



Consent to serious harm for sexual gratification: not a defence.

A public consultation

**Department of Justice
November 2020**

Ministerial Foreword

In its June 2019 inspection report “*No Excuse: Public Protection Inspection II: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*”, Criminal Justice Inspection Northern Ireland (CJINI) recommended that the Department of Justice should review how potential inadequacies in current legislation regarding the act of choking or strangulation by defendants could be addressed.

In light of this report I commissioned a full review to identify and address any inadequacies in the current legislation. Work on the review is underway and I intend to issue a public consultation on its findings early in 2021.

I decided to widen the review to include *consent to serious harm for sexual gratification not being a defence*, following an amendment to the Domestic Abuse Bill in Westminster, and I gave this discrete aspect of the review priority.

While the law on this defence is progressing in England and Wales, Northern Ireland can continue to rely on the case law on such consent and victims should not be significantly disadvantaged. However, a similar level of certainty in the law is desirable.

This consultation focuses on the need for legislation in the area of consent to serious harm for sexual gratification. The aim is to give readers some insight into the issue and to seek views on the way forward. It does not question the rationale behind individual prosecution or sentencing decisions, nor does it otherwise undermine the independence of the Public Prosecution Service or the judiciary.

In developing the consultation the Review Team has engaged with key stakeholders and researched practices in other jurisdictions. The consultation questions are designed to elicit your comments and views.

I encourage those with an interest to respond to this consultation and I look forward to considering those responses in making decisions on the way forward.

Naomi Long, MLA

Justice Minister