



Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

**Protection of Freedoms Bill:
Legislative Consent Motion**

15 June 2011

NORTHERN IRELAND ASSEMBLY

**COMMITTEE FOR
HEALTH, SOCIAL SERVICES
AND PUBLIC SAFETY**

**Protection of Freedoms Bill:
Legislative Consent Motion**

15 June 2011

Members present for all or part of the proceedings:

Ms Michelle Gildernew (Chairperson)
Mr Jim Wells (Deputy Chairperson)
Ms Michaela Boyle
Ms Paula Bradley
Mr Mickey Brady
Mr Gordon Dunne
Mr Mark H Durkan
Mr Sam Gardiner
Mr Kieran McCarthy

Witnesses:

Mr Paul McConville) Department of Health, Social Services and Public Safety
Ms Eilís McDaniel)

The Chairperson:

I welcome Eilís McDaniel and Paul McConville, who are childcare and social services officers in the Department of Health, Social Services and Public Safety. I understand that you are going to make a short presentation, after which we will have questions from members.

Ms Eilís McDaniel (Department of Health, Social Services and Public Safety):

Hopefully it is short enough.

The Chairperson:

I hope that it is shorter than the last one.

Ms McDaniel:

The Department is seeking the Committee's approval of the legislative consent memorandum, which includes the legislative consent motion that the Department intends to have debated in the Assembly before the summer recess. It relates to the extension to Northern Ireland of further safeguarding of vulnerable groups provisions in the Protection of Freedoms Bill. You will be aware that the Bill was introduced in Westminster on 11 February 2011 and completed its Committee Stage on 17 May 2011.

This is the second legislative consent motion connected with the safeguarding of vulnerable groups provisions in the Bill. Combined, the provisions are required to give effect to recommendations from the review of the vetting and barring scheme, which started in October 2010. The review report was published on 11 February 2011.

Changes are being made to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 to give effect to the review recommendations that require legislative change. The first legislative consent motion related specifically to provisions contained in chapter 1 of Part 5 of the Protection of Freedoms Bill, as introduced, and it was passed by the Assembly on 21 March 2011. The second legislative consent motion relates to additional safeguarding of vulnerable groups provisions tabled as Government amendments during the Bill's Committee Stage. The additional provisions are contained in chapter 3 of Part 5 and schedule 8 to the Bill as amended. They provide for the establishment of a new corporate body, the Disclosure and Barring Service (DBS), and for the transfer of functions to the new body from both the Independent Safeguarding Authority (ISA) and the Secretary of State. The new schedule makes detailed provisions in respect of the constitution and governance of the DBS. More detailed information on chapter 3 and schedule 8 provisions was provided in the legislative consent memorandum.

Additional statutory provision is required to give effect to the report's recommendation to merge the ISA and the Criminal Records Bureau. The ISA currently undertakes a barring

function in Northern Ireland relating to decision-making by the ISA about which individuals should be included in barred lists on the grounds that they harmed a child or vulnerable adult or placed either at risk of harm. The ISA assumed responsibility for decision-making on barring in Northern Ireland in March 2009, and, by design, the ISA was established independently of government. Statutory provision is required to dissolve the ISA; establish the replacement barring body, DBS; make detailed provision in respect of the constitution and governance of the DBS; and transfer the barring function of the ISA to the DBS. If the provisions to which the legislative consent memorandum relate are not extended, we would be in danger of creating a period during which Northern Ireland would not have a barring body.

I am trying to cut this down as much as I can. For the minute, I will stray from the legislative consent motion, because I know that last week in Committee specific concerns were raised about cross-border issues, some of which I would like to address in an attempt to put the vetting and barring scheme into some kind of context.

The vetting and barring scheme is only one of a range of mechanisms needed to safeguard children and vulnerable adults. Its specific aim is to prevent unsuitable individuals from gaining either employment or volunteering opportunities with children and vulnerable adults. The legislation that establishes the scheme provides a definition of work with children and vulnerable adults; that is, the range of positions that barred people will be prevented from working in. It creates requirements to check individuals seeking work in those positions against the barred list, and it creates offences of seeking work with children or vulnerable adults if barred or offering work to a barred individual.

