



Northern Ireland
Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Legislative Consent Memorandum on
Virginity Testing and Hymenoplasty:
Department of Health

27 January 2022

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Ms Paula Bradshaw
Mr Gerry Carroll
Mr Alan Chambers
Mrs Deborah Erskine
Ms Órlaithí Flynn
Ms Carál Ní Chuilín

Witnesses:

Ms Kerry Loveland-Morrison	Department of Health
Mr Mark McGuicken	Department of Health
Ms Laura Smyth	Department of Health
Mr Philip Totten	Department of Health

The Chairperson (Mr Gildernew): The Minister has advised that he intends to lay a legislative consent memorandum on virginity testing and hymenoplasty. I refer Committee members to the Minister's letter in their pack. Department of Health officials are available to brief the Committee on the proposed legislative consent motion's provisions. I welcome Mark McGuicken, who is the director of disability and older people. Can you hear us OK, Mark?

Mr Mark McGuicken (Department of Health): I can, Chair. Thank you.

The Chairperson (Mr Gildernew): Kerry Loveland-Morrison is the head of the adult safeguarding unit. Can you hear us OK, Kerry?

Ms Kerry Loveland-Morrison (Department of Health): Can you hear me, Chair? I can hear you.

The Chairperson (Mr Gildernew): Yes, we can hear you, Kerry.

Laura Smyth is from the adult safeguarding unit. Laura, can you hear us OK?

Ms Laura Smyth (Department of Health): Yes, I can hear you.

The Chairperson (Mr Gildernew): Philip Totten is also from the adult safeguarding unit. Philip, can you hear us OK?

Mr Philip Totten (Department of Health): Yes, I can hear you. Thanks.

The Chairperson (Mr Gildernew): OK. Thank you very much for attending the Committee this afternoon. Mark, are you making the opening remarks, or is it someone else from your team?

Mr McGuicken: I will make some brief opening remarks, Chair, if that is OK, and then hand over to Kerry.

Thank you for taking the time to see us this afternoon. I appreciate that the Committee has had a very long morning, so we will keep our opening comments brief, and then we will take questions, if that is acceptable. As you said, Chair, we are here to discuss a legislative consent memorandum on the Health and Social Care Bill that has been laid in the Assembly. I understand that the Committee has already considered a number of legislative consent memoranda on the Bill. We are here, as you said, to speak on amendments to the Bill that seek to criminalise virginity testing and hymenoplasty.

I will now hand over to Kerry, who will take you through the detail. After that, we are more than willing to take questions from members.

The Chairperson (Mr Gildernew): Thank you, Mark. Go ahead, please, Kerry.

Ms Loveland-Morrison: The Health and Care Bill seeks to reform the delivery of health services across the water, and the practice of virginity testing and hymenoplasty are health and social care issues.

Health is a matter that has been transferred and over which the Assembly has full legislative powers. The other devolved Administrations, in Scotland and in Wales, are also bringing forward legislative consent motions on the issues.

Part 5 of the Bill seeks to ban the practice and process of virginity testing, which is the gynaecological examination of female genitalia, with or without consent, for the purpose of determining whether a woman or girl has had vaginal intercourse. The Bill will also seek to ban hymenoplasty procedures, which is the practice and process of hymen reconstruction undertaken on a woman or girl for the purpose of creating the impression that she has not had vaginal intercourse.

Virginity testing and hymenoplasty are harmful and intrusive practices that are widely regarded as forms of violence and abuse against women and girls. They are categorised as honour-based abuse, as women and girls are often coerced or pressured into the procedures to protect or defend the honour of their family and/or community.

A woman or girl who fails a virginity test is likely to be forced into undergoing a hymenoplasty procedure to create the impression that she has not had vaginal intercourse prior to her wedding night. Virginity testing is not recognised as a medical procedure, nor does it carry any scientific or clinical merit. The procedures are not offered in healthcare facilities here, in either trust or private facilities that the Regulation and Quality Improvement Authority (RQIA) regulates.

As I am sure that members know, the Health and Care Bill has already been introduced in Parliament, and it is anticipated that it will receive Royal Assent in April or early May. We have consulted colleagues in the Department of Justice, who have advised that there is likely to be no impact on the justice system here through the criminalisation of the two procedures. We have also consulted colleagues in the Executive Office, who have confirmed that they have no issues with the criminalisation of virginity testing and hymenoplasty procedures. They continue to work with officials in all Departments and stakeholders to bring forward the wider violence against women and girls strategy.

The Department of Health and Social Care (DHSC) in England has concluded that the practices of virginity testing and hymenoplasty amount to a violation of a girl's or a woman's human rights. We agree with its assessment and recommend that the Committee consider the legislative consent memorandum to criminalise those procedures here.

Thank you again, Chair, for the opportunity to talk to the Committee. As Mark said, we are happy to take any questions that members may have.

The Chairperson (Mr Gildernew): Thank you, Kerry and Mark. I find the outline of the procedures simply abhorrent, and I fully support measures to ensure that such abuse is not inflicted on young girls or women. It is absolutely disgraceful.

You have touched on the fact that similar measures are being taken across Scotland, England and Wales. Are you aware of what the situation is in the Twenty-six Counties? Is there a way in which to communicate that the Department here has taken forward this legislative consent memorandum and to advise the Twenty-six Counties so that we do not create the potential for loopholes or anything like that?

Mr McGuicken: Chair —.

Ms Loveland-Morrison: We have not been in touch with —. Go ahead, Mark.

