



**Northern Ireland
Assembly**

Committee for Justice

Report on the Legislative Consent Motion to allow provisions relating to maritime enforcement powers; UK cross jurisdictional arrest powers; anonymity for victims of forced marriage and pardons for convictions of certain abolished offences in the Policing and Crime Bill to extend to Northern Ireland

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Background

1. The Policing and Crime Bill was introduced at Westminster on 10 February 2016, and is currently at Committee Stage in the House of Lords. The latest version of the Bill can be accessed at:
<http://www.publications.parliament.uk/pa/bills/lbill/2016-2017/0055/17055.pdf>

2. The Bill is in nine parts and its purpose is to further improve the efficiency and effectiveness of police forces, including through closer collaboration with other emergency services; enhance the democratic accountability of police forces and fire and rescue services; build public confidence in policing; strengthen the protections for persons under investigation by, or who come into contact with, the police; ensure that the police and other law enforcement agencies have the powers they need to prevent, detect and investigate crime; and further safeguard children and young people from sexual exploitation.

3. The Bill contains policy proposals which the Department believes a strong case exists for extension to Northern Ireland. The Department is proposing to extend the following policies by way of a Legislative Consent Motion:
 - Maritime enforcement powers;
 - UK cross jurisdictional arrest powers;
 - Anonymity for victims of forced marriage; and
 - Pardons for convictions of certain abolished offences.

Initial Proposed Legislative Consent Motions

4. At its meeting on 16 June 2016, the Committee for Justice considered departmental written briefing papers on three proposed Legislative Consent Motions for the Policing and Crime Bill: maritime enforcement powers; police powers across UK jurisdictions; and biometric retention in relation to foreign convictions. Following discussion, the Committee agreed to schedule an oral evidence session with departmental officials to seek further information on the proposed Legislative Consent Motions.
5. The oral evidence session took place on 15 September 2016 (The Hansard of the evidence session can be found [here](#) in Appendix 2).
6. On 15 September 2016, the Committee also considered a [written departmental briefing](#) on a fourth proposed Legislative Consent Motion on lifelong anonymity of victims of forced marriage.
7. At the meeting on 22 September 2016, the Committee for Justice reached agreement on three of the proposed Legislative Consent Motions for the Policing and Crime Bill. The Committee agreed that it was:
 - Content with the proposal to extend the provision for lifelong anonymity of victims of forced marriage to Northern Ireland by way of a Legislative Consent Motion and
 - Content with the proposal to extend the police arrest powers across UK jurisdictions provisions in the Policing and Crime Bill to Northern Ireland by way of a Legislative Consent Motion.
8. The Committee also agreed that it was content with the proposal to extend the biometric retention provisions in relation to foreign convictions in the Policing and Crime Bill to Northern Ireland by way of a Legislative Consent Motion.

9. Sinn Féin Members of the Committee however indicated that they were opposed to this proposed Legislative Consent Motion.
10. At the meeting on 6 October 2016, the Committee reached agreement on the fourth proposed Legislative Consent Motion on maritime enforcement powers. The Committee agreed that it was content with the proposed Legislative Consent Motion on maritime enforcement powers subject to the following:
- The addition of maritime enforcement powers in relation to hot pursuit being extended to the PSNI;
 - The Policing Board being content with the proposals for retrospective accountability by the Chief Constable to the Board; and
 - The provision for maritime enforcement powers in relation to hot pursuit by Scottish officers in Northern Ireland territorial waters only remaining if the Scottish Government agreed the proposed model of oversight by the Office of the Police Ombudsman for Northern Ireland.

