



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Human Trafficking and Exploitation (Further
Provisions and Support for Victims) Bill:
Minister of Health, Social Services and
Public Safety

5 December 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Mr Poots	Minister of Health, Social Services and Public Safety
Ms Eilís McDaniel	Department of Health, Social Services and Public Safety

The Chairperson: The area for discussion now is the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. The session will be recorded by Hansard, and the report will be published in due course. Minister, the clauses that are relevant to you are clauses 10, 12 and 16. That is not to preclude members from raising issues about other aspects of the Bill, but that is what we are here to focus on primarily. I am pleased that the Minister and Eilís McDaniel have been able to join the Committee. Minister, I will hand over to you to outline your Department's approach, after which members will have some questions.

Mr Poots (The Minister of Health, Social Services and Public Safety): Thank you, Chair. If it meets with your satisfaction, I will cover various issues in a speech of about 10 minutes, and I will then be happy to take questions. I thank the Committee for the invitation to attend this afternoon's session and for the opportunity to give evidence on the clauses of Lord Morrow's Bill for which my Department has responsibility or part responsibility.

I will start by saying that I am fully supportive of the intention behind the Bill. I have already conveyed that in correspondence to Lord Morrow and to the Justice Committee. I also met Lord Morrow recently to discuss his Bill, and my officials provided him with further advice following that meeting. On the basis that human trafficking is a particularly vile criminal act, lead responsibility for the law as it relates to it is a matter for the Minister of Justice. In the main, my responsibility relates to the immediate and long-term protection needs of victims of human trafficking, both children and adults, through the provision of health and social care services.

A small number of clauses in Lord Morrow's Bill — clauses 3, 10, 12, 16 and 17 — relate to matters that are either relevant to my Department or within my gift as Health Minister to deliver either wholly or in part. As indicated, although we are supportive of what Lord Morrow is seeking to achieve — improved protections for victims of human trafficking in Northern Ireland — we have some minor reservations about the Bill. Of the five clauses that have relevance to my Department, I have indicated to Lord Morrow that only one, the clause that establishes a Northern Ireland rapporteur, gives me some cause for concern.

I have indicated that my opposition to that clause is solely on the basis that our current system has a range of checks and balances, as well as scrutiny and challenge mechanisms, already built in to it. Assembly Committees are part of that scrutiny and challenge system, as are the Assembly Ombudsman and a number of commissions and commissioners. Regulation and inspection bodies, of which there are many in the health and social care sector, also perform scrutiny and challenge functions. It is my view that an independent rapporteur would add a further and unnecessary layer of bureaucracy. Despite recent calls for an independent health regulator, I think that we already have sufficient mechanisms in place to hold us to account on how we respond to the needs of victims of human trafficking, both currently and into the future.

Clauses 3 and 17 provide definitions of both a child and vulnerable adult. I am content with the definition of a child. It is consistent with the extant children's legislation. I have offered Lord Morrow advice on the definition of the term "vulnerable adult". A number of definitions are available, both statutory and non-statutory, and I intend to write to Lord Morrow to support him further on this matter.

Clause 10 seeks to provide assistance and support to victims of human trafficking. It also seeks to provide assistance and support to the family of a child who is identified as a victim on the condition that they are resident in Northern Ireland and are not suspected to have committed a human trafficking offence. The provision of assistance and support to a child victim is absolutely not an issue. Any child who is suspected of having been trafficked would be regarded as a child in need of care and protection under the Children (Northern Ireland) Order 1995, and that would extend to a family member of a child victim if that family member is a child.

Under article 18 of the children order, health and social care trusts are already required to safeguard and promote the welfare of children in need by providing them with a range of social care services. Where a trust is concerned that a child is suffering or is likely to suffer significant harm, it is also under a duty to make enquiries to help it to decide what action is needed to safeguard the child or to promote his or her welfare.

Finally, any child to whom a trust provides accommodation for more than 24 hours or for whom it seeks a care order through the courts becomes looked after by the trust. That triggers a range of children-in-care duties with which the trust must comply. Any child who is taken into the care of a health and social care trust is deemed ordinarily resident in Northern Ireland. In any case, the Nationality, Immigration and Asylum Act 2002 does not prevent support or assistance to children. My Department is drafting new regulations that will provide that healthcare services will be provided to any child not ordinarily resident in Northern Ireland who is taken into the care of a health and social care trust.

