



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Justice (Sexual Offences and Trafficking  
Victims) Bill: Women's Aid Federation  
Northern Ireland

2 December 2021

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Mr Mervyn Storey (Chairperson)  
Ms Sinéad Bradley  
Ms Jemma Dolan  
Mr Robin Newton  
Mr Peter Weir  
Miss Rachel Woods

**Witnesses:**

Ms Karen Devlin	Women's Aid Federation Northern Ireland
Ms Sonya McMullan	Women's Aid Federation Northern Ireland

**The Chairperson (Mr Storey):** I welcome to the Committee representatives of the Women's Aid Federation Northern Ireland; Sonya McMullan, the regional services manager, and Karen Devlin. I will just advise colleagues that the session will be reported by Hansard, and the transcript will be published on the Committee's web page.

I welcome you both to the Committee, and invite Sonya to outline briefly the specific issues with the Bill's provisions that Women's Aid wants to draw to the attention of the Committee. Then, members will indicate that they want to ask questions. I will endeavour for us to work our way through that. Thank you. You are very welcome.

**Ms Sonya McMullan (Women's Aid Federation Northern Ireland):** Thank you very much for the opportunity to address you, Chair and Committee members. I am Sonya McMullan, and this is my colleague Karen Devlin. Today, we will speak on behalf of the eight local Women's Aid groups across Northern Ireland, and, of course, the women whose voices we hope to portray in the session. We also want to take the opportunity to thank Committee members, past and present, and acknowledge the considerable work that has been undertaken in the past few years, especially on the introduction of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, which we hope will be operational in February 2022. It has been a busy time for us all. Many other pieces of legislation, including the Protection from Stalking Bill, are coming forward, as well as stalking protection orders and notices, the introduction of non-fatal strangulation legislation, domestic abuse protection orders and notices, and, of course, everything that is included in the Justice (Sexual Offences and Trafficking Victims) Bill as well. It is important to acknowledge that work and thank you.

We have listened to many women's voices in the consultation period, as have you. It has to be noted that many women have come back to us and said that they really appreciate the time that the Committee has taken to listen to them. Last week, we launched our Hear her Voice project outcomes.

Over 90 women were involved in the project, many of whom shared their stories of their journey through the criminal justice system, which is why I have raised it. Today, Karen has brought some books with those stories in them for you all. I am happy to share electronic copies of those with the Committee members who are not here. They really show the challenges that women face when they go through the criminal justice system. The right legislation or pathways for victims and survivors of domestic and sexual abuse were not here in some places.

In the past year, Women's Aid has supported just over 6,000 families through refuge, community-based services in what, of course, has been a challenging year with the pandemic. The statistics are stark. When I was before the Committee previously, I mentioned that eight women had been murdered between 23 March 2020 and 23 March 2021, during that lockdown year. Unfortunately, three more women have been killed since then. We do count those women. The reality is that, the next time that we come before you, there will be more women. That is the reality of domestic abuse in Northern Ireland.

When dealing with domestic abuse, we have to remember that many of the issues in this specific justice Bill are relevant to both domestic and sexual abuse offences. One of those 11 women's cases is being dealt with as a potential rough sex defence case. She is no longer here to have her voice heard. As it stands, her alleged perpetrator can make claims about her sexual habits that are unchallengeable as she is not here to stand up and speak up against him. One of the other women was in refuge as a child, and then returned as an adult. We really have to break that cycle with early intervention and prevention work, and, again, look at that whole family unit; not just that victim and survivor, but the whole family, and that intergenerational trauma that we talk a lot about in Women's Aid.

Again, we have the highest rates of femicide in Europe. This week, there was an article in the 'Sunday Life'. It is not a statistic to be proud of. We wonder what is going wrong when we know that there is so much work going on with the Committee and all the new legislation. It is about more than just the legislation. That is why we called for a dedicated commissioner for domestic abuse to oversee, scrutinise and monitor the work and strategies to see what is working well and what is not. Recently published PSNI statistics, again, show huge levels of domestic abuse — some of the highest levels in the UK. We also know that cases are not reported. Domestic and sexual violence and abuse cases are very underreported.

