



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Justice (Sexual Offences and Trafficking
Victims) Bill: Department of Justice

9 December 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

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

Witnesses:

Mrs Cathy Galway	Department of Justice
Mr Brian Grzymek	Department of Justice
Mr Ronnie Pedlow	Department of Justice
Ms Alison Redmond	Department of Justice

The Chairperson (Mr Storey): I welcome from the Department of Justice Brian Grzymek, deputy director of the criminal justice policy and legislation division; Ronnie Pedlow, head of the modern slavery and human trafficking branch; and Alison Redmond, head of the organised crime branch. Hansard will provide a transcript of these proceedings, which will be published on the Committee's web page. You are very welcome to the Committee this afternoon. Officials, please make your remarks on clauses 16 and 17 of the Bill and on the issues and the proposals made in the written or oral evidence received by the Committee on Part 2 of the Bill.

Mr Brian Grzymek (Department of Justice): Thank you, Chair. I am here very much as the senior Bill manager for the legislation. Sitting with me are Cathy Galway, who is the head of the protection and organised crime division in the Department, which owns this policy area, and her colleagues Ronnie Pedlow and Alison Redmond. We are here, at the Committee's request, to discuss the elements of the Justice (Sexual Offences and Trafficking Victims) Bill that relate to trafficking victims. I will offer a brief introduction, but I will leave all the hard questions to Cathy, Ronnie and Alison, who are responsible for the policy area.

At the outset, I should register our gratitude for the opportunity to brief the Committee. We have given careful thought to the issues raised with the Committee by key stakeholders on the trafficking clauses, and we will offer our perspective on some of the themes running through that evidence. Members may find it helpful if I briefly set out the background to the trafficking victims provisions in the Bill and offer our views on the points raised on improving services for victims of trafficking and exploitation. My colleagues and I will then be happy to answer any questions that you may have.

Part 2 of the Bill deals with trafficking and exploitation. Clause 16 extends statutory assistance and support to adult potential victims of slavery, servitude and forced or compulsory labour where this is

not an element of trafficking. As you will know, the provisions of assistance and support to potential victims where there is no element of trafficking have been in place in Northern Ireland since March 2016 by virtue of a policy decision that was taken by the then Justice Minister. However, that has not been a statutory requirement. Placing the existing arrangements on a statutory footing has been welcomed by all stakeholders. It is universally seen as a positive step towards ensuring that all victims of modern slavery are provided with assistance and support while they are in the national referral mechanism. As members will appreciate, the national referral mechanism is the framework for identifying and referring potential victims of modern slavery and human trafficking. It ensures that they receive the appropriate protection and support.

Having reviewed the evidence presented to the Committee, it is noteworthy that some organisations, while welcoming the proposed changes, would like our legislation go further than what we consulted upon. They propose going beyond our provision to include other victims and to change the nature of that support provision to prescribe a statutory period of 12 months for those who have a positive conclusive grounds decision. The rationale is that most confirmed victims of modern slavery are only able to access support with any degree of security from the point at which their status is confirmed. The suggested extension is presented as a means to facilitate reintegration and recovery, as well as to enhance protection from re-trafficking.

The existing Northern Ireland legislation makes statutory provision covering assistance and support for victims and potential victims of human trafficking. As you know, section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 places a statutory duty on the Department to provide assistance and support to adults who are potential victims of human trafficking during a 45-day recovery and reflection period, pending the determination of their status as victims by a competent authority. That is in line with article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings.

As noted by some stakeholders, section 18(9) of the Act already provides for support to be continued on a discretionary basis, following a positive conclusive grounds decision. That is based on assessed need, and I stress that no minimum or maximum period is prescribed. The existing section 18(9) enables the Department, albeit on a discretionary basis, to continue providing assistance to a victim:

"under this section for such further period as the Department thinks necessary".

I will return to that point later. We are currently able to continue to provide support to an individual beyond the point where a positive conclusive grounds determination is made where there is an assessed need to do so. Section 18(5) and (6) of the 2015 Act detail how the support under that section is to be provided. The support may be:

"provided in a manner which takes due account of the needs of that person as regards safety and protection from harm".

It also:

"must be provided to meet the assessed needs of that person".

Organisations have highlighted that, without support, clients face significant barriers to moving on such as social isolation, homelessness, poverty, mental health issues, alcohol and substance misuse; there is a range of possible outcomes. The Minister very much recognises those concerns and has undertaken to consider extending support requirements. Her work to scope out extended support arrangements has, unfortunately, been delayed by other pressures, particularly COVID. It is a key issue that we are beginning to explore and will focus our attention on in the early part of next year.

The Department has established a separate dedicated modern slavery team in addition to the organised crime branch, in recognition of the workload and complexity across both areas. Both teams will continue to work closely on the issues, under the auspices of the organised crime task force (OCTF) structures. Our intention is to take forward the scoping work as a matter of urgency and to engage with stakeholders in the new year to establish the longer-term support needs of victims. That is a key element of the development of a longer-term strategy for human trafficking and modern slavery. The Minister's aim is to focus on developing and implementing targeted action plans, rather than devising and consulting on strategic frameworks each year.

It is fair to say that we have not made as much progress in that area as we would have liked, but it is important to scope out the range and type of support that needs to be addressed and how possible solutions will work in practice. Simply applying a one-size-fits-all, time-bound response without doing that scoping work and detailed consideration is not the best way of meeting the complex and differing needs of confirmed victims. There is a very clear need to develop a focused and well-targeted approach. Moving straight to legislation would risk us producing poor law. Its implementation would distort existing provision, and its impact would be hard to predict at this point.

