



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Civil Service (Special Advisers) Bill:
Commission for Victims and Survivors

14 November 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Judith Cochrane
Mr Leslie Cree
Ms Megan Fearon
Mr Paul Girvan
Mr John McCallister
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Peter Weir

Witnesses:

Mr Adrian McNamee	Commission for Victims and Survivors
Ms Kathryn Stone	Commission for Victims and Survivors

The Deputy Chairperson: I welcome Kathryn Stone, the Commissioner for Victims and Survivors, and Adrian McNamee, the head of policy at the Commission for Victims and Survivors. I ask you to make your opening statement, please.

Ms Kathryn Stone (Commission for Victims and Survivors): Thank you and good morning. The Commission for Victims and Survivors welcomes the opportunity to come before the Committee to comment on a number of issues relating to the Civil Service (Special Advisers) Bill. As commissioner, my primary statutory duty is to promote the interests of victims and survivors as outlined in the Victims and Survivors (Northern Ireland) Order 2006. Significantly, where my appearance before you today is concerned, I have a duty to keep under review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors.

I am aware that, as part of your consideration of the Bill, you have received oral and written evidence from a number of witnesses, including the sponsor of the Bill, Mr Jim Allister MLA, the Attorney General, the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) and the Human Rights Commission. Equally, I am aware that a public consultation was held last year and that the Bill's having reached this stage of the legislative process means that MLAs from all political parties have had an opportunity to debate its content. Therefore, rather than engage in a detailed consideration of the Bill, I would like to focus on the general principles of the proposed legislation and on a range of concerns that victims and survivors expressed on the appointment of special advisers. In preparation for meeting you today, I asked the 25 members of the Victims and Survivors Forum to express any issues that they may have in support of or, indeed, in opposition to the Bill. I will expand on those shortly, and I would like them to form the basis of my comments in this opening statement.

In his presentation to the Committee, Jim Allister noted that the genesis of the Bill emerged from the appointment of Mary McArdle as special adviser in May 2011 and from the considerable distress and anxiety that that brought upon the Travers family. Since coming into post in September, I have met Ann Travers through the forum's work. I understand the deep pain and hurt that that particular appointment created for her and her wider family circle. Of course, I have had permission from Ann to mention her name today. I know that Ann has been invited to contribute to the Committee in an individual capacity.

As some or all of you may know, the Victims and Survivors Forum, which met in its current composition for the first time in June this year, represents an important body that has two primary functions. First, it will be a place of consultation and discussion with victims and survivors of the Northern Ireland conflict, and, secondly, it will provide advice to the Commission for Victims and Survivors. It was in that capacity that I asked members to outline their views on and concerns about this Bill. I will briefly share some of the views on and experiences relating to the Bill and the wider context in which it was introduced.

Forum members who are opposed to the Bill contend that, if implemented, the legislation will be a source of division and that it will not promote the understanding and reconciliation that are required to build a progressive society that is emerging from decades of conflict. Several members expressed strongly their view that the Bill is singularly focused on discriminating against former republican prisoners, and they questioned the motivation and intent behind the initiation of the Bill. According to one forum member:

"This is a complex Bill that goes to the core to an understanding of the conflict. It is not about victims per se but seeking to deny political prisoners the rights to enjoy full citizenship (and access to employment) ... This ought not to be a case of either/or – but more importantly there is no contradiction supporting the human rights and citizenship of political prisoners and advocating and supporting victims' rights."

Meanwhile, forum members who are in support of the broad principles of the Bill argue that, in disqualifying prospective and existing special advisers with serious criminal convictions, it could prevent the fallout that was experienced previously. Some forum members argue that, in doing so, the Bill would ensure that the victims of violence that was perpetrated by former prisoners are not re-traumatised. Further, forum members who share that view have argued that victims' rights should be considered just as much as those of ex-prisoners, who are referred to explicitly in the Good Friday Agreement. One forum member has argued:

"I feel that politicians who supported the use of violence in the past now have a duty of care towards the victims created by such violence. It is within their power not to re-traumatise these victims ... There are thousands like me who hurt quietly at home, forced to relive the day evil visited their lives because of arrogance that ex-prisoners somehow have more human rights or [are] protected more from the Good Friday Agreement than the very victims they created."

