



Northern Ireland  
Assembly

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COMMITTEE FOR  
HEALTH, SOCIAL SERVICES AND  
PUBLIC SAFETY

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**OFFICIAL REPORT**  
(Hansard)

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**Proposed Changes to the Safeguarding  
Vulnerable Groups (Northern Ireland)  
Order 2007 as a Result of the Protection  
of Freedoms Bill**

17 February 2011

**NORTHERN IRELAND ASSEMBLY**

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(Northern Ireland) Order 2007 as a Result of the  
Protection of Freedoms Bill**

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

Mr Jim Wells (Chairperson)  
Mrs Michelle O'Neill (Deputy Chairperson)  
Mr Mickey Brady  
Dr Kieran Deeny  
Mr Alex Easton  
Mr Tommy Gallagher  
Mr John McCallister

**Witnesses:**

Ms Eilís McDaniel       )       Department of Health, Social Services and Public Safety  
Ms Pamela Mallon       )

**The Chairperson (Mr Wells):**

I welcome Pamela Mallon and Eilís McDaniel from the Department's childcare directorate. You know the routine, which is that you make a 10-minute presentation, after which we will ask questions. This is quite a complex issue, and we are keen to hear from you.

**Ms Eilís McDaniel (Department of Health, Social Services and Public Safety):**

We seek the Committee's views on the general principle of a legislative consent motion to extend

or, more accurately, replicate the safeguarding of vulnerable groups provisions of the Protection of Freedoms Bill to Northern Ireland. Ministers have already agreed to a legislative consent motion for that purpose being tabled, subject to Committee engagement. The agreement of the Public Bill Committee at Westminster is also required.

The Protection of Freedoms Bill was introduced in the House of Commons on 11 February 2011 and consists of seven parts. Our sole interest is in Part 5, which amends the Safeguarding Vulnerable Groups Act 2006 and Part 5 of the Police Act 1997 in relation to the vetting and barring scheme (VBS). It is expected that the Protection of Freedoms Bill will receive Royal Assent in January 2012.

The provisions for safeguarding vulnerable groups in Part 5 of the Bill are required to give effect to the recommendations of the review of the vetting and barring scheme. The review was initiated at the request of Westminster coalition Ministers in October 2010. It has just concluded, and its report was published on Friday 11 February 2011. A copy of that report was provided to Committee members along with some commentary on its recommendations.

Although the VBS review was neither initiated nor conducted by Northern Ireland Ministers, they have indicated that they are broadly content to support the review recommendations, subject to further consideration of the finer policy detail and the practical implications. Also, consultation with Northern Ireland stakeholders was conducted in the course of the review, and stakeholder views were provided to Home Office officials who led on the review.

Members were briefed on the vetting and barring scheme. It has been put in place in Northern Ireland under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 and in England and Wales under the Safeguarding Vulnerable Groups Act 2006. A parallel scheme is being put in place in Scotland. The aim is to put in place vetting and barring arrangements across the UK within broadly similar timescales.

The primary aim of the VBS is to prevent unsuitable people gaining work or volunteering opportunities with children or vulnerable adults. That is done by creating lists of individuals who are barred from work with children and vulnerable adults and by enabling employers and volunteer managers to check against those lists. Crucially, the barred lists are recognised and shared between disclosure bodies across the UK. As a result, an individual who is included on a

barred list in England, Wales or Scotland will be barred from work with children and vulnerable adults in Northern Ireland.

The alignment of the scheme across the regions of the UK is critical to its success. Alignment requires broadly similar definitions of work with children and vulnerable adults and consistency in barring decision-making. Currently, barring decision-making is undertaken by the Independent Safeguarding Authority in Northern Ireland, England and Wales and on behalf of Scottish Ministers by Disclosure Scotland.

The VBS review report makes 14 recommendations. The key recommendations relate to a redefinition of work with children and vulnerable adults, known as regulated activity; the removal of the category of work known as controlled activity, which would remove certain positions and roles from the scope of the vetting and barring scheme; the continuation of barring decision-making by a state body, but with new rules for automatic barring and review periods; the abolition of registration and monitoring requirements of the VBS; and the merger of the Criminal Records Bureau and the Independent Safeguarding Authority.

