



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Justice (Sexual Offences and Trafficking
Victims) Bill: CARE NI

11 November 2021

NORTHERN IRELAND ASSEMBLY

Committee for Justice

Justice (Sexual Offences and Trafficking Victims) Bill: CARE NI

11 November 2021

Members present for all or part of the proceedings:

Mr Mervyn Storey (Chairperson)
Ms Sinéad Ennis (Deputy Chairperson)
Mr Doug Beattie
Ms Sinéad Bradley
Ms Jemma Dolan
Mr Peter Weir
Miss Rachel Woods

Witnesses:

Ms Lauren Agnew	CARE NI
Ms Rebecca Stevenson	CARE NI

The Chairperson (Mr Storey): I welcome to the Committee, from Christian Action, Research and Education (CARE) Northern Ireland, Lauren Agnew, human trafficking and sexual exploitation policy officer, and Rebecca Stevenson, Northern Ireland policy officer. I advise you both that the session will be recorded by Hansard, and a transcript will be published on the Committee's web page. You are both very welcome. I invite Lauren to outline briefly the key issues with the Bill's provisions that CARE wishes to draw to our attention. As I said, you are very welcome to the Committee. Thank you.

Ms Lauren Agnew (CARE NI): I thank the Justice Committee for its invitation to CARE NI to give evidence. I thank the Assembly for all its support for victims of human trafficking and for pioneering legislation, in 2015, that focused solely on human trafficking. Regrettably, despite that legislation, human trafficking and modern slavery still happens in Northern Ireland. Last year, there were 128 potential victims of human trafficking, 20 of whom were children. Those are not just statistics; they are individuals whose lives will be impacted on by changes that the Northern Ireland Assembly can make through the Justice (Sexual Offences and Trafficking Victims) Bill.

CARE supports the changes that the Justice Bill will introduce on human trafficking and exploitation. In particular, we welcome the change that is introduced by clause 16, which will extend the statutory assistance and support that is provided under section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 to adult potential victims of slavery, servitude or forced labour where there is no element of trafficking. That support is provided only while the Home Office determines whether someone is or is not a victim through a process that is known as the national referral mechanism (NRM). However, since 2015, evidence has shown that those who are confirmed as victims of modern slavery need long-term support to recover, avoid re-trafficking and assist the police with their investigations of the perpetrators of those horrific crimes. In Northern Ireland, section 18(9) of the Human Trafficking Act provides for support to be continued only on a discretionary basis following a positive conclusive grounds decision. As it stands, Northern

Ireland provides statutory support for potential victims of human trafficking, but not confirmed victims. The current channels for supporting victims of modern slavery after the NRM are inadequate, leaving many victims homeless, destitute and vulnerable to re-trafficking. NGOs that work with victims recommend that they need at least 12 months' support. In Northern Ireland, Flourish, which works with trafficking victims once they have exited the NRM, has said:

"Without support clients face significant barriers to moving on ... social isolation, re-exploitation, homelessness, poverty, mental health issues, alcohol or substance misuse and a general lack of capacity to thrive."

Last week, at the event that was hosted by the all-party group (APG) on modern slavery, the UK Independent Anti-Slavery Commissioner, Dame Sara Thornton, also highlighted the importance of prioritising victim support to enable victims to become survivors.

Comprehensive victim support is not an optional extra. It is essential to tackling the criminals who are behind modern slavery by enabling victims to provide their vital intelligence in criminal justice proceedings. Longer-term support would help victims to feel safe and secure enough to engage with police, assist with investigations and even give evidence in court. That level of intelligence would increase the number of human trafficking-related prosecutions and convictions, which is desperately needed and would, in turn, send to human traffickers the message that Northern Ireland is not open for business.

A victim's stability is a central pillar of recovery and engagement with prosecutions. CARE recommends an amendment to clause 16 that would provide 12 months of statutory support for confirmed victims of trafficking. That would include safe accommodation, access to benefits, counselling, medical care and education. If the Assembly were to vote in favour of longer-term support for victims who have received a positive conclusive grounds decision, Northern Ireland would once again lead the way, across the UK, on support for victims, as it did with the passage of the groundbreaking Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.

Finally, I will discuss the reform of the criminal injuries compensation scheme (CICS). In Northern Ireland, there has been a total of 10 applications in the past five years, of which eight have been denied and two are being processed by Compensation Services. A number of identified significant legal barriers mean that many trafficking victims are not eligible for compensation under the scheme. We suggest reform of the current system to ensure that victims receive the compensation to which they are entitled.

