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Alistair Ross MLA
Chairman
Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
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17th December 2015

Dear Mr Ross

I am writing in response to your letter seeking our views on the proposed amendment to the justice No 2 Bill from Lord Morrow regarding the assaults on members of the emergency services. I have been asked by the Director of Public Prosecutions to reply on his behalf.

The proposal as I understand it is to amend Section 66(1) of the Police (Northern Ireland) Act 1998. Legislative reform is a matter for the relevant Department and the legislature and I will restrict my comments to the view of the Public Prosecution Service as to practical implications of such an amendment.

Section 66(1) of the Police (Northern Ireland) Act 1998 reads as follows

Any person who assaults, resists, obstructs or impedes a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, shall be guilty of an offence.

You will note that the provision includes the offences of resisting, obstructing or impeding a constable or a person assisting a constable as well as assaults and that the constable must be acting in 'execution of his duty'.

The law around this existing offence can be more complex than may first appear. One issue has been what is meant by the execution of an officer's duty. This is an essential element of the offence and if an officer is assaulted when

acting outside the scope of their duty no offence under Section 66(1) will have been committed. Many cases both here and in England and Wales have considered the circumstances in which assaults on police officers occurred and whether the officers were acting in execution of their duty. Should this provision be extended to a further class of victims it is likely that this same consideration could occur.

Under the law as it stands where there is evidence of an assault on an emergency worker we can, of course, prosecute under existing assault offences without the need to prove that the victim was acting in execution of their duty. Where the victim is someone who is serving the public, prosecutors are advised to consider this an aggravating factor. This will be a consideration when deciding whether, for example, an offender should be prosecuted in the Crown Court where greater sentencing is available to the Court. We apply this approach to a range of victims serving the public to include, for example, Bus Drivers and those working with the public in benefit offices, as well as those in the emergency services.

We are aware that Judges will treat the fact that a victim is performing a public service as an aggravating factor when passing sentence in such cases. The Judicial Studies Board for Northern Ireland produces Sentencing guidelines for the Magistrates Court which includes the following in its section on aggravating factors.

- *The victim was engaged in providing a service to the public*

Persons who are providing a public service can often be in vulnerable positions by the nature of their job. Where an offence is committed against such a person the courts will treat this as a substantial aggravating factor when determining the seriousness of the offence. Persons considered to be providing a public service include, but not limited to:

- (i) Emergency services personnel*
- (ii) Doctors, nurses and other hospital staff*
- (iii) Teachers and other school staff*
- (iv) Taxi drivers and bus drivers*
- (v) Traffic wardens*
- (vi) Shop staff*

The Courts Service or the Office of the Lord Chief Justice may be better placed to comment on this than ourselves.

We hope these comments are helpful.

Yours sincerely



RF CIARAN McQUILLAN
Assistant Director