

NORTHERN IRELAND – SEXUAL OFFENCES BRIEFING

September 2006

The Government is proposing to liberalise the laws on sexual offences in Northern Ireland. **Please consider submitting your own response to the consultation before the end of Friday 13 October.**

A consultative document on sexual offences produced by the Northern Ireland Office contains some proposals that we welcome:

- An automatic charge of rape for sexual activity with a child under 13.¹
- The widening of the scope of the age of consent law to cover sexual activity which falls short of actual sexual intercourse.² This recognises the nature of abuse from which children need protection.
- The broadening of familial sexual abuse covers homosexual as well as heterosexual incest, and abuse by a step-parent or co-habiting partner of a parent.³ However, we see no need to rename incest as ‘familial abuse’.⁴
- New categories of abuse of trust to protect those who are vulnerable as a result of a mental disorder.⁵

While these are positive steps, there are other parts of the consultation document that are very worrying:

1) Lowering the age of consent from 17 to 16

The age of consent in Northern Ireland will be lowered from 17 to 16 for both heterosexual and homosexual activity.⁶ Any lowering of the age of consent is a major concern. However, of even greater concern are the suggested sweeping changes relating to sexual activity between children. (*Consultation point 16*)

2) Legalising teenage sex

- Under the plans children aged 13 or above can have sex with anyone up to 3 years older than them.⁷ This is nothing short of legalising teenage sex. It sends out a message to 13-year-olds that having sex at their age is perfectly normal. It would allow a 16-year-old boy to have sex with a 13-year-old girl or an 18-year-old man to commit buggery with a 15-year-old boy.
- The key objection is that older more manipulative young people or adults could coerce children 3 years younger and that that child would have to go in the witness box in court to prove they didn't consent. The protection of the current law is that no child is put in the witness box over the issue of consent since sexual activity under the age of consent is always illegal. This fundamental principle of the law will be scrapped.

The consultation document claims that “worst case” scenarios would only be legal where the conduct was “fully consensual and there was no evidence of inducement, threats or deception.”⁸ This seems to reject the whole concept of an age of consent offence for children over the age of 13. It surely underestimates the degree to which a younger party may be manipulated by someone three years older. The dangers of peer pressure in this area cannot be overstated either.

The above scenarios are not even worst case. The changes would apply equally to homosexual activity, and so an emotionally and physically mature 18-year-old boy and immature 15-year-old boy could have anal intercourse. Between two children aged 16 or under, the age of consent for even anal sex would be lowered to 13.

¹ *Reforming the Law on Sexual Offences in Northern Ireland: A Consultative Document, Volume 2*, Northern Ireland Office, July 2006, pages 40-41, para. 3.7.20

² *Ibid*, page 32, paras 3.5.3 and 3.5.5 and page 37, para. 3.7.6; see definition of “sexual” activity in Sexual Offences Act 2003, section 78

³ *Ibid*, page 58, para. 5.6.3

⁴ *Ibid*, page 59, para. 5.7, question 30

⁵ *Ibid*, page 53, paras 4.6.3 and 4.6.4, and page 54, question 27

⁶ *Ibid*, page 38, para. 3.7.9 and page 39, para. 3.7.13

⁷ *Ibid*, page 46, paras 3.7.39 and 3.7.40

⁸ *Ibid*, page 47, paras 3.7.45 and 3.7.47

Undermining the age of consent laws between children is particularly serious in the light of evidence that a considerable amount of child abuse is carried out by young people. According to Home Office research, adolescents commit up to a third of all sex offences and many of the victims are children.⁹ An age of consent law protects children because it deems them incapable of fully consenting to sexual activity, which is therefore unlawful without consent being at issue in a trial. By allowing 13-year-olds to engage in consensual sexual activity in certain circumstances, the Government creates the possibility that such children could be forced into the witness box to be cross-examined.

(Consultation points 15 and 20)

3) Introducing 'mini-brothels'

At present, brothels are illegal. The consultation document suggests legalising small brothels of two or three prostitutes "in the interests of safety."¹⁰ But brothels are never acceptable. The Association of Chief Police Officers is opposed to legalised brothels, stating "[licensed brothels] continue to permit the abuse and exploitation of women."¹¹ Furthermore, allowing legalised brothels would escalate prostitution. In the four years following the legalisation of brothels in Sydney, Australia, in 1995, the number of brothels more than tripled.¹² Australia also shows how the existence of legal brothels does not reduce the problem of street prostitution.¹³ They have, however, been linked to high levels of child abuse through prostitution and increased trafficking of women.¹⁴

(Consultation point 53)

4) Allowing sexual activity in a public lavatory

It is currently a specific offence to engage in sexual activity in a public toilet.¹⁵ The consultation document proposes replacing this law with a public order or nuisance offence.¹⁶ This change would create massive loopholes. This effectively legalises homosexual activity in public lavatories. Sexual liaisons in lavatories, known as 'cottaging', are part of homosexual culture particularly, and have been reported to be on the rise in the Province.¹⁷ One shopping centre increased its security measures earlier this year after press reports that its toilets were being used for gay sex sessions.¹⁸ In this context, it is unthinkable to consider downgrading the very criminal offence that prohibits such conduct. Parents should be able to feel safe about sending their children into public toilets, and indeed nobody should have to see or hear any kind of sexual activity when using the facilities for their intended purpose.

(Consultation point 47)

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The consultation papers can be viewed at
http://www.nio.gov.uk/reforming_the_law_on_sexual_offences_in_northern_ireland_consultative_document_-_volume_1.pdf and
http://www.nio.gov.uk/reforming_the_law_on_sexual_offences_in_northern_ireland_consultative_document_-_volume_2.pdf

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⁹ Grubin, D, *Sex Offending Against Children: Understanding the Risk*, Home Office, 1998, page v

¹⁰ *Reforming the Law on Sexual Offences in Northern Ireland: A Consultative Document, Volume 2*, Op cit, page 78, para. 8.6.16

¹¹ Association of Chief Police Officers, Press Release, *ACPO Respond to Home Office Consultation Paper on Prostitution*, 16 July 2004

¹² *The Sydney Morning Herald*, 31 August 1999

¹³ *The Age*, 2 March 1999 (Australian newspaper affiliated with the *Sydney Morning Herald*)

¹⁴ *Paying the Price: A Consultation Paper on Prostitution*, Home Office, July 2004, page 85, para. 9.19

¹⁵ Sexual Offences Act 2003, Section 71

¹⁶ *Reforming the Law on Sexual Offences in Northern Ireland: A Consultative Document, Volume 2*, Op cit, page 75, para. 8.5.11

¹⁷ *Daily Mirror*, 22 August 2006

¹⁸ *People*, 28 May 2006 and *People*, 4 June 2006