The implementation of many of the recommendations will require amendments to legislation. In England and Wales, changes to the Safeguarding Vulnerable Groups Act 2006 are being made by way of the Protection of Freedoms Bill. With the consent of the Northern Ireland Assembly, we intend to make the same amendments to the Safeguarding Vulnerable Groups Order (Northern Ireland) 2007 by replicating the safeguarding of vulnerable groups provisions in Part 5 of the Protection of Freedoms Bill. For members' information, the relevant clauses in Part 5 are clauses 63 to 76, and we can provide more detail on the content of those clauses if members require it.

We seek the Committee's views on the principle of a legislative consent motion in the Assembly to replicate the provisions contained in clauses 63 to 76 of the Protection of Freedoms Bill in Northern Ireland. That would enable us to put vetting and barring arrangements in place in Northern Ireland within the same timescale as will happen in England and Wales. It should also help to ensure that the general consistency of the scheme, which is essential to making it work across the UK, remains intact. Assuming the consent of the Assembly, we will ensure that members of this Committee are kept informed as the Protection of Freedoms Bill progresses through the parliamentary process at Westminster.

We welcome the Committee's views and will, we hope, be able to answer any questions that you may have.

**The Chairperson:**

Thank you very much. Ms Mallon, do you wish to say anything?

**Ms Pamela Mallon (Department of Health, Social Services and Public Safety):**

Not at this time.

**The Chairperson:**

What would be the consequences if the Assembly failed to implement the legislative consent motion?

**Ms McDaniel:**

It is agreed that we want a vetting and barring scheme in Northern Ireland. That has the general support of most people across Northern Ireland. If we did not implement a legislative consent motion to make the amendments to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 by way of the Protection of Freedoms Bill, we would have to bring forward legislation of the Northern Ireland Assembly. That would create difficulties, in that the new vetting and barring arrangements in Northern Ireland would lag behind the arrangements being put in place in England and Wales. It is essential that we try to keep the general rules of the vetting and barring scheme the same across all regions of the UK to ensure that we can, for example, recognise each other's barred lists and share information about those across the regions.

**The Chairperson:**

Pól Callaghan has not arrived yet, but he describes what I am about to outline as the camel's hump-backed bridge test. We have a land boundary with another EU state. Although uniformity of control over the four regions is covered, what consultation have you had with colleagues in the Irish Republic to ensure some uniformity there? If someone who is barred under a strict scheme in Strabane walks across into Lifford, or the other way round, which may be more of a concern, what controls exist to ensure the tracking of potential offenders coming across the border?

**Ms McDaniel:**

Arrangements are currently in place between the PSNI and the Garda Síochána's central vetting

unit. They share information on people who seek work with children and vulnerable adults across the North and South of Ireland. We have also worked fairly closely with colleagues in the relevant Departments in the Republic of Ireland and have impressed upon them what is being put in place in Northern Ireland. We are trying to get them to put similar arrangements in place in the Republic of Ireland. Our arrangements in the North of Ireland are fairly robust; infinitely more robust than those in the Republic of Ireland. If there are difficulties anywhere, it would be in the Republic of Ireland. Our arrangements for checking people when they move North are fairly comprehensive and will be made more so by the implementation of the vetting and barring scheme.

**The Chairperson:**

Will the legislation increase the disparity between the controls in the Republic and those in the four regions of the United Kingdom?

**Ms McDaniel:**

It will increase the disparity but in our favour.

**The Chairperson:**

We are talking about serious situations in which people who have convictions or cautions for serious child abuse move across the border from Lifford to Strabane or continue to live in the Irish Republic but commute, as many people do. Are you content that such people will be picked up under the present arrangements and will be more likely to be picked up under this legislative consent motion?

