

TWENTY- EIGHT DAYS AND £10 MILLION



**Rights-violating restrictions
on protests in Northern
Ireland**



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Acronyms

B/GFA	Belfast/Good Friday Agreement 1998
CNR	Catholic, Nationalist, Republican
CoM	Council of Europe Committee of Ministers
CSOs	Civil Society Organisations
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
NIO	Northern Ireland Office
NI	Northern Ireland
NIPB	Northern Ireland Policing Board
PONI	Police Ombudsman of Northern Ireland
PSNI	Police Service of Northern Ireland
PUL	Protestant, Unionist, Loyalist
RSI	Rights & Security International
RUC	Royal Ulster Constabulary
SoSNI	Secretary of State for Northern Ireland
UK	United Kingdom of Great Britain and Northern Ireland

Highlights of the report

1

Red tape: Local authorities tell some protesters to buy £10 million worth of insurance cover and protests are often treated as commercial events

2

Gendered impacts: Women activists report specific harms, such as religion-based harassment and assault

3

People in NI must provide 28 days' notice of a march, compared with only 6 days in England and Wales

4

Protesters in some areas have to give 3 months' notice – and they might get turned down

5

Some local authorities have no policy at all on protests on public lands – opening the door to discrimination

6

The policing of protests in NI systematically breaches human rights

7

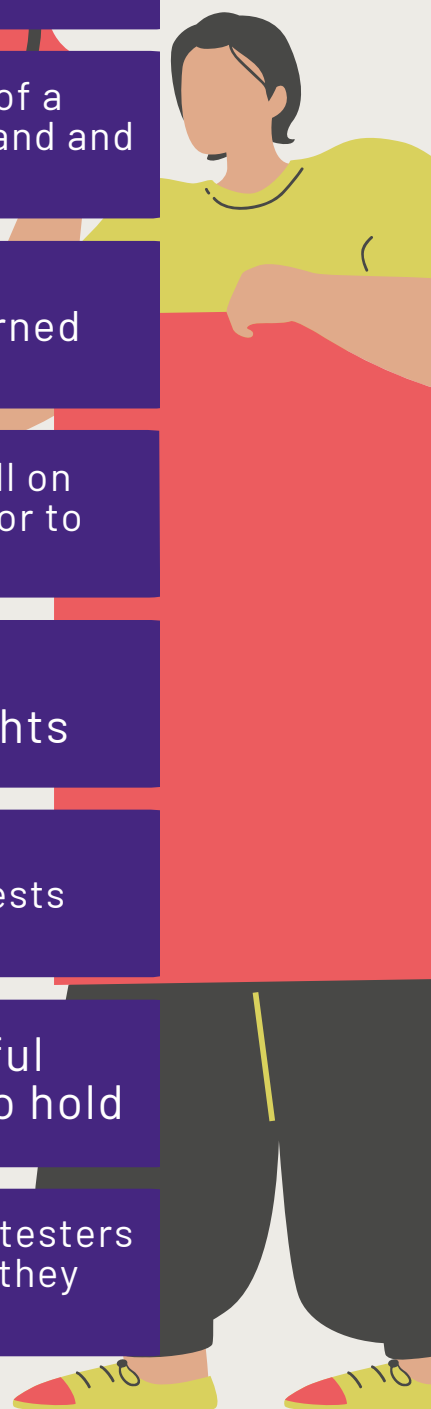
There were 57 complaints to the Police Ombudsman about the policing of NI protests between 2022 and 2025

8

People are avoiding staging peaceful protests they have a human right to hold

9

Laws and policies in NI treat nearly all protesters as if they were sectarian marchers, when they are not.



