

From: Elaine Crory <[REDACTED]>
Sent: 14 May 2026 10:47
To: +Comm Justice Public Email <committee.justice@niassembly.gov.uk>
Subject: Briefing for Justice Committee re Misogyny Statutory Aggravator

Dear Committee Clerk,

While we are aware that there is an ongoing call for evidence for the Sentencing Bill, and we fully intend to submit evidence to that (this work is ongoing), we are also eager to circulate the following briefing to Committee members, if permitted, outlining work to date and evidence for including a Misogyny Statutory Aggravator in the Bill, ideally by Committee amendment.

We also expect to contact individual members in due course.

Kind regards

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MISOGYNY AS AN AGGRAVATOR: REFORMING HATE CRIME LEGISLATION IN NORTHERN IRELAND

Briefing Document: Women's Policy Group
05.26

ACTIONS

The Women's Policy Group (WPG) is **urging MLAs to take the following actions** in relation to the Criminal Justice (Sentencing etc) Bill:

- Recommend the addition of misogyny as an aggravator within the Sentencing Bill
- Recommend the addition of hostility towards transgender identity as an aggravator within the Sentencing Bill

These actions are necessary to ensure that Northern Ireland's hate crime legislation:

- Keeps pace with the rest of the UK;
- Delivers on the recommendations of the Marrinan Review;
- Underpins the Executive Office's Strategy on Violence Against Women and Girls;
- Addresses the rise in misogynistic hostility experienced by women and girls.

The rest of the document will elaborate on context of these recommendations.

CONTEXT

CURRENT HATE CRIME LEGISLATION

Hate crime legislation in Northern Ireland currently works on an **enhanced sentencing** model, rather than the **aggravated offences** model which is the primary legal framework in other UK jurisdictions. Under the enhanced sentencing model if an offence is found to be aggravated by hostility towards certain protected groups, then the court must treat this as an aggravating factor when sentencing. The enhanced sentencing model has attracted criticism from academics who argue that it is not operationally effective.¹

Hate crime provisions for Northern Ireland are currently contained in the **Criminal Justice (No2) (Northern Ireland) Order 2004**. This legislation contains four protected characteristics: race, religion, disability and sexual orientation. The PSNI also collects data on 'hate incidences' and 'hate crimes' related to transgender identity.²

WPG Key Points:

- ❖ Gender is not currently a protected characteristic.
- ❖ Misogyny is not currently a hostility aggravator.

¹ Jarman, N. (2017) 'Acknowledgment, recognition and response, the criminal justice system and hate crime in Northern Ireland' in Haynes, A., Schweppe, J. & Taylor, S. (eds) *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland*. Palgrave MacMillan: London; McVeigh, R. (2017) 'Hate and the State: Northern Ireland', in Haynes, A., Schweppe, J. & Taylor, S. (eds) *Critical Perspectives on Hate Crime: Contributions from the Island of Ireland*. Palgrave MacMillan: London.

² Hansson, U. & McBride, R.S. (2010) 'The Luck of the Draw: A Report on the Experience of Trans Individuals Reporting Hate Incidents in Northern Ireland'. *ICR*.

MARRINAN REVIEW

On Dec 1st 2020, Judge Marrinan published an independent review of Hate Crime legislation in Northern Ireland and made 34 recommendations.³ Marrinan was appointed by the Dept of Justice in 2019 to undertake the review, which had been promised in the Programme for Government 2016-21.

For the purposes of this briefing document the relevant recommendations are:

- **Recommendation 2 & 3:** A statutory aggravation model for hate crime should be adopted in Northern Ireland and the enhanced sentencing model repealed.
- **Recommendation 9:** All current protected characteristic should be retained and a protected characteristic of gender/sex and variations in sex characteristics should be added. The protected characteristic of gender/sex includes transgender identity.