Revised Legislative Consent Motion

11. On 27 October 2016, the Department of Justice laid a [Legislative Consent Memorandum for the Policing and Crime Bill](#) which included a consolidated draft motion covering three out of the four previously considered policy areas: maritime enforcement powers (not including hot pursuit powers); UK cross jurisdictional arrest powers; and anonymity for victims of forced marriage.
12. On 7 November 2016, the Department of Justice laid a further [Legislative Consent Memorandum for the Policing and Crime Bill](#) which superseded the Memorandum laid on 27 October 2016. The further Legislative Consent Memorandum covered the three areas included in the 27 October

2016 Memorandum and an additional policy area: pardons for convictions of certain abolished offences.

13. At the Committee for Justice meeting on 10 November 2016, departmental officials attended to update Members on the revised Legislative Consent Motion provisions as detailed in the Legislative Consent Memorandum laid in the Assembly on 7 November 2016 (see Hansard of the evidence session [here](#) at **Appendix 2**), and to explain the Department's rationale for removing the provisions relating to biometric retention in relation to foreign convictions.
14. The Department advised that while there were no changes to the proposals originally considered by the Committee to extend provisions in the Policing and Crime Bill to Northern Ireland in relation to UK cross jurisdictional arrest powers and anonymity for victims of forced marriage, the provisions relating to biometric retention in relation to foreign convictions were no longer included in the Legislative Consent Motion.
15. Departmental officials informed the Committee that the Department had circulated a draft Executive Paper on the proposals for consideration by the Executive at its meeting on 27 October 2016. Following feedback on the draft, the final Paper tabled and ultimately approved, did not include the provisions relating to biometric retention in relation to foreign convictions.
16. In relation to maritime enforcement powers, initially the Department had intended to seek the legislative consent of the Assembly solely for the exercise of powers by officers from England, Wales and Scotland into Northern Ireland territorial waters in hot pursuit situations. Such powers relate to the prevention and/or detection of any England, Wales or Scotland offence. However, the [Legislative Consent Memorandum](#) laid on 7 November 2016, seeks the extension of wider maritime enforcement

powers to the PSNI that would allow PSNI officers to stop, board, divert and detain a vessel; to search and obtain information; and to arrest and seize evidence of any offence, on vessels in Northern Ireland territorial waters. Provisions in relation to the use of such powers in hot pursuit circumstances by officers from England, Wales and Scotland have been removed.

17. On 10 November 2016, the Committee reached agreement on the proposals to extend provisions for maritime enforcement powers and pardons for convictions of certain abolished offences. The Committee agreed that it was:
 - Content with the proposal to extend the provisions for maritime enforcement powers in the Policing and Crime Bill to Northern Ireland by way of a Legislative Consent Motion, subject to the Minister giving a commitment during the debate on the Legislative Consent Motion that work will be progressed as quickly as possible by the Department of Justice to make provision for maritime enforcement powers in hot pursuit situations for PSNI officers, and to identify an appropriate legislative vehicle to give effect to this at the earliest opportunity; and
 - Content with the proposal to extend the provisions for pardons for convictions of certain abolished offences in the Policing and Crime Bill to Northern Ireland by way of a Legislative Consent Motion.

18. Mr Roy Beggs, MLA, expressed reservations about the pardoning of abolished homosexual offences which were illegal at that time in the context of the age of consent.

Committee Consideration of the Policy Proposals in the Legislative Consent Memorandum

19. The remainder of this section outlines the Committee's consideration of each policy proposal included in the [Legislative Consent Memorandum](#) laid on 7 November 2016, and provides a background to the Department's current position on maritime enforcement powers and the removal of hot pursuit powers.

Maritime enforcement powers

20. Section 30 of the Police Act 1996, limits police jurisdiction in UK territorial waters, to 12 nautical miles from the UK shore. The Modern Slavery Act 2015 (MSA) widened maritime enforcement powers of the police, National Crime Agency and Border Force to enable them to stop, board, investigate and take further action against a vessel at sea that they suspect of either (i) human trafficking; or (ii) slavery, servitude, and forced or compulsory labour. This also included powers of 'hot pursuit' across UK territorial waters.

21. The Home Office wrote to the Department in April 2016, seeking legislative consent for law enforcement officers in England and Wales to exercise maritime enforcement powers in Northern Ireland waters in hot pursuit situations. Following that, the Scottish Government requested that law enforcement officers in Scotland were provided with powers corresponding to those conferred on members of police forces in England and Wales (and certain other law enforcement officers). This included powers of hot pursuit from Scottish waters into Northern Ireland territorial waters which also required the legislative consent of the Assembly.