The different opinions that forum members expressed represent a microcosm of some of the views and arguments that your colleagues expressed during the Bill's Second Stage debate. As I mentioned, I have not sought to comment directly on the legislative provision that relates to the disqualification of prospective and existing special advisers with serious criminal convictions as provided for in clauses 2 and 3. Rather, my focus has been on highlighting forum members' views on and concerns about the Bill.

In closing, I would like to make a number of wider points relating to the proposed legislation. A commission report, which was completed in partnership with Queen's University in April this year, examining the potential impact of transgenerational trauma on young people who are affected by the conflict in Northern Ireland, revealed two important contributory factors in the transmission of conflict-related trauma across the generations. First, the lack of effective communication, or silence, about the traumatic events can be a significant factor in the transmission of trauma from the initial survivor generation to their children and their children's children. Secondly, the report discovered that the consequences of trauma can affect a parent's ability to interact with their children, resulting in their experiencing an absence of emotional support.

There is clearly the potential for hurt and distress to be caused to the families of victims who suffered bereavement or injury as a consequence of the actions of those who are appointed. Part of that distress has the potential to cause severe emotional difficulties for not just those who experience the

initial trauma but other family members. Often, many victims and survivors continue to carry debilitating physical and psychological injuries that were sustained during the conflict. Equally, as our research indicated, there is growing awareness about the potential transgenerational impact of the conflict on adults today who were children when they first experienced a conflict-related event and on some of our young people who continue to be impacted by the enduring legacy of the conflict.

Therefore, an important lesson that must be learned from the repercussions of previous appointments is the need for all Ministers and their respective political parties to consider carefully the appointment of special advisers in the future. Given the significant psychological trauma that many victims and survivors of the conflict experience, it is incumbent on all political representatives to exercise responsibility and to display empathy to the plight of all individuals and families who are affected by the Troubles.

The Deputy Chairperson: Thank you very much. Adrian, do you have anything to add?

Mr Adrian McNamee (Commission for Victims and Survivors): No.

Mr Weir: I have a brief question. Thank you for the evidence. To some extent, what you told us does not particularly surprise us. I assume that, in getting that range of views in the forum, there was no attempt to quantify the balance of opinion. Was it simply about allowing people to express their particular views and recording them? What way was that handled?

Ms Stone: We gave forum members an outline of the Bill's context. We sent them a copy of the Bill and other information to inform their responses, and we allowed them to make their responses based on their own experience. There was no attempt either to quantify that or to push it in a particular direction. It was a genuine opportunity for them to share their views.

Mr Weir: To paraphrase what you said in your closing remarks, is the issue really that, irrespective of whatever legislation is there, when making appointments, political parties should show responsibility and sensitivity? Is that more or less the gist of where you are coming from?

Ms Stone: Absolutely.

Mr Mitchel McLaughlin: Good morning. Can I start by congratulating you on your appointment? I wish you well. The position that you now occupy will be very challenging and complex. I think that it is very helpful that you took the time to come here, because this is also a very sensitive and complex issue.

As you will be aware, ours is a post-conflict society, and there are many unresolved issues. Quite significant, and, at times, breathtaking, progress has been made on a range of issues. Despite that, many issues, including, perhaps, some of the core points that led to the conflict, are still unresolved between those who may have different perspectives on the British state in Ireland and Irish self-determination. So, this has a historical context.

Over a long period, many people have been traumatised, bereaved or injured as a consequence of the conflict. In the absence of what might be regarded as effective reconciliation processes, avoiding the continuation of people's victimisation, even if such a continuation is not the intention, is a difficult and perhaps impossible task. In my view, we certainly had that situation in the circumstances of the appointment that caused such a furore. Clearly, Ann Travers and the wider Travers family were re-traumatised, which, I would imagine, was not the intention of anybody who was involved in making the original decision.

The agreement on which the Assembly is founded addressed the issue of prisoners. It clearly dealt with many issues, including those where the justice system had not addressed all the circumstances of injury and bereavement. We know that many people who were involved in a combatant role, if I could describe it as that, were, in fact, arrested, charged and imprisoned under the emergency legislation that existed. Others were not. That did not apply to some people as a result of policy, particularly those who were, perhaps, in the service of the British Government and were involved in collusion. Those are well-established circumstances. Of course, there are many victims of collusion in the community who have never had redress. Given the British Government's current stance, they may never have redress. In many circumstances, they know, if not the personality —

The Deputy Chairperson: Mitchel, are we getting to a question here?