WPG Key Points:

- ❖ Moving to statutory aggravated offences model is a positive step for NI.
- ❖ **Adding gender as a protected characteristic in a ‘gender neutral’ manner is a mis-step.** To address misogynistic hostility the law must recognise the specific forms of hostility directed at women.
- ❖ **Transgender hostility should be a separate protected characteristic.**

MISOGYNY HATE CRIME IN SCOTLAND

Hate Crime legislation in Scotland was also subject to an independent review by Lord Bracadale published in 2018.⁴ Though the Bracadale review recommended the addition of gender as a protected characteristic in Scottish Hate Crime legislation, the Scottish government did not add gender to the Hate Crime and Public Order (Scotland) Act 2021. Instead, the Act included a provision to add gender at a later date while a Working Group on Misogyny and the Criminal Justice System was set up to consider the issue in greater detail.

The Working Group was chaired by Baroness Kennedy KC who authored the report, *Misogyny: A Human Rights Issue in 2022*.⁵ The report recommends a stand-alone Act to address misogyny which should contain four new offences:

- **A new Statutory Misogyny Aggravation;**
- **A new offence of Stirring Up Hatred Against Women and Girls;**
- **A new offence of Public Misogynistic Harassment;** and
- **A new offence of Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.**

In response to Kennedy’s report the Scottish Government drafted model legislation to address misogynistic harm in criminal law.⁶ (See Appendix 1)

³ Marrinan (2020) ‘Hate Crime Legislation in Northern Ireland: Independent Review’ < <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/hate-crime-review.pdf>>

⁴ Bracadale (2018) ‘Independent Review of Hate Crime in Scotland’ < <https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2018/05/independent-review-hate-crime-legislation-scotland-final-report/documents/00535892-pdf/00535892-pdf/govscot%3Adocument/00535892.pdf>>

⁵ Kennedy (2022) ‘Misogyny: A Human Rights Issue’ < <https://www.gov.scot/binaries/content/documents/govscot/publications/independent-report/2022/03/misogyny-human-rights-issue/documents/misogyny-human-rights-issue/misogyny-human-rights-issue/govscot%3Adocument/misogyny-human-rights-issue.pdf>>

⁶ Scottish Government (2023) ‘Reforming the criminal law to address misogyny: A Scottish Government Consultation’. < [Reforming the criminal law to address misogyny](#)>

WPG Key Points:

- ❖ Kennedy recommended bespoke, stand-alone legislation to address offences aggravated by misogyny.
- ❖ **Kennedy argues that a ‘gender neutral’ approach to gender-based hate crime is misguided.**

DOJ ACTIONS POST REVIEW

In July 2021, the Department of Justice responded to the recommendations in the Marrinan Review⁷ and committed to:

- Including transgender identity as a protected group;⁸
- Further work will be required on the inclusion of age and sex/gender as protected groups and will be subject to further consultation.⁹

In January 2022, the Department of Justice consulted on ‘Improving the effectiveness of Hate Crime Legislation’ which included questions about the adding hostility based on misogyny and transmisogyny to Hate Crime legislation.¹⁰ This consultation was designed to build on the recommendations from the Marrinan Review, particularly around areas that “required further consultation”.¹¹

In September 2024, the Justice Minister outlined the DoJ plans for reform of hate crime legislation in a written Ministerial statement.¹² Minister Long stated that:

- A stand-alone Hate Crime Bill as recommended by the Marrinan Review is no longer possible in this mandate due to lack of time and resources;
- The Sentencing Bill will include provisions for the statutory aggravator model;
- Current protected groups will be maintained, with provisions for additional groups to be added via regulation.

WPG Key Points:

- ❖ Action on both misogyny and trans gender identity aggravators has been promised by the DoJ and recommended by the Marrinan Review.

⁷ Dept of Justice (2021) ‘Review of Hate Crime Legislation in Northern Ireland – Departmental Response’. < <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/review-of-hate-crime-legislation-doj-response.pdf>>

⁸ Ibid, n6, p6.

⁹ Ibid, n6, p6.

¹⁰ DoJ (2022) ‘Improving the effectiveness of Hate Crime Legislation in Northern Ireland’. < <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/hate%20crime%20legislation%20consultation.pdf>>

¹¹ Ibid, p5.

