

# **Oral Ministerial Statement: Update on Department's Review of 'Charlotte's Law'**

## **Introduction**

The Assembly debated a motion in September 2020 to have legislation similar to 'Helen's Law' introduced in Northern Ireland, inspired by the campaign by Charlotte Murray's family.

Responding to that debate, I committed to give careful consideration to the need for change, and if change was appropriate, determine how this could best be tailored for Northern Ireland.

My statement today is an opportunity for Members to hear the outcome of that review, and my planned next steps.

## **Background**

Members will recall that Charlotte went missing in October 2012, and that, despite her body never having been found, her former partner, John Miller, was convicted of her murder in October 2019.

It is impossible to imagine what a devastating impact her death, and subsequently not knowing what happened to Charlotte or where her body lies, must have on her family.

It is greatly to their credit that, following his sentencing in 2020, Charlotte's family launched a campaign to have 'Charlotte's Law' introduced in Northern Ireland.

Her family has been joined in its campaign by the Dorrian family, who continue to campaign to find Lisa and get justice for her.

Lisa Dorrian disappeared on 28 February 2005, after a party at a caravan park in Ballyhalbert. Despite offers of rewards and numerous appeals for information, her body has never been found; and, to date, no one has been prosecuted in connection with her disappearance

## **Helen's Law**

Having followed the long and determined journey of Helen McCourt's mother in England, which eventually resulted in the introduction of the Prisoners (Disclosure of Information About Victims) Act 2020, or 'Helen's Law', the families here called for similar legislation to be brought forward in this jurisdiction.

Helen's Law is aimed at encouraging the disclosure of the location of victims' remains in 'no body' cases. It does this by placing a requirement on the Parole Board to consider the prisoner's failure to provide information. This failure then becomes part of the deliberations on whether the prisoner is suitable for release on licence at the end of the life sentence tariff period.

This was a bitter-sweet win for Helen's family, as her murderer was released from prison shortly before the new law came into force.

However, their campaign was not in vain. While it was too late to help in Helen's case, it was not long before the new provisions were used. In October 2021 the media reported two separate cases where Helen's Law had played a part in the parole decision to refuse prisoners' release.

## **Department's Review**

My Department has completed a thorough review of the position in Northern Ireland, engaging with victims' families and those agencies and bodies involved at every stage of the criminal justice process.

We have looked at potential reasons for non-disclosure and we looked in detail at every opportunity where disclosure could be encouraged.

We have identified a range of creative options, unique to Northern Ireland, which build upon and go further than the provisions of Helen's Law.

A report detailing these has been produced, highlighting the potential for encouraging disclosure at the investigation and prosecution stages; at conviction and in the pre-sentence and sentencing stages; early post-conviction; during the tariff period; and, finally, during the parole process.

The report, which is detailed and informative, is available from the Assembly library.

Its proposals include: a number of administrative measures, some of which build on existing arrangements, others introducing a new approach; and a range of potential legislative measures, upon which I intend to consult.

**Starting with the investigation**, from the outset, I believe there is value in unequivocally making the suspect aware of the importance to victims' families of disclosure; and of the potential consequences for the suspect of failing to disclose vital information detailing what happened to the victim and the location of their remains. I have agreed that suspects should be given a written notice making this clear.

The importance and benefits of effective communication between the Family Liaison Officer and victims' families were highlighted during the review. I believe a strong focus on this relationship must be maintained, so that all relevant information is shared between the Police and the families, and is fully considered.

**At the prosecution stage**, contact between the prosecution and the defendant is normally limited. However, the prosecution would normally make the point to the Judge about the non-disclosure being a relevant issue in sentencing.

The review considered whether suspects should be charged with offences in addition to the murder charge, and dependant upon a conviction for murder – offences such as concealment of a body or preventing a burial. Such an approach was not recommended as, in practice, a life sentence must be imposed where a murder charge is sustained and further concurrent sanctions would consequently have no effect.

The importance of the PPS helping victims to navigate what can be an unfamiliar and daunting prosecution process was recognised. I support this work and the PPS's continuing investment in it.

The next opportunity to persuade the defendant to make a disclosure is at the **point of conviction**. At this stage I consider that a clear indication given by the Court to defence Counsel on the need to address the failure to disclose could focus the defendant's mind on disclosure. My officials will be exploring the scope for this with the Lady Chief Justice's Office.

**After conviction a pre-sentence report** is compiled by the probation officer assigned to the case, based on interviews with the convicted

person. This is a further opportunity to impress upon the offender the likely impact of non-disclosure on the sentence the Court will impose.

**Sentencing** for murder is a complex process. A life sentence must be imposed, together with a tariff, being the minimum period the prisoner must spend in prison before he or she can be considered for release on licence.

The tariff is decided after choosing the correct 'starting point' for the particular category of murder, and adjusting this to take account of aggravating and mitigating factors.

I propose to consult on the current approach to sentencing for 'no body' murders.

The consultation will also explore the possibility of an **early post sentence review of tariff**, for those cases where a prisoner may wish to reconsider his or her position early in the sentence.

The consultation will also seek views on the application of any such new arrangements to existing prisoners, so that this measure would be meaningful to Charlotte's family.

I also believe there are opportunities for working with prisoners **during their sentence**.

In this regard I want to explore an earlier focus on rehabilitation work, and the potential for 3<sup>rd</sup> party intermediaries to engage with prisoners to encourage disclosure.

The important facility provided by the Crimestoppers confidential telephone service was highlighted during the review.

I support the ongoing programme of prison improvements including the provision of in-cell telephony which may further reduce reluctance to provide information and may result in more reports being made to Crimestoppers.

As the prisoner **approaches the parole stage**, I believe the probation officer has another chance to encourage them to think about the failure to disclose, and should be required to explain the possible impact of continuing non-disclosure on the parole decision.

We then come to **the parole stage**, the stage where Helen's Law activates in England and Wales, I propose to consult on the introduction of provisions similar to Helen's Law.

In addition I believe that introducing a requirement on the Parole Commissioners to specifically address how the non-disclosure impacts on the risk the prisoner continues to pose would have value, and I propose to seek the public's views on such a requirement.

**Finally**, the review recognised the important work being taken forward elsewhere in the Department to assist and support victims and witnesses, and I would encourage victims and witnesses to continue to engage with us in these programmes.

### **Consultation and next steps**

My intention is to launch the public consultation in the week beginning 29 November and to run it for an extended period of 10 weeks, to take account of the Christmas period.

The Department will be happy to engage with consultees during the consultation period, giving respondents the opportunity to speak to or

otherwise communicate with the Review Team and discuss the best way forward.

A summary of responses and way forward report will be prepared with a view to developing any recommended legislation for introduction early in the next mandate. The planned Miscellaneous Provisions Bill or the Sentencing Bill have been identified as potential legislative vehicles.

### **The families**

Before I finish, I want to pay tribute to the Murray and the Dorrian families. I have been struck by the dignity and patience they have shown throughout my Department's review and, having met with them on several occasions, I want to express my gratitude for their ongoing engagement.

Their input helped shape the recommendations and gave me a better understanding of the issues and concerns we need to address.

I hope my statement today will open the conversation again and provide further opportunities for the families to appeal to anyone who has any information to help locate the remains of their loved ones to come forward.