There is a spectrum of domestic abuse, from physical abuse to coercive control, which is not all included in the Domestic Abuse and Civil Proceedings Act, so we urgently need to create vital new protections that apply irrespective of relationship status. We need more emphasis on intimate partner sexual violence — that is very relevant to this Bill — and more awareness. It really has been a challenging few years, trying to play catch-up with the rest of the UK and, indeed, Ireland on legal remedies. We have been overwhelmed — as, I know, is anyone who works in the policy world — with consultations and calls for evidence. A lot of work goes into that. There is an opportunity with new legislation. You are looking at so much, but we have to get it right, and we really have to get it right the first time.

There is a challenge when drafting new legislation, all of which we know has to be gender-neutral, given that crimes disproportionately affect women and girls. The challenge is making sure that it works when implemented to best support victims and survivors. So, we welcome the developments in the proposed Bill but also see it as an opportunity to change the response to all forms of violence against women and girls. That is why in March of this year we launched our petition, which called on all of you in our local Assembly to produce a violence against women and girls strategy. This was the only part of the UK that did not have one. We raised that on many platforms and welcome the decision that was made. We had support from the Justice Committee, as we have spoken to you before about the need for a strategy on a number of occasions. We welcome that the move has been made and the issue sits with the Executive Office. If we had that strategy in place, I wonder how it would impact on and change the drafting of legislation. For example, if we had a better data set, we could ask, for example, how many of these crimes are happening in Northern Ireland, because, at the moment, we do not really know. We welcome the development of a strategy and think that it will inform us all.

The Justice (Sexual Offences and Trafficking Victims) Bill will, if passed, give extra protection to victims of sexual offences, give more tools to our justice system to tackle child sexual exploitation and enhance protections for the public by strengthening prevention orders. We welcome the criminalisation of the acts known as upskirting and downblousing, which are violations of victims' privacy and cause them great unnecessary distress. We listened to Professor McGlynn's presentation to you and support her recommendation that those crimes should not have to show sexual intent. The issue highlights the

need for greater relationships and sexuality education and programmes in our schools to look at these kinds of behaviours. It is more than just a contact offence; it can occur online with multiple people, and we must take into account the use of technology. In Women's Aid, we cannot keep up with volume of abuse that takes place without the person being present in the same room as the victim. There were always coercive and controlling behaviours, but the pace at which the use of technology for surveillance and GPS tracking etc is developing is frightening. So, it is essential that we have a legal framework for adult offenders but also an understanding that young people need more education to understand what is and is not abuse, especially those young people who demonstrate harmful sexual behaviour. Much work and investment is needed in all this work.

We support clause 2 on sexual grooming. As regards all the Gillen recommendations, we worked very closely with the Gillen review team when it was doing its work. Many women spoke to Sir John and the team and told them of their experiences of the criminal justice system in relation to serious sexual offences. It is important that the courts system is trauma-informed. We recently completed a piece of training with the Public Prosecution Service (PPS). It was really good to work in partnership with them, and it was really good learning for both of us. That came from the requirement in the Domestic Abuse and Civil Proceedings Act for the PSNI and the PPS to undertake training on the new domestic abuse offence. We strongly recommend that such provisions be extended in circumstances where there is a domestic abuse offence. Those who have experienced domestic abuse should be offered the same protections and considerations in legislation for their protection. If you are a vulnerable witness in a criminal court, you are a vulnerable witness in a family court and should be able to get that recognition and the same remedies.

On trafficking and exploitation, we reiterate and endorse the submission from Belfast and Lisburn Women's Aid and the Law Centre, and know that you received evidence from Noelle Collins on that.