The Bill is aptly called the Justice Bill. By providing long-term support to confirmed victims of human trafficking and modern slavery, with improved access to compensation, that is exactly what the Bill would achieve: justice. Human trafficking remains a high-profit, low-risk crime, but the provision of 12 months of statutory support post NRM would enable and empower victims to help bring to justice those who have exploited them.

Ms Rebecca Stevenson (CARE NI): I add my thanks to those of my colleague Lauren for inviting us to speak to the Committee. I also reiterate her thanks for the work that is being done in Northern Ireland to enhance protection for the victims of human trafficking. At CARE, we welcome the Justice Bill and the changes that it will introduce. That having been said, we believe that, if the Committee were to adopt some changes, the Bill could go even further in protecting victims from crime and in increasing prosecutions. I will briefly discuss those changes now.

As has been widely publicised in the media in recent months, the number of potential victims of modern slavery is increasing. Despite that, the number of prosecutions for modern slavery and human trafficking offences remains low. While the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act provided an excellent foundation for protecting victims from individuals who may commit a trafficking offence, it does not contain risk orders but, rather, only slavery and trafficking prevention orders (STPOs).

STPOs can only be made when a person has been convicted of a modern slavery offence. On the other hand, slavery and trafficking risk orders (STROs), which are provided for by the Modern Slavery Act 2015 and applicable in England and Wales, can be made on application to the court if a person's behaviour indicates that there is a risk that they will commit a human trafficking or modern slavery offence and if the order is necessary to protect the public.

In Northern Ireland, the introduction of risk orders would prove helpful in two specific circumstances. The first is if a defendant is convicted of a crime other than human trafficking but there is suspicion that trafficking may have been involved, or there is a connection between human trafficking and the offending behaviour. The second is in situations where people have not, or have not yet, been convicted. That includes situations where there is a need to protect future victims while modern slavery or human trafficking crimes are being investigated.

It is worth noting that, on her recent visit to Stormont, the Independent Anti-Slavery Commissioner discussed STROs. In her report for 2019-2020, she stated:

"The risk orders can be particularly helpful when investigations are lengthy and make it possible to protect victims prior to prosecution ... In Northern Ireland the legislation did not include risk orders but I urged the minister for justice ... to reconsider their value as evidence of effective use in England and Wales and Scotland emerges."

The Criminal Justice Inspection Northern Ireland (CJINI) 'Modern Slavery and Human Trafficking' report, published in October 2020, highlighted the fact that the orders were not available for use against:

"people who had not been convicted but posed a continuing risk of committing"

trafficking crimes in Northern Ireland. The report also commented on the experiences of England and Wales:

"these civil orders were seen as an important tool to prevent slavery-related harm before it occurred and to prevent reoffending".

The report recommended that the Department of Justice consider introducing STROs. The Bill is an opportunity to prevent trafficking offences, so we urge the Committee to consider the inclusion of risk orders in it.

Given the complex nature of modern slavery cases, CARE believes that there is a need for juries in such cases to be given direction that will enable them to approach court evidence in an informed manner and provide the greatest opportunities for victims to receive the justice that they deserve. That echoes recommendations that were made on two occasions by the Criminal Justice Inspection Northern Ireland. If the recommendation were accepted, Northern Ireland would, once again, be a UK leader.

Thank you for the opportunity to speak. Lauren and I are happy to answer any questions.

The Chairperson (Mr Storey): Thank you, Lauren and Rebecca, for your presentations and for the very comprehensive and persuasive case that you made in your submission. It is very much appreciated. I will pick up on a couple of things. Are you content with the Minister's commitment to publish the annual progress report on the human trafficking strategy, or is there a need for legislative provision in that area?

Ms Agnew: We welcome the Justice Minister's commitment, at the Bill's Second Stage, to commit to annual updates. That would be sufficient.

The Chairperson (Mr Storey): OK. In your submission, you make the case to extend, to 12 months, statutory support to victims who have had a positive conclusive grounds decision. Have you any idea why it seems as though the Department has not taken the opportunity to include that in the Bill?

Ms Agnew: When it comes to the crime of human trafficking, we are continually learning more about victims' needs. There is a unique opportunity in the Justice Bill to go further than clause 16 and extend long-term support, on a statutory basis, post NRM, to a period of 12 months. At a basic level, we, in Northern Ireland, are supporting victims when there is a question mark over whether they are a victim, but we are provide support on a discretionary basis only to confirmed victims. As I have already said, lack of support leaves victims at risk of homelessness, destitution and re-trafficking.

