutory duty on a defence solicitor when representing a person in connection with an investigation into an offence, to advise that person of the effect of Article 33 of the Criminal Justice (Northern Ireland) Order 1996 which enables a Court to give credit an early guilty appeal when sentencing the defendant) and to advise the client of the effect that a guilty plea might have on any sentence that might be passed on the person if he is found guilty of the offence.

The Minister has indicated that he will amend the clause to omit subsection (3) at an appropriate stage in the Bill. We think this too will be a minor amendment as it would have no substantive impact on the rest of the draft clause nor would it affect the policy intention behind the clause.

14 Part 8 – Miscellaneous – Defence Access to Premises

This provides that a Court shall not make an order permitting access to premises unless it is required in connection with the preparation of the person's defence or appeal.

The Attorney General has recommended an amendment to this provision so that a court could only grant an application for inspection of premises where it is necessary to ensure the fair trial rights of the defendant.

Subject to Legislative Counsel's views, we anticipate that it will be a matter of substituting the wording the Attorney has suggested for the wording currently in clause 82(4)(a).

15 Abortions

At a meeting on 2 July 2014 Mr Jim Wells MLA also advised the Committee that he intends to bring forward an amendment to the Bill to restrict lawful abortions to National Health Services premises, except in cases of urgency when access to NHS premises is not possible and where no fee is paid. The amendment also provides an additional option to the existing legislation for a period of up to 10 years imprisonment and a fine on conviction of the indictment.

Disability Action has no comment to make on this issue.

**CONCLUSION**

16 Disability Action has welcomed the opportunity to make a submission. Disability Action looks forward to continued dialogue on this and other issues of major significance to people with disabilities throughout Northern Ireland.