



Northern Ireland
Assembly

**COMMITTEE FOR
CULTURE, ARTS AND LEISURE**

**OFFICIAL REPORT
(Hansard)**

Sexual Offences (NI) Order 2008

27 May 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Barry McElduff (Chairperson)
Lord Browne
Mr Burns
Mr Trevor Clarke
Mr Billy Leonard
Mr Kieran McCarthy
Mr David McClarty
Miss Michelle McIlveen
Mr Ken Robinson

Witnesses:

Mr Ciarán Mee) Department of Culture, Arts and Leisure
Mr Colin Watson) Department of Culture, Arts and Leisure

The Chairperson (Mr McElduff):

I welcome Colin Watson and Ciarán Mee. I will hand over straight away to Colin, who will make a presentation.

Mr Colin Watson (Department of Culture, Arts and Leisure):

I thank the Committee for this opportunity to provide a briefing on the Department's recent consultation with sports bodies to ascertain their views on the possible extension of the abuse of trust offences to sports coaches under the Sexual Offences (Northern Ireland) Order 2008. The Committee will be aware from earlier correspondence that the Department undertook the

consultation exercise at the request of the previous Northern Ireland Minister with responsibility for criminal justice, Paul Goggins. It was he who introduced the Sexual Offences (Northern Ireland) Order 2008 and its related abuse of trust provisions.

The Department of Culture, Arts and Leisure's involvement in the matter began in March 2009, when Paul Goggins wrote to Gregory Campbell asking whether he would be willing to undertake a consultation with sports bodies in Northern Ireland to obtain their views on whether the abuse of trust offence, as established under the Sexual Offences (Northern Ireland) Order 2008, should be extended to sports coaches. In making that request, Minister Goggins informed Gregory Campbell that, in 2008, during the consultation on the sexual offences legislation, the National Society for the Prevention of Cruelty to Children (NSPCC) had asked that sports coaches be included in the Order's abuse of trust provisions. Minister Goggins further advised that an Assembly Ad Hoc Committee set up to review the draft Order had also suggested that sports coaches be included.

Minister Goggins explained that the motivation for the abuse of trust legislation was the need to protect young people between the ages of 16 and 17, who, even though they are over the age of consent for sexual activity, are considered vulnerable to sexual abuse or exploitation from adults who hold a position of trust or authority over them. Abuse of trust is, therefore, not to be confused with child sexual abuse. The Sexual Offences (Northern Ireland) Order 2008 already outlaws any sexual activity by an adult with any person under the age of 16, regardless of the circumstances.

Minister Goggins advised that the policy justification for the separate abuse of trust offence was the additional protection that is needed for young people aged 16 to 17 in circumstances in which they are likely to be alone with an adult for a considerable period, during which that adult could abuse their position of power and authority to secure sexual activity. Minister Goggins said that the situations included in the sexual offences legislation are ones in which an adult has a particularly powerful role in relation to the care and protection of young people.

In making his request to Gregory Campbell, Minister Goggins expressed misgivings about the proposal to extend the abuse of trust offences to sports coaches; for example, it was, in his view, difficult to define in law what is meant by a sports coach. He felt that there may be a danger of catching all forms of activity and of putting in place unnecessary barriers for adults who do good

voluntary work. Moreover, in 2007, the Department for Culture, Media and Sports (DCMS) and the Home Office considered and rejected the case for including sports coaches in similar legislation in GB. Despite his misgivings, Minister Goggins made it clear that he was prepared to consider the case for change, provided that there was support, a practical way forward and a realistic framework to establish boundaries for the definition of a sports coach.

In considering his response to the NIO, Gregory Campbell recognised that he was under no formal obligation to carry out a consultation with sports bodies on the NIO's behalf. At the time, the NIO not DCAL was responsible for the Order, sexual offences legislation and sexual offences policy in Northern Ireland. Furthermore, DCAL had never sought to influence Paul Goggins or the NIO's thinking on extending abuse of trust offences to sports coaches, nor was it party to the development of recommendations in that regard during consultation on the legislation. Therefore, Gregory Campbell could easily have turned down Minister Goggins's request.