While some organisations have indicated that this will not result in significant pressure on resources, it is important to take the necessary time to consider the approach in more detail and in the context that, in 95% of all current cases, support is provided for in excess of 45 days. Members will be interested to note that, for cases going through the national referral mechanism, support is provided, typically, for 150 days and, in some cases, for in excess of 500 days. The picture is, therefore, somewhat more complex than may have been presented in earlier evidence to the Committee.

Moving straight to legislate in this area is not the answer. The Minister has made a clear commitment to progress the work to increase support for trafficked victims, but we need to take the time necessary to develop an appropriate and well thought-out framework supporting enhanced statutory support. Through the assets recovery scheme, we are already funding a project to prevent the re-exploitation of modern slavery survivors and empower them to move on to lead lives that are not defined by their past circumstances. The project, which is under way, will run until the end of March 2022 and will be invaluable in informing the Department of a potential model for extending support.

Many of the issues raised with the Committee were also raised by respondents to the consultation on this year's modern slavery strategy. A longer-term strategy will enable us to address a wide range of issues. We will consult after Christmas on the duty to notify and the introduction of slavery and trafficking risk orders, two areas that were flagged in the evidence presented to the Committee. There will, therefore, be another opportunity to propose legislative changes to the 2015 Act. Our intention is to bring forward proposals for extending support needs after engagement on the scoping work planned for the new year. That engagement will certainly involve all the relevant NGOs and other interests.

Organisations have asked the Committee to consider a wide range of issues, some of which go well beyond the competence of the Minister of Justice. Those issues include jury direction, compensation, extension to universal credit, immigration policy, social security entitlement, statutory defence for survivors of trafficking, quashing of historical convictions, and healthcare entitlements for survivors of trafficking. Those are all important issues, but, again, we would need engagement with both non-statutory and statutory bodies and other Departments such as Communities, Health and the Executive Office before we would be able to take them forward. Many of the issues are cross-cutting and would potentially require Executive approval to be progressed. There may also be some important procedural issues in using a Justice Bill to amend relevant legislation for other work areas such as health and welfare.

It is clear that we need to address a wide range of issues, not least those raised in response to the consultation on the recent modern slavery strategy and the Criminal Justice Inspection Northern Ireland (CJINI) recommendations on support and new statutory measures including the statutory defence. The longer-term strategy will enable those and other issues to be taken forward in collaboration with partners and in a coherent and structured manner. Our aim is to ensure that we are doing everything possible to identify and support victims and to pursue offenders, but we still need to develop our thinking on the best routes for delivering such support.

I turn to the three-year strategy at clause 17. The clause amends the existing requirement to publish a modern slavery and human trafficking strategy from at least once every year to at least once every three years. The change, which may look administrative, will allow the Department and its partners to focus on implementation of the actions needed to underpin the strategic goals and monitor progress. Many of the issues raised by the Committee and during the consultation on the existing one-year strategy will take time to resolve, and the implementation will undoubtedly span more than one year. We note, however, that all respondents support the clause. We also note and agree that the Department should publish annual progress reports. That is in line with the recommendations of CJINI's modern slavery and human trafficking report, and the Minister has, separately, given a commitment to that effect.

It is important to acknowledge that, over many years, there has been a considerable and concerted multi-agency effort, in policy and practice, to tackle modern slavery and human trafficking in Northern

Ireland. The numbers coming through the national referral mechanism process are increasing. They may have trebled over the last year or so. Whilst this is a measure of our collective success in identifying potential victims and bearing down on this criminal exploitation, there is simply no room for complacency. Important work remains to be done to ensure that all our efforts to tackle these crimes and violations are fully coordinated and connected.

Clauses 16 and 17 provide an opportunity to further protect and support victims. They provide an appropriate and realistic time frame to strategically tackle this issue and to help support victims of modern slavery and human trafficking in Northern Ireland. The two clauses are part of a process, which will continue into the next mandate, to deliver important strategic changes and respond to the CJINI recommendations. The Minister's ultimate aim is to significantly improve support for victims of trafficking in Northern Ireland while identifying and eradicating this pernicious activity in our community.

I hope that this update has been helpful. My colleagues and I are very happy to answer any questions from members.

The Chairperson (Mr Storey): Thank you very much for that, Brian. Returning to clause 16, a few months ago, in response to an Assembly question for written answer, the Minister said:

"work to scope extended support arrangements will commence in April 2021 ... It is not possible at this point to provide a definitive timescale for completing the scoping exercise."

Can you confirm if the scoping exercise commenced in April? Are we commencing a scoping exercise in the new year, or are we continuing a scoping exercise that commenced in April 2021, as the Minister said it would? If we have commenced the scoping exercise, what are the indications from its magnitude, natures and outcomes?

Mr Grzymek: I will pass that over to Cathy Galway.

Mrs Cathy Galway (Department of Justice): Thanks, Chair. Yes, we intended to start that scoping exercise in April 2021 but, due to a number of other competing priorities at the time — for example, we were very focused on criminal finances and getting different aspects of legislation through before June — that slipped slightly, as Brian referred to in his opening remarks. It is regrettable that we have not made more progress on that, but we now have a dedicated team established for modern slavery and human trafficking. We have separated it from the organised crime team, in recognition of the workload and the complexity of some of these issues. That work has started, and we want to focus on it much more in the new year. Ronnie might be able to give more background on what has happened so far.