Finally, we would like to discuss the rough sex defence. The law is not sufficient to deal with those cases, and it is being used more widely as a defence. There is a link between homicide and non-fatal violence against women. So, we argue for the need for legislation to outlaw that defence, ensuring that victims have effective recourse to justice and that rough sex cannot be used as an excuse to perpetrate acts of violence against women. Any proposed legislation must take into consideration offences relating to strangulation as well. The campaign group, We Can't Consent To This, found that strangulation is a feature in most homicides and over half of non-fatal assaults in which rough sex has been a defence. We know that there is a commitment to bringing forward legislation on fatal and non-fatal strangulation, and we note that you are talking about that this afternoon, so there is an opportunity.

Everything is interlinked. If you look at upskirting, downblousing, the threat to publish images, image-based violence, stalking, coercive control, the rough sex defence, non-fatal and fatal strangulation, and, of course, domestic homicide, you see that they are all interlinked. We challenge you to look at it though a gendered lens.

Everything is outlined in more detail in our written submission. I have tried to stick to my 10 minutes. Thank you for listening and for allowing us the time to present to you. We are happy to take questions.

**The Chairperson (Mr Storey):** Thank you, Sonya. I have one question in relation to your comment on the dedicated commissioner for domestic abuse. What sense have you got from the Department or the Minister that they would be in favour of such a commissioner?

**Ms McMullan:** No, that has definitely gone down the other line. There is going to be a victims of all crime commissioner in place. That has already gone out for recruitment. Currently, we have a strategy on tackling domestic and sexual abuse. We are looking at a call for views. That new strategy will be implemented early in 2023. How will we know whether that strategy has worked? We will look at the statistics from the PSNI — the homicide rates — and at who is scrutinising, monitoring and overseeing it. We were looking at the possibility of a scrutiny committee, or something like that. It was also mooted that the Criminal Justice Inspection would be used in that role as well, but we still have recommendations from the Criminal Justice Inspection from 10 years ago that have not been taken up. That has gone down a very different road. We were very disappointed, especially considering the volume of legislation in this area that is going through currently. It is huge. We would have liked even a two- or three-year post for the implementation of all those developments.

**The Chairperson (Mr Storey):** Our concern about a crime commissioner is that it would not have a statutory basis. There is a long way to go to get to the point at which that would have the teeth that it

would need. That is something that we are going to have to consider. I appreciate that clarification. That is useful.

**Mr Weir:** Thank you for your presentation and written submission. I appreciate that a lot of ground has been covered. There can be additional recommendations from our report that are not necessarily amendment-driven, but, in tackling the range of issues, we are focusing on looking at the legislation. I appreciate that some of the actions that will be taken will be legislative and some will be practical and policy-driven.

I have a couple of questions. We have received submissions from a range of groups, and there is a lot of merit, particularly on the issues of upskirting and downblousing. There is strong feeling on curtailing prosecutions on the basis of a motivation hurdle having to be overcome. Ultimately, it is around content and consent being the critical elements. Towards the end of your presentation, you mentioned the rough sex defence. We have not had an opportunity to give careful consideration to the departmental amendment. We received correspondence, today, that the Department has acknowledged that there is a need for an amendment, and it has indicated what that is. Have you had any interaction with the Department on that? Have you had a chance to review what the Department is proposing? What are your thoughts on it? Does the Department proactively reach out to such groups as Women's Aid, considering the good work that you do? You made a valid point about it being important that we not only get this right but get it right from the start, as opposed to having to try to catch up at some point in the future. That is the first issue: what level of discussion, if any, has there been with the Department on the rough sex defence?

**Ms McMullan:** We work very closely with the Department of Justice. We have the Department on speed dial, and it has us on speed dial. We work really closely, especially given the volume of work since the Assembly came back and the fact that we are playing catch-up. The Department of Justice had a consultation on the rough sex defence. We have met the Minister and officials and discussed our key issues. The Department always has an open door on that consultation. The Department really looks to those key agencies to inform it, and we welcome that.