¹² Minister Long (2024) ‘Written Ministerial Statement – Hate Crime Legislation’ < <https://www.niassembly.gov.uk/assembly-business/official-report/written-ministerial-statements/department-of-justice---hate-crime-legislation/>>

WPG WORK ON MISOGYNY HATE CRIME

The WPG has repeatedly engaged with the issue of misogyny hate crime:

- ‘Hate Crime Legislation in Northern Ireland Independent Review – Consultation Response’ in response to the Marrinan Review (2020)¹³
- Response to ‘DoJ Response to Hate Crime Review’ (2022)¹⁴
- Response to ‘Hate Crime Legislation Review Consultation’ (2022)¹⁵

WPG Key Points:

- ❖ Both a misogyny and trans gender identity aggravator should be added to the Sentencing Bill as a matter of urgency. Action on both these grounds has been delayed unnecessarily.
- ❖ The work of Baroness Kennedy in *Misogyny – A Human Rights Issue* should be considered best practice with regard to misogyny hate crime.
- ❖ The draft legislation by the Scottish Government implementing Baroness Kennedy’s recommendations with regard to misogyny hate crime should be considered best practice.
- ❖ Current rates of violence against women and girls in Northern Ireland are high.¹⁶ Creating a statutory misogyny aggravator is an important measure that can be used to address problem.

APPENDIX 1

Draft Legislation by the Scottish Government¹⁷ designed to implement recommendations by Baroness Kennedy’s Misogyny Working Group:

C 1. Aggravation of offences by misogyny

(1) An offence is aggravated by misogyny if—

(a) where there is a specific victim of the offence—

(i) at the time of committing the offence, or immediately before or after doing so, the

offender demonstrates contempt, or malice and ill-will, towards the victim, and

(ii) the contempt or malice and ill-will is based on the victim being or being presumed by

the offender to be a woman or a girl, or

(b) whether or not there is a specific victim of the offence, the offence is motivated

(wholly or partly) by contempt, or malice and ill-will, toward women and girls.

(2) It is immaterial whether or not the offender's contempt, or malice and ill-will, is also

¹³ WPG (2020) ‘Hate Crime Consultation Review Response’ <

<https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710ede26e933355007bda88/1729162723542/WPG-Hate-Crime-Consultation-Review-Response-30.04.20-Updated-1.pdf>>

¹⁴ WPG (2021) ‘Response to DoJ Response to Hate Crime Review’ <

<https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710ede26e933355007bda88/1729162723542/WPG-Hate-Crime-Consultation-Review-Response-30.04.20-Updated-1.pdf>>

¹⁵ WPG (2022) ‘Response to Hate Crime Legislation Review Consultation’ <

<https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e7944342c24c5a1fd039/1729161109103/WPG-Response-to-Hate-Crime-Legislation-Review-Consultation-V2.pdf>>

¹⁶ Lagdon, S., Owczarek, M., McCartan, C., Anyadike-Danes, N., Shevlin, M. & Jordan, J.A (2023) ‘Every Voice Matters! <

https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/violence_report_singles.pdf>

¹⁷ Ibid, n6.

based (to any extent) on any other factor.

(3) Evidence from a single source is sufficient to prove that an offence is aggravated by misogyny.

(4) In this section, a reference to women and girls (however expressed) includes a reference to women or girls (or both)—

(a) of a particular description or who are members of a particular group,

(b) who are presumed by the offender to be of a particular description or members of a particular group.

(5) This section does not apply to the offences specified in schedule 1.

(6) The Scottish Ministers may by regulations modify schedule 1 by—

(a) adding an offence, or

(b) removing, or modifying the description of, an offence for the time being mentioned there.

(7) Regulations under subsection (6) are subject to the affirmative procedure.

2. Consequences of aggravation by misogyny

(1) Subsection (2) applies where it is—

12 <https://www.gov.scot/publications/reforming-criminal-law-address-misogyny-scottish-government-consultation/pages/6/> The above does not include the schedule (covering exempt offences).

(a) labelled in an indictment, or specified in a complaint, that an offence is aggravated by misogyny, and

(b) proved that the offence is so aggravated.

(2) The court must—

(a) state on conviction that the offence is aggravated by misogyny,

(b) record the conviction in a way that shows that the offence is aggravated by misogyny,

(c) take the aggravation into account in determining the appropriate sentence, and

(d) state—

(i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or (ii) otherwise, the reasons for there being no such difference.