



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Human Trafficking and Exploitation (Further
Provisions and Support for Victims) Bill:
Formal Clause-by-clause Consideration

8 April 2014

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 Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

The Chairperson: Item 3 on the agenda is the formal clause-by-clause consideration on the remaining clauses that need to be agreed formally by the Committee, which we commenced on Thursday 3 April. Formal Questions were put on a number of clauses, and we agreed to complete the process at today's meeting in order for the draft Committee report to be provided to the Committee meeting this Thursday, before Committee Stage ends at the end of the week.

There is a paper in members' information packs outlining the Committee's position on the remaining clauses. I will work through each, clause and put the formal Question. Where there are amendments, I will put the Question on the amendments first, followed by the Question on the clause.

Clause 3 (Aggravating factors)

The Chairperson: We agreed that we were content with clause 3 as amended by Lord Morrow and the Department of Justice and noted that the Department was still looking at the definition of "vulnerable adult" with a view to bringing forward a further amendment. The Department has now provided the wording of two further proposed technical amendments to define "vulnerable adult" and the family of the victim by reference to article 34 of the Sexual Offences (Northern Ireland) Order 2008. Lord Morrow has indicated that he is content with the proposed amendments.

Is the Committee content with Lord Morrow and the Department of Justice's proposed amendments?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 4 (Minimum sentence for human trafficking and slavery offences)

The Chairperson: We considered advice provided by the Bill Office on the amendments proposed to clause 4(2) by Lord Morrow and the Attorney General for Northern Ireland indicating that the amendments had the same objective, which is to avoid a suspended sentence being imposed under clause 4. The advice from the Bill Office on the proposed amendments to clause 4 is in members' information packs.

A range of views was expressed by members on the clause. Reservations were expressed by some in relation to the general concept of including a minimum sentence in legislation, the issue of exceptionality and the latitude for a presiding judge. Other members expressed support for the clause as amended by Lord Morrow and indicated that, although clause 4 narrows judicial discretion, it does not exclude it.

In correspondence dated 18 March, Lord Morrow indicated that he intended to insert a new clause 17A to make consequential amendments to clause 4. He has now decided to address the matter through a further amendment to clause 4 and has provided the wording of that amendment.

Is the Committee content with Lord Morrow's proposed amendments?

Members indicated assent.

Mr McCartney: We have that sort of broad thing around minimum sentences.

The Chairperson: OK.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 6 (Paying for sexual services of a person)

The Chairperson: Clarification was sought from Lord Morrow on his thinking about his proposed amendments to change the word "person" to "prostitute" and whether that remained his position in light of the Attorney General's letter indicating that, in his view, using the word "prostitute" goes further than is necessary to limit the scope of clause 6 and would create a hurdle to prosecution that could be avoided. Some members agreed to support clause 6 and give further consideration to the issue of the use of "person" or "prostitute", while others indicated that they had not yet reached a definitive view on the clause.

Lord Morrow has responded with his position on the use of "person" or "prostitute". After consultation with the Attorney General, he has provided revised amendments to clause 6 that will narrow the offence whilst keeping the word "person"; remove any reference to the age of the person who is selling the sexual services; remove the reference to payment "including sexual services"; provide some further options on sentencing; and require an advertising campaign to ensure public awareness of the change affected by clause 6. A copy of Lord Morrow's letter is in members' meeting folders.

The Department has indicated that it remains opposed to clause 6. That being the case, it does not intend to make any amendments to the clause, although it has indicated that, if it proceeds, it may require amendment. Should clause 6 not stand part of the Bill, the Department intends to table an amendment to extend the time limit for the prosecution of offences under Article 64A of the Sexual Offences(Northern Ireland) Order 2008 from six months to three years and has provided the wording of the proposed amendment. However, the amendment will not be moved if clause 6 stands part of the Bill.

Members, I am happy to give you the opportunity to state your position. Obviously, clause 6 has generated most public debate, and the Committee now needs to reach a final, definitive position on it. I will start with Mr Wells.

Mr Wells: I suppose that this is the defining moment as far as clause 6 is concerned in the Committee.