The point that I am making is that what Lord Morrow is seeking to achieve in assistance and support for child victims of human trafficking is in keeping with what the law already requires or provides for. What the Bill does is helpfully put it beyond doubt. Assistance and support to adult victims of human trafficking is infinitely more complex. Help and support are available to adult victims who enter the national referral mechanism (NRM) during what is referred to as the recovery and reflection period, which lasts for 45 days. That is provided by Migrant Help and Women's Aid under contract with the Department of Justice. During that period, those organisations will arrange for victims' health and social care needs to be met. Beyond the NRM entitlement to health and social care, assistance and support for such persons in Northern Ireland can remain intensely complicated and are linked to a person's immigration status.

As I indicated, my Department is drafting regulations that, when made, will provide that secondary healthcare services will be made available at no charge during the recovery and reflection period in circumstances where there are reasonable grounds to believe that an individual is a victim of human trafficking. In addition, those services will be provided in circumstances where it is confirmed that the individual is a victim of human trafficking.

Entitlement for social care provision for suspected or confirmed adult victims of human trafficking or, indeed, the adult family members of a child victim, is determined according to various factors, including the person's immigration status, schedule 3 to the Nationality, Immigration and Asylum Act 2002, European Convention on Human Rights (ECHR) considerations and ordinarily resident status.

Those are some of the issues on how the clauses in Lord Morrow's Bill on support and assistance are drafted. However, with some re-drafting, they could bring some clarity to an area that, in legal terms, is both complicated and complex.

The final clause of relevance to my Department is clause 12. That specifies that each child who might be a victim of human trafficking shall have a child-trafficking guardian appointed to them. I am not opposed to the concept of a child-trafficking guardian or to the responsibilities of the guardian as specified in Lord Morrow's Bill. The guardian is essentially an advocate for the child on the assumption that a child victim of human trafficking in Northern Ireland is a child in need or, indeed, looked after. I have proposed to Lord Morrow that the duty to appoint a child-trafficking guardian should fall to the health and social care trusts in place of the Department. I have also suggested that the circumstances in which a guardian is appointed should be a matter for regulations that my Department brings forward. Apart from those few suggestions, I am generally content with clause 12.

That is the extent of what I have to say to the Committee on Lord Morrow's Bill. However, one final point is that my Department, with the Department of Justice, is in the process of developing an adult safeguarding policy that will clearly identify adult victims of human trafficking as adults who need protective responses.

The Chairperson: Minister, thank you very much for your evidence. Members will have a number of questions. You said that Lord Morrow's Bill puts "beyond doubt" the child protection that is being provided. Is it preferable that that support for victims of human trafficking and the entitlements that vulnerable victims should be afforded are outlined specifically in legislation?

Mr Poots: My suspicion is that it is probably not best placed in legislation. We are required to deal with whatever the legislation brings forward, and various Departments will respond to whatever legislation is in place. I think that, as time passes, there needs to be flexibility to identify how best to deal with these things. Often, if something is written into legislation, it becomes very inflexible. So, whether this happens through a process of producing guidelines or identifying best practice, we can do courses of work to ensure that the legislation is given due regard and is upheld. However, I do not think that we need to be as specific in legislation where that is concerned.

The Chairperson: Is that where you indicated that your Department is looking at bringing forward regulations to provide support for those who are identified as rescued? Where in the Department is the piece of work to bring forward those regulations?

Ms Eilís McDaniel (Department of Health, Social Services and Public Safety): The regulations will be made in the not too distant future. I think that they may have had a committee hearing this week, so they should be made before the end of this year.

Mr Anderson: Thank you, Minister, for coming along today. Clause 12 concerns child trafficking guardians. You think that it may be problematic, but do you generally agree with the clause?

Mr Poots: Yes.

Mr Anderson: According to an answer that was given to an Assembly question, between January 2009 and September 2012, three trafficked children in Northern Ireland went missing. Do you agree that that is a matter of real concern?

