

The Northern Ireland Protocol

There is a Statutory Instrument on the order paper for the Commons to debate and approve on Wednesday concerning the so called Stormont brake. This is putting the cart before the horse. Parliament first needs to have a full debate on the draft Agreement. I reproduced yesterday some of the questions the European Scrutiny Committee poses over this complex set of changes to our constitution. I have set out before on this site my own concerns about what has been agreed.

The government has still to tell us which EU laws will apply in Northern Ireland, how wide ranging the powers of the European Court of Justice will be, what limits are placed on our ability to impose VAT and Excise taxes, why EU law on many items applies to trade between GB and NI and why it applies to factories and farms in the province not exporting to the EU. They have not yet released the forms traders will need to fill in to send goods from GB to NI or what are the terms of the trusted trader scheme which shippers will need to join and follow.

The brake itself is a burdensome arrangement. If two parties and the requisite number of NI Assembly members want to apply it, the UK government then has to decide if the criteria are met to allow its use and if they wish to use it, bearing in mind the ability of the EU to take retaliatory action. I can imagine UK government lawyers and officials urging caution any time some politicians wished to use the brake. When the EU built up the number of areas that could proceed by majority voting rather than unanimity in the EU we were always told there was the Luxembourg Compromise. This was a self styled emergency brake which we could apply to an item we disagreed with which had gained the necessary majority to become law. The UK never used it and in due course it was deemed to no longer exist. When I wanted to use it as the UK's single market Minister I was blocked from doing so. If we had enjoyed an effective legislative brake on laws we did not like we would probably still be in the EU today. Instead the railroading of laws onto us was one of the main reasons we voted to leave.

The Protocol should not be embedded into UK and international law. The Agreement looks as if it leaves too many EU laws applying to NI, still places obstacles in the way of GB to NI internal trade and does not allow us either a veto over laws nor a unilateral way out of this worrying Agreement.

Central Banks lurch from inflationary

policy to banking squeeze

Readers of this site will know I was critical of the Bank of England, Federal Reserve Board in the USA and the EU's ECB for continuing money printing in 2021 well into recovery. Coupled with interest rates at zero it was bound to be very inflationary. So it proved. China and Japan did not do this and kept inflation down to around 2% despite importing a lot of dear energy.

They will also know that last year whilst agreeing with rises in rates I warned against Quantitative tightening, selling government bonds at ever larger losses to tighten money yet more. It was this policy announced by the Bank of England just before the Kwarteng mini budget that drove bonds down. The Bank of England had to reverse its policy the following week and buy up some bonds to restore stability. They showed they controlled the prices of the bonds, letting them fall too far then rallying them sharply. It was the impact of the falling bonds on pension funds including the Bank's own that spooked them.

I also thought the Fed was overdoing the bond sales. Last week two US banks collapsed, and a third sought substantial financial help. The share prices of a few US banks show investors are worrying about them. Losses on government bonds were part of the problem at Silicon Valley Bank when it went down. The Fed had to announce a large line of credit for banks generally and pump liquidity into the markets to avoid further bank runs, reversing some of the excessive tightness of money brought on by bond sales. Just like the Bank of England with its pensions problems.

The ECB has only just started Quantitative tightening and says it has no bank troubles in its area. Credit Suisse was just over the border and said to be a one off. Nonetheless a few EU commercial banks have suffered sharp falls in share prices over the last week so the ECB should not be complacent. The main UK banks were much strengthened after 2009 and are not being fingered in the markets.

So why do these Central banks lurch from obviously inflationary policies to clearly over tight ones that threaten pension funds or banks in their areas? They ignore the growth rates of money and credit, failing to see that too much money usually brings on inflation and too little brings company and weak bank collapses.

The Central banks now share a dilemma. Carry on tightening and they could cause another crash. Relax too much and they could reignite inflation. That is why they should aim for a steady moderate increase in money and credit to avoid inflationary and deflationary shocks. The Bank of England should not carry on selling bonds at big losses. Commercial banks will now be tougher over new loans given the fears that stalk the markets.

The ECB which was very slow to try to curb the inflation it had encouraged needs to learn from the Bank of England's bitter experience with the pension funds and from the USA losing a couple of banks.

