

Response ID ANON-EG8Q-92QT-5

Submitted to Criminal Justice (Sentencing etc) Bill
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Introduction

What is your name?

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What is your email address?

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If you are providing a submission on behalf of an organisation or business, please state its name.

Organisation:
Royal College of Nursing

The Committee for Justice has agreed to publish all responses as part of the survey results. If you would like to have your survey results anonymised and for us not to publish your name or organisation, please indicate so here.

I am content for my information, including details of my name and organisation, to be published in the survey results.

Public Workers etc

Clause 37 introduces a new offence of assault on a public worker and defines a public worker as being a person employed or engaged to provide a service to the public, performing a public duty or delivering a public service. Do you agree with the new offence of assault on a public worker?

Yes

Please provide information to support your answer here::

The Royal College of Nursing [RCN] has consistently called for changes in the sentencing of those convicted of violence and aggression towards nursing staff and other health and social care workers in Northern Ireland. A recent Freedom of Information request revealed that over 30,000 attacks against nurses working within the HSC were recorded over the last five years, whilst a response to a recent Assembly question indicated that 59,392 incidents of the physical abuse of health and social care staff were recorded between 2020-2021 and 2024-2025. Addressing this complex and multifaceted issue requires a number of different approaches and initiatives but we believe that it is important that sentencing policy should act as a deterrent and be seen to act as a deterrent. We therefore welcomed the statement by the Justice Minister last year that she intends to introduce an offence of "assaulting a person engaged in providing a public service, performing a public duty, or providing services to the public". The Minister stated: "In light of increasing concerns about assaults on a range of workers who serve the public, including nurses, I intend to introduce an offence of assaulting a person engaged in providing a public service, performing a public duty, or providing services to the public. The new offence will carry a higher maximum penalty in the magistrates' courts than that currently available for the offence of common assault, which applies regardless of the victim's occupation. Alongside this new offence, I intend to make assault on such a person in more serious cases a statutory aggravating factor, meaning the courts will be required to reflect that fact in sentencing decisions." The Minister concluded: "I intend to bring this new offence forward via my proposed Sentencing Bill which will be introduced to the Assembly by the end of this year." This marks a welcome change of approach. Northern Ireland is currently the only jurisdiction in the United Kingdom and Ireland without specific legislation for attacks on a wider range of emergency workers, which would include nursing staff. Whilst we do not believe that a strong criminal deterrent is a panacea for the problem, we have always emphasised that such an approach would send a firm message that these attacks will not be tolerated. We have previously engaged with both the PSNI and the Department of Justice in respect of this issue. We therefore welcome the introduction of Clause 37, which introduces a new offence of assault on a public worker and defines a public worker as being a person employed or engaged to provide a service to the public, performing a public duty or delivering a public service.

Do you agree with the definition of a public worker as defined in Clause 37?

No

Please provide information to support your answer here::

Clause 37 subsection (3) defines a public worker as "a person employed or engaged to (a) provide a service to the public; (b) perform a public duty; or (c) deliver a public service. From the point of view of nursing staff in particular and health and social care staff more generally, this definition is unacceptably and unhelpfully imprecise. It fails to clarify whether or not the intended legislative provisions embrace those practising outside the statutory (or public) sector (HSC). Specifically, clarity needs to be brought as to whether nursing staff working within the private sector or independent sector (such as in nursing homes) will fall within the remit of the proposed legislation. The RCN would argue that these staff members are providing a public service, albeit on behalf of an employer that is not formally part of the public sector. The issue is further complicated by the fact that many nurses working within private health care and the independent sector will be delivering services that have been commissioned by the statutory or public sector, such as through

waiting list initiatives commissioned by the Department of Health or the provision of nursing and residential care that has been commissioned by HSC trusts.

Clause 37 proposes that a person found guilty of assaulting a public worker could receive a fine and/or be sentenced to up to 2 years imprisonment. Do you believe the penalties for this offence are appropriate?

Yes

Please provide information to support your answer here::

Clause 37 subsection (5) states: "A person guilty of an offence under this section is liable (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum, or both; (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both. The RCN is content with this provision.

Clause 38 proposes introducing a new aggravator if an offence is committed against a public worker who is acting in the exercise of functions as a public worker. Do you agree with the inclusion of an offence of aggravation by assault on a public worker?

Yes

Please provide information to support your answer here::

Subsection (1) of Clause 38 provides for an allegation of aggravation by reason of being committed against a public worker to be specified alongside a charge of a specified offence. Subsection (2) states that an offence is aggravated by reason of being committed against a public worker if it is committed against a public worker acting in the exercise of their functions and the person charged with the offence knew or ought reasonably to have known that the victim was a public worker. Subsection (3) lists the specified offences to which this section applies. Subsection (4) sets out the definitions of terms used in this section. Subsection (5) makes provision for when it is considered that an offence of encouraging or assisting offenders is related to another offence or offences. Subsection (6) allows a court to consider the fact that the offence was committed on a public worker as an aggravating factor when dealing with an offence not listed in subsection (3). The RCN endorses these provisions in general terms but we would suggest that the robustness of these provisions is once again dependent upon a clear and unambiguous definition of a public worker, as referenced above.

Do you have any other comments on Clauses 37 to 39 of the Bill?

Yes

Please provide information to support your answer here::

Clause 39 subsection (1) provides for the application of this section. It applies where an allegation of aggravation is specified and both the aggravation and the original charge are proven. Subsection (2) states the court's obligations when dealing with conviction and sentence. The court must state on conviction that the offence is aggravated by reason of being committed against a public worker exercising their functions and record the offence to show it is aggravated. Subsection (3) makes provision for how the offence should be treated if the offence is proven but not the aggravator. If this is the case, the conviction should continue as if there was no reference to the aggravator alongside the charge. The RCN is content with these provisions.

Part 6 - Particular persons or groups. Do you have any further comments on Part 6 of the Bill?

No

Please provide information to support your answer here::