In effect, the vetting and barring scheme controls who gets across the door, or not, as the case may be. Given that nothing is known about 95% of people who apply for work with children or vulnerable adults, it is what happens after employees and volunteers cross the door that really matters. Good staff training, supervision and management are crucial. The Department has provided guidance on what constitutes good safeguarding practice in organisations. Checking individuals prior to their being offered work is only one measure of good safeguarding practice. The vetting and barring scheme and the legislation that establishes it is supported by Part V of the Police Act 1997, which is the legislation that provides for the disclosure of information, including criminal conviction and caution information, barred list information and relevant non-conviction information known to the police.

AccessNI is the responsibility of the Department of Justice, and it operates under Part V of the Police Act 1997. AccessNI includes on disclosure certificates non-conviction information provided by the PSNI, and that section of the disclosure certificate also includes conviction information provided to the PSNI by the gardaí central vetting unit under operational policing arrangements. Those arrangements have been in place for a considerable time, and they apply to individuals who have a current or previous address in the Republic of Ireland and who are seeking work with children or vulnerable adults in Northern Ireland.

The Committee will be aware that the gardaí does not provide soft information, as non-conviction information is often referred to, to the PSNI, nor does the gardaí provide soft information to organisations working with children and vulnerable adults in the Republic of Ireland. It is my understanding that legislation will be brought forward in the Republic of Ireland, which, if deemed necessary, will make provision for agreements with other jurisdictions around the sharing of information and for vetting purposes. That will include soft information. The latest position provided by officials in the South is that draft heads of Bill have now been completed and are being discussed with the office of the Attorney General.

Department of Justice officials have advised that there is a high level of operational co-operation and information sharing between the PSNI and the gardaí on sex offenders who travel between jurisdictions. That is governed by an overarching agreement between the British and Irish Governments and an operational memorandum between the PSNI and the gardaí. In practice, that means that there are single points of contact within each service to deal with issues, and that has resulted in swift action when necessary. Members of the gardaí attend local area public protection meetings in border areas and exchange relevant information under current public protection arrangements in Northern Ireland. Both jurisdictions have legislation in place that requires sex offenders to notify their details to the police, and both are looking at ways to strengthen the requirements and increase public protection.

Finally, based on information provided by officials from the Department of Justice, much work has been done to ensure that the border is not utilised to escape justice by offenders who are subject to conditions on release from serving custodial sentences. There are also aspects of shared research and training and risk assessment, and the Irish Probation Service is working with the Probation Board for Northern Ireland on developing practice guidance to ensure cross-border

practices are similar.

I will take any questions about the legislative consent motion specifically or about child and adult protection more generally.

The Chairperson:

We asked the NSPCC and the Children's Commissioner to come up at very short notice last week because we felt that this is an important issue and it was important to hear from them. A line in the commissioner's paper states:

“While the vetting and barring scheme must be viewed as only one element in the arrangements to protect children and young people, this should remain a priority in the Government's safeguarding agenda.”

I concur with that and presume that other members do as well. After two very good presentations last week, I do not think that we are of a mind to do anything to prevent the legislative consent motion going through. We needed to get a better understanding of the situation. Personally speaking, I am very concerned about the issue. I live on the border, and, like others here, I am aware that people are able to evade notice or carry out activities on one side of the border that they would not be able to do on the other side.

Are you involved with drafting the draft heads of Bill that the South is looking at? Is the all-Ireland context being looked at, to ensure that offenders are unable to move into other jurisdictions? I expect the two Departments to work very closely on this issue to ensure that they are not creating new loopholes. You are closing down east-west loopholes, but I am keen to ensure that we do not create new loopholes that can be exploited in the future.

Ms McDaniel:

We are looking at that. Child protection arrangements were established under the North/South Ministerial Council. I chair one of the child protection groups, which is a vetting and barring group, and the group meetings are attended by officials North and South. Through meetings of that group, we have exchanged information with officials in the South about vetting and barring arrangements in Northern Ireland. The whole point of that exercise has been to influence what legislation is brought forward in the South.