Executive Summary

- **The policing of protests in Northern Ireland systematically breaches the European Convention on Human Rights**, particularly the Article 11 right to freedom of assembly.
- These breaches are so serious and systemic that we conclude that would-be protesters could, and should, challenge them in court to restore respect for rights.
- The Troubles and the ongoing presence of paramilitary groups in Northern Ireland inappropriately shape how the authorities treat protests: regulations and policing treat a wide range of protest groups as if they were promoting sectarian causes or identities, when they are not.
- The experience of an excessive ‘security’-focused treatment of the right to protest in Northern Ireland, as if all protesters presented a serious threat of public disorder or violence, has a discouraging effect on protests—especially by grassroots groups and small organisations. Our research suggests that people are avoiding staging peaceful protests they have a human right to hold.
- Would-be protesters in Northern Ireland face an intimidating and rights-violating amount of red tape. For example, people organising a moving protest (that is, a march) must notify the Parades Commission or the Police Service of Northern Ireland (PSNI) 28 days in advance unless the Parades Commission (in consultation with the PSNI) deems that it is not ‘reasonably practical’ for them to do so. We did not find any judicial authority that shows clearly what ‘reasonably practical’ means.
- The notification requirements in Northern Ireland are much more onerous than in England and Wales, where, under the Public Order Act 1986 (POA), march or procession organisers must give written notice to the police at least six days before the event.
- We conclude that the notification requirement in Northern Ireland is unnecessary and amounts to a de facto requirement that moving protests must be authorised by the government. Our research suggests that it also has a discouraging (or ‘chilling’) effect on protest rights, which can prevent people from protesting even when they have a human right to do so.
- Additionally, in Northern Ireland, people must pay to protest: local authorities impose insurance requirements that are preventing grassroots groups and individual activists from protesting—sometimes because of the requirement itself, and sometimes because widespread confusion means people pay to avoid a risk of a crackdown.
- At least one local authority also forbids protesters – and anyone else – from ‘enter[ing] into public discussion’, giving speeches, singing songs or playing music on any public land, in what we regard as a blatant violation of free expression rights and, in practice, an open invitation to arbitrary policing. Some local authorities also require up to three months to consider a protester’s application, depending on where they wish to protest.
- Furthermore, responses to our freedom-of-information requests indicate that many local authorities do not have a policy on protests on public land, an absence that pushes protesters toward the procedural burdens and expense of applying for the protest to be held as an ‘event’ – as if it were a music festival or political rally. This categorisation of protests as ‘events’ means that some local authorities require protest organisers hold up to £10 million worth of public liability insurance cover – a task that is almost impossible for small organisations and individual activists. Further, there appears to be a lack of decision-making criteria across some local councils, creating a risk of arbitrariness and discrimination.

Executive Summary

- We have also heard allegations of discriminatory policing when it comes to the policing of protests in Northern Ireland, with other evidence strengthening these concerns. The allegations we heard involved claims of worse treatment of protesters who are female or non-binary, members of minoritised racial groups, or from lower socioeconomic backgrounds. We were not able to prove that the allegations were true; however, we regard the overall tenor of the concerns as consistent enough to suggest a breakdown in trust between protesters for a range of causes and the police who are meant to protect everyone at a protest location from harm. Such a lack of trust, in turn, indicates that the authorities should explore whether systemic bias or officers' own views about – for example – reproductive rights are impacting the policing of protests.
- Our investigation revealed that there were 57 complaints to the Police Ombudsman for NI about protest-related policing between May 2022 and April 2025, with the majority of these complaints coming from men. While there are a range of potential reasons for this gender disparity, we are concerned that men may feel more empowered to complain than women do, or may be more likely to believe that complaining will be effective.
- We heard claims that the police in Northern Ireland (NI) are failing to protect protesters from violence or threats of violence, including gender-based violence.
- Systemic change is required at all levels as per our recommendations below, including:
 - **The UK government** should remove the 28-day notification requirement for moving protests in NI, and therefore the 14-day notification requirement for counter-protests.
 - **The UK government, together with the NI Assembly**, should change the law so as to remove non-sectarian protests from the remit of the Parades Commission, which has a mandate to focus predominantly on
 - ‘sectarian’ parades – that is, parades that celebrate Protestant/unionist/loyalist or Catholic/nationalist/republican identity as such, many of which have been contentious. Such a move will help clarify that protests in NI are not necessarily sectarian even if they are political, and that they do not necessarily pose the same risk to public safety or public order as parades explicitly associated with sectarian identity.
 - **Local authorities in NI** should refrain from direct or indirect overreach on protest rights (for both static and moving protests) via onerous administrative requirements, such as public liability insurance. They should remove any such measures already in existence.
 - **The NI Executive’s Department of Justice and the NI Policing Board** should ensure accountability for any police who violate protest rights or who allegedly commit crimes such as assault during protests. Authorities within the PSNI should ensure that officers are extensively trained on protest and free expression rights, gender justice and non-discrimination. They should also implement all the recommendations in the NI Policing Board’s 5 Year Human Rights Review from 2024, including those from previous reviews which remain works in progress.
- Additionally, we urge international human rights experts to visit NI – as well as the rest of the UK – and address the serious and increasing restrictions on protest rights in the region. For example, we encourage the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association to undertake a country visit to the UK to consider the present state of protest rights (with a special focus on NI) and make recommendations for reform.

Introduction

“ I did not get fined by the PSNI for my presence at the Black Lives Matter protests, but I saw Black and brown people getting fined.¹
-Rainbow Project member ”

“ The police treat us as agitators that are going to kick off, both when we are protesting and counter-protesting. This is despite our record as a non-violent movement.
- Reclaim the Agenda member ”

Imagine that you have just seen a smartphone video of police officers murdering a Black man named George Floyd in the US city of Minneapolis, bringing to a head decades of frustration with police violence against minoritised Black people around the world. Or that your local government continues to fail to implement a law allowing access to abortion services. Or that climate change worries you enough that you want to urge your elected officials to take action.

In much of the rest of the world, you could stage a peaceful protest.