22. The Committee considered the provisions relating to maritime enforcement powers at its meetings on 16 June, 15 and 29 September, 6 October and 10 November 2016.
23. The Department advised the Committee in its correspondence dated [10 June 2016](#), and at the evidence session on [15 September 2016](#), that given the Scottish Government's request for powers corresponding to those conferred on members of police forces in England and Wales, the Department consulted with the PSNI on whether a case could be made for equivalent maritime enforcement powers to be extended to Northern Ireland within the Bill. In response, the PSNI advised the Department that it had limited maritime capabilities and there was no pressing need for additional powers to be made available to its officers at present. Based on the PSNI's view, the Department indicated that it was minded not to extend the maritime powers to Northern Ireland. However, officials highlighted that a Legislative Consent Motion would still be required to provide legislative consent for law enforcement officers in England, Wales and Scotland to exercise their powers in Northern Ireland waters, but only in hot pursuit situations.
24. The officials also advised the Committee that discussions were ongoing between the Department and the Home Office with regard to the accountability arrangements for the hot pursuit powers in the Bill, which at the time of introduction were contrary to that which the previous Assembly provided legislative consent for in relation to the hot pursuit provisions in the MSA; the MSA memorandum provided consent for the Police Ombudsman Northern Ireland to investigate any complaints made against officers from police forces in England and Wales in the exercise of hot pursuit powers in Northern Ireland waters. However, the Bill contained a clause which would have the effect of extending the jurisdiction of the

Independent Police Complaints Commission (IPCC) in England and Wales to the hot pursuit powers in both the MSA and the Bill.

25. Following the oral evidence session with departmental officials on [15 September 2016](#), the Committee agreed to request information from the Minister of Justice and the Chief Constable on a number of issues relating to the maritime enforcement powers Legislative Consent Motion including:

- details of the agreement between the Department and the Home Office in relation to the arrangements that will be put in place to provide a local accountability model and provide for the Police Ombudsman for Northern Ireland to investigate complaints made against law enforcement officers from England, Wales and Scotland in the exercise of hot pursuit powers in Northern Ireland waters;
- the timescale for finalising and laying the Legislative Consent Motion; and
- the reasons why the PSNI held the view that maritime enforcement powers in relation to hot pursuit should not be extended to Northern Ireland.

26. In her response dated [21 September 2016](#), the Minister of Justice advised that her Department had agreed an approach with the Home Office which makes provision for local accountability where hot pursuit maritime powers are exercised in Northern Ireland waters to ensure that officers are properly held to account. The approach would work as follows:

- The Police Ombudsman for Northern Ireland would be required to investigate all serious incidents (including deaths and serious injuries and issues of significant public interest) involving law enforcement officers from any of the UK legal jurisdictions exercising powers in Northern Ireland's waters. The Ombudsman

would send reports of its investigations and recommendations about officers from the police forces of England and Wales to the Independent Police Complaints Commission (IPCC) or the chief officer of the relevant force – this approach would mirror, in effect, the arrangements in place under mutual aid and is also consistent with the approach already agreed by the Assembly in respect of the hot pursuit powers under the Modern Slavery Act 2015;

- The Ombudsman would have discretion to determine whether to investigate lower level matters or delegate the responsibility to the IPCC;
- Complaints or conduct matters concerning the activities of PSNI officers operating in England and Wales waters would fall to the Ombudsman to investigate;
- In the case of all incidents involving alleged criminality, the criminal law of the relevant jurisdiction for those waters would apply; this is consistent with the current arrangements.

27. The Department later confirmed that the Police Ombudsman was also content with the oversight arrangements.

28. Assistant Chief Constable Todd, PSNI, stated in his response dated [22 September 2016](#), that while at the present time it was unlikely that the PSNI would have occasion to use hot pursuit powers in NI waters, it was not its intent to in some way create a safe haven. The PSNI was of the view that to ensure consistency across UK waters, it would be in the national interest to extend the proposed enforcement powers to Northern Ireland by way of a Legislative Consent Motion.