I am not convinced at this stage that the South will move to put in place a barring regime similar to that which we have in Northern Ireland. However, it will put vetting on a statutory

basis. It is my understanding that it will establish a new vetting bureau and provide for the disclosure of soft information in particular. I think that we have influenced the creation of provision to allow for the exchange of information with other jurisdictions.

Mr Wells:

Your announcement that legislation is being prepared in the Republic to deal with the issue that we raised as a matter of concern is quite significant. Until that legislation goes through the Dáil, there is no exchange of information. Is there exchange of information through the informal contacts between groups of officers who meet at the border areas, as you mentioned? Does it happen in an informal, non-legislative way?

Ms McDaniel:

With vetting, the only thing that we get from the Republic of Ireland is conviction information. That information is shared between the gardaí and the PSNI. That is what appears on disclosure certificates issued by AccessNI. There is not the disclosure of soft information.

Mr Wells:

Many of these organisations are cross-border. If a cleric or a teacher was moved from Newry to Dundalk and then from Dundalk to Letterkenny and then from Letterkenny to Strabane, because he or she was behaving inappropriately with a pupil or a member of the congregation, for instance, you would know nothing about that. Is that correct?

Ms McDaniel:

Yes. Certainly, that information would not be known as a result of vetting.

Mr Wells:

You mentioned informal meetings. Would a gardaí officer ring his equivalent in Strabane and say, "I see you have Fred teaching in your local school. You need to know this." Would that happen?

Ms McDaniel:

What I have related to you today has been provided to me by the Department of Justice. If the Committee has specific questions about how the PSNI and the gardaí work together, my preference is that they are posed to the Department of Justice.

Mr Wells:

When will you start to receive that information from the police under the new legislation?

Ms McDaniel:

After whatever time it takes the legislation to go through the parliamentary process in the Dáil. We have not got any firm dates from officials in the South.

Mr Wells:

This may be an unfair question, but we have a lot of folk coming in from other European jurisdictions, such as Lithuania, Latvia and Poland. Does soft intelligence follow them into the UK or the Irish Republic?

Ms McDaniel:

Currently, there are no arrangements for the disclosure of information about people coming into Northern Ireland from other parts of Europe or anywhere else in the world. If a disclosure certificate on somebody coming to work in Northern Ireland from Poland were requested, the likelihood is that there would be nothing in that disclosure certificate. There are no current arrangements for the exchange of information between European states. That is part of the bigger project that needs to be put in place.

Mr Wells:

That is a worry, due to the increasingly fluid situation in which people are moving in and out of both jurisdictions.

Ms McDaniel:

We are fully up front about that. There is a problem with that, and it becomes more of a problem as increasing numbers of people come to work in Northern Ireland from other parts of the world.

The Chairperson:

There is still a lot of work to be done on all of this. It may be an issue on which we should engage with the Committee in the South, if ever there is an opportunity to let them know of our concerns. The easiest way for people to move on this island is by car or foot. Jim raises a very valid point about the rest of the world and how we receive information from other places, or not,

as the case may be, and it seems to be more not.

Mr Gardiner:

Jim raised a very valid point. Particularly because of the circumstances of Northern Ireland, we should not let this go. We should be promoting this suggestion and ensuring that we can bring everything humanly possible to deal with it, so that our people are protected. It should not fall off with us merely noting it. It should be pursued, and we should be asking what we can do next.

The Chairperson:

That is what I am saying. Perhaps we should invite the Committee scrutinising the legislation in the South to visit us, or we should go to them.

Mr Wells:

It is our turn to visit them.

Mr Gardiner:

It is not only the Irish Republic; we have to protect our people from immigrants coming from other countries.

Mr Durkan:

We need to involve the Justice Committee as well.

The Chairperson:

Yes. There is a piece of work to be done on this to ensure that we get very robust legislation that enables us to properly protect children. Thank you for attending this afternoon's Committee meeting. We will have you back again, if that is OK. This is a piece of work that we are very exercised about. We want to work with the community and voluntary sector, which is doing excellent work, to try to make the legislative improvements needed to properly protect children.