Mr Poots: It is always a matter of concern when the welfare of children is being questioned. If three children who have been identified as trafficked children have gone missing from the system, we do not know what their welfare is. As we look to the future and become aware of children and vulnerable adults who have been trafficked, we see that a real duty of care falls on us. Part of that duty of care will be in knowing where those children are and that they are in safety. Very often, those children will not be in safety, and very often, people who traffic others will start using such children long before they are adults for a whole variety of reasons and purposes, some of which are vile in nature. Consequently, there is a real duty on us to respond to those circumstances.

Mr Anderson: On the back of that, do you further agree that the introduction of a child trafficking guardian in Northern Ireland could help to ensure that trafficked children do not go missing in future?

Mr Poots: Again, that provision is wholly compliant with the responsibilities that we already have. Very often, where we have vulnerable children, we will be looking to appoint an advocate or guardian. Sometimes, parents do not take responsibility for the child in the way that they should. So, in cases involving children who have been trafficked, we are supportive of having a guardian to take care of that child's needs, to identify that the right things are being done for that child and to ensure that the law is being upheld in the care of that child.

Mr Wells: You say that the only real difference that you have with Lord Morrow concerns the appointment of a rapporteur. Presumably, you had discussions with Lord Morrow on that during your consultation. What was his reaction to your concerns?

Mr Poots: I think that he will consider it. It is obviously a matter for the Assembly, so if the Assembly passes it, it passes it. I am of the view that we have quite a lot of commissioners, ombudspersons and so forth. So, I think that we sometimes need to roll back a little and identify needs and how best we can meet the needs of trafficked people. Given the numbers that are involved, I hope that we do not need a commissioner. I think that the numbers are considerably higher than we believe them to be or know them to be at the minute, but I do not think that we require a commissioner. There are a lot of legal responsibilities on us to ensure that all this is carried out correctly, including the cross-checks that exist in the House through various Committees, the Assembly Ombudsman and a range of other commissioners that currently exist.

Mr Wells: You are in charge of a vast Department, with around 70,000 equivalent staff and a budget of £4.65 billion. It could be argued that there are people in your Department whose job it is to deal with this issue. However, they have many other responsibilities. So, is there not some merit, even if on a part-time basis, to have someone whose job is to focus entirely on this issue, rather than on a myriad of other pressing matters?

Mr Poots: We tend to go into these things with good intentions, and very often they become another expensive layer of bureaucracy, which is probably our main concern. I think that people who have been caught up in trafficking need strong support and a powerful response. A lot of that will come from the police in the first instance, and a lot will relate to the Department of Justice.

For many people, however, health and social will be required to get involved. That is certainly the case when young people or vulnerable adults are involved. Another area where we need to be involved is when people who were trafficked are victims of abuse, whether it is physical or mental. Do we need a rapporteur to oversee all that? I am not convinced that we do, and I remain to be convinced of that element of the Bill.

Ms McCorley: Go raibh maith agat, a Chathaoirligh. Thank you for the presentation. It has been said at times that primary legislation can be restrictive and is sometimes not the best way to deal with serious issues that are ever-changing and developing. More flexible legislation, such as secondary legislation, may be a better way to deal with this. Given that we are talking about the protection of children and child victims, do you have a view on that?

Mr Poots: You need primary legislation from somewhere to have the secondary legislation. Lord Morrow has brought something to the Assembly that will put us in a different place to the rest of the UK and, indeed, the Republic of Ireland. This type of legislation has been tried elsewhere. Very often in Assembly debates, people refer to the Scandinavian countries as exemplars of good practice. In this instance, he would want to follow the line of one particular Scandinavian country, Sweden, which has a liberal democracy and which would not be viewed as a conservative country. So, I think that the concept of it all is very interesting.

Human trafficking is an area in which we would do well to do considerably more. Even in the past couple of weeks, three people were identified in London, one of them from Northern Ireland. It is absolutely horrific that people were held prisoner in a capital city of 10 million people for 30 years. They were not isolated in some rural location. They were in a city of 10 million people yet were able to be held as prisoners and used as slaves.