The Protocol. Parliament needs some answers

I reproduce below the worries the European Scrutiny Committee has concerning the Northern Ireland Protocol, which are similar to the issues I have raised with the government:

Areas of concern

22. Our invitation to the Prime Minister remains open and we can flexibly accommodate

his appearance over the course of the coming week. We have identified a number of

significant areas of concern about which the House should be further informed. These

include:

- the amount and extent of EU law that would remain applicable in Northern Ireland under the Windsor Framework;
- the operation of the 'Stormont Brake' and whether it would act effectively as a

full stop on new EU law which amends or replaces EU law applicable in Northern

Ireland, or whether it merely amounts to the insertion of an additional process

into the current schema, as created by the Northern Ireland Protocol;

- the operation of 'red' and 'green' lanes and the practical implications of the

Windsor Framework for the people and businesses of Northern Ireland and the extent of CJEU jurisdiction over these;

- how, if at all, the Windsor Framework alters the jurisdiction of the CJEU over

the entirety of the Northern Ireland Protocol, including arrangements for UK/EU arbitration which engage questions on the application and interpretation of

EU law;

- the placing of goods on the Northern Ireland market made to UK, not EU, standards;

- VAT arrangements; and

- how the Windsor Framework deals with the granting of UK State aid.

23. We wrote to the Prime Minister on the first point on 2 March requesting a definitive

list of the EU rules that would remain applicable in Northern Ireland under the terms of

the Windsor Framework.¹⁴ This letter was sent on the back of a commitment the Prime

Minister made to one of our members, Rt Hon. David Jones MP, on 27 February.¹⁵

24. We again urgently request a definitive list of the EU rules that would remain applicable in Northern Ireland under the terms of the Windsor Framework.
25. We ask that the Government expedite its response to this Report owing to the legal and political significance of the issues it raises.

Radio interview with BBC Radio Berkshire's Phil Kennedy – Spring budget

Radio interview with BBC Radio Berkshire's Phil Kennedy, you can find it below between:

3:11:35 – 3:16:02

<https://www.bbc.co.uk/sounds/play/p0f4flz6>

We discussed childcare support for those in Wokingham, business taxation and the need to go further on tax cuts

Domestic Homicide Sentencing Review

I have received the letter, reprinted below, from the Secretary of State regarding the Domestic Homicide Sentencing Review. In response to concerns about sentencing for perpetrators of domestic homicide, the Government commissioned an independent expert, Clare Wade KC, to review sentencing in domestic homicide cases to establish whether current law and sentencing guidelines were fit for purpose and identify options for reform. These concerns were brought to light by the family of Ellie Gould, a young woman, who was tragically murdered by her ex boyfriend. Both Ellie's parents, and her aunt, who is my constituent, campaigned tirelessly for changes to sentencing.

Having raised the concerns of Ellie's aunt with the Secretary of State for Justice, I am pleased that the Government has taken on onboard the recommendations made by Clare Wade KC and have published the measures they are taking.

17 March 2023

Dear Colleague,

DOMESTIC HOMICIDE SENTENCING REVIEW

Tackling violence against women and girls is a priority for this Government, and we are committed to protecting victims and ensuring that the most serious offenders spend longer in prison. We are working tirelessly to deliver this commitment, including taking decisive steps to increase the volume of rape prosecutions, which we are on track to deliver through our Rape Review Action Plan, quadrupling victims funding from £41m in 2009/10 and launching a 24/7 rape helpline so victims have the support they need. As part of this priority, the Government commissioned an independent expert, Clare Wade KC, to review sentencing in domestic homicide cases to establish whether current law and sentencing guidelines are fit for purpose and identify options for reform.

Today, I am publishing Ms Wade KC's Domestic Homicide Sentencing Review (the 'Wade Review') and announcing a package of reforms to ensure sentencing reflects the seriousness of domestic homicides. The published review can be found here: <https://www.gov.uk/guidance/domestic-homicide-sentencing-review>. The Wade Review makes a number of other recommendations and the government's position will be outlined in a full response to be published before the summer recess. The measures announced today demonstrate our commitment to delivering tougher sentences for the perpetrators of these horrific crimes and allow for necessary legislation to be introduced as soon as possible. All recommendations in the review and the measures announced today apply to England and Wales.