That said, there were more important factors that the Minister was keen to take account of. He and the Department were conscious of the seriousness and sensitivity of sexual offences in any context, particularly where they affect children or vulnerable young people. As a result, DCAL continues to welcome any practical enforceable legislative measures to ensure maximum effective protection for vulnerable young people and clarify the roles and responsibilities of sports organisations. However, the Department has always considered it vital that sports bodies be properly consulted on any proposals to extend legislation, criminal or otherwise, directly to them. Furthermore, given the Department's relationship with sport and the fact that it had not been involved in the debate on abuse of trust, the Minister recognised that DCAL was probably the organisation best placed to facilitate a proper and objective consultation with sport on abuse of trust issues. It was with those considerations in mind, and in order to be helpful to all concerned, that Gregory Campbell agreed to the request at the end of March 2009. That position was subsequently supported by our new Minister, Nelson McCausland.

In arranging and taking forward the consultation with sport, the Department insisted on certain key understandings being strictly adhered to: the process would be wholly objective; it would be owned by sport and would focus on obtaining sport's views exclusively; no external interest, either for or against, would be allowed to use the sports consultation process as a vehicle for lobbying or doing anything during the consultation that might be deemed to influence sports bodies' views unfairly or prejudice the outcome; the consultation with sports bodies would,

therefore, be carried out face to face and that emphasis would be on hearing and listening to sports bodies; and, finally, in determining which bodies to consult, DCAL would be guided wholly by sports bodies' representatives. In short, we were determined to ensure that the consultation reported to NIO the clear and unambiguous views of sport on abuse of trust, independent and irrespective of any other interest.

To enable us to prepare an effective and informed consultation, we, with the agreement of Ministers, met initially our counterparts in NIO. The purpose of those discussions was to gain a better understanding of the legislation and its abuse of trust provisions. We also used that opportunity to learn more about the nature of the representations that NIO had received on the extension of the abuse of trust provisions to sports coaches. As well as discussions with NIO, we contacted counterparts in DCMS to find out more about the consultations that it carried out on abuse of trust in conjunction with the UK Home Office, and the reason why it was eventually decided not to extend the provision to coaches in GB.

To enable us to determine the most appropriate sports bodies to consult, we took advice from Sport NI, the lead development agency for sport in Northern Ireland. On its advice, we agreed to work through the Northern Ireland Sports Forum, which is the recognised voice and umbrella body for sports governing bodies in Northern Ireland. We agreed that the forum would host a consultative meeting for its membership, to which representatives of Sport NI and the governing bodies would be invited. That consultation meeting would be led and facilitated by the Department and would serve as the main setting for the consultation with sports.

As indicated in our written submission, the consultation event that was held on 26 January 2010 was very well attended. In addition to hearing comments from the sports forum and SNI representatives, we also received the views of more than 30 representatives from 21 sports governing bodies that took part in the session. To assist sports in their consideration, we explained the purpose and background of the consultation and offered a broad outline of the positions that had been adopted by different parties on the question of extending abuse of trust law to sports coaches. In addition, we arranged for an NIO official to attend the meeting and give a presentation on the Sexual Offences (Northern Ireland) Order 2008 and its abuse of trust provisions.

As a further aid to understanding, we circulated several key items of information, including

copies of the NSPCC's published submission to Paul Goggins, which recommended the extension of positions of trust to sports coaches, written details of the relevant Assembly Ad Hoc Committee recommendation, and a written summary of the reasons why DCMS and the Home Office previously rejected the case. From there, and to help focus discussion, we asked the sports bodies to consider and respond to four key questions. We have already provided those to the Committee.

Some of the questions put to sport were fairly general; others were deliberately designed to gauge sports organisations' attitudes to certain key premises underpinning the positions that were adopted by advocates and critics. All the arrangements and questions were approved in advance by our Minister.

The Committee has received a copy of our Minister's letter of 9 March in which he reported the outcome of the consultation to Paul Goggins. Members will, therefore, know that the sports bodies advised DCAL that they were willing, in principle, to support an extension of abuse of trust provisions to sports coaches. However, they remained unconvinced of the need for extension, considering the proposals for extension that had previously been put to NIO to be flawed in several respects. They were more impressed by the rationale underpinning DCMS and the Home Office's decision not to extend the offences to coaches in GB. They were prepared to support an extension only on the strict condition that their substantive concerns about the existing proposal were addressed to their satisfaction. In light of that, the Department has concluded that, on the basis of the proposals that had been put to the NIO, the sports bodies are not in favour of including sports coaches in the provisions that deal with the abuse of positions of trust in the Sexual Offences (Northern Ireland) Order 2008.