Mr Mitchel McLaughlin: I am sorry; that is not the purpose of the meeting. We are discussing the matter, if you do not mind.

The Deputy Chairperson: We have witnesses who are here to be questioned.

Mr Mitchel McLaughlin: Sure. So, I would like to be able to develop my point.

The Deputy Chairperson: Within reason.

Mr Mitchel McLaughlin: OK. Within reason. However, I will not be silenced. I will just make you aware of that.

The Deputy Chairperson: It is not a question of that.

Mr Mitchel McLaughlin: I will deal with it. I recognise and respect that Kathryn Stone has joined us and is involved in this issue very soon after her appointment. I certainly do not intend to trap you or to create any difficulties on top of what I think is a very challenging position. So, I want to set out my position very carefully. It is a complex issue, as I said. I want to make the point that there are victims and that they are on all sides. That is the point that I was developing. Some of them have had what they might regard as justice, but, for a variety of reasons, many of them have not. In some circumstances, the investigating authorities were not able to identify people and bring them to court. In other circumstances, they made no real attempt to do so. There are victims in that category as well.

So, in proceeding, let us do so with sensitivity and on the basis of the negotiations of the Good Friday Agreement, recognising the very influential role that prisoners played in getting support for the agreement. We made special arrangements and addressed the issues of rehabilitation and providing guidance. For example, the Office of the First Minister and deputy First Minister has produced its guidance after specifically drawing on the Good Friday Agreement and the St Andrews Agreement. I contend that all involved, including Ministers, agencies and people who are coming to the special advisers issue — just as Jim Allister is with this Bill, which is what he is entitled to do, as people are allowed their views — need to take account of the consensus that was arrived at in the agreement. That position very specifically addressed the issue of rehabilitating people who have been imprisoned as a result of the conflict. That is what I want to put to you. None of the people imprisoned during the past 30 years started that conflict. It started generations ago. You referred to transgenerational issues in your presentation. What I have just described is one particular aspect of that, which I think that we all have to be very conscious of.

So, I am making a point to you, as Victims' Commissioner, and I would like you to reflect on it. I am not going to insist that you answer a question here today, but, having taken some advice, you might wish to correspond with the Committee. I say that on the basis that you have only just been appointed. You have a responsibility to all victims, whatever agency caused that victimhood in the first instance. That work will involve state forces as well as paramilitary organisations. We have a responsibility to them all.

We had two very interesting outcomes to the Saville inquiry into Bloody Sunday. First, a number of witnesses stepped forward to say that they were in the IRA and had joined the IRA because of what happened on Bloody Sunday. So, they became involved in political violence not because they supported it but because of what happened. Indeed, I am a survivor of Bloody Sunday.

Secondly, the British Prime Minister said that it was "indefensible". However, none of the people who fired the guns and murdered 14 people and wounded 14 others that day has ever been charged. So, that is another example of victimhood.

In addressing this issue, I would like you to think about coming back with a carefully considered position on your responsibility, as you see it, for all the victims.

The Deputy Chairperson: Thank you, Mitchel.

Ms Stone: May I respond to that?

The Deputy Chairperson: Of course.

Ms Stone: First, I thank you for your good wishes. You are absolutely right; it is an interesting and challenging role. Every day brings new challenges and new degrees of interest. I was absolutely clear in a number of media interviews that I gave last week that my role is to serve all victims. That is in the definition that is set down in legislation. It is not within my gift to change that legislation, however difficult or problematic that might be for some communities. My responsibility is to all victims. I think that the opportunities that I have had to meet and speak with forum members, as well as other victims and survivors privately, has demonstrated the complete division that exists. I am completely confident that that will be expressed in the Committee and by your other colleagues as the Bill proceeds. Those who oppose the Bill believe absolutely that it is about not the impact on victims but the human rights of former political prisoners. Those who support the Bill believe that it would show an active demonstration of support for those who have been victims or have been traumatised. The point was made by one of the forum members, whom I quoted earlier, who felt that it should not be an either/or situation. There is an opportunity to demonstrate acceptance, acknowledgement and promotion of the human rights of former political prisoners and greater sensitivity — as Mr Weir suggested — to victims in the future when other political special adviser posts are made. I will go back and get some more information for you.

