



**Northern Ireland
Assembly**

COMMITTEE FOR JUSTICE

MINUTES OF PROCEEDINGS

TUESDAY 8 APRIL 2014
Room 29, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Ms Rosaleen McCorley MLA
Mr Alban Maginness MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darragh (Assembly Clerk)
Mrs Marie Austin (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)

Apologies: Mr Stewart Dickson MLA
Mr Seán Lynch MLA
Mr Patsy McGlone MLA

The meeting commenced at 1.02 p.m. in public session.

1. Apologies

Apologies are detailed above.

2. Matters Arising

The Committee noted a response from the Minister for Health, Social Services and Public Safety regarding his position in relation to Clause 12 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Child Trafficking Guardian.

3. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Clause-by-Clause Consideration

The Committee continued its formal clause-by-clause consideration of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Mr Elliott indicated that while he did not intend to vote against any of the clauses he was reserving his position in relation to a number of them.

Clause 3 - Aggravating factors

The Committee considered amendments proposed by the Department of Justice to insert a definition of public official; refer to the offender rather than the offence; correct the definition of position of trust; omit the reference to the offence involving serious violence; extend the previous convictions ground to cover convictions for similar offences outside Northern Ireland; and define vulnerable adult and the family of the victim by reference to Article 34 of the Sexual Offences (Northern Ireland) Order 2008.

Agreed: The Committee is content with the following amendments proposed by the Department of Justice:

Clause 3, Page 2, Line 13

Leave out 'family member' and insert 'member of the family'

Clause 3, Page 2, Line 15

Leave out 'a victim who was'

Clause 3, Page 2, Line 17,

Leave out 'the victim's family' and insert 'a member of the family of the victim'

Clause 3, Page 2, Line 19

Leave out 'offence' and insert 'offender'

Clause 3, Page 2, Line 21

Leave out 'was committed by use of serious violence or'

Clause 3, Page 2, Line 24

At end insert 'or has previously been convicted in respect of anything done outside Northern Ireland which is not such an offence but would be such an offence if done in Northern Ireland'

Clause 3, Page 2, Line 26

Leave out '29' and insert '28'

Clause 3, Page 2, Line 27

At end insert

' "public official" means

(a) a member of the Northern Ireland civil service or the United Kingdom civil service;

(b) a person employed by a body established by an Act of Parliament or by Northern Ireland legislation;

(c) the holder of an office established by an Act of Parliament or by Northern Ireland legislation;

(d) a police officer.'

Clause 3, Page 2, Line 30

Leave out from 'means' to end of Line 34 and insert 'means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, old age, addiction to alcohol or drugs or for any other reason.'

Clause 3, Page 2, Line 34

At end insert –

‘(3) For the purposes of this section a person is a member of the victim’s family if the relation of that person to the victim is within Article 34 of the Sexual Offences (Northern Ireland) Order 2008.’

Question: “That the Committee is content with Clause 3 subject to the Department of Justice’s proposed amendments put and agreed to”.

Clause 4 - Minimum sentence for human trafficking and slavery offences

Mr McCartney and Ms McCorley indicated that they had broad concerns about the inclusion of minimum sentences in legislation.

The Committee considered amendments proposed by Lord Morrow to restrict a minimum sentence for a human trafficking offence to adults only; ensure that the sentence is an immediate custodial sentence and not a suspended sentence; require a court to state the reasons why a case is considered exceptional; and, to address technical issues as consequence of Clause 4.

Agreed: The Committee is content with the following amendments proposed by Lord Morrow:

Clause 4, Page 2, Line 37

After offence ‘insert’ and that individual was aged 18 or over when the offence was committed’

Clause 4, Page 2, Line 41

At end insert –

‘() The Court shall not exercise its power under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to a sentence which it is required to impose under subsection (2).’

Clause 4, Page 3, Line 1

At start insert –

() If a court considers that there are exceptional circumstances which justify the imposition of a lesser sentence than that provided for under subsection (2), the court must give its reasons for considering exceptional circumstances to exist and record those reasons in the order book.