Paul Goggins subsequently replied to Nelson McCausland's report on the results of the sport consultation, advising him that the outcome would play a key part in the consideration of whether to extend the definition of positions of trust. However, he also stated that his criminal law responsibility was about to transfer to the Executive and that the final decision would be a matter for the incoming Minister of Justice. The matter now awaits the new Minister of Justice's consideration; he must take account the sports bodies' views and all the other representations made to him in the consultation.

Mr McCarthy:

Thank you, Colin, for your detailed representation. You said that the event on 26 January was well attended, with 30 representatives and 21 governing bodies and that the NIO gave a presentation. Did the sports bodies provide written or verbal responses to the questions that were discussed?

Mr Watson:

We gave the sports bodies a list of questions, split them up into groups, and asked them to discuss the four questions and to report on their answers.

Mr McCarthy:

Did that happen on the day?

Mr Watson:

Yes. We pulled all the information together in a draft response, which we circulated to SNI and the Northern Ireland Sports Foundation and asked them whether they were content that that was an adequate reflection of what we had been given that evening. They said that it was. That letter was sent to all the governing bodies that attended; we have received no comments from them in that regard.

Mr Ciarán Mee (Department of Culture, Arts and Leisure):

Someone in each of the groups noted the comments that were made, and the groups provided us with a copy of them; we also have a record of what was said from the floor.

Mr McCarthy:

Therefore you are content that it was a detailed response.

Miss McIlveen:

Thank you for your presentation. Reading the information, our minds could go into overdrive thinking about what could happen, given the number of children in daily contact with coaches. That is not to say that there is a problem; but there is potential. I know that there has been limited research on the nature and extent of child abuse in sport, and that was reflected in the NSPCC paper. Is the Department likely to carry out any work on that specifically?

Mr Watson:

Some research is under way. We normally get our advice and research from Sport Northern Ireland, which funds a child protection officer in the NSPCC.

Mr Mee:

It tends to gather information case by case. We are not aware of any immediate detailed research in Northern Ireland.

Mr Watson:

The NSPCC paper highlights research that has been carried out in Canada, Australia and other places.

Mr Mee:

Those are the cases that it has encountered.

Miss McIlveen:

Does the Department have a mechanism for monitoring child abuse reports?

Mr Watson:

No. The only way that it can monitor that is through the child protection officer in the NSPCC.

Mr Mee:

We work through Sport Northern Ireland, which has a good practice guide on child protection. Acceptance and implementation of that guide is an established pre-condition of funding for governing bodies and any programmes involving children. For some years, Sport NI has been working with the child protection sport unit in the NSPCC; it has a contract with the NSPCC to provide child protection support services and advice to sports organisations.

Miss McIlveen:

Members' papers include a copy of an e-mail sent to Research and Library Services by authorities in the Irish Republic, which are seeking to expand their definition of a person in authority. Has your Department asked the Republic's authorities why they want to go down that route?

Mr Watson:

No. Thank you for that information; we will contact them to find out. The definition of sports coaches was a fundamental issue for sports governing bodies in that the definitions with which they had been provided to date do not cover all the positions of trust and power. A coach might not pick a team, but the person who picks the team holds the position of greatest power. The current definition does not cover that eventuality.

Another issue is that one of the definitions provided applied to someone with a coaching badge to level 1. Not all coaches have coaching badges, and level 1 coaches tend to work at a fairly low level under supervision. Many people can fall outside the definition of what is involved in sports coaching, depending on how such a definition is framed.

There is also a danger that a redefinition may include many people who do good voluntary work and good volunteer coaches who help teams and individuals on Saturdays and weekends. We must be careful not to put those people off, while at the same time protecting children and young people. We are aiming at a specific age range of one year at 16 to 17, and that is where the governing bodies were coming from. They did not want to create a sledgehammer —

Mr Mee:

Or a deterrent —

Mr Watson:

— or a deterrent to people volunteering.

Ms McIlveen:

What are the Department's next steps?

Mr Watson:

Our role is over: the NIO asked us to provide the views of sport, which we did; others will have made representations to the Department of Justice about how the Order affects sports coaches. It will be for the Department of Justice to decide, based on the evidence, whether it wants to take the extension forward. Our role was solely to conduct the consultation on the NIO's behalf.

Mr Mee:

Sexual offences law and policy are outside our remit, so —

Mr Watson:

Yes; it is not our legislation.

Mr Mee:

We were trying to convey the collective views and perspective of sport.

The Chairperson:

There are no further questions. I thank Colin Watson and Ciarán Mee for their attendance and presentation.