Mr Ronnie Pedlow (Department of Justice): Yes; thanks, Cathy. The new team was set up in July. Obviously, it needed to get to grips with the basics of the issues. The team is working under the three headings of pursue, protect and prevent. Under protect and prevent, one member of the team has been doing a lot of work in reaching out to NGOs and other non-statutory and statutory bodies to start taking that work forward. Although we intend that it will begin to really take effect in the new year, the work has already started and we are getting to grips with it.

The Chairperson (Mr Storey): It is good to have you at the Committee, Ronnie. We will try and engage with you more today than the last day you were with us. You got it relatively easy that day. We will try to change that today.

Mr Pedlow: Thank you. *[Laughter.]*

The Chairperson (Mr Storey): You will be glad to know that.

I am well aware that there will be considerable debate about the publication of a draft Budget. Every Department will have concerns and issues about that in the next number of weeks and months. What sense do you get from other agencies? Brian rightly identified that some of what is being suggested cross-cuts into, for example, the Department for Communities. From the work that has commenced, has there been any sense that the Department for Communities — that is just one example; there are others to be consulted — is willing to consider engaging and being involved to try to get a better outcome for the victims? Let us remember what they are: they are victims of the most horrendous crimes and sets of circumstances. Anyone who has seen the footage or the detail will accept that

these are terrible circumstances for people to be caught up in. Do you sense that other Departments are willing to engage?

Mr Pedlow: Yes is the simple answer to that. Through the organised crime task force, we have a subgroup on modern slavery and human trafficking. Other Departments, including the Department for Communities and the Department of Health, the Health and Social Care Board (HSCB) and bodies such as the Gangmasters and Labour Abuse Authority (GLAA) and Border Force are part of that subgroup. We meet regularly and engage on that. Yes, the Department for Communities, to use that example, is involved and aware of the issues, obviously within the constraints of that Department as it will have its own policy areas. However, the Department for Communities is very aware of and engaged in it. We also have an NGO group that we engage with regularly. That provides an opportunity for the majority of the groups that have submitted evidence to the Committee to engage with us, discuss issues and share experiences.

Mrs Galway: What has been raised by the organisations in response to the clauses and to the Committee gives us increased urgency to engage on very specific issues. While we are engaged on a range of issues, we will probably focus a bit more on things that have come through in the feedback to the Committee, such as health, universal credit and welfare benefits. It has been very helpful to get that feedback. It gives us more of an impetus to work together.

Mr Grzymek: It is very clear that this is a complex issue. It is about pulling all the different strands together. That is why, when we talked about scoping and getting it right, we said that we need to take the time to bring all the various players together and talk it through. Of course, we need to engage with the voluntary and community sector as well. The Minister is committed to taking this work forward. As Ronnie said, it has taken a bit of preparatory time to get the scoping under way. However, it will move into gear in the new year, building on the good work that was done in the autumn. The Minister sees it as a priority, and it will move at pace now that we have started.

The Chairperson (Mr Storey): That is helpful, Brian. With the Committee's approval, we will forward to you the dissonant information that we received from NGOs, because that is another component part of the information that has come to us.

I go back to this issue for clarity. Immigration is a Home Office issue. There are particular arrangements in place for asylum seekers in Northern Ireland. Ronnie, I worry that, when you get different views about which is the lead Department on a particular issue, there is a tendency for people to fall between two or three Departments. There are elements of this that the Home Office has responsibility for. There are elements that the Department of Justice, the Department for Communities, the Department of Health and so on are responsible for. Has there been any discussion between us and the Home Office to ensure that we do not blur the lines and so that everyone knows what their responsibilities are in these matters?

Mr Grzymek: I will start, and then Ronnie can give you the proper answer.

Building cross-agency or cross-sectoral mechanisms is always complex. In the devolved sector, we have good relationships with both other Departments and the voluntary and community sector. Those things are not problems. Our expectation is that that engagement will be an enormous part of the value in pulling together the right solutions. Dealing with reserved or excepted matters is more problematic, because we are at a distance from the Home Office. At the end of the day, Northern Ireland has a population of 1.8 million in the UK's 60-plus million. To some degree, all we can do is do what we can to be influential. We can liaise with the Home Office and put our points across. It is fair to say that we often punch above our weight, because we have a good understanding of how these things work on the ground, but, certainly, there are problems there.

Ronnie can, no doubt, now give us the right answer.

Mr Pedlow: That is very helpful, Brian; thank you. We liaise very closely with the Home Office. Obviously, we liaise initially with the modern slavery unit and some of the associated parts of the Home Office. We have regular meetings. In fact, we had a meeting with the Home Office this morning on some of the implications of the Nationality and Borders Bill and the modern slavery element of that. We are very clear on where the responsibility of the Department of Justice lies and where the responsibility for reserved matters lies. On immigration, that lies with the Executive Office, and we liaise with Executive Office officials on that. It is quite a complicated framework, but we have good

relationships. We are able to input and talk to different parts of the Home Office system and the other devolved Administrations, as well as the whole framework of government here.

The Chairperson (Mr Storey): It is useful, Ronnie, to have that assurance that there is, at least, discussion with the Home Office, particularly given the implications and impact of the Nationality and Borders Bill and its clause 53.

