



Department of  
**Justice**  
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**Northern Ireland  
Assembly**

Our ref: SUB/13/2014

Paul Givan MLA  
Chairman  
Committee for Justice  
Room 242  
Parliament Buildings  
Belfast  
BT4 3XX

14 January 2014

Dear Paul,

**THE HUMAN TRAFFICKING AND EXPLOITATION (FURTHER PROVISIONS AND SUPPORT FOR VICTIMS) BILL**

We are all committed to tackling human trafficking in Northern Ireland. This crime is a horrendous abuse of human rights and it demands a clear and robust response. The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, currently at Committee stage, provides an opportunity to further enhance the legislative framework and law enforcement response in Northern Ireland.

We have been engaging on the content of this Bill and thought it would be helpful to set out, in a joint letter to the Committee, the progress we have made. This letter is intended to assist the Committee's consideration of the legislation. We have, therefore, set out below those areas on which we have reached agreement, some which will require amendments, and a few areas on which we have not been able to reach agreement.

**Clauses we both agree should stand as part of the Bill**

Subject to some technical and terminological amendments, we agree that the following clauses should stand as part of the Bill:



- Clause 1: Definition of human trafficking and slavery offences;
- Clause 2: Consent irrelevant for victim of human trafficking or slavery offences;
- Clause 3: Aggravating factors;
- Clause 5: Amendments to the Asylum and Immigration (Treatment of Claimants etc) Act 2004;
- Clause 9: Victim of trafficking in human beings;
- Clause 13: Protection of victims in criminal investigations;
- Clause 14: Amendments to the Criminal Evidence (Northern Ireland Order) 1999.

(Note – Clause 12 is for the Department of Health, Social Services and Public Safety. Other Clauses are dealt with below).

### **Proposed amendments**

We believe that some parts of the Bill should be amended to ensure that the intention behind the clauses is achieved in the most effective way. A summary is set out below.

#### *Clause 4: Minimum sentence for human trafficking and slavery offences*

The Department believes that Clause 4 would restrict the scope for judicial discretion and could lead to inappropriate outcomes, and the DOJ will continue to oppose it for that reason. The Department's overriding concern, however, is that the clause as it stands applies equally to children. The extension of minimum custodial sentences to children would be inappropriate and in breach of the "best interests of the child" principle set out in Article 3 of the United Nations Convention on the Rights of the Child. We agree, therefore, that this Clause should be amended to clarify that the provision does not apply in respect of children.

#### *Clause 7: Requirement and resources for investigation and prosecution*

We fully recognise that resources should be put into appropriate training for frontline professionals if we are to tackle human trafficking effectively. This reflects the Department's current approach, which prioritises training in the DOJ Human Trafficking Action Plan. Clause 7, however, places a requirement solely on the DOJ



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when the organisations/agencies the clause is intended to cover are wider than those that fall under the authority of the DOJ. To address this, while still placing an emphasis on training etc, we consider that Clause 15 of the Bill could be amended to require that the annual human trafficking strategy must include matters relating to training, investigation and prosecution.

This would provide a strategic response, allowing training and resources to be considered under a more comprehensive multi-agency approach, covering all of the organisations represented on the Organised Crime Task Force (OCTF) Immigration and Human Trafficking Subgroup, including those organisations which are accountable to the Westminster Government. The strategy would also go beyond training for investigators and prosecutors, to include training needs of all relevant frontline professionals.

We agree, therefore, that Clause 7(1) should be removed from the Bill. Clause 7(2) and (3) should remain.

#### *Clause 10: Requirements for assistance and support*

We believe that Clause 10 would benefit from amendment to clarify, and set out, the respective obligations on the Department of Justice and the Department of Health, Social Services and Public Safety (DHSSPS). The DOJ is working with DHSSPS on this Clause and plans to table a joint amendment for Members to consider during Committee Stage.

#### *Clause 11: Compensation for victims of human trafficking*

Arrangements for compensation for victims of human trafficking are set out in the Criminal Injuries Compensation Order 2002. As such we are agreed that Clause 11 could be amended to require the Department to bring forward statutory guidance, as opposed to an order, which would set out the procedures for applying for compensation



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and the arrangements to provide assistance and support to a person applying for compensation.

Given that it is not necessary for an individual to be resident in Northern Ireland in order to apply for compensation, we also agree that subsection 11(b)(ii), which deals with leave to remain in the United Kingdom to claim compensation, should be removed.

### **Ongoing discussions**

There are other parts of the Bill which we are continuing to work through. These are Clause 8 (non prosecution of victims of trafficking in human beings) and Clause 16 (Northern Ireland Rapporteur). The Department has set out its concerns about Clause 8 previously and once it has the Justice Committees views on its draft consultation document – see below- plans to consult on the extension of the UK Anti Slavery Commissioner to Northern Ireland.

We hope to be able to reach agreement on these Clauses soon and will keep the Committee informed of developments.

We accept that we will not reach agreement on Clause 6 (Paying for sexual services of a person).

The Department of Justice is working with the Office of the Legislative Counsel (OLC) to draft amendments which would give effect to the changes to Clauses 4, 7, 10 and 11 as outlined above. These draft amendments, and any other subsequent amendments agreed between us, will be brought to the Justice Committee during Committee Stage.

### **Modern Slavery Bill**

As the Committee has been informed, the Department of Justice plans to consult on a number of legislative proposals for Northern Ireland, many of which reflect proposals in the Home Secretary's recently published Modern Slavery Bill. The Department



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considers that these measures will strengthen Northern Ireland's position in respect of tackling human trafficking.

A number of the proposals set out in the consultation would, if enacted, impact on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. We have agreed, in principle, and subject to timing not slipping, that the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill could be used as a legislative vehicle for any changes that follow the Department's consultation.

To be achievable this would require Consideration Stage to be deferred to late September 2014. Furthermore the consultation process will not end in time to allow the Department of Justice to bring any proposed draft amendments to the Bill to the Committee during the official Committee Stage. Nonetheless, we would propose to bring them to the Committee before Consideration Stage. If it is possible to incorporate them in the current Bill then that will speed the process of legislation and implementation enormously.

We hope this information will assist the Committee. We will keep you informed of developments.

**DAVID FORD MLA**  
**Minister of Justice**

**LORD MORROW MLA**