Our group is very supportive of the clause as amended after our various consultations. We have been to Sweden and have taken evidence from a wide range of groups. It is noticeable that organisations such as the Irish Congress of Trade Unions, Women's Aid and the Northern Ireland Human Rights

Commission back the clause, which is a very broad church indeed when you add it to the supportive views of churches such as the Church of Ireland and the Roman Catholic Church.

We have also seen increasing political support for the equivalent of clause 6, and the Nordic model has now been adopted by Iceland, Norway and Sweden. France is going through the process of adopting it, and it is before its Senate at the moment. There have also been some notable supporters in the Irish Republic, and we accept that it is important that the two jurisdictions move in tandem on the matter. We went to Dublin, and I was particularly impressed by the comments of Pádraig Mac Lochlainn, TD for Donegal North East. He said that he had started from a position of scepticism about the Turn Off The Red Light campaign and the report of the Oireachtas Justice Committee but, having looked at the evidence, had become a very enthusiastic supporter of the equivalent of clause 6. Of course, we also heard evidence from the Turn Off The Red Light campaign.

Since then, we have had a vote in the European Parliament, and I am delighted that Martina Anderson and Diane Dodds supported an equivalent call for the outlawing of the purchase of sexual services. Today, the elected members of the European Council voted by a huge majority to adopt a stance similar to that proposed by Lord Morrow.

All the evidence seems to be stacking up in favour. The only people who have opposed clause 6 are those whom we have shown, through cross-examination, to have a direct pecuniary interest in the prostitution trade, particularly organisations such as UglyMugs.ie and Escort-Ireland.com, who clearly fear this proposal as leading to a diminution of their trade.

There is a small group of others, but of course it has been co-ordinated by Amnesty International. We showed, through cross-examination, that Amnesty International's initial policy was adopted through a proposal from a gentleman who turned out to be a leading beneficiary of the prostitution trade in the north-west of England. It is noticeable that a small number of witnesses simply followed the Amnesty International line. Of course, Amnesty International has not as yet adopted a policy of supporting the prostitution industry, but that is coming up at its international congress, which I think is in Chicago this week.

All the evidence indicates that, if you cut off the trade — the vast majority of those who are trafficked, particularly women, are trafficked for the purposes of prostitution — you diminish the demand for prostitution. It was a great pity that more members did not turn up to hear the evidence given by the lady from Romania, who indicated that she had been kidnapped off the street and trafficked to Galway for £20,000 and had been locked in a room for 11 months and treated in the most horrendous way. That is what is going on. We do no service to the equality of women if we allow that to continue.

We need to make Northern Ireland and, indeed, the island of Ireland a cold house for prostitution, and we need to set an example that hopefully other jurisdictions will follow. While I reserve the right to comment on other members' views on this, I believe that we should most certainly give this our enthusiastic support and do something for the many scores of women in Northern Ireland who, even at this moment, may be locked in rooms being forced to service 20 or 30 clients a day. They deserve the right and the protection of society through this legislation.

Mr Elliott: I appreciate Mr Wells's point. I have listened carefully to all the evidence that has come forward, and we have discussed it as a party group. Our party certainly would not vote against it at this stage, but we reserve our position until Further Consideration stage.

Mr A Maginness: In general terms, we are content with clause 6. The preponderance of the evidence given to the Committee has been in favour of clause 6, and certainly there seems to me to be an international trend in favour of what has been termed the Nordic model. This is a variant of that model. I also think that we need to be congruent with the developments in the South. I think that they will also go for a form of clause 6. Certainly, the report by the Oireachtas Committee on Justice indicated that on an all-party basis, and I think that that is strongly supportive of a provision similar to clause 6.

At the end of the day, there are details in clause 6 that may need attention. I have read briefly the letter from Lord Morrow to the Committee in relation to his amendments, and I need to study it in more detail. However, on superficial reading, I am sympathetic to his changes. I do not want to give a definitive position until I have read the thing properly. In general terms, we are content with the clause, subject to my latter remarks in relation to the amendments that Lord Morrow proposes.

Mr McCartney: As outlined last Thursday, we are not in a position to offer support either way.

