

FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY
Edwin Poots MLA



Department of
**Health, Social Services
and Public Safety**

www.dhsspsni.gov.uk

Castle Buildings
Stormont Estate
BELFAST BT4 3SQ
Tel: 028 90 520642
Fax: 028 90 520557
Email: private.office@dhsspsni.gov.uk

Mr Paul Givan MLA
Chairman
Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

Our Ref: COR/1198/2013

Date: 29 October 2013

Dear Paul

Thank you for your letter of 7 October regarding Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and in particular Clauses 10, 12 and 16 of the Bill.

I fully support Lord Morrow's Bill. However, I have suggested amendments to those clauses in the Bill for which my Department has responsibility/part responsibility with a view to making the Bill more workable in practice.

I met with Lord Morrow on 11 September 2013 and during that meeting I expressed my concerns in relation to Clauses 10, 12 and 16. I agreed that my officials would provide him with some advice in relation to Clauses 10 and 12 and this advice has now been conveyed to him. I will deal with each clause separately below.

Clause 10

Clause 10(1)(b)(i) of the Bill specifies that support shall be provided to the family of a child identified as a victim if they are resident in Northern Ireland if, and only if they are not suspected to have committed a human trafficking offence.

This clause, as currently drafted, is problematic in that it may cause conflict with existing legislation. Specifically, it may prevent compliance with the *Children (Northern Ireland) Order 1995*, the *Provision of Health Services to Persons not Ordinary Resident Regulations (Northern Ireland) 2005*, the *Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004* and the *Human Rights Act 1998*.

Should Clause **10(1)(b)(i)** be removed from the Bill the emphasis of support will be on the victim and any potential conflict with existing legislation is likely to be eliminated. Entitlement to assistance and support for the family of the victim, where the family is resident in Northern Ireland is already considered to be available.

Clause 12 – Child Trafficking Guardian

Clause 12 of the Bill specifies that each child who might be a victim of trafficking in human beings shall have a Child Trafficking Guardian appointed to represent the best interests of that child if the person who has parental responsibility fulfils any one of a number of conditions.

As currently drafted, this clause is problematic as it requires the Department of Health, Social Services and Public Safety to set out the arrangements for the appointment of a Child Trafficking Guardian. This could be resolved by amending **Clause 12(1)** to place the onus for appointing a Child Trafficking Guardian in circumstances prescribed by DHSSPS on the relevant Health and Social Care (HSC) Trust, which has existing statutory duties to safeguard children to safeguard children and promote their welfare. This is on the assumption that child victims of trafficking will become looked after by one of the five HSC Trusts, which is the assumption we have made to date.

Clause 12(2) specifies the responsibilities of the Child Trafficking Guardian. This clause could be amended to allow for responsibilities of the Guardian to be added to by stipulating at **Clause 12(2)(1)** *'any other responsibility as prescribed by the DHSSPS'*. This resolution would then allow the removal of **Clause 12(3) – Clause 12(7)** inclusive from the Bill.

Clause 16

Clause 16 introduces the establishment of an independent body to report to the Assembly on the performance of this Act and on related matters. Although the responsibility of establishing a Northern Ireland Rapporteur will fall to the Department of Justice, some of the responsibilities in this Bill fall to my Department.

This issue was discussed during my meeting with Lord Morrow when the scrutiny and challenge functions relating to health and social care provision in Northern Ireland. It is a busy landscape and includes the Regulation and Quality Improvement Authority (RQIA) which is the independent body responsible for monitoring and inspecting the availability and quality of Health and Social Care Services in Northern Ireland and the NI Commissioner for Children and Young People who has a role to safeguard and promote the rights and best interests of children and young people in Northern Ireland. In addition, you are aware of the scrutiny role undertaken by Assembly Committees, including your own.

My view is that an Independent Rapporteur would add an unnecessary layer of bureaucracy and accountability mechanism. On that basis, I am of the view that this clause is unnecessary.

I hope this is helpful.



Edwin Poots MLA
Minister for Health Social Services and Public Safety