I certainly think that the law as it stands is probably not strong enough. It is not punitive enough and does not have enough teeth to repel criminals who use people in the most vile and sickening ways to

profiteer. The proposed legislation covers a range of issues and areas. Europe is widening, and we have accession countries coming in with many people from poor backgrounds, and we have Chinese triad gangs and so forth. There is something wrong in the first instance if we are not alert to the fact that the criminal world will see human exploitation as the gift that keeps giving. You can sell a batch of drugs only once, but you can sell the services of a human being, whatever those services are, over and over again. If we are alert to that but then say that we are not fussed about doing anything about it, I think that that is, frankly, an immoral position to take.

Ms McDaniel: On the point about flexibility, the Minister's recommendation was to take some of the provisions relating to the child trafficking guardian out of the Bill. That would make it possible to prescribe the circumstances in which a trafficking guardian would be appointed in secondary rather than primary legislation. Likewise, the responsibilities of a guardian are probably best placed in regulations rather than the Bill.

Mr Elliott: Thanks for the presentation. I have a quick query on clause 12. Clearly, a lot of that responsibility would lie with the Health Department. Are there any gaps in social services that could be closed to help to facilitate that process?

Mr Poots: We are always finding that there are gaps. We do not have a perfect system; we have a good system. Time keeps moving on, and circumstances change. We always need to identify where something different is happening in a particular area or field and respond to that. However, we have the ability to fill those gaps and deal with issues when they are identified. That work is always ongoing. Social services is delivering remarkably better results than it did in the past. Far greater numbers of children are identified as being at risk. That is not because things are markedly worse, although they may be a bit worse; it is because social services is doing its job better. It is very important that that continues.

We do not have a perfect system, but we have a system that is capable of responding to the needs identified to us. If this legislation were brought forward, we would have the ability to respond to it, albeit that it would create more work for us. Nonetheless, if it involves providing adequate protection for children in particular, we should be very pleased to do that work.

Mr Elliott: To follow up, is there a dedicated team in social services that deals with trafficked children or young people, or does that feed into the rest of the process?

Ms McDaniel: In the Belfast Trust, for example, a fairly senior social worker has a dedicated human trafficking role. They deal with small numbers of children, but they have a dedicated role.

The Chairperson: Is that an increasing role, or is it diminishing?

Ms McDaniel: The numbers are still incredibly small. Using the published statistics for 2012 as an example, one of 15 victims was a minor. I think that the Minister is right that there is probably under-reporting, and some of it is not identified at all. However, we are well equipped at the minute to be able to respond to child victims of human trafficking in our health and social care trusts.

Mr Poots: If you look at the insidious nature of exploitation and the recent discovery of child sexual exploitation that has been taking place under our noses but not clearly evident to people, we can realistically believe that a significant amount of human trafficking that has taken place is unidentified at this stage. It could be people out on farms in the countryside, working in the backs of restaurants or other businesses, or being used in prostitution and child prostitution. All those things can be happening, but people are very good at covering their tracks. I hope that, with the legislation, we will certainly identify a lot more of it. I also hope that Northern Ireland will become very hostile to human trafficking; the most hostile place in these islands. That would be a good mark for Northern Ireland. I certainly hope that that is achieved from this legislation.

The Chairperson: Eilís, you mentioned that one case. Was that an internationally trafficked individual? Obviously, there is internal trafficking. The recent case that the Minister talked about involved children in care who were being moved about. That was regarded as trafficking but, obviously, they were indigenous to Northern Ireland. Did that case involve an international victim?

Ms McDaniel: I cannot say with absolute certainty that it was a child trafficked into Northern Ireland. One thing that I should clarify is that the figures I quoted were for referrals to the national referral mechanism, and not all referrals to the mechanism will be confirmed as victims of human trafficking.

Mr McCartney: Thank you both for your presentation. Minister, you raised a point about the case in London and the recent cases here. Do you think that the Bill or this type of legislation would have prevented either from happening?

Mr Poots: I do not think that anybody should have the notion that the Bill will eliminate human trafficking. It is a very lucrative and profitable business, and people will, therefore, take risks to engage in it. What I do think Bill can achieve is to make Northern Ireland the most hostile place on these islands for human trafficking. So, it may lead to some displacement, because those people will still want to make money. However, it is then for other countries to decide whether they want a very hostile regime to human trafficking.