The Chairperson: Everyone has had an opportunity to state their final position at this stage of the consideration. Is the Committee content with Lord Morrow's proposed amendments?

Ayes 5; Noes 0; Abstentions 2.

AYES

Mr Anderson, Mr Givan, Mr Humphrey, Mr A Maginness, Mr Wells.

NOES

No members voted no.

ABSTENTIONS

Mr McCartney, Ms McCorley.

The Chairperson: I am recording two abstentions and that the Committee is content, unless anyone else wants to abstain officially.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 5; Noes 0; Abstentions 2.

AYES

Mr Anderson, Mr Givan, Mr Humphrey, Mr A Maginness, Mr Wells.

NOES

No members voted no.

ABSTENTIONS

Mr McCartney, Ms McCorley.

Question accordingly agreed to.

Clause 8 (Non prosecution of victims of trafficking in human beings)

The Chairperson: Clause 8 may not be necessary if the assurances given by the Public Prosecution Service in relation to its prosecutorial guidance, which deals with human trafficking cases, address Lord Morrow's concerns in relation to the non-prosecution of victims of trafficking in human beings. Lord Morrow also indicated that he intends to await the recommendations of the Joint Committee in Westminster, which is currently considering the question of how non-prosecution of victims should be dealt with as part of its scrutiny of the draft Modern Slavery Bill.

Members gave further consideration to whether they supported the principles underlying clause 8 as outlined by Lord Morrow in his letter dated 18 March 2014. Members indicated that they were not in a position to support clause 8 as drafted but agreed that the report should reflect that the Committee supports the principles underlying it and wishes to consider the findings of the Joint Committee on the matter. The Director of Public Prosecutions has written to the Minister acknowledging the level of public concern around the issue and has given a commitment to issue further detailed guidance to prosecutors that will be consistent with the intent behind clause 8.

I think that that is helpful. I will put the Question on the clause as drafted, and the text of the report will reflect the context for the Committee's decision on the clause. Previously, members indicated that they would formally, for the record, say that they were not content but would support the principles behind it.

Question, That the Committee is content with the clause, put and negatived.

Clause 11 (Compensation for victims of trafficking)

The Chairperson: Concern was expressed that the guidance proposed by the Department's amendment to clause 11 may not ensure that adequate compensation could be paid to victims of trafficking. We agreed to give further consideration to the options available to provide the Assembly

with a degree of control. We considered that last week, and we agreed that we would seek a commitment from the Minister on the Floor of the House on the clause. The Department has now provided the wording of a proposed minor technical amendment to clause 11 to correct an error in the previous drafting. Is the Committee content with the Department of Justice's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 15 (Prevention)

The Chairperson: The Committee agreed that it was content with clause 15 subject to the final wording of the Department of Justice's proposed amendment. The Department had provided an indicative draft of the wording of the amended clause, and that has now been provided. The final wording of the proposed amendment to clause 15 has been agreed by Lord Morrow. Is the Committee content with the Department of Justice's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 16 (Northern Ireland Rapporteur)

The Chairperson: The Committee noted that the remit of the anti-slavery commissioner that would be created by the draft Modern Slavery Bill could be extended to Northern Ireland. Members agreed to consider whether they wished to indicate that they did not support clause 16 at this time but would consider the matter further when there was clarity on the position regarding the anti-slavery commissioner or, alternatively, indicate that they wished to support clause 16 at this stage but would wish to consider the position further when there was clarity on the position regarding the anti-slavery commissioner. We indicated last week that our preference was to support clause 16 as drafted at this stage and consider the matter further subject to the position regarding the anti-slavery commissioner.

Question, That the Committee is content with the clause put and agreed to.

Clause 19 (Short title and commencement)

The Chairperson: We considered the wording of draft amendments that had been prepared by the Bill Office to make provision for the Bill to commence on Royal Assent or, alternatively, to commence the Bill a short time after Royal Assent to build in some flexibility for the Departments and other organisations that will be involved in the implementation of the Bill, for example, to provide training and the introduction of support mechanisms. The draft amendments can be found at page 54 of the meeting pack.