In Northern Ireland, if you wanted to hold a march or other ‘moving protest’, you would have to notify the authorities (seeking their de facto approval), sit on your hands for at least 28 days, and hope the rest of the world hadn’t moved on.

You might also need to scrape together the money for public liability insurance – potentially paying for millions of pounds’ worth of coverage – or pay for an ‘event’ because local councils do not facilitate protests on their land. In other words, you might need to pay to protest.

Protesting peacefully is your human right.

But will you bother?

The violent conflict in NI widely known as ‘the Troubles’ officially came to an end more than 25 years ago, with the signing of the Belfast/Good Friday Agreement (B/GFA) in 1998. For decades, the region had been riven by violence and armed attacks perpetrated by a range of actors, including paramilitary groups associated with the then-majority Protestant/ unionist/ loyalist (PUL) community or then-minority Catholic/ nationalist/ republican (CNR) community, alongside the frequent use of force by state actors in the form of the local police (at the time, the Royal Ulster Constabulary (RUC)) and the British military (which has faced serious allegations of collusion with paramilitary groups during this era).

The region had also become home to sectarian ‘parades’ through areas that were home to the rival community, which many people living there experienced as hostile and intimidating.

Although paramilitary groups and sectarian parades remain realities in NI, the region has changed dramatically in the decades since the B/GFA was adopted. Sectarian hate crimes and sectarian hate incidents are increasingly rare, according to police statistics, and a vibrant local civil society addresses an array of contemporary issues ranging from reproductive rights to climate justice, migrants’ rights and racial equality.²

[1]

[2] Police Service of Northern Ireland, ‘Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland, Update to 31st December 2024’ (27 February 2025): <https://www.psni.police.uk/system/files/2025-03/714829639/Hate%20Motivations%20Bulletin%20Period%20ending%2031st%20December%202024.pdf>

Yet, the government's treatment of protests in NI remains repressive—in some respects, even more repressive than in the rest of the UK, which is increasingly adopting laws that criminalise acts of protest.

This report provides findings and describes allegations about barriers to the right to protest in NI, and sets out recommendations for reform alongside practical means for activists and civil society organisations ('CSOs') to combat unfair restrictions on their human rights.



Why are protesters in NI facing harsh restrictions and uneven treatment by those in power?

In our view, history is instructive because protests—and restrictions on protests—have been a factor in the wider issues that led to the Troubles and continue to play out through the peace process. In 1996, two academic experts at Queen's University Belfast explained:

'Until the 1870s the banding together of groups, Protestant and Catholic, resulted in frequent sectarian clashes and were consequently seen as a threat to the state. Parades were often an expression of sectarian, communal, opposition and were, at least officially, discouraged, re-routed or banned. After 1870 the Orange Institution became more extensively patronised by both the landed classes and the Belfast bourgeoisie and it was used to mobilise opposition to the campaign for Home Rule and to create a distinctive British identity. The increased popularity and respectability allowed Orange parades to flourish whilst similar events which supported Home Rule, particularly in Ulster, were opposed.'³

('Orange' is a term associated with PUL communities because it relates to the Orange Institution – an organisation established to defend the Protestant Ascendancy and the British monarchy in Ireland – which was named after the Protestant King William of Orange, who defeated the Catholic King James II in 1690. The Orange Institution is a membership organisation comprised of Protestants who are committed to the protection of the principles of the Protestant Reformation and the Glorious Revolution of 1688 which, they believe, 'enshrined civil and religious liberty for all.'⁴ 'Ulster' was historically a province in Ireland that had nine counties; six of those counties now form NI, although members of the CNR community dispute the legitimacy of its formation.)

[3] N. Jarman and D. Bryan. 'Parade and Protest: a Discussion of Parading Disputes in Northern Ireland', (University of Ulster, Coleraine, 1996). See also N. Jarman. 'Regulating Rights and Managing Public Order: Parade Disputes and the Peace Process, 1995-1998', 1998, Fordham International Law Journal, Vol. 22 Issue 4, pp. 1415-1439

[4] See <https://www.goli.org.uk/>

Between 1930 and 1968, the right to protest in NI was heavily restricted by laws, policing practices and a political culture that viewed dissent – especially from Catholics and nationalists – as a threat.⁵ Laws such as the Civil Authorities (Special Powers) Act (Northern Ireland) 1922, though enacted earlier, remained in force through this period.⁶ This law gave the UK government broad powers, including to prohibit assemblies or marches, arrest individuals without a warrant, and impose curfews or bans on specific organisations or meetings.⁷ The UK government often used this legislation to prevent protests or to intimidate opposition groups, especially those advocating for Irish nationalism or civil rights.⁸ While PUL parades were generally protected by their political representatives through their then-permanent majority in the government of NI and by the police, CNR protests were often banned or met with force by the police.⁹ This long period of repression and disparate treatment contributed directly to the emergence of a more organised and confrontational civil rights movement among members of CNR communities by the late 1960s.¹⁰