I think that we can be absolutely certain that, as populations on these islands continue to grow, which they will — it is predicted that the GB population, for example, will grow to 80 million over the next few decades — there will be greater and greater opportunities for people to engage in human trafficking. Therefore, we need to have a stronger and stronger response to it to ensure that we substantially hamper such activities, if not totally eliminate the opportunities for them. I do not think that it will ever get to a point where we can stop it happening. I am not sure whether the legislation would have stopped it happening in those cases; it might not have. However, I certainly think that it will be a good weapon in the armoury of the very justifiable fight against human trafficking.

Mr McCartney: I know that the investigation into the situation here is ongoing, but do you think that a loophole in human trafficking legislation has been exploited as a result of those cases?

Mr Poots: Are you talking about the child sexual exploitation cases?

Mr McCartney: Yes, the local one.

Mr Poots: The single-child case as opposed to the CSE cases?

Mr McCartney: No, the recent one in which children had gone missing from care.

Mr Poots: That involves a number of different instances, so it is not one homogenous group. There were children who were probably well into their teens or advanced teens who were developing relationships with others who were in their late teens or early twenties. Some of those children did not perceive themselves as being exploited. It is child sexual exploitation, but, in the case of a 19-year-old and a 15-year-old, the 15-year-old may not perceive that to be the case. So we have that kind of issue. Others have been taken out, given drink and drugs and then taken to party houses. At those party houses, it is believed that there were cases of children being abused by others in a very degrading way. That is very clear exploitation. The scary thing about it is that we have identified potentially 22 cases of what we consider to be child sexual exploitation, but 80% of the children who are exploited are not in care. Being in care is not commensurate with exploitation, but being vulnerable is.

Where there are vulnerable people, there will be perpetrators who want to make use of those vulnerable people. When it comes to the issue of human trafficking, it is absolutely clear to us that a lot of people who come into these islands are looking for money and a better life. They need money, because they do not have any, so they often get picked up very quickly and put into situations that they can never extricate themselves from. It is absolutely incumbent upon us to ensure that we are alert to that, that we seek to act quickly where we can identify it and that we have better systems to identify where it is happening.

Ms McDaniel: It is important not to confuse child sexual exploitation with human trafficking. As strange as it may seem to Committee members, not every child who is sexually exploited is a victim of human trafficking. There is a distinction in some cases. There may be an overlap in others, but it is important to make the distinction.

Ms McCorley: Go raibh maith agat. There is an absolute distinction to be made between child exploitation and human trafficking, because many cases of exploitation do not involve human

trafficking and vice versa. You can have human trafficking for other reasons, so they are not one and the same.

Minister, you spoke about the Scandinavian model and said that the Swedish model made that country more hostile for human trafficking. However, European statistics for 2008 to 2010 for the Scandinavian countries of Denmark, Norway, Sweden and Finland show that the number of reported victims of human trafficking increased by the greatest amount in Sweden. That just shows that you have to be cautious in making assumptions about what the impact of a law can be. You may have presumed that you had the least number of trafficked victims in Sweden because of the laws but that is not the case, so we just need to be cautious.

Mr Poots: Chair, in comments that I made earlier, I also referred to Northern Ireland, where vulnerable children have been identified. I indicated that that was not necessarily because there were more vulnerable children, but because we have a better identification process. Very often, when you take actions, statistics will get worse before they get better because the actions that you take will identify the problem better. It is all very well for us to sit back and say, "There were only 15 cases of human trafficking and exploitation in Northern Ireland. That's not bad. We don't need to deal with that." Anybody who thinks that there were only 15 cases of human trafficking in Northern Ireland in the past year is bonkers. There were far, far more.

We can sit back and pretend that it does not exist and do nothing about it, or rise to the challenge and put ourselves in a much stronger place than other countries throughout Europe and other parts of the world because we will face more and more issues about human trafficking as our population grows. Let us be realistic about it. There is no point in shying away from the facts.

The Chairperson: You mentioned the national referral mechanism in respect of adult support. Are you able to highlight some of the issues that are presented where victims, whether adults or children, are identified as having been victims of human trafficking? Predominantly, it is people who are forced into sexual slavery, but it is not exclusive to that. What needs come with victims? What issues does your Department have to treat?