Victims of human trafficking experience extreme trauma at the hands of their abusers that they cannot articulate in the immediate aftermath, and they may also be fearful of the police, so they need time and stability to enable them to begin to assist police in investigations. The police and the Public

Prosecution Service would also know their whereabouts and be able to approach them to act as witnesses in criminal cases against traffickers. Increased engagement with police would lead to more prosecutions, which would lead to more convictions. Human trafficking remains a high-profit, low-risk crime; we need to change that and for the legislation to act as a proper deterrent. In 2020, there were 36 recorded cases of human trafficking crimes and exploitation; there were three prosecutions and zero convictions. Since 2017, there have been only four convictions.

The Chairperson (Mr Storey): I will go to members for questions. If they indicate that they wish to ask a question, I will endeavour to go to them. Peter Weir has his hand up, so I will go to him first. I do not have the on-screen facility that shows who has their hand up, so, if you wave or something, I will try to make sure that I get to you.

Mr Weir: I do not know whether it is my lack of knowledge of technology or the device that I am using, but it does not appear that I can do anything other than physically wave my hand to indicate that I wish to speak.

I thank the CARE representatives for their evidence. I want to tease out a couple of issues. You have made very good arguments. On extending the provision of support to 12 months, you have made a very strong case about protecting those very vulnerable people and our moral duty towards them, and also that that would play into preventing further trafficking and helping to prosecute it. Has CARE done any scoping of the resource commitment that would be needed for the Department to meet those needs? We sometimes ask a Department about the level of resource commitment that might be needed for a potential provision, and it will be slightly vague about that.

Ms Agnew: Thank you for that great question. As a basis for my answer, I stress that we are talking about individuals. Yes, there are financial costs to incur, but, ultimately, we are looking at changes that would make a real impact in the lives of vulnerable individuals. It is important to remember that, in October 2020, the Assembly unanimously supported a motion tabled by the chair of the APG on modern slavery, Joanne Bunting MLA, which called for:

"consideration of further support for victims of trafficking beyond the end of the support provided under the National Referral Mechanism".

Providing 12 months of statutory support post NRM would help the limited number of confirmed victims in Northern Ireland who have leave to remain to access the kind of sustained support that they need to help them to begin to rebuild their lives. A change from discretionary support to 12 months' post-NRM support would make a significant impact in the lives of those specific individuals.

According to an answer to an Assembly question, 34 adults received post-conclusive grounds support between 2015 and February 2020, which works out at around seven a year. It is estimated that between 35.5% and 47.8% of people who have a positive reasonable grounds decision subsequently receive a conclusive grounds decision. Based on the 2020 NRM statistics, that would, potentially, result in approximately 45 adults a year being entitled to government support. Looking at last year, that means that around 38 people a year are not getting the additional support to which they could have been entitled.

To answer your question, those are small numbers, but we need to think beyond the statistics. The change would make a significant impact in the lives of those individuals. We recognise, however, that only British citizens or people who have leave to remain as asylum seekers or based on humanitarian protection or the current discretionary leave to remain for victims of trafficking, would be able to access that support, and that immigration status is a matter determined by the Home Office. That brings me to the next point that I want to flag to the Committee.

The Justice Bill is being considered at exactly the same time as the Nationality and Borders Bill is being considered in Westminster. CARE would like to see all victims across the UK receive at least 12 months' post-NRM support and leave to remain. It is disappointing that the Nationality and Borders Bill that is being debated at Westminster, which includes a whole part — 12 clauses — covering modern slavery, does not include provisions for long-term statutory support for victims of modern slavery in England and Wales nor long-term leave to remain for all victims. We are campaigning on these issues during the passage of that Bill. In 2019, Nottingham University did a cost-benefit analysis of providing support and leave to remain for 12 months to victims in England and Wales. It found that there would be a direct and indirect financial benefit to the Government in providing victims with that support.

To elaborate, Northern Ireland is in a position, once again, to lead the way by voting in favour of long-term statutory support, because that would put pressure on the UK Government to change their policy on immigration leave. Northern Ireland has a strategic opportunity to highlight the failure of leadership, at UK level, on immigration leave for confirmed victims of trafficking by drawing attention to the fact that the only reason why all confirmed victims of trafficking in Northern Ireland could not access long-term support would be because the Government refuse to grant the 12 months' leave to remain required for people to receive 12 months' support. Voting in favour of 12 months' support would make a real difference to the lives of individuals in Northern Ireland who have leave to remain to access the support. I urge the Assembly to take this strategic opportunity to apply pressure to Westminster and to act as a catalyst for change for victims of modern slavery across the UK.