The 1960s saw instances of heavy and discriminatory policing of protests in NI, ostensibly for ‘security’ reasons, culminating in the restriction of civil rights marches – primarily organised by members of the CNR community – before the onset of the Troubles.¹¹

As the Troubles developed, this already heavy-handed policing effort that treated marches as ‘security’ threats intensified.¹²

By 1968, local authorities had begun banning civil rights marches, and police and the British military began violently breaking up demonstrations that went forward in spite of bans.¹³

Most notoriously, in January 1972, members of the British Army shot and killed 13 unarmed civilians in Derry/Londonderry who were present at a peaceful protest against the UK government’s use of detentions without trial in NI, in an event widely known as ‘Bloody Sunday’.¹⁴

After the peak of a conflict in which more than 3,500 people in NI died – a very large number for a small region – and tens of thousands were injured by bombs, shootings and other violence, CNR communities’ ongoing sense of discrimination regarding marches and demonstrations, especially in comparison with how they believed police treated Orange Order parades (associated with PUL communities), made police reform a key aspect of post-B/GFA conflict resolution in NI.¹⁵ Eventually, the RUC – which members of the CNR community had long accused of serious abuses – was replaced by the Police Service of Northern Ireland (‘PSNI’) following the landmark Patten Review.¹⁶ We discuss the impact of police reforms on protest rights in NI below.

[5] B. Purdie, *Politics in the Streets: The origins of the civil rights movement in Northern Ireland* (Newtownards: Blackstaff Press, 1990), pp. 121–158. See also M. Farrell, *Northern Ireland: The Orange State* (London: Pluto Press, 1976).

[6] L. Bosi, ‘Explaining the Emergence Process of the Civil Rights Protest in Northern Ireland (1945–1968): Insights from a Relational Social Movement Approach’, 2008, *Journal of Historical Sociology*, vol. 21, issue 2–3, pp. 242–271.

[7] G. Maney, ‘From Civil War to Civil Rights and Back Again: The Interrelation of Rebellion and Protest in Northern Ireland, 1955–1972’, 2007, *Research in Social Movements, Conflicts and Change*, vol. 27, pp. 3–35.

[8] L. Bosi, ‘Social Movement Participation and the “Timing” of Involvement: The Case of the Northern Ireland civil Rights Movement’, 2007, *Research in Social Movements, Conflicts and Change*, vol. 27, pp. 37–61.

[9] J. Whyte, ‘How much discrimination was there under the unionist regime, 1921–68?’, 1983, *Contemporary Irish Studies*, pp. 1–35.

[10] G. Fazio, ‘Police Knowledge Revised: Insights from the Policing of the Civil Rights Movement in Northern Ireland’, 2007, *Research in Social Movements, Conflicts and Change*, vol. 27, pp. 63–87.

[11] *Ibid.* See also Scarman Tribunal, *Report of Tribunal of Violence and Civil Disturbances in Northern Ireland in 1969*, Cmnd 566 (1972).

[12] The Hon Lord Patten, ‘A New Beginning: Policing in Northern Ireland – The Report of the Independent Commission on Policing for Northern Ireland’ (1999): <https://cain.ulster.ac.uk/issues/police/patten/patten99.pdf>

[13] Dean McLaughlin, David Wilson and Una Kelly, ‘October 1968: The birth of the Northern Ireland Troubles?’ (BBC News, 30 September 2018): <https://www.bbc.co.uk/news/uk-northern-ireland-foyle-west-45625222>

[14] BBC News, ‘Bloody Sunday: What happened on Sunday 30 January 1972’ (BBC News, 27 January 2022): <https://www.bbc.co.uk/news/uk-northern-ireland-foyle-west-47433319>

[15] Aaron O’Neill, ‘Total number of deaths per year during the Troubles (the Northern Ireland Conflict) from 1969 to 2001’ (Statista, July 2023): <https://www.statista.com/statistics/1401907/ni-troubles-deaths-annual/>

[16] The Hon Lord Patten, ‘A New Beginning: Policing in Northern Ireland – The Report of the Independent Commission on Policing for Northern Ireland’ (1999): <https://cain.ulster.ac.uk/issues/police/patten/patten99.pdf>

The role of human rights following the B/GFA

In the same year as the B/GFA, the UK adopted the Human Rights Act 1998, which brings the protections of the European Convention on Human Rights (ECHR) into UK law and enables people to take action in UK courts over alleged breaches of their rights – including in NI.¹⁷

In theory, the B/GFA and the Human Rights Act 1998 should have improved and guaranteed the rights of protesters and others peacefully expressing themselves in NI. However, NI continues to lack the region-specific Bill of Rights that the B/GFA promised, which would reinforce international human rights protections, provide a foundation for the effective protection and advancement of human rights and establish a framework of obligations and safeguards to embed accountability across all levels of local government, ultimately making the Stormont system of governance effective and sustainable. Further, as we found in 2023:

‘... rather than human rights standards becoming ingrained in the culture of government and public authorities in NI, they are still in many cases an afterthought or seen as an obstacle to “business as usual”. While there was a period shortly after the B/GFA when the police and other public bodies in NI appeared to embrace the value of human rights protections, that approach dwindled as the Westminster and local governments’ relationships with human rights lawyers, activists and indeed court judgments became increasingly fractured.’¹⁸

We also concluded in 2023 that in NI, ‘threats to women’s security such as domestic and sexual violence are often not seen as “security” issues at all and, ironically, women protesting against sexual or gender-based violence are sometimes treated as security threats.’¹⁹ These findings helped inspire the present report.

The role of NI policing reforms

The police reform process in NI following the peak of the armed conflict has had profound implications for protesters’ rights in NI, especially when these are considered in tandem with the Human Rights Act 1998 and the Public Processions (Northern Ireland) Act 1998: two key pieces of legislation that passed around the same time.

As we have discussed elsewhere, the shift from the RUC to the PSNI included numerous reforms that were meant to increase trust in the police among all communities in NI – for example, by making respect for human rights central, creating new official oversight bodies, avoiding British-associated terms and symbols such as ‘Royal’, and greatly strengthening the representation of officers from CNR backgrounds.²⁰ While human rights sources (including our own reporting) have often depicted the post-reform PSNI as a success story showing that major overhauls of violent and discriminatory police forces can be achieved, even if imperfectly, the allegations we heard from protesters while researching this report complicate that picture.

For detailed information on the legal framework and police powers and duties in relation to the policing of public processions, related protests and open-air public meetings in NI, see Annex 1.

[17] At the time of writing, a Human Rights Bill for Northern Ireland, a requirement of the B/GFA, has not been passed. See Human Rights Consortium, ‘Government betrays Good Friday Agreement on Bill of Rights’ (Human Rights Consortium, 6 April 2023):

<https://www.humanrightsconsortium.org/government-betrays-good-friday-agreement-on-bill-of-rights/>

[18] See Rights & Security International, ‘The Northern Ireland peace process and unresolved issues: A guide and lessons learnt’ (2023):

https://www.rightsandsecurity.org/assets/downloads/The_Northern_Ireland_peace_process_and_unresolved_issues.pdf, para. 133.

[19] Ibid. See also Niamh Campbell, ‘Two speakers withdraw from International Women’s Day event after ‘hostility’ towards LGBT+ and refugee communities’ (Belfast Telegraph, 9 March 2024): <https://www.belfasttelegraph.co.uk/news/northern-ireland/two-speakers-withdraw-from-international-womens-day-event-after-hostility-towards-lgbt-and-refugee-communities/a348131416.html>

[20] Rights & Security International, ‘The Northern Ireland peace process and unresolved issues: A guide and lessons learnt’ (2023):

https://www.rightsandsecurity.org/assets/downloads/The_Northern_Ireland_peace_process_and_unresolved_issues.pdf, pp. 13, 33–36.

While much has changed in the last 25 years, our interviews and information received in response to our freedom-of-information requests raise concerns that protesters in NI still face restrictions that have nothing to do with any real risk of harm from the protesters. Instead, these restrictions appear to be due to as well as an excessive focus on ‘security’ that is not necessary in the context – or, at times, the outright misuse of ‘security’ as an excuse for denials of rights. We also heard allegations indicating that protesters perceive bias within policing and local government infrastructures, suggesting a need for the authorities to explore and address these concerns effectively.

The bigger picture: Protest policing across the UK

Policing in NI does not occur in a vacuum. We must also zoom out and look at the bigger picture of how the police and law-makers treat protesters across the UK.

The ability to protest without unjust repression, including holding demonstrations for unpopular causes or views, is vital to any democratic system – and protest movements often contribute heavily to steps forward for people’s human rights. However, the UK carries a lengthy history of repressing protest movements in its then-colonies and possessions, such as peaceful protests for independence in India.²¹

In recent years, this historically repressive attitude toward public demonstrations has made a resurgence in the UK, including through Parliament’s enactment of the Public Order Act 2023 (POA 2023) and other protest-related legislation. The POA 2023 does not apply in NI, but arose from broader political hostility on the part of the national government toward protests – a hostility that is resulting in ever-stronger restrictions and ever-longer lists of new criminal offences for which the authorities in Britain can arrest and prosecute people who are protesting.²²

Many protesters have been jailed in Great Britain in recent years, including five supporters of the environmental group Just Stop Oil who were given the lengthiest sentences in UK history (at least, outside the former colonies) for non-violent civil disobedience, despite reductions on appeal.²³

The ability to protest without unjust repression, including holding demonstrations for unpopular causes or views, is vital to any democratic system – and protest movements often contribute heavily to steps forward for people’s human rights.



