

Members' Room



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10th March 1998

To: Mrs Betty Moxon
Sentencing & Offences Unit
Home Office Room 323
Queen Anne's Gate
London SW1H 9AT

Dear Madam,

CONSULTATION DOCUMENT: VIOLENCE-REFORMING THE OFFENCES
AGAINST THE PERSON ACT

This document is defective in ignoring the question of consent as a defence. This is crucial to stop police persecution of consenting adult sado-masochists, as occurred in the case of R-v-Brown (the "Operation Spanner Case"), which was the subject of an appeal to the European Commission on Human Rights. Paragraph 3.3 refers to the recommendations of the Law Commission. Reference should be made to the evidence it received about this topic. It is illogical for the Law Commission to remain considering this crucial question, while the reform of the law proceeds. (Paragraph 3.22).

The Offences Against the Person Act 1861 codified the law of assault. The new Bill replacing it should, therefore, be comprehensive and contain a definition of a defence of consent along with the other defences in Clause 18. If this is not done, the new law will contain no such defence and thus remain as oppressive as the old to consenting adults who indulge in sado-masochist sexual activities. The law will thereby remain "outmoded and unclear" and the Bill will thus have failed in its purpose (Paragraph 5.1).

Yours faithfully,

Cllr E Goodman