29. The Committee's concerns however did not centre around law enforcement officers from other UK jurisdictions being provided maritime enforcement powers in Northern Ireland waters in hot pursuit situations,

rather the Committee was considering whether the PSNI should get equivalent powers to go into other UK jurisdiction waters.

30. Having considered the responses from both the Minister of Justice and the PSNI, the Committee agreed to seek further information from the Minister of Justice on the accountability arrangements to the Policing Board in relation to incidents involving law enforcement officers from any of the UK legal jurisdictions exercising hot pursuit powers in Northern Ireland's waters, and advise her that the Committee was minded to recommend that maritime enforcement powers in relation to hot pursuit should be extended to Northern Ireland but would consider the matter further upon receipt of the additional information requested. The Committee also agreed to seek clarification from the Chief Constable on:

- The wording of the PSNI letter dated 22 September; his position regarding extending the powers of hot pursuit to the PSNI; and
- The particular reasons why the PSNI did not seek or support maritime enforcement powers in relation to hot pursuit being extended to Northern Ireland in the first instance.

31. The Minister of Justice responded on [21 September 2016](#), providing information on the proposed accountability arrangements to the Policing Board in relation to law enforcement officers from any of the UK jurisdictions exercising maritime hot pursuit powers in Northern Ireland territorial waters. The Minister highlighted that in the hot pursuit scenario where the operation is not Northern Ireland based there would be no opportunity for the PSNI to approve it beforehand. This differed from National Crime Agency (NCA) operations where it requires the prior approval of the PSNI to exercise constabulary powers in Northern Ireland and consequently the Chief Constable can be required to account for the NCA activity to the Policing Board. Given the differing circumstances, the Minister indicated that she was not minded to include a provision for either

the Chief Constable of the PSNI or other Chief Officers of GB forces to be required to report to the Policing Board on the exercise of hot pursuit powers.

32. Assistant Chief Constable Todd confirmed in his response dated [27 September 2016](#), that he was content that the powers of hot pursuit should be extended to the PSNI. Assistant Chief Constable Todd also clarified that the original position attributed to the PSNI appeared to have been as the result of an informal conversation between staff who were trying to be helpful in progressing the matter and the position was not fully considered at a senior level at that time.

33. Having considered the responses from both the Minister of Justice and the PSNI, Members indicated at the Committee meeting on 29 September 2016, that they still did not have the necessary clarification to reach a decision on the proposal to extend maritime enforcement powers in hot pursuit circumstances. The Committee therefore agreed to request the following further information from the Minister of Justice:

- Details of any case where the PSNI had to stop a hot pursuit operation because it would have resulted in officers going beyond Northern Ireland territorial waters;
- What implications, if any, there is likely to be for the PSNI in terms of additional resources/funding if maritime enforcement powers are provided to it; and
- Clarification of the legislative changes required to provide the accountability powers to the Police Ombudsman, details of the amendments and how they will be taken forward.

34. In relation to law enforcement officers from any of the other UK jurisdictions exercising maritime hot pursuit powers in Northern Ireland territorial waters, some Members indicated that there needed to be an

accountability mechanism to the NI Policing Board in respect of such operations and suggested that this could take the form of retrospective accountability by the Chief Constable. The Minister was therefore also asked to outline her proposals to address this issue.

35. In her response dated [6 October 2016](#), the Minister of Justice advised that engagement had now taken place at ACC level within the PSNI and that the Chief Constable was also sighted on the matter. The Minister reiterated that the PSNI would welcome reciprocal maritime powers, including powers to cover circumstances whereby PSNI officers might enter other UK territorial waters in hot pursuit circumstances. In such circumstances, the Department clarified that it had been agreed with the Home Office and the Office of the Police Ombudsman that the Police Ombudsman would continue to have oversight of PSNI officers operating in England & Wales waters.