**Mr Weir:** Have you picked up any proposed amendment from the Department on that? Has there been any direct engagement on the wording of it?

**Ms McMullan:** No. We have not got to that stage yet.

**Mr Weir:** OK. My second question is also a bit more general. You mentioned, rightly, the concerns about the low level of reporting and, even if there is reporting, that leading to conviction. Obviously, we need to ensure that all complaints are dealt with fairly and that there is a fair trial. However, there is a level of reluctance and deterrents that stops women from reporting sexual offences, particularly those that happen in a domestic setting. What specific actions or changes, beyond what is directly in the legislation, could be taken to help remove barriers such as hesitancy or reluctance? There is a range of reasons why a woman might feel reluctant, but part of it may be their thinking, "Will I be believed? Are the hurdles to get a conviction so high that I will not overcome them?". Are there any practical steps that could be implemented to help reduce that deterrence and encourage more people to come forward to seek justice?

**Ms McMullan:** It is very difficult, especially with sexual offences where there is the potential that you will put the father of your children on the sex offenders register. There are a lot of different things. The delays are huge. Things could have changed — the couple could have reconciled — because of the length of that delay. If we had a quicker and tighter time frame for going through the court process, that would be less likely.

We welcome all the recommendations made by the Gillen review, but we feel that they did not capture intimate partner sexual violence enough. The trauma that that victim and survivor experiences is really complex. The perpetrator has constant access to the victim. We can never overestimate the trauma that occurs with that level of abuse. Hopefully, with the Gillen recommendations, which are very applicable to domestic and sexual abuse cases, the re-victimisation that occurs in the court system will change. There is the level of delay, the re-victimisation and the lack of support and advocacy role to take the victim through that process from the beginning to the end. I have been in Women's Aid for almost 25 years, and the issues are the same; it is not rocket science.

As I said, we have just done a piece of work with the PPS looking at those issues, which provided great learning for both organisations. So many people drop out; our attrition rate is high. We need to

look at all those key issues. In 31,000 incidents of domestic abuse, just under 3,000 cases went through to prosecution. Where are the rest of those cases? The PPS launched its sexual offences bulletin a couple of weeks ago, and it showed that a very low number of cases are coming through. It is really hard for someone to disclose in the first place but, then, to put themselves through the court system. It is not the right pathway for everybody. Some people want to go down that road, but they need to have an awful lot of strength. I have supported a lot of women who have gone down that road, and they have said that it has taken everything out of them.

**Mr Weir:** You make a very valid point on the particular concern about the ability of the system, where an intimate partner is the perpetrator, to eat away at the victims of sexual or physical violence. Again, that suggests that things have either not improved or not improved enough. Even before I was an Assembly Member, when I was a barrister in the 1990s, I represented women, at times, in interim police protection order (PPO) cases where you were making an ex parte application, and there was that sense of frustration. That was focused more on physical violence than sexual violence, although there is a considerable crossover. There would be an application for an interim PPO but, by the time that it got to the full PPO, it would be dropped because of coercive pressure, some form of reconciliation or a woman thinking, "He'll not do that to me again".

**Ms McMullan:** We need to be able to give people that space for action. That is why the implementation of domestic abuse protection orders and notices are essential. We go in and lift that family out of their home, instead of being able to take the perpetrator out of their home, to give the victim the time and space to reflect and get the support that they need. Things could change, and that could look a little bit different.

**Mr Weir:** Thank you.

**Miss Woods:** Thank you, Sonya; it is good to see you again. I feel like we have not seen each other in a while to talk about legislation. Thank you for your submission. Peter asked a question that I wanted to ask about engagement with the Department on the rough sex defence, but you have already covered that.

I bring you to your comments on clause 8 and the removal of anonymity for suspects. Can you give us a wee bit more information on that? In your opinion, are there any other issues that we would need to consider on the restrictions on reporting of suspects of sexual offences?