I will seek clarification on one other point before I go to members. Would the extension of support to 12 months require a legislative change, or could the Department use the power in section 18(9) of the Human Trafficking and Exploitation Act 2015 to ensure the provision of assistance and support:

"for such ... period as the Department thinks necessary"?

Mr Grzymek: The short answer is yes because, essentially, the Department has a discretionary power. As I noted in the opening remarks, typically, there are more than 150 days of support and, at the far end, it goes up to 500 days. Clearly, it is very much being used in that way at the moment. Certainly, that is quite practical. Cathy may want to add to that.

Mrs Galway: On post-conclusive grounds, that is a discretionary power. At the moment, that does not set a minimum or maximum length of time that that support can be made available. If you wanted to stipulate that it was 365 days, then, yes, that would require legislative change.

Mr Grzymek: It is worth noting that the whole discretion is based on assessed need. If the Department, or its agencies, are carrying out an assessment and need is identified, that is the basis on which that discretionary power is exercised. Presumably, you could find a case where someone would not need a whole year's support. Equally, as is obviously the case at the moment, some people are getting considerably more than that. It is very much based on assessed need.

Mrs Galway: We could make it clearer what that discretionary power enables us to do. We could, by way of the framework or some sort of guidance, make clear where, why and to what extent we see that support being made available. We could make that clear administratively, not necessarily through legislation.

Mr Grzymek: That would be made public.

Mrs Galway: Yes. Alison, there is a framework in England and Wales that sets it out, is there not?

Ms Alison Redmond (Department of Justice): Yes. In England and Wales, there is a recovery needs assessment, which sets out how somebody with a conclusive grounds decision might be supported. There is no similar formal process in Northern Ireland. However, as has been reflected, the Department has discretion in many cases. It has used that discretion and is open to supporting beyond the stipulated period. We have tried to use section 18(9) in a flexible way, and it provides the framework for doing something on a longer-term basis.

The Chairperson (Mr Storey): Robin, you wanted to make a comment.

Mr Newton: Yes. I thank the delegation for being with us. I have a very short comment. If someone were to move within the UK, for whatever reason, how would the support be affected or improved? How would it be carried on?

Ms Redmond: I am not aware of the details of any cases in which that has happened, but the support providers in Northern Ireland would certainly liaise with the equivalent support providers in England, Wales or Scotland to ensure that, so long as that person is in the *[Interruption]* national referral mechanism (NRM), they are entitled to support and receive it. *[Interruption.]*

Mr Newton: You were overcome by something there. I do not know what it was. *[Laughter.]*

Ms Redmond: Something flew past.

Mr Pedlow: There are seagulls outside.

Mr Newton: It was a seagull?

Mr Pedlow: We have a problem with seagulls. *[Laughter.]*

Mr Newton: Let me tease that out a little bit. If a person in Northern Ireland was receiving support from you and then moved to another part of the UK, for family reasons or whatever other reason, how would that support be continued? What would you need to do to ensure that that support continued, wherever it was to take place?

Ms Redmond: Our service providers, Migrant Help and Belfast and Lisburn Women's Aid, would lead on that. Where there is a transfer between Northern Ireland and another jurisdiction, the support providers facilitate that and make sure that the support continues.

Mr Newton: Would they get the same conditions that were applied in Northern Ireland when they were England, Scotland or Wales?

Ms Redmond: The framework is broadly the same. There are some slight differences between what is provided in Northern Ireland and what is provided elsewhere. However, as potential victims, they are generally entitled to a minimum level of support under the NRM, and we would certainly see that that support was provided elsewhere in the UK.

Mr Newton: Thank you.

Mrs Galway: They would not lose their entitlement to support by moving elsewhere in the UK.

Mr Newton: OK. Thank you.

The Chairperson (Mr Storey): Would the reverse be the case, Alison, for someone moving from England, Scotland or Wales to Northern Ireland?

Ms Redmond: Yes, certainly.

The Chairperson (Mr Storey): They have a formal framework, but we have something that is not as formal.

Ms Redmond: It would work both ways. If somebody was transferring to Northern Ireland and had that entitlement to support, we would certainly put the arrangements in place.

The Chairperson (Mr Storey): OK.

Mr Grzymek: The NRM gives you an entitlement. It is your ticket to getting services, whichever part of the UK you are in, and the service providers would facilitate moves. Conceivably, someone might want to move to another jurisdiction to be closer to a family member or something like that, which would be facilitated.

The Chairperson (Mr Storey): I will just make this point, because I want to bring in other members. There is always an issue if something is deep within the text of a piece of legislation. We are talking about section 18(9) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, in which the power is discretionary. I am aware of another discretionary power that falls within the remit Department for Communities. That is a discretionary waiver that I am trying to pursue on behalf of a constituent. You would probably find the proverbial needle in a haystack quicker, because it seems to be limited by the number of times that it is used rather than the number of people who are affected by it, and that is all to do with the benefits system. The point that was made is valuable in that it makes us aware that that power is there and helps us to see the detail of the framework and what it looks like in information terms. It would be very useful and helpful if that could be made available.

Mrs Galway: In the scoping exercise, we could look at how clear we need to make that and at what more we can do at an administrative level to make that clearer so that people are aware that we already have that enabling provision.

The Chairperson (Mr Storey): Thank you. We will go to members now.