36. The Minister also advised that, to date, there had been no cases where the PSNI had to stop a hot pursuit operation because it would have resulted in officers going beyond Northern Ireland territorial waters.

37. In respect of the likely resources / funding implications arising from the PSNI being given maritime enforcement powers in hot pursuit situations, the Department confirmed that the PSNI had purchased new boats in 2015 which were capable of going beyond the 12 miles required to leave Northern Ireland waters. Therefore, the only identifiable cost at this time would be minimal and related to participation / training in any exercises arising as a result of the new powers.

38. In relation to the legislative changes that would be required to provide accountability powers to the Police Ombudsman for Northern Ireland and how these would be taken forward, the Minister advised that amendments

would need to be made to the Police (Northern Ireland) Acts 1998 and 2000, and some associated subordinate legislation. The Minister also advised that the amendments would be incorporated into the Policing and Crime Bill and would ensure that the Police Ombudsman retains proper powers of investigation in relation to all officers when exercising the powers of a constable in Northern Ireland water, and PSNI officers when in other UK territorial waters.

39. In the same response the Minister also referred to an issue around accountability that had arisen in relation to Scottish officers. The Minister advised that the Scottish Government was not in a position to agree to the proposed model of oversight of Scottish officers by the Police Ombudsman for Northern Ireland. The Minister informed the Committee that the Department was working with the Home Office and Scottish Government to resolve the issue. The Minister suggested that, to progress the Legislative Consent Motion, the appropriate provision relating to the exercise of powers by Scottish officers in NI waters should remain in the Bill, but on the firm understanding that those provisions would only remain when all parties are agreed on appropriate accountability arrangements.

40. At its meeting on 6 October 2016, the Committee for Justice agreed that it was content with the proposed Legislative Consent Motion on Maritime Enforcement Powers subject to the following:

- The addition of maritime enforcement powers in relation to hot pursuit being extended to the PSNI;
- The Policing Board was content with the proposals for retrospective accountability by the Chief Constable to the Board; and
- The provision for maritime enforcement powers in relation to hot pursuit by Scottish officers in Northern Ireland territorial waters should only remain if the Scottish Government agreed the proposed

model of oversight by the Office of the Police Ombudsman for Northern Ireland.

41. At the Department of Justice evidence session on [10 November 2016](#), officials advised Members that, following the Committee's conditional agreement to the proposed Legislative Consent Motion on maritime enforcement powers, officials attended a meeting of the Policing Board on 22 October 2016, and discussed the proposed oversight and accountability arrangements. The Department advised that while some Board Members were supportive, the Board was unable to reach an agreed position and sought further time to consider the matter. A copy of the paper submitted by the Department of Justice to the Policing Board can be found [here](#).
42. The Department also advised that it had not been possible to secure the agreement of the Scottish Government to oversight of Police Scotland officers when operating in Northern Ireland waters. The Department indicated that the issue was around Scottish officers being subject to greater scrutiny in Northern Ireland waters.
43. When asked whether the hot pursuit provisions could be extended to Northern Ireland, England and Wales only, departmental officials advised that it was the Home Office's view that any arrangements for maritime enforcement powers in hot pursuit situations should cover all jurisdictions and should be included in the same legislative vehicle.
44. In the absence of agreement, and given the tight legislative timescales associated with the passage of the Bill through Westminster, the Department had removed the provisions for hot pursuit into Northern Ireland waters from the Legislative Consent Memorandum. The Department confirmed however that it remains of the view that there is

merit in seeking to resolve these issues and to reach a mutually acceptable agreement in shorter time. The Minister has, therefore, asked officials to continue to engage with stakeholders and, if agreement is reached, then seek to identify an appropriate legislative vehicle to give it effect. Officials indicated that given the Department of Justice proposed legislative programme, its preferred and more timely option would be to provide hot pursuit powers through a Legislative Consent Motion as part of a Westminster Bill.