Mr Poots: In many respects, it stands to reason what the issues may be. Many of those people will have gotten into some sort of human trafficking because they were vulnerable in the first place and needed money or had become addicted to something. Perhaps the traffickers got them addicted to whatever it was in the first instance, so many people will have addiction problems, be it alcohol or drugs.

Many who were involved in the sex industry will have sexually transmitted infections, and the wounds and scars to show that they were in the sex industry because pimps do not tend to be pleasant people. Pimps tend to be evil, wicked bullies and will take whatever actions they need to take to drain as much money as possible out of the person they are exploiting. If any resistance was shown, those who were engaged in prostitution will bear the scars of that. There are a lot of cases of women who have been both physically and mentally scarred, and damaged as a consequence. They need support thereafter, and we are very often left to pick up the pieces.

A significant course of work needs to be done to identify people who come out of human trafficking and prostitution. There is certainly more that we can do, and give consideration to in providing care and support for such individuals. It is very important that, in closing a gap in respect of people who are in prostitution, we provide support and care for the people involved and ensure that they have the best opportunities to move on to something different in life thereafter.

The Chairperson: Women's Aid was here last week. It said that, in the past four years, it has dealt with 47 victims of human trafficking who were then involved in sexual slavery. Women's Aid indicated that those victims were presenting with rape, broken bones and quite a number of other issues. Would your Department be able to quantify figures for how much it is costing the health service to deal with those associated issues?

Mr Poots: I am not sure whether we could. I know that Women's Aid is involved with the NRM; it is one of the leads on that. I would not dispute Women's Aid's figures in any way, shape or form.

Ms McDaniel: We could look at that. To get some average cost of provision, we could look at all 47 cases to see what kind of health and social care services they were provided with.

The Chairperson: Minister, I presume that, from the Health Department's point of view, you would say that prevention is better than cure in dealing with this problem. I know that it is not exclusive to your Department. There is an element of the Bill that is about seeing what support can be provided. However, at its heart, it is also clearly asking how we can prevent this from happening. Is that something in the Bill that you see as of merit in respect of prevention?

Maybe you cannot comment, but there is the case of the children in care, and you mentioned others. One clause relates to the criminalisation of the payment for sexual services, which can take a number of forms beyond the financial. A payment could come in the form of a gift or something else. That will not relate solely to victims of human trafficking; it is applicable across the board. It will relate to every citizen in Northern Ireland or anyone who comes to Northern Ireland. Do you see that clause helping to prevent people from ever being made victims?

Mr Poots: Some people might operate on the notion that sexual services is some world in which everything is consensual and people get paid for supplying something. It is not quite like that. In most cases, it is not really consensual. People have been dragged into prostitution one way or another. We have many school visits here. If you asked the children to put up their hands and tell you what they want to do in life, you will hear a whole range of things. I suspect that precious few children will put up their hand and say, "I would like to be a prostitute when I grow up". They would not even say that privately. It is not something that people aspire to be.

The truth is that people are generally taken into prostitution against their will. In most instances, the person who provides the service gets minuscule amounts of money. The money usually goes to a pimp or someone who organises it. It is interesting that opposition is coming from people who profit from it; I find that wholly repellent. That is certainly a significant element of it. This is about money and people taking money from others for a service that they do not provide. The person who provides the service does not get the benefit. Let us nail that issue when it comes to the sex industry: it is about people exploiting others to make large amounts of money for themselves.

It is absolutely appalling that young girls from eastern Europe and many other places and, indeed, girls from here end up in Northern Ireland, spending their life in a small room being given some alcohol and a little food while someone else makes thousands and thousands of pounds. If the demand does not exist or is reduced, suppliers will not make as much money out of it, and, consequently, it will not be as desirable a business to carry on in Northern Ireland. That is where the logic of the Bill comes in. If we reduce the demand, there will be less requirement for supply; if there less requirement for supply, there will automatically be a dramatic effect on the number of people who are abused in those circumstances.

The Chairperson: OK, Minister. No other member has indicated that they want to ask a question. Thank you and Eilís very much for coming to the Committee and giving of your time.

Mr Poots: Thank you.