**Ms McDaniel:**

If they move to the North of Ireland to work with children or vulnerable adults, the requirements of the vetting and barring scheme will apply to them. They will, therefore, be required to be checked against the barred list. If they appeared on a barred list, they would be prevented from working with children and vulnerable adults. As part of the vetting and barring scheme arrangements, the PSNI will examine any criminal convictions against them.

**The Chairperson:**

Many people who live in the Republic and have never lived here commute to work as nurses or doctors in Altnagelvin Area Hospital or Daisy Hill Hospital, for instance. Would any information

on them also be picked up automatically?

**Ms McDaniel:**

Anything in their criminal record that is held in the Republic of Ireland should be picked up by the PSNI as part of its checking arrangement under the vetting and barring scheme.

**The Chairperson:**

During a recent discussion on this subject, Pól Callaghan raised the issue of soft intelligence. There are different levels of information: outright convictions, which, of course, will show up everywhere; people who have been released under caution; and soft intelligence, which the police receive as unverifiable information that a certain individual has behavioural problems. At what level will that be picked up under the new regulations? When will the alarm bells start to ring?

**Ms McDaniel:**

The arrangements for checks against disclosure information, criminal conviction information and soft intelligence are put in place under Part 5 of the Police Act. That is the responsibility of the Department of Justice. As far as I understand it, there are no arrangements in place to check against soft intelligence that might be held by the gardaí on someone who lives in the South and seeks work in the North. However, that sits outside the vetting and barring scheme.

**The Chairperson:**

Is soft intelligence in a UK context not considered in the vetting and barring scheme?

**Ms McDaniel:**

Soft intelligence within the UK is considered as part of the vetting and barring scheme. Under the scheme, an enhanced disclosure certificate will be issued for anybody who applies for work with children and vulnerable adults. That includes a check against criminal conviction information, any soft intelligence and a check against the barred lists established by the vetting and barring scheme. That will apply to anybody in any part of the UK who comes to work in Northern Ireland. The PSNI and AccessNI have arrangements in place with other disclosure bodies and police services across the UK, so that that information is checked when people come here to work with children or vulnerable adults.

My point is that a check is also carried out against criminal conviction information held in the

Republic of Ireland, but there would be no check against any soft intelligence held there.

**The Chairperson:**

Take, for instance, an individual who has been interviewed repeatedly and perhaps received the odd warning but has nothing on his or her criminal record. That information would be picked up on someone coming to Northern Ireland from the UK, but not on someone coming from the Republic.

**Ms McDaniel:**

That soft intelligence information would not be picked up when someone crosses the border to work here.

**The Chairperson:**

Presumably, the same applies if the person is Lithuanian, Polish or Czech, in that only something concrete could be flagged up.

**Ms McDaniel:**

Yes. That is one issue that emerged from the review of the vetting and barring scheme. The checking against barred lists, criminal convictions and soft intelligence is only one way of safeguarding children and vulnerable adults. The Department is clear that the vetting and barring scheme sits within the context of a much wider safeguarding agenda. That extends to taking up references, and so on, for people who come to work with children and vulnerable adults. It provides one safeguarding mechanism, but others can and should be applied when people bring individuals to work with children and young people.

**The Chairperson:**

All of those issues emerged from the Huntley case in Soham, when, in fact, intelligence was not even shared between counties in England. Presumably, the new legislation means that information will move between the four UK jurisdictions. Under the new legislation, could the fact that policing is now devolved here prevent a free flow of information throughout the four jurisdictions?

**Ms McDaniel:**

That was one reason why we created a central barring body, which is currently the Independent



Safeguarding Authority. It will work hand in glove with Disclosure Scotland. The whole point of establishing a central body was to gather any information held by any agency. It can be information passed to it by employers, a professional regulator, an inspection body from throughout the UK or by health and social care trusts in the course of their child protection work. All of that information is passed to the ISA, and it holds that information. If the ISA needs to act on that information, it will do so. The ISA's action might lead to an individual's being included on a barred list. The whole point of setting up the ISA in the first place was to deal with issues that emerged from the Soham inquiry, which related to people having information but not sharing it. Indeed, until information is pooled and considered in one place, the significance of that information may not be fully understood.