45. Therefore, the draft motion included in the Legislative Consent Memorandum tabled on [7 November 2016](#), does not cover hot pursuit powers. In relation to maritime enforcement powers, the draft motion seeks the extension of wider maritime enforcement powers that would give the PSNI powers to seek to prevent, detect, investigate and/or prosecute offences committed on vessels in Northern Ireland waters. In practice, the PSNI would be able to stop, board, divert and detain a vessel; to search and obtain information; and to arrest and seize evidence of any offence, on vessels in Northern Ireland territorial waters.
46. During the evidence session the Committee expressed extreme disappointment and frustration at the series of failures by the Department in its handling of the issue of maritime enforcement powers in hot pursuit situations which ultimately resulted in hot pursuit powers being removed completely from the Legislative Consent Motion and the Bill. Concerns included delayed engagement with the Policing Board when it was clear there were accountability issues, and the informal arrangements for engagement between the Department of Justice and the PSNI on legislative matters.
47. The Department acknowledged that it could have done better and apologised that it had been distracted by trying to solve the issue of

oversight by the Police Ombudsman and as a result had omitted to engage earlier with the Policing Board. The Department also confirmed that formal arrangements had now been put in place for engagement at the proper level with the PSNI, on legislative and other important matters.

48. Further details of the issues raised by the Committee and the Department's response can found in the Hansard of the [10 November 2016](#) evidence session.
49. **The Committee for Justice agreed at its meeting on 10 November 2016, that it was content with the proposal to extend maritime enforcement powers to Northern Ireland by way of a Legislative Consent Motion, subject to the Minister giving a commitment during the debate on the Legislative Consent Motion that work will be progressed as quickly as possible by the Department of Justice to make provision for maritime enforcement powers in hot pursuit situations for PSNI officers, and to identify an appropriate legislative vehicle to give effect to this at the earliest opportunity.**

UK cross jurisdictional arrest powers

50. Part 10 of the Criminal Justice and Public Order Act 1994 (CJPOA) makes provision for the exercise of police powers across UK jurisdictions. In particular, it deals with the execution of arrests with or without a warrant and search powers available on arrest.
51. The Home Office is proposing an amendment to CJPOA to fill a long term gap which prevents an officer in their own jurisdiction arresting a person without warrant on suspicion of having committed an offence in another UK jurisdiction. Provisions have now been drafted that will legislate to

allow police officers in England, Wales, Scotland and Northern Ireland to arrest a person in their own jurisdiction for a serious offence committed in another jurisdiction. Consequential changes will also be made to the existing powers of entry and search, but only for offences that are indictable. Consequential amendments to current PACE Codes of Practice will also be required.

52. The Department of Justice is of the view that there is a strong case to extend these amendments to Northern Ireland within the Policing and Crime Bill. The CJPOA provisions already extend UK wide and the Department has advised that the change would be warmly welcomed by the PSNI.

53. The Committee considered the proposed Legislative Consent Motion relating to police powers across UK jurisdictions at its meetings on 16 June, 15 September and 22 September 2016.

54. At its meeting on 22 September 2016, the Committee for Justice agreed that it was content with the proposal to extend the police powers across UK jurisdictions provisions in the Policing and Crime Bill to Northern Ireland by way of a Legislative Consent Motion.

Lifelong anonymity of victims of forced marriage

55. Clause 143 of the Bill, which was inserted by amendment in the House of Commons, makes provision for the lifelong anonymity of victims of forced marriage in England and Wales.

56. Forcing someone into marriage is a criminal offence in Northern Ireland under section 16 of the Human Trafficking and Exploitation (Support for

Victims and Criminal Justice) Act (Northern Ireland) 2015. A forced marriage is a marriage in which one or both spouses do not (or, in the case of some adults with learning or physical disabilities or mental incapacity, cannot) consent to the marriage and violence, threat or any other form of coercion is involved. Coercion may include emotional force, physical force, or the threat of physical force and financial pressure.