Last week, Members agreed a preference to set a time frame for commencement of the Bill three months after Royal Assent. The amendment will therefore read:

"Clause 19, page 10, line 12

Leave out from 'in' to 'order' on line 13 and insert- '3 months after royal assent'"

Is the Committee content with the proposed amendment to set a time frame for commencement for the Bill three months after Royal Assent?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Long Title

The Chairperson: As this is the end of the clause-by-clause consideration of the Bill, the Committee must now consider the long title of the Bill.

Mr Wells: Before we move to that, at the previous Committee meeting, reference was made to the forced marriages proposal. Are we still in the position that we will not see that proposal before we adopt the report?

The Committee Clerk: Yes.

Mr Wells: Is it going to be dropped in by formal amendment by the Minister or does it come from this Committee? How does that work?

The Committee Clerk: As the Committee asked, we wrote to the Department of Finance and Personnel asking for some more background and for the proposed wording of the amendment, if the Department had it. We have not received a reply yet. In the body of the report, we will reflect that the Committee has been advised of the Department's intention and that we have requested further information. That is probably as far as we can go in the report because you have not got it yet, but you will be able to look at it in more time.

Mr Wells: So, we will get that before Consideration Stage.

The Committee Clerk: We are waiting for a response. The Department was hoping that it might have been able to get it to us this week, but it will be too late to put it in the report now. The report will reflect that there is a proposed amendment. We just do not have very much information on it, but we will indicate that the Committee has asked for the further information and that it will consider it when it is available.

Mr Wells: I think that most of us would probably favour the principle. I am just a bit concerned about whether, if there is something in the wording that we are concerned about, we will have time to reflect on that and take a policy decision on the amendment?

The Committee Clerk: My understanding is that Lord Morrow is not intending to move Consideration Stage until after the summer to allow the Department of Justice to bring forward more amendments as a result of its consultation.

Mr Wells: The problem is solved, then.

The Committee Clerk: There should be time. As soon as we get the information from the Department of Finance and Personnel, we will bring it to the Committee for consideration.

Question, That the Committee is content with the long title, put and agreed to.

Mr Elliott: Chair, I certainly did not vote for, vote against or abstain on any of the clauses. There are clauses that I am still not totally content with, but I do not want to hold it up. I certainly do not want to vote against it at this stage, but I would like it recorded that I reserve my position on them. I think that I made that clear the previous day as well. There are a number of specific issues. I do not want to vote against, because that would probably send out the wrong signal, but I reserve the right to table amendments at Consideration Stage.

The Chairperson: All of the differences in the Committee will be reflected in the report. Ultimately, when it gets into the Chamber, I will do that where members have indicated issues. Of course, once you get into the next stage in the Assembly, it is open to others to table amendments.

There is a list of documents for inclusion in the appendices to the Committee report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, and that has been provided for members' consideration. Lord Morrow's letter dated 7 April will be included in appendix 3, and the letter from the Department dated 7 April will be included in appendix 4. Do members have any other views on other documents that need to be included on the list, or are they content with the exhaustive list that we have?

Members indicated assent.

The Chairperson: We will be asked to formally agree the contents of the appendices when agreeing the Committee report on Thursday. Sections of the draft report will be circulated as soon as they are ready.

One other item has come in correspondence for inclusion in the appendices. Philip Bradfield, a journalist from the 'News Letter', communicated with the Committee following the oral evidence sessions with Laura Lee, International Union of Sex Workers, and Dr Graham Ellison. Mr Bradfield is concerned that, during the evidence sessions, the witnesses appeared to forget or misremember details of what they had told him during their interviews with him and that this has had the unintentional effect of implying that his journalism was inaccurate or misrepresenting. He has provided a link to the transcripts of his interviews with Laura Lee and Dr Graham Ellison and has indicated that he wants this correspondence to be brought to the Committee's attention and included in the Committee report. Are members content?

Members indicated assent.

The Chairperson: We will meet this Thursday at 2.00 pm, when we will formally agree the report. I thank members; this has been a very long process. I will do that properly on Thursday. It has been a long number of months for Committee members, but, eventually, we have got as close as possible to an agreed position. I express my appreciation for the work of members and of Committee staff, who have supported the Committee to enable us to get to this stage.