**Ms McMullan:** I will hand over to Karen to answer that question, Rachel.

**Ms Karen Devlin (Women's Aid Federation Northern Ireland):** Hello, everyone. Clause 8 is "Restriction on reports as to suspects of sexual offences". As is highlighted in the submission, in the cases of serial perpetrators of sexual offences, it is often the disclosure of their name and the charges against them, once they have been charged, that encourages other victims to come forward. A very extreme example is the Savile case, where, once it was reported, more victims came forward. We find that when the name of a person who has been charged with those crimes is published and the criminal process begins, that encourages more people to come forward and disclose what has happened to them. Victims often feel like they are alone and that it is just them. When they hear that it has happened to other people as well, they may get the courage to say, "Someone else has come forward. Maybe I can come forward too". There is a ripple effect, especially in sexual offences cases. Therefore, we support the removal of anonymity in the specific conditions and circumstances stated in clause 8(2).

**Miss Woods:** Thank you. It will be important for the Committee to look at that in considering clause 8.

On clause 15, I bring us back to the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021. We talked about protections for victims in courts. Some provisions were put into the Domestic Abuse Act, but your submission talks about further measures to protect victims where there is a domestic abuse offence and on the exclusion of the public from the court. Can you give us a wee bit more information on that as well?

**Ms McMullan:** I really welcome that. Obviously, the exclusion of the public from the court comes from the rape trial that we all know about and the number of members of the public who attended. It was like a day out for people; it was absolutely appalling. For any victim attending court, it is difficult enough without people having access and being able to see and hear everything that is going on,

especially given the level of detail and personal information that is disclosed. It is really difficult. Even as an observer in court, I find it very difficult at times. You feel like you are intruding in someone's personal life.

We really welcome all the amendments, but we feel that a lot of them are applicable to domestic abuse cases. We would love to get across that domestic abuse is a repeat offence. There are really high levels of it. We have the serious crime unit in the Public Prosecution Service, our PANI arrangements and all the rest of it, but a lot of domestic abuse cases do not meet the threshold. Why do they not? Why do we not look at some of the really high-risk cases and do a trial for a year or something like that, to see whether we can work on the repeat offence and reduce the risk for people in our community? We saw the need for that, last week, in the sentencing for the murder of the woman in Fermanagh. That perpetrator had a history of serious crime. We need to get better at that. From conversations with the police and the PPS, I know that they are open to looking at it.

Sorry, Rachel. I do not think that I answered your question. I went off at a tangent and answered my own.

**Miss Woods:** You absolutely did answer my question, Sonya. Thank you. Your submission is great. You have really outlined your points, and I completely agree with your suggestions of things for us to look at. We will keep going. We will maybe get our domestic abuse commissioner and our violence against women and girls strategy at some point. That would be good.

**Ms McMullan:** Let us hope so. Thank you.

**Ms Dolan:** Thank you, Sonya, for coming in and for your written submission. I have just one question. In your submission, you said:

*"We need to catch up and not offer a postcode lottery in relation to protections based on our geographical location."*

Being from a rural constituency, I am concerned that we have a postcode lottery at the minute. What did you mean by that? Do you think that that is the case at the minute?

**Ms McMullan:** We mean the catching up that we have to do. The Assembly was down for so many years, which we could not help. However, coercive control became an offence in England in 2015; that is just one example. The Domestic Abuse Act 2021 that went through in Westminster is much more robust. The UK Government are already ahead in looking at, for example, secure tenancies for domestic abuse cases and formalising the situation of women with insecure immigration status and no recourse to public funds. On the rough sex defence, they have specific legislation on non-fatal strangulation. They have had domestic violence protection orders and notices in place for over 10 years. Meanwhile, we are looking at piloting domestic abuse protection orders and notices in Northern Ireland in two areas — that is what the Department of Justice is looking at, at the moment — possibly one rural area and one urban area. When will we get them for the whole of Northern Ireland? It could be 2023 or 2024. That is the space for action that we said that we need. We need to be able go into a home, take the perpetrator out and give the victim the time and space to reflect and get the support that they need. Space for action is a model by Liz Kelly that the Home Office has implemented in the strategy in England. It is recognised as a need.