**The Chairperson:**

This is just an aside, rather than a question: if you look at the revelations that emerged from the Ryan report in the Republic and other similar investigations, the soft intelligence on clerical sex abuse was, in some cases, enormous. However, there was never an actual conviction. Therefore, someone could have been moved around between churches or parishes of any denomination because problems had arisen, and the police might have been aware of that. However, in the absence of someone going before a court and being convicted, that information would not show up when the person moved, as people do between dioceses in the Republic and Northern Ireland all the time. Are you saying that that loophole still exists?

**Ms McDaniel:**

The scheme requires certain people to refer information to the ISA. Therefore, if an employer was to remove somebody from work because he or she had done something harmful in the workplace, that information would be referred to the ISA. The legislation also allows anybody to refer information to the ISA. That is the point that I am making. Information may be referred to the ISA, and it may not act on that information at that point in time. If, over time, the ISA gathers more information on an individual from a number of different sources, that may lead it to make a barring decision.

**Mrs O'Neill:**

I think, Chair, that you have covered most of the points that I wanted to raise.

Eilís, you mentioned that, under the review, some definitions that relate to regulated activity were changed. Did you say that some people or activities were removed?

**Ms McDaniel:**

Quite a few activities were removed. For example, supervised volunteering will now not be within the scope of the scheme. Also, some work with 16- and 17-year-olds has been removed from the definition of regulated activity as it applies to children and young people. However, that does not extend to children's homes, fostering, or, indeed, to the provision of health and personal care to 16- and 17-year-olds. People who are involved in those types of activities and work in those places will continue to come within the scope of the scheme.

The Department has a particular concern, which is shared by, for example, the Minister of Justice, about the policy as it relates to work with 16- and 17-year-olds, and we are considering that. We have the scope, as the Departmental Solicitor's Office has advised, to apply policies slightly differently in Northern Ireland and to reflect that in the legislation. Therefore, although England and Wales may decide that they want to exclude those who work with 16- and 17-year-olds in certain activities — I emphasise that it is only certain activities — Northern Ireland may decide, with Ministers' agreement, that those activities would be brought within the scope of the vetting and barring scheme in Northern Ireland.

**Mrs O'Neill:**

Perhaps you would keep us informed about that. That issue stood as one about which we need to be mindful.

**Dr Deeny:**

This measure is welcome because we must protect our young children and vulnerable adults.

Many more people are coming here to work. Does the ISA have the ability to check someone's details with Interpol, for example? If someone comes to live here from outside these islands, say, from another European country, or someone returns to live here after living for 20 years in America, what checks can be carried out?

I am also thinking about the benefit of such checks to those individuals. If people who apply for jobs that involve working with children have a completely clear record, they will want that to

be made clear. If a criminality check cannot be carried out, I imagine that the applicant would be turned down for the job. What avenues are open to you for carrying out checks on people who come to work here, given that many come from eastern Europe and from across the Atlantic?

**Ms McDaniel:**

No formal mechanisms exist for carrying out checks, against, for example, criminal records, on people who come from elsewhere to work in Northern Ireland. A wider Home Office project is trying to put in place arrangements for the sharing of criminal conviction information to carry out checks on those who seek work with children or vulnerable adults. That is a bigger project and will probably take some time to put in place.

Difficulties exist with how other countries hold their criminal conviction information, with some convictions being removed after certain periods, et cetera. So the issue is not simply one of sharing that information. We need to look at the rules on how countries hold criminal conviction information and how they deal with that over time. That is part of a wider Home Office project.

**Dr Deeny:**

Does Interpol have a role in that?

**Ms McDaniel:**

There are no arrangements between the ISA and Interpol, if that is what you are asking.

**The Chairperson:**

There are no further questions. I thank you very much for your clear evidence. Nobody else seems to have any concerns, so it looks as though it will be smooth sailing on this issue. Are members content for the Department to proceed with preparing the legislative consent motion?

*Members indicated assent.*