57. At present, a victim of forced marriage may be granted anonymity at the discretion of the court (as is the case for any other crime, with the exception of Female Genital Mutilation (FGM) and certain sexual offences where anonymity always applies unless the court considers it should not). In general terms therefore, anonymity for a victim of forced marriage is not automatic.

58. The proposed amendment to the Policing and Crime Bill would provide lifelong anonymity to victims of forced marriage and would prohibit publication or broadcast of any information likely to result in the victim being identified whether in traditional print, broadcast or social media. The prohibition will be automatic and can only be reversed if the victim applies to the court to remove it. Anyone found guilty of breaching the prohibition will be subject to a fine not exceeding level 5 (£5,000) on summary conviction.

59. The proposed provisions are modelled on the lifelong anonymity for victims of Female Genital Mutilation (FGM) which is available in Northern Ireland under section 4A and Schedule 1 to the FGM Act 2003. These provisions were extended to Northern Ireland by the Serious Crime Act 2015 following a Legislative Consent Motion by the Assembly.

60. The Department is of the view that there is significant value in making provision for the anonymity of victims of forced marriage in Northern

Ireland at this time. Although a very rare crime in Northern Ireland, the Department believes that it is important that victims here are afforded the same level of protection as victims in England and Wales. The Minister of Finance, who has policy responsibility for the civil aspects of forced marriage, has agreed that these provisions are desirable in Northern Ireland.

61. The Committee considered the proposed Legislative Consent Motion relating to lifelong anonymity for victims of forced marriage at its meetings on 15 September and 22 September 2016 and indicated its strong support.
62. At its meeting on 15 September 2016, the Committee agreed to seek clarification of whether anonymity for a UK citizen who is a victim of forced marriage extends to other jurisdictions outside the UK. The Department responded on [21 September 2016](#), clarifying that the offence of breaching a prohibition on publication of the identity of a victim of forced marriage will apply on a UK-wide basis but does not extend beyond the UK. In relation to social media, any domestic service providers established in England and Wales, Scotland or Northern Ireland who publish a prohibited matter in a European Economic Area State, other than the UK, may be liable to prosecution.
- 63. At its meeting on 22 September 2016, the Committee for Justice considered further the proposed Legislative Consent Motion relating to lifelong anonymity for victims of forced marriage. The Committee agreed that it was content with the proposal to extend the provision for lifelong anonymity of victims of forced marriage to Northern Ireland by way of a Legislative Consent Motion.**

64. At the same meeting, the Committee also agreed to request clarification of whether someone who moves to the Republic of Ireland to publish information that identifies a victim of forced marriage, and then returns to Northern Ireland, could be found guilty of breaching the prohibition in Northern Ireland.

65. The Committee noted the Department's response dated [6 October 2016](#), advising that the prohibition on publication of the identity of a victim of forced marriage does not have extra-territorial extent i.e. it does not apply to persons who carry out the prohibited act outside the UK. Therefore, a person who moves or travels to the Republic of Ireland to publish details of a forced marriage and then returns to Northern Ireland will not have committed the offence.

Pardons for convictions for abolished homosexual offences

66. At the meeting on 10 November 2016, the Committee for Justice considered, for the first time, [new provisions](#) that had been included in the Legislative Consent Memorandum laid in the Assembly on 7 November 2016. The provisions provide for pardons for convictions relating to now abolished homosexual offences. The Department advised that on 7 November 2016, the Minister received, through Urgent Procedure, Executive agreement to seek to extend the provisions to Northern Ireland.

67. The Department highlighted that the UK Government supported the late amendments, tabled by Lord Sharkey at Lords Committee Stage, to provide, in England and Wales, statutory pardons for persons with convictions (including military convictions under Service Law) for abolished homosexual offences involving consensual activity with persons over the current age of consent. These amendments build on existing

provision, in England and Wales, in the Protection of Freedoms Act 2012 which introduced a disregard scheme for such offences.

68. Subsequent amendments, tabled by Lord Lexden, would make analogous provision for Northern Ireland by introducing the disregard powers in the Protection of Freedoms Act 2012 along with the new provisions which will provide statutory pardons for abolished homosexual offences.