Ms Dolan: Thank you to the officials. I am going to leave my camera off if that is OK because my internet connection is a bit dodgy. That is Fermanagh broadband for you.

I have two questions. First, CJINI and other stakeholders have recommended amending the Bill to introduce slavery and trafficking risk orders (STROs) alongside slavery and trafficking prevention orders. The Department also referenced STROs in the 2021 modern slavery strategy. What work has been done on exploring STROs? Why have they not been included in the Bill? Would you be open to exploring an amendment on the issue?

Mr Pedlow: I cannot speak to why they were not included in the Bill, but a lot of the consultation work has yet to be done; there has to be a consultation exercise on that. We have prepared the papers that will come before the Committee after Christmas. Those papers will look at the activation of the powers and the duty to notify in the 2015 Act as well as the introduction of STROs. So, we will go forward with the public consultation. It will then be a case of finding a suitable legislative vehicle to take them forward, probably in the new mandate.

Mr Grzymek: I might add, as the Bill manager — and I know that I have said this two times previously — that it typically takes a year from start to finish to get to the point where something is drafted into legislation. All the trafficking victims material could have been left to the next mandate and produced as a single bit of legislation. However, we had an opportunity to put some elements in that could be put in the Bill at reasonable pace rather than hold them back to wait for everything else to catch up. So, that is the approach that we took.

However, taking the risk orders forward required consultation, as it was new policy: the policy was not resolved and required a process. So, there, and in other areas, we recognised the need to undertake some scoping work, which would take time. It was not feasible to get that done in time to get the provision on risk orders into the Bill. Rather than hold back a couple of provisions that we were ready to take forward, we felt that it was important to put in the elements that we are able to progress now and give commitments to take a fuller approach as we go into the next mandate, with a view to putting in either a Bill or a section of a Bill that will pick up all the outstanding issues.

Ms Dolan: That is fair enough. That answers my question.

The UN special rapporteur recently issued advice on the non-punishment principle, and others have recommended that the statutory defence is reviewed to protect all victims, including people who have been convicted of offences related to class A drugs. Has the Department any intention of reviewing the statutory defence?

Ms Redmond: The team has started gathering evidence to inform the review of relevant judgements. The independent Anti-Slavery Commissioner has also produced a report, and there is a lot of research. We have started that work, and it is fair to say that it is a very complex area. It is very important to get it right, because, although the defence protects victims of modern slavery, we have to be very careful that it is not open to any form of abuse. Some of those issues were reflected on in the Independent Anti-Slavery Commissioner's report. So, we want to look at all aspects of the statutory defence as part of the review, including whether it should be amended, adapted or changed in any way.

Ms Dolan: I understand that. Thanks very much.

The Chairperson (Mr Storey): Brian, can I just clarify something, following on from the first question that Jemma asked? Could an amendment to introduce the risk orders to the Bill potentially not be admissible because it might not be competent with the legislation due to the fact that it had not been consulted on?

Mr Grzymek: This is a complex area. We cannot just say that we will have risk orders in a provision without developing a policy, going through a consultation process and listening to the various stakeholders' views on what needs to be in it and how it should operate. That is part of the policy process. The Department has not got to that stage yet. We see that, therefore, as part of the broader work to be taken forward.

Of course, you could put something in. What I am saying now is what I have said to the Committee at times in the past: it is important that we develop good law. Our process is, traditionally, to develop a policy first. I have gone through many pre-consultations, which, Ronnie has been doing on the last issue that you raised. I have gone through many pre-consultations to prepare the way for the consultations. That process of pre-consultation, consultation, reporting and decision-making all precedes us writing instructions for legislation. That is why it takes time. We are not at that stage with the risk orders. The Department and the Minister feel that it is important that, where we develop major new policies, we go through the full process. So, we give NGOs and others the opportunity to give us initial advice and to see our proposals in a consultation. We then allow the Minister to benefit from their responses in developing her decision.

That is the process. Of course, you could table an amendment, which, I am sure, would be within the scope of the Bill, but I am advocating doing this in an ordered and structured way as part of broader bit of work, because, ultimately, it will produce a better outcome in law.

The Chairperson (Mr Storey): Thank you.

Ms S Bradley: Thanks to Brian and the team for presenting to us today. In the presentations that have been made to the Committee, there has been widespread support for victims of trafficking. Cathy, from what you have said today, I am hearing that you have heard that and have an open mind on working through some of the issues that have been raised. However, I am also hearing, Brian, as the previous point proves, that you have already decided that you will set aside some issues that have been raised. It is not that they are not in scope, but you do not think that the background work has been done to support what would be going in the Bill. Therefore, including them would mean reversing: having something in the Bill and then going into a period of consultation and building up what it actually means. That said, it is disappointing, because the argument for STROs was clearly, forcefully and correctly made.

We have heard about support for victims, even if there is a period in which their status is being questioned. We have heard about access to a secure home and income and to a GP and healthcare. We have also heard the whole piece about being able to reunite families, which I appreciate is not something that has to be in the Bill. However, we should at least be visiting that if we are trying to be sincere in our safeguarding piece. The expunging of convictions is another major piece.

We talked about whether support for a victim would transfer with them across all jurisdictions, and it is right that it should. I am also aware that any victim will be known to a network of unsavoury people. If a victim happens to be on this island, is any consideration being given to ensuring that they do not somehow become lost and be re-trafficked if they cross the border? I would like to hear your thoughts on that.