Clause 4, Page 2, Line 41

At end insert

‘(2B) In section 36 (review of sentencing) of the Criminal Justice Act 1988 after subsection (9)(c) insert

“(d) subsection (2)(b) shall be read as if it included a reference to a sentence required by section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.”.

(2C) The Criminal Justice (Northern Ireland) Order 1996 is amended as follows □

(a) in Article 2(9) (interpretation of references to sentences falling to be imposed under various statutory provisions) after “2006” insert “or section 4(2) of the Human

Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014”;

(b) in each of

- (i) Article 4(1) (power to discharge defendant except in specified circumstances),
- (ii) Article 10(1) (power to impose probation order except in specified cases),
- (iii) Article 13(1) (power to impose community service order except in specified cases),
- (iv) Article 15(1) (power to impose combination order except in specified circumstances),

after “2008” insert “or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014”.

(2D) In the Criminal Justice (Northern Ireland) Order 2008

(a) in Article 5 (restrictions on imposing certain custodial sentences) in paragraph (1)(b) omit “or” at the end add of paragraph (ii) and after paragraph (iii) add

“(iv) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.”;

(b) in Article 7 (length of custodial sentence) in paragraph (3) at the end add

“(c) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.”.’

Question: “That the Committee is content with Clause 4 subject to Lord Morrow’s proposed amendments put and agreed to”.

Clause 6 - Paying for sexual services of a person

The Committee considered amendments proposed by Lord Morrow to narrow the offence of paying for the sexual services of a person 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.

Mr McCartney, Ms McCorley and Mr Elliott indicated that they had not reached a definitive view on Clause 6.

Question: “That the Committee is content with the amendments proposed by Lord Morrow as follows:

Clause 6, Page 3, Line 26

At end insert-

‘(1A) In Article 58 (Interpretation of this Part) at the end of paragraph (3) insert “other than in Article 64A”.’

Clause 6, Page 3, Line 31

Leave out ‘over the age of 18’

Clause 6, Page 3, Line 35

After ‘to’ insert ‘imprisonment for a term not exceeding six months or’

Clause 6, Page 3, Line 36

After ‘scale’ insert ‘, or both’

Clause 6, Page 3, Line 37
At start insert 'on conviction on indictment'

Clause 6, Page 3, Line 41
Leave out '(including sexual services)'

Clause 6, Page 3, Line 41
At end insert -
'(3A) No offence is committed under this article unless the sexual services that are provided or are to be provided by B to A involve—
(a) B being physically in A's presence,
(b) B touching A or A touching B, and
(c) the touching is sexual.'

Clause 6, Page 4, Line 4
Leave out 'must raise awareness of this offence' and insert 'shall conduct an advertising campaign to ensure public awareness of the change effected by this section'

The Committee divided: Ayes 6; Noes 0; Abstain 2

AYES	ABSTAIN
Mr Sydney Anderson	Mr Raymond McCartney
Mr Tom Elliott	Ms Rosaleen McCorley
Mr Paul Givan	
Mr William Humphrey	
Mr Alban Maginness	
Mr Jim Wells	

Agreed: That the Committee is content with the amendments proposed by Lord Morrow.

Question: "That the Committee is content with Clause 6 subject to Lord Morrow's proposed amendments put and agreed to".

The Committee divided: Ayes 6; Noes 0; Abstain 2

AYES	ABSTAIN
Mr Sydney Anderson	Mr Raymond McCartney
Mr Tom Elliott	Ms Rosaleen McCorley
Mr Paul Givan	
Mr William Humphrey	
Mr Alban Maginness	
Mr Jim Wells	

Agreed: That the Committee is content with Clause 6 subject to Lord Morrow's proposed amendments.

Clause 8 - Non prosecution of victims of trafficking in human beings

The Committee considered Clause 8 as drafted. The Committee expressed its support for the principles underlying Clause 8 but noted that it wished to consider the findings 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.

Question: “That the Committee is not content with Clause 8 put and agreed to”.