Jemma, there is a list a mile long of other things as well. We look, especially, at the orders on stalking and so on. We are moving along with it all. We need to get it right so that we do not want to move too fast. However, the Protection from Harassment (Northern Ireland) Order, which is about 20 years old, does not cut it for stalking. We need a definition of stalking, and we need stalking protection orders and notices. If I am a victim of domestic abuse, stalking or coercive control in England, there are a lot more legal remedies open to me than there are if I live in Belfast. That is the reality: we are playing catch-up.

Of course, we recognise all the work of the Committee, the Department of Justice and the Minister, who is really pushing all this through, as well as that of the legal agencies that I have mentioned. There is real goodwill, and people want to move ahead with it. It is just unfortunate that we had a lapse in our Assembly, which we are paying for now.

**Ms Dolan:** Thank you, Sonya. I understand. Hopefully, by the end of the mandate, we will be at least a wee bit closer to protecting victims fully. Thank you.

**Ms S Bradley:** Sonya, it is good to see you again. Thank you for your written submission, which is quite concise and speaks specifically to each of the clauses. While you are here, Sonya, I want to ask you about clause 16, "Support for victims of trafficking etc". We have spoken with your colleagues about the need for quashing the historical convictions piece, potential access to healthcare and social security entitlement during an appeals process etc. It may be unfair to put this to you because not enough time has passed to get a clear vision of it: when we talk about people being trafficked or exploited, is there anything that we, as a Committee, should be mindful of in respect of the fact that there are two jurisdictions on the island? Someone who had been picked up or detected as a suspected victim could disappear, but they could have gone to Dublin overnight. Is there any evidence of that? Do you have knowledge of anything that we need to be alert to, Sonya? If you do, I would appreciate your sharing that.

**Ms McMullan:** Sinéad, I do not know. You had Noelle Collins before you, and she is the expert in Women's Aid on the trafficking project. She has been instrumental in developing that and working with Migrant Help in Northern Ireland. There is an issue with people coming over the border, especially since Brexit. We have certainly responded to that issue. You will know from speaking to Noelle that the volume of people coming into Northern Ireland is really staggering. For so many years, we thought that it was not an issue here. However, we now know that, because of the way in which our island works, there is so much opportunity for people to move across. To be able to answer that appropriately for you, I would have to go back to Noelle to get a specific answer. Sorry, Sinéad.

**Ms S Bradley:** I appreciate that, Sonya. To be fair, Noelle pointed our thinking in that direction. Even since that submission, we know that our approach to it has to be more crafted. We, rightly, look at other legislatures for good practice, but, sometimes, we have to give recognition to our uniqueness and the vulnerabilities that that could create. If you want to add anything that we should be conscious of, I would appreciate that, Sonya. Thank you.

**Ms McMullan:** Thank you, Sinéad. I will bring that question back and get a response for the Committee.

**The Chairperson (Mr Storey):** Thank you, Sinéad and members. I am just checking that nobody else has a question. Thank you for your submission and for all the work that you do. I work closely with Women's Aid, as you know, at the Naomi Centre in Ballymena. Thank you for taking the time to come and see us today. The information that you have given will be food for thought for members as we work our way through this over the next number of weeks. The issues that you have raised will be revisited by the Committee. We will share with you any additional information from the Department on amendments and so on.

**Ms McMullan:** That would be great. Thank you. It would be remiss of me not to mention resourcing and that everything needs to have a budget attached to it.

**The Chairperson (Mr Storey):** Yes. Even getting a Budget might be taxing the mind of the Executive at the minute, but anyway.

**Ms McMullan:** I know, but I had to get it in before I left. Thank you so much for your time.