I appreciate that we are trying to put a lot into a Bill that has fallen short in many areas. I want to know the Department's assessment is of what it hopes realistically to add and what it thinks that it cannot add. When can the Committee be made aware of that? We will have a short window of time left as a Committee to see whether we can pick up any of the threads that the Department is unable to follow by way of amendments.

Mr Grzymek: When the Bill was first laid, and we spoke to the Committee about this, the Minister indicated there were a number of areas on which she was preparing amendments. Those amendments were already well under way, and, in most cases, have been consulted on. There were three or four areas where she was proposing to insert amendments. I am not sure that you have got all of them; there might still be one outstanding amendment. You may have all of them; I lost track of the last one. The Department is not proposing to add any amendments other than the ones that we agreed with the Committee in relation to the Protection from Stalking Bill, which is a different Bill.

Essentially, the whole approach to trafficking victims is a journey. We have had the opportunity to put a couple of clauses into the Bill, which will be helpful, particularly in supporting victims and in getting a more sensible strategic period. However, that is only the first stage in what is a much bigger process. We are not at the point where we have all the information or where we have consulted all the relevant players, talked through options and discussed the possible variations. That is far as the Minister and the Department could go on that point. What we have got is a mechanism and a dedicated team looking at that, which will help enormously.

This is about going forward. Trying to squeeze odd bits into the current Bill is a dangerous tactic. The law is the law, and once something is in the Bill, it becomes the law. We cannot have a post-hoc consultation to see whether the law is right. You will end up having to change the law because you ended up in the wrong place. What I am saying to the Committee is that the Minister is committed to pushing this forward. She now has a dedicated team to deliver it; the wheels are turning and we are moving in a number of areas. The area of risk orders is just one that we are moving on. The Minister is clear that she believes, like the Committee, that the risk orders make good sense and are important. She has also been very clear that we need to make sure that we give appropriate and effective support to victims.

Those are the background issues that have predicated our approach. I am cautioning the Committee that taking up a good idea and putting it into a provision, in itself, at this stage, is not necessarily the best way, ultimately, to support victims of this pernicious offence.

Ms S Bradley: I appreciate that there is a lot that is not contained in the Bill, but stakeholders have raised really good points, and actions could happen as a result of them being brought to light that would not necessarily mean that they need to be in the Bill. The whole reuniting of families piece is an example of that and could be acted on. The Committee could put pressure to that. The North/South piece sits uncomfortably with me, so if anyone has anything to offer on that, I would appreciate hearing it.

Mr Grzymek: I will pass you over to Cathy, but you are absolutely right. Cathy and her team will be listening and will look very carefully at all the evidence that you have received. That will not be wasted; it is advising you, but it will also advise future work. That is doable, and there are also a number of administrative things that can be done that do not require legislation. Clearly, that team will also look at that. I will pass you over to Cathy, who will say more on that.

Mrs Galway: Absolutely, Sinéad. We will reflect on everything that we have heard and which has been presented to the Committee. If we are able to move into a longer-term strategic approach — so instead of one year, we go into a three-year strategy — that will enable us to have that engagement and consultation with stakeholders.

As Ronnie indicated, we hope to go out to consultation on STROs after Christmas and find an appropriate legislative vehicle as soon as possible in the next mandate, depending on the outcome of the consultation. It is the same with the duty to notify. A lot what came through in the responses to the Committee also came through in the responses to the consultation on this year's modern slavery strategy and were included in the CJINI recommendations. So, we have a building picture of things that need to be taken forward, and we are absolutely committed to doing that, but we need to think through some of the implications. Even the CJINI recommendation on STROs was to re-examine the need for them. We want to look at that to see what their benefits and the implications of their inclusion are. If we put them in the Bill at this point, we will not have had time to think through the potential implications of doing so.

Ms S Bradley: I appreciate that, and I can see how there could be some quite dark implications if it is not played right. I appreciate that. Thank you.

Ms Redmond: By way of additional background, STROs were originally consulted on back in 2013-14 when the Northern Ireland legislation was being developed. Some of the respondents at that time raised concerns about human rights implications and the fact that those orders might apply to individuals who had not been convicted of any offence. For that reason, we want to be quite careful and to take the mind of the public through consultation to see if that message still stands. That is why we think consultation would be helpful in that regard.

On the cross-border piece, there certainly seem to be very good working relationships at an operational level between the police and the gardaí. The gardaí attend some of our organised crime task force meetings on modern slavery and human trafficking, and you will probably be aware of the joint agency task force, which brings together law enforcement from both sides of the border. Modern slavery and human trafficking is one of its key areas of focus, so there is, on a cross-border basis, that element of attention.

Mr Pedlow: We have established relationships with the Department of Justice in the Republic on its approach to modern slavery, so, from a policy and legislation point of view, we are developing a closer relationship on that.

The Chairperson (Mr Storey): I will follow on from Sinéad's point about the STROs. The CJINI report in 2020 included some evidence of examples from England and Wales of the beneficial use of STROs in cases where there are protracted investigations — i.e. applying for an STRO before a prosecution might be brought. CJINI recommended that:

"The Department of Justice, in consultation with the Police Service of Northern Ireland and the Public Prosecution Service for Northern Ireland, and after consideration of the experience in England and Wales, should re-examine the need for Slavery and Trafficking Risk Orders in Northern Ireland to prevent modern slavery and human trafficking-related crime and support victims within one year of the publication of this report."