Mr McGuicken: I am not sure that we have checked the position in the Republic of Ireland, but we will take that back to the Department. We will certainly take on board your comments about advising it that we are taking forward legislation to criminalise the procedures in Northern Ireland. We will make sure that it is advised of that. Apologies, Chair. It is something that we have not looked at. Given your comments during the previous two presentations, I have asked the team to check that out. We will take that forward for you and are happy to come back to the Committee, if it will be helpful.

The Chairperson (Mr Gildernew): I would appreciate that, Mark. It is essential that we cover all the bases. Thank you.

Ms Bradshaw: I thank the panel for this really important legislative consent memorandum. I am delighted to see it come forward.

First, how prevalent are such procedures in Northern Ireland? Moreover, how will the ban on the practices be monitored? What will be the role of, for example, the General Medical Council? What reporting mechanisms are in place if a colleague suspects another colleague? How will the bans operate? Thank you.

Mr McGuicken: Kerry do you want to take that question?

Ms Loveland-Morrison: Yes. We have confirmed that the procedures are not happening in any facilities that are managed by the trusts or regulated by the RQIA. The World Health Organization did, however, identify Northern Ireland as one of the places in which virginity testing has taken place. It is therefore not happening officially, but it is possible that it is happening privately. That is why it is important to introduce the criminalisation of the procedures here. That is the position on what is happening in practice.

Ms Bradshaw: The second part of my question was about how it will be reported. Will it be by the girl or the woman, a friend or a healthcare colleague? How will people bring forward concerns or provide information about its taking place?

Ms Loveland-Morrison: When it is criminalised, it will be a matter for the police to take it forward once it has been reported. The purpose of doing this is to make the procedures something that can be reported and then investigated, rather than their being practices that are not covered by legislation, as is currently the position.

Ms Bradshaw: OK. I am sorry to labour the point, but will there not be a role for the GMC or some other regulator of professional conduct on its performance?

Ms Loveland-Morrison: Guidance will be developed as the work continues. There is still work to be done on how it all will be put into practice.

Ms Bradshaw: OK. Communication with the Royal College of General Practitioners (RCGP) etc will be very important. Thank you.

Mrs Cameron: Panel, thank you for your attendance to discuss this really important subject. I am pretty appalled that we even have to take a briefing on these types of issues. It is very concerning to hear that there is some evidence that they have been happening in Northern Ireland.

I have just one question. Will the legislation have any impact on health professionals' investigations or on police investigations in, say, progressing allegations of sexual assault, particularly as they relate to medical reports etc?

Ms Loveland-Morrison: We consulted DOJ colleagues on the matter. The DHSC provided some statistics from across the water, and we anticipate that the impact on the justice system here will be minimal. It is anticipated to be very low in England and therefore will be even lower here. It is, however, still important to criminalise the procedures in order to try to give that protection to women and girls.

Mrs Cameron: OK. To clarify, the legislation can or will be an impact, even though it will be minimal. In turn, that could have an impact on collecting evidence of a serious sexual assault.

Mr McGuicken: Deputy Chair, as you said, it could impact on the gathering of information for other offences. Criminalising the procedures will allow the police to investigate them more fully and decide whether the practices had been part of an assault on a woman or girl. The package of measures will strengthen the process of investigating sexual crimes such as sexual assault. As part of that wider package, the legislative consent motion will be a very important step forward.

Mrs Cameron: Thank you.

Ms Ní Chuilín: Kerry, I want some clarification. The legislative consent motion will make the procedures illegal across the board. In your remarks, you mentioned that virginity testing and hymenoplasty do not currently happen in any public or private hospitals that the RQIA oversees. In what circumstances would such practices happen?

Ms Loveland-Morrison: It is possible that they could be happening in private or family settings rather than in an official facility that has doctors and so on. The legislative consent memorandum mainly envisages the procedures happening in those situations.

Ms Ní Chuilín: I agree with the Chair that they are abhorrent procedures, but do they still have to be conducted by a health and social care professional?

Ms Loveland-Morrison: Hymenoplasty is a medical procedure. Virginity testing, however, is not a medical procedure. Theoretically, a doctor is not needed to do that.

Ms Ní Chuilín: OK. It is really to make sure that people are aware that it is illegal and that it is sexual assault.

Mr McGuicken: Carál, the practices are potentially happening in some faith-based settings, and it would not necessarily be a clinician or a medical practitioner undertaking the procedures. If they were happening in families, it might not be a medical practitioner undertaking them. The Bill will not just criminalise medical practitioners but the procedures. At the minute, where the procedures happen outside those organisations that are registered with and overseen by the RQIA, they are not offences at all. Criminalising the procedures ensures that whether they are happening in faith-based settings, in communities or in families, they become offences cross the board.

Ms Ní Chuilín: I am reluctant to ask this, but I have to.: what are the faith-based settings?

Mr McGuicken: The procedures are seen as being more prevalent in certain communities in GB. The legislative consent motion is therefore to make sure that the practices are criminalised in all those settings.

Ms Ní Chuilín: OK. Thank you.

The Chairperson (Mr Gildernew): I thank the panel. I thank each of the departmental panels that we have heard from today. They have provided very clear information about the issues under

consideration. We have had a range of people to answer a range of questions. That is welcome, and I want to acknowledge that.

It appals and chills me to think that people would consider, in any way, virginity testing and hymenoplasty to be acceptable. I am glad to be part of ensuring that they are very clearly made criminal offences. This is black and white: it is criminal behaviour. It is therefore important that the legislative consent motion be brought forward. Even one such incident anywhere on these islands would be absolutely disgraceful, so it is important that, across the islands, we move to remove any doubt about the acceptability of the practices.

I thank Mark, Kerry and their team for briefing the Committee.

Ms Loveland-Morrison: Thank you, Chair.

Mr McGuicken: Thank you.