[21] See National Geographic, ‘How Mahatma Gandhi changed political protest’ (27 September 2019):

<https://www.nationalgeographic.com/culture/article/mahatma-gandhi-changed-political-protest>

[22] In November 2024, a pro-Palestinian protest took place outside Queen’s University in Belfast during a speech by former U.S. Secretary of State Hillary Clinton. Protesters said they aimed to draw attention to U.S. foreign policy in the Middle East and its impact on Palestinian communities. Police intervened when some protesters attempted to disrupt the event, leading to several arrests for public order offenses. The incident raised concerns about the risk that aggressive policies regarding the policing of pro-Palestine protests by police forces in Great Britain were influencing the approach of the PSNI. See Philip Bradfield, ‘Hilary Clinton Belfast: PSNI arrest pro-Palestinian protestors at QUB who oppose Israel’s war in Gaza’ (Belfast News Letter, 14 November 2024): <https://www.newsletter.co.uk/news/politics/hilary-clinton-belfast-psni-arrest-pro-palestinian-protestors-at-qub-who-oppose-israels-war-in-gaza-4867882>

[23] See Damien Gayle, ‘Just Stop Oil to ‘hang up the hi-vis’ after three years of climate action’ (The Guardian, 27 March 2025):

<https://www.theguardian.com/environment/2025/mar/27/just-stop-oil-hangs-up-the-hi-vis-after-three-years-of-climate-action>

Whilst recent restrictions on protests in Great Britain (that is, England, Wales and Scotland) have received substantial publicity, there has been significantly less coverage of the NI restrictions we describe in this report – and we have seen little attention from the media or legal sectors regarding the longstanding red tape that has made demonstrating in NI difficult for decades. These NI-specific challenges create unique difficulties for protesters and protest organisations in the region, yet until now, little work has been done to document protesters’ experiences and push back systemically against rights-violating approaches to the policing of protests in the region.

Methodology

Our research methodologies included telephone and in-person interviews and related correspondence between April 2024 and September 2025 with eight members of civil society organisations and individual activists in NI, whom we selected based on responses to a survey we had distributed to the Equality Coalition and the NI Human Rights Consortium (which together have over 100 civil society organisation members). We used material from the survey as a reference point for drafting the questions for the semi-structured interviews concerning themes such as the individuals’ experiences of organising static or moving protests, participation in protests, facing or organising a counterprotest, interactions with the PSNI, and the impact of social media.²⁴ Following the initial interviews, we continued to engage with interviewees and others about their experiences; these informal engagements helped direct our desk research.

During these interviews, we heard several allegations of harms as a result of the policing of protests in NI, or biased conduct in how the authorities handle protests. At least for the purposes of this report, these are unproven allegations, and to the extent that we discuss them here, we do so only to indicate that there are problems with how activists perceive the authorities as behaving.

These perceptions point to a need for the authorities to explore and address concerns. We sought comment from the PSNI and the Parades Commission regarding the allegations and concerns described by protesters and documented in this report. The PSNI acknowledged our request for comment, but did not respond. The Parades Commission provided a response, which we discuss below.



[24] See E. Campbell and D. Roberts, “Activism is not a one-lane highway”: the digital modalities of Alliance for Choice and abortion decriminalisation, 2024, Irish Political Studies, vol. 40, issue 1, pp. 123–144

We also requested meetings with members of community groups that hold protest meetings and are part of CNR or PUL communities. We interviewed the Springfield Residents' Action Group, a collective of CNR residents who hold protests; however, we received no response from the PUL community groups we had contacted. A further limitation on this report is that, unfortunately, we did not receive any response to our survey or invitations to be interviewed from members of racialised communities in NI and, therefore, we did not interview any members of racialised minorities in our pool of interviewees. We recognise that this is a serious shortcoming and are prioritising greater diversity in our research and other engagement with protesters in NI moving forward. We encourage all readers to recognise that NI today is an increasingly diverse place and that many people and communities – of a range of backgrounds – do not embrace PUL or CNR identities.

We have chosen not to identify interviewees by name to help prevent a risk of retribution; however, we recognise that civil society in NI is small, and that there is a risk of identification based on the descriptions we have used. We have therefore obtained informed consent from the interviewees before using these descriptions.

We also carried out a desk-based review of available media reporting and other secondary sources (such as social media posts) to both understand the broader landscape and endeavour to document the practices and alleged behaviours we describe here.

We also submitted numerous freedom-of-information requests to gain access to further information about how local councils and the police engage with protesters.

We approached each of the 11 local councils in NI seeking copies of various protest-related policies: these councils are Antrim and Newtownabbey Borough Council; Ards and North Down Borough Council; Armagh City, Banbridge and Craigavon Borough Council; Belfast City Council; Causeway Coast and Glens Borough Council; Derry City and Strabane District Council; Fermanagh and Omagh District Council; Lisburn and Castlereagh City Council; Mid and East Antrim Borough Council; Mid Ulster District Council; and Newry, Mourne and Down District Council. We ultimately received the information we requested from all councils, although we received different quantities of documents in each instance.