However, Brian, you are now saying, "No, we will go out to public consultation". That will take us to the end of next year at least. That is a consultation with the public, but do we know, at this minute in time, what the Department has done about speaking to the Police Service of Northern Ireland and the PPS in Northern Ireland and about taking on board the experience in England and Wales?

Mr Grzymek: I will pass to Ronnie in a second, but just to note that the consultation, if it goes out in January, will last eight weeks. It is usually eight weeks, but they sometimes stretch to an extra week. Although it depends on the complexity, the Minister will normally take a decision within a month or two of that. I accept that it varies a wee bit, but it is certainly not a process that takes a year, and, because this has been given priority, I do not see that being the *[Inaudible.]*

The Chairperson (Mr Storey): Yes, but, Brian, let us cut to the chase: purdah is coming and there will be an election at some stage. This will be kicked into the long grass and will not be revisited, in real terms, until at least after Easter. That is the reality, and that will be outside the time frame recommended by CJINI, which said that work should be done on this with the police and the PPS. I want to know what work the Department has done to establish, from the police and the PPS, the benefits of the orders?

Mr Pedlow: Chair, STROs have been discussed. We have regular contact and discussions with the police and the PPS, and STROs have been discussed in quite a lot of detail with them. That has laid the foundation for us to go out to a public consultation on their introduction, because we see that there is merit in looking at that. The time frame has slipped a bit, because of other pressures, as was said earlier, and with setting up the new team that is taking that forward. That is why we feel we are able to go forward; we will be able to keep the pressure on in respect of the consultation. We accept that we may run into purdah, etc, but that is beyond our gift. We have to keep going, and we will keep going, to work through that so that the provisions can be brought forward as soon as possible in the new mandate.

Mrs Galway: In response to the CJINI recommendations, the Department did not indicate that it would be able to meet that time frame. We said that that would be taken through in the 2021-22 modern slavery strategy and finalised in that. We did not say that we would be able to meet that time frame. Actually, we indicated that a longer time frame would probably be needed to bring in STROs.

Miss Woods: Thank you, everybody, for attending, and for your answers. A lot has been covered already, but I would like to get clarity on a few points. Apologies, if you hear a lot of beeping in the background: my smoke alarm is beeping, and I cannot reach it because I do not have a ladder in the office. If you hear it, that is what it is; it is OK.

The Chairperson (Mr Storey): It is not seagulls, so you are all right.

Miss Woods: No, it is not a seagull, but it is incredibly annoying. Pressing on with the STROs, I would like to clarify something. There was a comment made that STROs had been consulted on in 2014. Is that correct?

Ms Redmond: It was before the 2015 legislation was introduced, so it was either 2013 or 2014. We can confirm that subsequently, if that would be helpful. It was part of the package of measures that were consulted on prior to the 2015 Act being introduced.

Miss Woods: I want to get my thoughts straight. The reason why we are not looking at including STROs in this Bill but in one in a future mandate is that we want to check the public mood and look at

the human rights issues in respect of them applying to people who may or may not have been convicted. The Committee has been looking at stalking protection orders, which do not require criminal convictions. Are the human rights issues that we looked at in respect of the stalking protection orders the same as those that would have been looked at for the STROs?

Ms Redmond: It is fair to say that our thinking on STROs has developed. Our preferred approach would be to consult, if we could.

Miss Woods: OK, that is fine. Work is going forward on the duty to notify. That is already in legislation. Are you consulting again to get a direction of travel or to commence the regulations that are in the 2015 legislation?

Mr Pedlow: Yes, it is just to activate the provision that is in the 2015 Act.

Miss Woods: Thank you for that. I wanted to clarify those issues. It has already been covered, but section 18(9) of the 2015 Human Trafficking Act, which relates to the assistance and discretionary nature of the support, was brought up a lot. I appreciate the answers that have been given so far that suggest that it might not need to be set in legislation, and that clarification of guidance or additional frameworks would be sufficient to make it explicit. Could that extend to those who are appealing a negative decision?

Ms Redmond: It does not, currently. The parameters within which the Department provides support are if an individual is in the NRM, or about to be referred into the NRM, or if they have a positive conclusive grounds decision. That is how the legislation is set out at present.

Miss Woods: Am I correct in saying that legislative change would be required to continue the discretionary support in the case of somebody who wants to appeal their decision?

Ms Redmond: It most likely would, where it is a negative decision.

Miss Woods: OK.

Mrs Galway: Again, we can look at that when we are looking at the extended support. When we are spending more time and focusing on that, we look at that issue. If it does not go into legislation at this point, that does not preclude us from including it at some point, if we thought that there was a general need for it to be included. We can also look at whether those who are currently appealing could be included in some of the frameworks. The fact that it is not in legislation might not prevent us from doing it. We would need to think that through. That is another example of where we need to think through the implications of setting it out now in legislation without having the opportunity to think through the potential benefits and implications for some of the issues that have, rightly, been raised, including on what organisations want to happen and the support needs. Increasing and enhancing support is a key action in the modern slavery strategy, so we do need to look at it.

Miss Woods: Definitely. I appreciate that I am trying to encompass quite a lot here, but, if there is a discretionary power, surely the discretionary power could be applied in a discretionary way to cover people who are going through an appeals process. Perhaps that is for a policy or guidance document or that kind of thing. If the power is itself discretionary, it could be argued that it covers that, although it might not be explicit on that. Would that require something to change in the 2015 legislation?