We will increase sentences for murderers with a history of controlling or coercive behaviour against the victim.

The Serious Crime Act 2015 introduced the criminal offence of controlling or coercive behaviour. Controlling or coercive behaviour can comprise economic, emotional or psychological abuse, and is a purposeful pattern of behaviour over time. Controlling or coercive behaviour by the perpetrator towards the victim was identified in 51% of the murder cases analysed for this Review, yet the courts were inconsistent in reflecting this in sentencing.

The review recommends that a history of coercive or controlling behaviour should be added to the statutory aggravating factors to murder. We will introduce legislation to make this change as soon as possible. It is absolutely right to ensure abuse before death is properly considered and these serious offenders are kept off our streets for longer.

We will consider further reform by consulting on a 25 year starting point for murders preceded by controlling or coercive behaviour. While the addition of a history of coercive or controlling behaviour as a statutory aggravating factor to murder will be an immediate step to increase sentences, we do not rule out toughening sentences further. We will launch a public consultation this summer seeking views on whether there should be a starting point of 25 years for cases of murder where the perpetrator has controlled or coerced the victim before killing them.

The current sentencing framework recognises the particular seriousness of the illegal possession and use of knives in public with a 25-year starting point for murders where a weapon used has been taken to the scene with intent. It is important that this starting point is maintained and therefore we will not be accepting the recommendation made in the Wade Review to disapply it from domestic cases. However, the changes announced today will ensure that the framework also recognises the particular seriousness of domestic murder, including where a weapon has been used, and this consultation will ensure all reform options have been fully explored.

We will make 'overkill' a statutory aggravating factor in the sentencing framework for murder. Overkill is defined in the Wade Review and wider literature as the use of excessive or gratuitous violence, beyond that necessary to kill. It amounts to violation of the body and causes intense distress to the families of victims. Overkill was identified in 60% of the murder cases analysed for this Review. The Wade Review recommends that overkill should be added to the statutory aggravating factors to murder. This would mean that a judge must consider increasing an offender's minimum custodial term where overkill has occurred.

We will introduce legislation to make this change as soon as possible. This change will ensure the horror of overkill and the anguish it causes families of victims is taken into account when sentencing such cases. While sentencing always depends on the facts of the case and is a matter for our independent courts, this change could see sentences increase by around 2 years or even more in the most serious cases.

Building on our ban of the 'rough sex defence' in the Domestic Abuse Act, we want to see longer sentences for perpetrators of so-called rough sex manslaughter. The government made clear in the Domestic Abuse Act 2021 the 'rough sex defence' is not recognised in law as a person is legally unable to consent to "serious harm". However, there continues to be concern about low sentences in some cases of manslaughter where consent to so-called rough sex is argued. There have been recent cases where offenders have received less than 5 years in prison after killing their partner through rough sexual activity, despite blatant disregard for the victim.

The review recommends manslaughter sentencing guidelines should be amended to consider the offender highly culpable and impose a higher sentence where death occurs during violence alleged to be consensual during a sexual encounter. This could mean a starting point of between 8 and 12 years for sentencing. The production or revision of sentencing guidelines is a matter for the independent Sentencing Council. However, today I will ask the Council, which has a statutory duty to consider my request, to consider revising sentencing guidelines to reflect the recommendation made in the Wade Review. While this is our preferred approach, we will keep legislative options under review to ensure we can deliver reform.

I am grateful to Laura Farris MP, who has championed this issue. These measures build on the pledge from the Prime Minister to drive a zero-tolerance approach to violence against women and girls by ensuring that sentencing delivers justice for the victims and families. Our actions today

show that this government is firmly on the side of victims. I am very grateful to Clare Wade KC for her work on this review. I would also like to pay tribute to Carole Gould and Julie Devey for their tireless campaigning after the tragic murders of their daughters, Ellie Gould and Poppy Devey-Waterhouse.

Yours sincerely,

RT HON DOMINIC RAAB MP