Clause 11 - Compensation for victims of trafficking

The Committee considered an amendment proposed by the Department of Justice to require it to produce statutory guidance in respect of compensation for victims of human trafficking and to remove subsection 11(b)(ii) as victims do not need to be resident in Northern Ireland to be eligible to apply for compensation.

The Committee indicated that it would seek a commitment from the Minister of Justice on the floor of the Assembly, during Consideration Stage, that the Department of Justice will consult the Committee on the draft guidance and take full account of its views.

Agreed: The Committee is content with the following amendment proposed by the Department of Justice:

Clause 11, Page 6, Line 19

Leave out from ‘, by order’ to end of line 25 and insert ‘issue guidance as to

(a) the procedures to be followed by a victim of human trafficking to apply for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 2002;

(b) the grounds on which compensation may be awarded under that Order; and

(c) the arrangements available to assist and support a victim of human trafficking in applying for such compensation.’

Question: “That the Committee is content with Clause 11 subject to the Department of Justice’s proposed amendment put and agreed to”.

Clause 15 – Prevention

The Committee considered an amendment proposed by the Department of Justice to require it to publish an annual strategy for tackling human trafficking and slavery after consultation with other relevant organisations, and specifying specific issues the strategy should cover.

Agreed: The Committee is content with the following amendment proposed by the Department of Justice:

Clause 15, Page 9,

Leave out lines 27 to 30 and insert

‘15.(1) The Department shall, at least once in every year, publish a strategy on human trafficking and slavery offences.

(2) In drawing up the strategy the Department must

(a) consult with other relevant organisations; and

(b) have regard to views expressed by such organisations.

(3) The purpose of the strategy is to

(a) raise awareness of human trafficking and slavery offences in Northern Ireland;

(b) contribute to a reduction in the number of such offences.

(4) The strategy shall in particular

(a) set out arrangements for co-operation between relevant organisations in dealing with human trafficking or slavery offences or the victims of such offences;

(b) include provision as to the training and equipment of those involved in investigating or prosecuting human trafficking or slavery offences or dealing with the victims of such offences;

(c) include provisions aimed at raising awareness of the rights and entitlements of victims of such offences.

(5) In this section “relevant organisation” means any body, agency or other organisation with functions or activities relating to human trafficking or slavery offences or the victims of such offences.

Question: “That the Committee is content with Clause 15 subject to the Department of Justice’s proposed amendment put and agreed to”.

Clause 16 - Northern Ireland Rapporteur

The Committee considered Clause 16 as drafted and noted that the remit of the Anti-Slavery Commissioner which would be created by the draft Modern Slavery Bill could be extended to Northern Ireland. The Committee indicated that it would consider the matter further when there is clarity on the position regarding the Anti-Slavery Commissioner.

Question: “That the Committee is content with Clause 16 put and agreed to”.

Clause 19 - Short title and commencement

The Committee considered its proposed amendment to Clause 19 to make provision for the Bill to commence three months after Royal Assent.

Agreed: The Committee was content with the amendment as follows:

Clause 19, page 10, line 12

*Leave out from ‘in’ to ‘order’ on line 13 and insert-
‘3 months after Royal Assent’*

Question: “That the Committee is content with Clause 19 subject to the proposed Committee for Justice amendment put and agreed to”.

Long Title

The Committee considered the Long Title of the Bill as drafted.

Question: “That the Committee is content with the Long Title put and agreed to”.

4. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Draft Committee Report

The Committee noted a list of documents for inclusion in the Appendices of the Committee Report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

5. Correspondence

The Committee considered correspondence from a Mr Bradfield, a Newsletter journalist, following the oral evidence sessions with Laura Lee, International Union of Sex Workers and Dr Graham Ellison.

Agreed: The Committee agreed that Mr Bradfield's correspondence should be included in the Committee Report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

6. Date, Time and Place of next meeting

The next meeting will take place on Thursday 10 April 2014 at 2.00 p.m. in Room 30, Parliament Buildings.

The meeting was adjourned at 1.26 p.m.

Mr Paul Givan MLA
Chairman, Committee for Justice