Mrs Galway: I think that I need a lawyer with me to answer that question. *[Laughter.]*

Miss Woods: I wish that I was one. Unfortunately, I need one myself. If you have any floating around, I would take one.

Any information on that would be very helpful, because that certainly came through loud and clear in a number of the submissions that the Committee got. If we have a very small number of people who are going through an appeals process, surely the fact that that discretionary power might not be explicit does not mean that it cannot be used and that that can be used as a reason not to use it. Thank you. I would appreciate some information on that.

On a similar theme of support, has there been any engagement with Health, so far, regarding access to healthcare and extending healthcare entitlement?

Mr Pedlow: The issues that have been raised with the Committee by some of the NGOs have also been raised by them with us, and we have been looking at those. Obviously, the provision of healthcare falls to the Department of Health, and we have been talking to it about that. The Department of Health has that responsibility, and, at this point, we have not sought to change that. Healthcare provision is an issue that we are aware of. Under section 18, we have provided assistance on healthcare in individual cases depending on the individual circumstances, but it is not a blanket provision of assistance that we have provided.

Miss Woods: Thank you. I appreciate that.

Mr Pedlow: It would be done on a case-by-case basis, and, in my time, there have been only one or two cases through the support contracts with our support providers.

Mrs Galway: Rachel, is this specifically about anyone who is appealing a decision?

Miss Woods: Yes, those with a negative NRM. If we have a case where somebody has a negative NRM and is appealing, what is there for them? It is not covered explicitly, and that is where I was going with that with those whom we were hearing from. Is there a discussion with Health to say, "No, we can't do it"? There are practical implications of that. I appreciate that it is for the Department of Health, and I am not in any way saying that there has not been support. It is just that, obviously, it is not explicit in front of us, and it has been raised as an issue. Obviously, we looked at and heard evidence at Committee about the 2015 Act and the way that the Scottish legislation differs. That is a bit more substantive on healthcare. That is where the question was coming from.

There is only one other thing that I have that, I believe, has not been covered. Apologies; I do get distracted with this incessant beeping in the background. Our understanding was that, in the Republic of Ireland, the Minister for Justice made an announcement to expunge convictions that over 600 women had received through no fault of their own for prostitute-related offences. Do you know whether there have been any conversations in the Department about looking at that? Does the Minister intend to do something similar?

Mr Grzymek: That falls into my area of responsibility, luckily enough. We are in communication with the Department of Justice in the South. The Minister has not said that she will legislate, but the Department has expressed an intention to initiate a legislative process. It is carrying out a review. It has sloped the pitch a bit with the expectation that, at the end of the review, it will change the legislation. From our perspective, the Minister sees that as a reasonable approach, and I suspect that our direction of travel may well be the same, but my expectation is that, as we go into the new year, we will review that ourselves, working with our colleagues in the South to see what they come up with.

In essence, we are looking at it. On prostitution, for example, I had a quick look at when the most recent conviction was. It was, I think, in 2004, some 17 years ago, so, to some degree, a lot of the cases are historical. Cathy will know much more about this than I do, but the current legislation allows that, where someone is forced to commit an offence, they will not be prosecuted. Of course, prostitution in itself has not been a criminal act since 2015. There will, certainly, be a number of cases — going back, there might be as many as 50 — but it is a small number, and they are historical. In some ways, it is the right thing to do, and that is the Minister's approach, but the aim will be to carry out a more detailed review, to take on board what is happening elsewhere and, from that, to make proposals.

That could well mean a legislative change, but it would probably not have a massive impact, certainly on prostitution, given the historical nature of the cases. It is like a number of other areas in that, if you can fit them into a Bill, you would do so, but it would probably not be a priority. We have not got a strong sense that there are women who are being seriously affected by it. If we do a review, however, we will get evidence from others, and, if we do hear of cases, that will change the picture.

Miss Woods: Great. Brian, thank you. You answered my follow-up question about whether you had any numbers. Thank you so much for that.

The Chairperson (Mr Storey): To conclude, Brian and colleagues, in relation to the whole reporting regime, what has the Department put in place to enable it to gather information, to monitor arrangements, to identify trends and to inform policy and legislative decisions? This is, obviously, a major piece of work. What arrangements are in place in the Department?

Mrs Galway: Each year, the modern slavery strategy is produced, and there is an update on progress against the actions in the previous year. We also issue, under the organised crime task force, an annual threat assessment. It details the disruptions that have happened, and modern slavery and human trafficking are included in that. We have ways in which we report on progress, but we understand that, as we move from an annual strategy to a three-year strategy, people want to see built into the legislation a requirement to produce an annual report. We are content that that is a reasonable request, because we want to maintain transparency around the progress and the updates. We also want to get buy-in and to increase communication with the public about modern slavery and human trafficking. Annual reports and threat assessments and updates on disruptions and things such as that help to raise the issue of modern slavery and human trafficking, which is a key action for us and all our partners.

The Chairperson (Mr Storey): Thank you for that, Cathy. I thank Brian, Ronnie, Alison and Cathy for their attendance today. As Brian said last week, he will, no doubt, still be attending Committee meetings over the next number of weeks and into 2022. In the meantime, I thank you for the time that you have given to us this afternoon. I appreciate what you have provided to us. Thank you.