Mr Mitchel McLaughlin: Thank you.

The Deputy Chairperson: There is a clash of rights here. As has been pointed out, there are the rights of ex-prisoners and perhaps the need to integrate them into society and give them a constructive role, and, as you said yourself, there is the issue of the rights of victims and sensitivity to their trauma, and so on. Some people might say that the Bill does not achieve that balance and is a bit of a blunt instrument that comes down more strongly on one side than the other. What is your view on that?

Ms Stone: The commission was thinking about how provision could be built into the Bill to ensure that victims and survivors' interests are properly represented and that opportunities for re-traumatising and people revisiting the experiences that they have had are lessened. I think that it will be very difficult. The trans-generational research shows that people's experiences are, by necessity, very individual. Their reactions are very individualised and very specific. One of the things I would like to do is go back to the victims' forum. We did not specifically ask our colleagues to comment on that, but we could go back to the victims' forum to ask it for specific information on that.

(The Chairperson [Mr McKay] in the Chair)

The Chairperson: Kathryn, you are very welcome. Apologies for my lateness this morning. We will move on to Leslie.

Mr Cree: Thank you, Chair, and welcome. Despite Mitchel's myopic view of history, there can be no justification for violence, and certainly no justification for murder. He referred to Bloody Sunday. Many people were killed by the IRA prior to that occasion. You have got to put it in context. I believe that there can be no justification for murder at all. The innocent murder in the Travers case is really what has prompted this. In dealing with victims, have you detected any particular hierarchy in the types of events that caused their particular trauma?

Ms Stone: If I interpret your question to be asking whether, in the commission's view, there is a hierarchy of victims — perhaps that is a wrongful interpretation of your question — the answer is that we are acutely conscious that there is a perception that there is a hierarchy of victims.

Referring back to my previous response, the commission's role is to provide support to promote the interests of all victims and survivors. In individual responses to trauma and the events that trigger that trauma, again, those responses are hugely individualised. In my previous experience, working for many years with victims of sex crime and people who have had family members murdered in other circumstances, people's reactions and responses were very different. I am aware that, currently, there is a lot of talk in the media. I understand that the famous — or should I say infamous — Mr Nolan is debating post-traumatic stress disorder (PTSD) on his show today. The commission has previously worked with David Bolton, a very eminent researcher in that area, who argues that, for many people who experience PTSD, it can take them between 15 years and 22 years to come forward to ask for help.

This is a hugely unidentified population of people who need very sensitive and careful mental health support. It is something that we, as a society, need to think very carefully about in how we support those individuals who have waited many years to come forward, as a consequence of the trauma that they have experienced.

Responses to trauma are very individualised, and it can take a very long time for people to come forward. Their needs will be specific and individual. It is very difficult to make judgements on what is a higher level trauma or a lower level trauma, because individuals will respond in very different ways.

Mr Cree: Are you aware that Northern Ireland has the highest rate of PTSD of any country in the world, including those that could be termed war zones? Are you aware of that statistic?

Ms Stone: I am aware that PTSD is a significant problem in Northern Ireland. Steps are being taken to address not only the extent of the problem, but what resources are needed to effectively provide support to those individuals. It is right to say that there are many thousands, if not tens of thousands, of people who will require that degree of support because of the experience of not only the incidents or events that they have been involved with, but of simply living in a society that is riven by conflict.

Mr Girvan: Thank you, Kathryn, for coming along this morning. I appreciate that we know exactly why this issue came about; it came about as a result of a lack of common sense in relation to dealing with the sensitivity of that appointment. I want to come at this on the basis of the debate that might have happened within your organisation. Have you discussed what is and is not suitable? The only tool and mechanism that I can see is the tariff associated with a particular crime, whatever that might be. Somebody who was found guilty and who got three years for something terrorist-related could be acceptable, but somebody found guilty of murder and who got a life sentence could be ruled out. Has that debate taken place in your organisation?

