

**FROM: AMANDA PATTERSON  
CRIMINAL POLICY & LEGISLATION DIVISION  
ACCESS TO JUSTICE DIRECTORATE  
18 July 2016**

See distribution below

1. Brian Grzymek [Agreed. It is unfortunate that the DOTT SPAD blocked the issue of a press release on this. BG 19/7]
2. Claire Sugden

**ESTABLISHMENT OF THE WORKING GROUP ON FATAL FETAL ABNORMALITY**

<b>Issue:</b>	Informing the Justice Committee that a working group has been established. Although we thought it would also be advisable to publicly announce the establishment of the group, the Department of Health disagrees with this approach.
<b>Timing:</b>	Urgent. Letter to Justice Committee to issue by 20 July.
<b>Presentational Issues:</b>	There may well be criticism that the group has been established without any formal announcement.
<b>FOI Implications:</b>	Policy development.
<b>Financial Implications:</b>	N/A
<b>Legal implications:</b>	N/A
<b>Legislative Implications:</b>	N/A
<b>Justice Comm. Referral:</b>	A draft letter to the Committee is attached.
<b>Executive Referral:</b>	Health Minister will inform the Executive.
<b>Recommendation:</b>	That you approve: <ul style="list-style-type: none"><li>• the draft DALO letter for issue to the Justice Committee</li></ul>

**Detail**

The inter-departmental working group on fatal fetal abnormality held its first meeting on 14 July. We suggested, and Health members on the group agreed, that, subject to the approval of both Ministers, it would be sensible to announce the establishment of the group by way of a joint press release. However, we have since been informed that the Health

SPAD has advised against this.

2. A written Assembly Question, tabled by Catherine Seeley MLA and addressed to both DOJ and the Department of Health (DOH), asked for an update on the working group. While not due for answer until 20 July, the DOH response has already issued (copy attached at Annex A). A draft response to the DOJ question has been forwarded for your approval.

3. While the AQW response could be considered as an announcement of the establishment of the group, given that the Assembly is in summer recess, it is likely that the information may not become widely known, although it has already been picked up by S 40(2) of CARE, (Christian Action Research and Education). He has already written to you with a number of follow-up questions regarding membership etc. The same letter has also gone to the Health Minister <sup>out of scope.</sup> In light of the public and media interest in the issue, and the previous lack of clarity on the establishment of a working group, a more formal and factual announcement may have helped to counter any suggestion of a lack of openness, and prevented further FOI requests.

4. It is likely that a wide range of interested parties, particularly lobby groups, will seek to engage with the working group. However, the aim is to limit engagement to professional medical bodies, a small number of other relevant organisations and women who have been directly affected by fatal fetal abnormalities. A public announcement would have set this out. The issues in relation to the law have already been raised by many groups in the previous consultation by the Department and this will feed into policy development. We do not need to revisit views already expressed and widely known.

5. The Department of Health has already advised its Minister to inform the Health Committee and the Executive of the establishment and first meeting of the group. It is therefore recommended, as a matter of courtesy, that the Justice Committee is also informed. A draft letter is attached for your approval.

## Recommendation

6. I recommend that you:

- note the DH answer to the AQW at annex A;
- approve the draft letter to the Justice Committee at Annex B.

**AMANDA PATTERSON**  
**Head of Criminal Policy Branch**

S. 40

cc  
David Lavery  
Brian Grzymek  
Fionnuala Campbell  
Tim Logan

S. 38 / S. 40

Alison Grundle

S. 38 / S. 40

**THE DEPARTMENT OF HEALTH**

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**MICHELLE O'NEILL MLA**  
Castle Buildings, Ballymiscaw,  
Stormont, Belfast BT4 3SQ

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**Catherine Seeley MLA**  
Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont

**DATE 05.07.16**  
**AQW 2280 /16-21**

**Catherine Seeley asked:**

To ask the Minister of Health for an update on the working group on fatal foetal abnormalities

**ANSWER**

With the agreement of the Minister of Justice, a Working Group which will consider the issue of fatal fetal abnormality has now been established. The Group will meet on 14 July 2016 and, in accordance with its Terms of Reference, the Group will report to me and the Justice Minister by September 2016.

**MICHELLE O'NEILL MLA**

**DRAFT LETTER FOR DALO SIGNATURE**

Christine Darrah  
Clerk to the Committee for Justice  
Northern Ireland Assembly  
Room 242  
Parliament Buildings  
Belfast  
BT4 3XX

July 2016

Dear Christine,

Committee members will be aware that, in the previous mandate, the DUP leader proposed the establishment of a working group to look at the issue of abortion in cases of fatal fetal abnormality. The then Health Minister was asked to establish the group and the Department of Justice agreed to become a member on an inter-Departmental basis. However, the group was not established prior to the dissolution of the previous Assembly.

The Minister of Health, with the agreement of the Justice Minister, has now established an inter-Departmental working group to consider issues relating to cases of fatal fetal abnormality. The group, chaired by the Chief Medical Officer, held its first meeting on 14 July and will report to both Ministers by the end of September 2016.

Membership of the group and the Terms of Reference are attached.

I should be grateful if you would bring this letter to the attention of Committee members.

Tim Logan  
DALO

## **WORKING GROUP ON FATAL FETAL ABNORMALITY**

### **TERMS OF REFERENCE**

#### The Group's objective will be:

- To consider issues relating to cases of fatal fetal abnormality, including matters addressed in the previous consultation by the Department of Justice, and provide a report to the Health and Justice Ministers, making recommendations, including on potential legislative change for termination of pregnancy as necessary. The Health and Justice Ministers will, in turn, submit proposals to the Executive for approval.

#### Actions will include:

- Identifying how best to engage with, and obtain input from, women who have experienced fatal fetal abnormality and the health and social care professionals who have treated them;
- Scoping the current health and social care provision for women in Northern Ireland who have had to deal or are dealing with a diagnosis of fatal fetal abnormality;
- Identifying any gaps in provision and how they can be closed;
- Engaging with appropriate Royal Colleges and other relevant organisations that the group considers can contribute to its work; and
- Determining how clinical practice and medical capability can best be reflected by appropriate terminology and definitions which would offer legislative clarity for

any change to the law on abortion.

### **Group Members**

- Chief Medical Officer, (Chair)
- Chief Nursing Officer
- Chief Social Services Officer
- Head of Secondary Care Directorate, Department of Health
- Deputy Director, Access to Justice Directorate, Department of Justice
- Head of Criminal Policy Branch, Access to Justice Directorate, DOJ
- Representative of Departmental Solicitor's Office