In addition, we sought comment from each of these local councils on the concerns identified in this report about how their procedural restrictions impact protesters' rights. We received responses from six local councils: Armagh City, Banbridge and Craigavon Borough Council; Belfast City Council; Derry City and Strabane District Council; Fermanagh and Omagh District Council; Mid Ulster District Council; and Newry, Mourne and Down District Council. We note their responses when we discuss their policies.

We also approached the PSNI and the Police Ombudsman for NI (PONI) for data on protest-related complaints about PSNI officers (the quantity these entities had received and their outcome), as well as the Public Prosecution Service (PPS) for information about the number of protest-related offences it had prosecuted or decided not to prosecute. The PSNI refused our request on costs grounds, stating that it would take it too long to collate the requested data, but the PONI did provide us with some information. The PPS provided us with most of the information we requested, although it did not delimit its data by subject-matter of protest, as it said that extracting this data from its case management system would exceed the costs limit.

It also only provided us with data related to unlawful/unnotified processions: it said that it was unable to provide us with data related to all relevant offences committed before, during or after a protest within the costs limit.

All these freedom-of-information requests, and the responses we received, are available from RSI upon request.

To keep the research manageable, we have not investigated the right of workers to strike or take other collective action in NI: although the right of workers to take collective action is an element of the right to protest enshrined in the ECHR and has extensively shaped the history of protests in NI, it is a distinct legal and policy issue in the UK, and one that would require more detailed consideration than we have the capacity to provide here.

Additionally, reflecting its influence on NI and Irish history, the issue of sectarian parading was a frequent point of discussion during the semi-structured interviews, and we have necessarily considered it as part of our analysis of the right to protest for moving assemblies. However, we have not analysed this specific issue in detail, as it would require distinct research and analyses owing to its historical connection with the armed conflict and other violence and intimidation.

Our analysis considers the right to protest under the European Convention on Human Rights (ECHR)—a treaty that is binding on the UK and enshrines the rights to freedom of assembly, freedom of expression, and respect for private and family life, alongside a prohibition on discrimination in the authorities' respect for rights (for example, discrimination based on religion, race, or political or other opinion).

We conclude with recommendations for reform to address both established problems and the concerns or risks of harms that interviewees and other sources have described. The annexes to our report explain the current NI laws on protests, as well as guidance for police forces throughout the UK.



From paperwork to police patrols: how protest is managed

Imagine that the government has passed a new law or policy that you're not happy about, and you want to make your voice heard.

So, you decide you want to protest. And you think the most effective protest would be a walk from one side of Belfast city centre to the other.

You might think that you can just talk to your fellow activists and settle on a date and route, and perhaps deal with minor logistics, before making yourselves heard.

But, in NI, it's not so simple.

In this section we consider the chilling effect of extensive administrative restrictions in NI, such as insurance requirements, local authority procedures and Parades Commission processes, on the right to protest. We conclude that these restrictions and practices have an unnecessary discouraging effect on people's ability to express themselves and make their voices heard, in some instances making it impossible for protesters to hold a gathering.

We also describe local perceptions that not all people feel the weight of this chilling effect equally. In this section, we examine perceived cause- and identity-based differential treatment (by the PSNI, in particular) of gender, racial justice and LGBTQ+ rights movements. We have heard concerns among protesters for progressive causes that, in their perception, they are bearing the brunt of protest-related red tape and that if they do eventually receive authorisation for a protest, the authorities are not adequately protecting them from harm.

The chilling effect of administrative measures

While on first thought they may seem to be minor issues that would not substantively impact protesters' rights, administrative measures can and do have a chilling effect on protest. In NI, administrative hurdles come from local councils and the Parades Commission, creating a jigsaw puzzle of different obligations for organisations and individuals—many of whom are operating with limited resources. Piecing together this puzzle can make holding a protest nearly impossible in practice.

Public liability insurance and other administrative requirements – or a lack of clarity from the government about those requirements – mean many activists are unable to hold protests that are visible in well-trafficked public locations such as pavements or parks, or even at all.

For example, many local authorities impose public liability insurance obligations on people who wish to use publicly owned land, meaning that if protesters do not have an insurance policy with (what the local council perceives to be) sufficient coverage, then they cannot hold a gathering. Many of the people we interviewed identified public liability insurance as a major restriction on their (and others') rights to express themselves. Following the interviews, we therefore decided to investigate this topic further through a series of freedom-of-information requests

It appears to us that these public liability insurance obligations – or perceived obligations – are arising when councils treat protests as 'events', as if they were music festivals or rallies by political parties (for example).