Ms Stone: I think that those debates are best left to the lawyers and the judiciary. It would be very difficult for the commission to comment on sentences and tariffs and the impact, or otherwise, on individuals.

Mr Girvan: There is probably not a person in this room who has not been affected by the conflict in one way or another. Some will have been affected to a greater degree than others. As a result, even those who did not suffer family loss as a result of murder are victims. Some of us have family members who have probably lost the majority of their lives because they have not been able to contribute to family life. It is not necessarily an individual who caused that trauma; a conglomeration of events may well have added to it. As the Victims' Commissioner, what is your view on that? An individual may well not have lost their life, but they might have had a total nervous breakdown and, as a result of that, been unable to contribute to society or family life. How can you make a measure to say that the people who caused that have the right to take up a senior position? We are not talking about junior posts; we are talking about a senior position within government in Northern Ireland.

Ms Stone: I think that the two things are separate. I have had the opportunity to meet many individuals and families who, as you rightly say, have been deeply traumatised and affected in a range of ways. We need to make sure that they are properly supported and that we acknowledge the trauma that they have experienced. However, I think that the opportunities for making decisions about the cut-off point for seriousness, whether cases are not quite so serious or have less impact on people's employment opportunities, are for the judiciary and lawyers. I am aware of the judgements of, now, Lord Justice Kerr and about the employment regulations, guidance, requirements, and so on. I think that if you were to ask those individuals and families who have been traumatised, their responses and experiences would be as divided as the responses that we have had from members of the victims' forum.

The Chairperson: Kathryn, there is, obviously, a divergence of views in the Committee and in the commission itself. In more general terms, what views are there in the commission about how to move society forward, communal healing, and what steps can be taken? Is there any agreement or discussion about that particular aspect of the commission's work?

Ms Stone: I am very pleased to say that our forum is now working very carefully on a range of aspects that includes dealing with the past, such as the level and type of services required to meet the needs of victims and their families. We are also looking carefully at how we build for the future. The forum

has to meet a timetable to provide advice to the commission. That will provide the basis for information to be proposed to Ministers about building for the future. So, we are optimistic that, as an organisation and a commission, with informed, lived experience from members of the forum, we will be able to provide advice to Ministers on that particular matter.

The Chairperson: What is that timetable?

Ms Stone: The timetable is delivery of advice to me by the end of March 2013. Hopefully, we will turn that round quite quickly to provide advice to Ministers within the next session.

The Chairperson: What is your view on the current situation with regard to the services on offer for victims? I can think of a number of cases in which there is a deficit. There is a feeling among many victims that they have been left behind with regard to having somewhere to go to, to deal with their particular trauma.

Ms Stone: I have had the opportunity to visit a large number of groups and services that provide a range of opportunities for victims and survivors. It is important to say that those groups and services have been there, in some cases, for decades providing support in communities to individuals. There is a large number of what are called "hidden victims" — people who have not used those services or availed themselves of those groups. A contributory factor of that might be the 15 years to 22 years that people wait before they seek help. It might be that they feel that those services are not available for them.

Committee members will be aware of the creation of the victims and survivors' service, which is a new opportunity for people to be assessed and directed towards services that are most relevant to them. The commission has a close watching brief on the development of that service. We are tasked to provide a quarterly monitoring report on the development and progress of the service. We have just delivered our first quarterly monitoring report to the Department. We will be watching with interest not only the development of the service, but the impact on individual victims and survivors, and, looking further than that, the impact on groups that are already established.

The Chairperson: We have had a considerable response so far to the Committee's consultation from ex-prisoners and ex-prisoners' groups. What work have you been doing with that section of society? It is a section that is cross-community, with many republican and loyalist ex-prisoners' groups. Have you had much consultation with them?

Ms Stone: In arranging our visits and consultation meetings with groups and services, we have been clear that we want to meet representatives from all communities in the programme of visits that we have up until the end of December and, again, in the new year. We have done that in the programme of visits that we have completed to date. I can only reiterate that I believe that the role of the Commissioner for Victims and Survivors is to support all victims and survivors, from whatever community they come.

The Chairperson: Kathryn and Adrian, thank you very much.