Mr Weir: On STROs, obviously, the more that we can act to prevent crime, particularly the horrors of human trafficking, from happening in the first place, the more that we can help to protect vulnerable witnesses and people who may be subject to re-trafficking, and, indeed, the more that we can help to increase prosecution levels.

You mentioned that, on the 12-month period, Northern Ireland has the opportunity to show leadership and be ahead of the pack. As you indicated, STROs apply in other jurisdictions, so, in many ways, we are playing catch-up there. What discussions have you had with the Department about the potential to introduce STROs? Do you feel that the Department simply has not got round to it, or do you detect a fundamental opposition from the Department to widen the scope to introduce STROs?

Ms Stevenson: Thank you so much for that question. The first thing that I would like to outline is that CARE wants to make sure that Northern Ireland has every tool to prevent trafficking from happening. As you have correctly pointed out, slavery and trafficking risk orders are one of the tools that are available to prevent it from happening. I am not aware of whether CARE has had any discussions with the Department, but that would be an excellent opportunity. With the Chair's permission, we will look into that, and I will write to the Committee and let members know how we got on.

Mr Weir: That would be very useful.

Ms Agnew: The DOJ's modern slavery strategy has three strands: protect, pursue and prevent. I imagine that the STROs would fall safely within the prevent strand and that the Department should be amicable to introducing them.

Mr Weir: The point that you make very validly is that there is a golden opportunity to do that while we are putting this legislation through, as opposed to it being recommended in an annual report, say in a year's time, and legislation having to be brought in then. We should try to be ahead of the game as much as possible or, at least, not fall any further behind.

Ms Stevenson: The Committee should definitely consider it, especially given the recommendation from the Independent Anti-Slavery Commissioner.

Ms S Bradley: Thank you for the presentation. I have a similar question. I am eager to understand whether there is any resistance to STROs from the Department, and, if so, why.

On the technical front, the wording of the proposed amendment is quite detailed. Is that a lift from other legislatures, although it has been tailored? I would just like to understand the source of the wording of that proposal.

Ms Agnew: It was taken from existing legislation; it would very much be a case of mirroring that. As the member mentioned, it would be a case of Northern Ireland playing catch-up in this area, whilst, in other areas of the Bill, there is an opportunity to lead the way. It is very much a mixed bag.

Ms S Bradley: Thank you. I appreciate that clarity. It is quite well presented, with reference to the Chief Constable etc worked in. It is not just a proposal of a notion or an idea; it actually lays out a map of who plays what role. I am very thankful for that.

Miss Woods: Thank you for your presentation and very detailed submission. On the two issues that you have highlighted, I will take the STPOs and STROs. I just want to tease out whether those already exist in England and Wales.

Ms Stevenson: STROs are provided for in the Modern Slavery Act 2015 and are currently applicable in England and Wales.

Miss Woods: Can you give us some information on their effectiveness and use, if possible? If not, I completely understand. Are they being used? Obviously, authorities have that power, but they may not be utilising it as much or maybe it is too early to know, if they have not commenced.

Ms Stevenson: Thank you for your question. I will need to come back to the Committee with detail on that. I will write to the Chair.

As I outlined, there are particular circumstances when those can be useful. One is when a defendant has been convicted of a crime other than a human trafficking offence but there is suspicion that human trafficking crime is going on beyond that: for example, where people are convicted of controlling prostitution for gain or brothel-keeping. As human trafficking and modern slavery crimes are very complex and difficult to investigate, it can be difficult to gather all the necessary evidence for such cases. We know from England and Wales that some crimes are flagged by the CPS as having indicators of trafficking, but people are ultimately prosecuted for other crimes. There are indicators that are used in those situations.

The second situation is where people have not or have not yet been convicted of a crime. That includes situations where there is a need to protect future victims while modern slavery and human trafficking crimes are being investigated, especially where such investigations are long and drawn-out. As I stated, the Independent Anti-Slavery Commissioner, in her visit to the Assembly last week and in her 2019-2020 report, made reference to risk orders, namely that they:

"can be particularly helpful when investigations are lengthy and make it possible to protect victims prior to prosecution."