69. The Department advised that inclusion of these provisions in the Legislative Consent Memorandum would allow the UK Parliament to include Lord Lexden's amendments and thereby provide the same arrangements in Northern Ireland, as proposed for England and Wales, in relation to the pardoning of abolished homosexual offences.

70. Mr Roy Beggs, MLA, expressed reservations about the pardoning of abolished homosexual offences which were illegal at that time in the context of the age of consent.

71. Ms Clare Bailey, MLA, asked whether the pardon would be accompanied by an apology from Westminster or the Executive Office. In response, departmental officials advised that an apology did not form part of the provisions being put forward in the House of Lords.

72. At its meeting on 10 November 2016, the Committee for Justice agreed that it was content with the proposal to extend the provision for pardons for convictions for abolished homosexual offences to Northern Ireland by way of a Legislative Consent Motion.

73. The Committee also agreed to ask the Minister of Justice whether she is minded to undertake a review to identify the scale of other anomalies that may need to be addressed in relation to heterosexual offences.

Conclusion

Following consideration of the Legislative Consent Memorandum laid on 7 November 2016, the Committee for Justice, subject to the Minister giving a commitment during the debate on the Legislative Consent Motion that work will be progressed as quickly as possible by the Department of Justice to make provision for maritime enforcement powers in hot pursuit situations for PSNI officers, and to identify an appropriate legislative vehicle to give effect to this at the earliest opportunity, agreed to support the Minister of Justice in seeking the Assembly's endorsement of the Legislative Consent Motion:

“That this Assembly endorses the principle of the extension to Northern Ireland of a number of provisions within the Policing and Crime Bill, by amendment at Lords Committee and Lords Report Stage, insofar as they relate to UK maritime enforcement powers; UK cross jurisdictional arrest powers; anonymity for victims of forced marriage and pardons for convictions of certain abolished offences.”

List of Appendices

Appendix 1 - Copy of the Department of Justice and PSNI Memoranda

- 17 June 2016 - [Letter from the Committee to the Department requesting an oral briefing on the proposed LCMs](#)
- 10 June 2016 - [Departmental briefing paper](#)
- 6 September 2016 - [Departmental briefing paper](#)
- 21 September 2016 - [Response from the Minister of Justice providing further information on the proposed LCMs](#)
- 22 September 2016 - [Response from the PSNI providing clarification on issues relating to maritime enforcement powers](#)
- 27 September 2016 - [Response from the PSNI providing further clarification on maritime enforcement powers](#)
- 27 September 2016 - [Letter from the Committee to the Department regarding the proposed LCM on cross border enforcement powers](#)
- 27 September 2016 - [Letter from the Committee to the Department regarding the proposed LCM on biometric retention for foreign convictions](#)
- 6 October 2016 - [Response from the Minister of Justice providing further information on lifelong anonymity for victims of forced marriage](#)
- 6 October 2016 - [Response from the Minister of Justice providing further information on maritime enforcement powers](#)
- 6 October 2016 - [Department of Justice submission to the Northern Ireland Policing Board regarding the proposed LCM in relation to maritime enforcement powers](#)
- 7 October 2016 - [Response from the Minister of Justice providing clarification of the engagement with the PSNI on maritime enforcement powers](#)
- 17 October 2016 - [Letter from the Committee to the Department confirming agreement of LCM on maritime enforcement powers](#)
- 7 November 2016 - [Departmental briefing paper providing an update on the revisions included in the proposed LCM](#)

Appendix 2 - Minutes of Evidence

10 November 2016 - [Policing and Crime Bill Legislative Consent Motion - Department of Justice](#)

15 September 2016 - [Policing and Crime Bill - Legislative Consent Motion - Department of Justice](#)

Appendix 3 - Legislative Consent Memorandum: Policing and Crime Bill

[Legislative Consent Memorandum laid on 7 November 2016](#)

[Legislative Consent Memorandum laid on 27 October 2016](#)