Again, in her report, she flagged the fact:

"In Northern Ireland the legislation did not include risk orders but I urged the minister for justice ... to reconsider their value as evidence of effective use in England and Wales and Scotland emerges."

I will write to the Committee with that specific detail.

Miss Woods: Thank you very much. I appreciate that.

The amendment that you included in the pack refers to not leaving the UK and curtailing foreign travel. Have there been any discussions with the Government in the Republic of Ireland about that? Obviously, we have specific issues to do with cross-border travel between Northern Ireland and the Republic of Ireland and onwards into the UK. Some issues may arise with foreign travel and leaving the UK, especially if traffickers are living in border areas and using the border in that way. Have there been any discussions about that?

Ms Agnew: I am not aware of any discussions. You have flagged a great point. It is definitely something that we should look into.

Miss Woods: Thank you. Finally, on long-term support, I completely support what you said about the 12 months. To take that point further: if someone is appealing a negative conclusive grounds decision, should support continue when there is an appeal?

Ms Agnew: That is a great question. I have not considered that in depth. Ultimately, as we currently provide support when there is a question mark over whether someone is a victim, that would, essentially, be an extension of the period when there is a question mark. If we cannot say that they are not a victim, yes, we should provide support.

The Chairperson (Mr Storey): Does the financial resource for that support still come from the Department? Will some of it come from the Home Office? I ask that because, last week, I had discussions with the company that has the contract to deal with asylum seekers. That process is funded purely by the Home Office, and it is in dire straits. The way that asylum seekers in Northern

Ireland are being treated is appalling, and the number has doubled. Does the Department of Justice foot the bill for the human trafficking element?

Ms Agnew: I think that it does. As it stands, Flourish is an excellent charity that works with victims of trafficking once they have exited the NRM. However, Flourish is a charity. There is an obligation on the Assembly to provide long-term statutory support for victims.

The Chairperson (Mr Storey): We may have to make further enquiries to get an update on the financial arrangements on all that.

Do members have any other questions? I see Doug on StarLeaf. I know that you are not just waving at me, Doug.

Mr Beattie: Maybe I was just waving at you and saying hello.

Lauren and Rebecca, thank you very much. That has been really useful. You recommend 12 months' support, and I support that. It is absolutely something that we should think about and could get behind.

I want to ask for your thoughts on those people who have been trafficked and know — and we know — that it is best for them to return to where they came from. They want to go back to where they originated from and were trafficked from, whatever country that may be. If there is no case pending at which they have to testify, for example, and they choose to go back, they will probably go back to their country of origin with no support. How do we stop the 12 months' support from being an inducement for them to stay here, when the best thing for them is to go back to where they came from, if that is what they want?

Ms Agnew: That is a great question. When it comes to providing long-term support, it would be a tailored, individual support plan. You will look at what is best for the individual and their needs. You are right: some of them may want to return to their home country, but, at the same time, some of them may be fearful of returning to their home country, because they would be at more risk of being re-trafficked. Ultimately, we want to see those confirmed victims set on a stable pathway to recovery, whatever that may look like. We want to give them the best chance to begin to rebuild their lives and, as Flourish NI describes, to look towards "a brighter future".

Mr Beattie: To that end, Rebecca, what about those who have been trafficked into the UK, have possibly ended up in our criminal justice system and then have gone back to their country of origin with no support but who we feel maybe should have support? Is there a case for the Foreign Office stepping up in order to support those people who have gone back, after being trafficked here in the first place?

Ms Stevenson: You make an excellent point. I will defer to my colleague Lauren for her to answer that, if that is OK.

Mr Beattie: Well played.

Ms Agnew: It is important to make sure that, if somebody were to go back to their country, support was in place and conversations were had to make sure that that victim does not slip through the cracks once they have left Northern Ireland. Ultimately, in that instance, it is about connecting the dots between what we can provide here and how to make sure that, if they want to return to their country, they are put in contact with the right organisations that can provide support and step in once they return.

Mr Beattie: Thank you, Lauren and Rebecca.

The Chairperson (Mr Storey): I will make a final check that no other member has a question. No. I thank Lauren and Rebecca for their attendance today, for answering the questions and for the paper that they submitted to us. They have certainly given the Committee a considerable amount of information to consider. There are issues that we will follow up. We will keep you informed of any responses that we receive, but, in the meantime, thank you for your work, and we look forward to continuing to work with you. Thank you very much.