The information we found through our freedom-of-information requests suggests that many councils treat protests in this way, compelling the organisers to satisfy a wide range of requirements.²⁵

For example, if a protest would lead to a road closure in Belfast, a policy of Belfast City Council demands that organisers confirm that they have bought an insurance policy that would cover up to £10 million of liability for any deaths or injuries on the road.²⁶ This is a major barrier: such a policy may be expensive at best, while small organisations or individual activists may find it impossible to locate an insurance provider willing to offer them public liability insurance coverage for such a large amount.²⁷

In response to RSI's request for comment on concerns that such large public liability insurance requirements effectively prevent protesters from assembling on Council land, the Council told us:

'Sufficient public liability insurance is a standard requirement to protect the council and our ratepayers against potential claims for injury or damage at any type of event held on our land.'

Other local councils gave similar responses. For example, Derry City and Strabane District Council said, 'It is a requirement of all event organisers to have public liability insurance to protect themselves from civil claims should any participant or member of the public suffer injury or property damage.' In all, four local councils confirmed in comments to us that protesters would be required to hold public liability insurance to use council land.

On top of the onerousness of public liability insurance obligations, a Reclaim the Agenda activist described a perceived inconsistent patchwork of requirements and a resulting burden on organisers:

*'You don't need insurance at Corn Market [for static protests], but in other regular protest places you do. This is because these are privately owned places. Much of what you think might be public land is private, albeit owned by the government. Belfast City Council and Department of Communities require insurance if you want to use their land for a protest. This was previously £5 million public liability insurance, and the value recently increased to £10 million. We will be unable to organise in these places if we are not insured. Many groups won't know that they need to get insurance, as this information is not available. Even if they know they need it, many groups may not be able to get it. We've lent our insurance out to others in the past. In order to get permission and understand the requirements that the Council and the Department set, you have to know who to approach, what to do, what to say and what to have.'*²⁸

Local authorities also have distinct approval processes for protests held on council-owned land. These processes vary from council to council, but often require the submission of additional forms and compliance with various rules, terms and conditions. Given the large quantity of public spaces owned by local councils or government departments, most static protests (or moving protests that pass through or start or end on such land) have to go through these additional approval processes and satisfy the relevant insurance requirements.²⁹

[25] Available upon request.

[26] See Belfast City Council, 'Road closures: Public liability notice' (August 2018): <https://www.belfastcity.gov.uk/documents/road-closures/public-liability-insurance-for-road-closures>

[27] Zurich Insurance, for example, will generally only cover charities for up to £5 million: see Zurich Insurance, 'Public Liability Insurance for Charities' (no date): [https://www.zurich.co.uk/charity-insurance/public-liability#:~:text=If%20your%20charity%20or%20organisation,legal%20requirement\)%20to%20do%20this.](https://www.zurich.co.uk/charity-insurance/public-liability#:~:text=If%20your%20charity%20or%20organisation,legal%20requirement)%20to%20do%20this.)

[28] Interview (in person) 30th April 2024.

[29] Some data on council-owned land is provided on the OpenDataNI platform: see OpenDataNI, 'Property & Land' (no date): <https://admin.opendatani.gov.uk/group/property>. Although available information is generally limited. For a January 2021 outline of land owned by the Department of Agriculture, Environment and Rural Affairs (DAERA), see DAERA, 'List of all land or property currently owned by the Department' (29 January 2021): <https://www.daera-ni.gov.uk/publications/list-all-land-or-property-currently-owned-department>. We have been unable to find data on the land owned by the Department of Communities.

Illustrating these varied and potentially confusing or onerous requirements, in its response to our freedom-of-information request for its policy on authorising protests or rallies on council property, Belfast City Council stated:

'Parks - [we] do not have a specific policy position on authorising protests or rallies on Council property. There is an Events policy that states that anything that may be deemed controversial must be taken through the relevant committee for approval, therefore, if Parks receive an application for use of a park for a protest or rally, it is presented it to People & Communities Committee for councillors' consideration.

City Hall - there is a criteria and application form for the use of function rooms in City Hall...

*There is an application form for use of City Hall grounds, large scale or potentially controversial events are presented to Strategic Policy and Resources Committee for councillors' consideration.'*³⁰

Regarding the criteria it uses when deciding whether to approve or deny the use of Council property for a protest or rally, and for an event, the Council wrote:

'Parks - We take requests to host protests, rallies or large-scale events to the People and Communities committee. Decisions are then ratified at full Council.

*City Hall - We take requests to host large scale events to Strategic Policy and Resources committee. Decisions are then ratified at full Council.'*³¹



The Council also told us the length that these approvals processes take:

'Parks - For requests that need to go to committee for consideration we require at least 3 months prior to the proposed event. This allows any decision to be ratified at full Council and for the call-in period to pass.

Belfast Zoo - Event or activity requests including required documents must be submitted a minimum of 20 working days before the event or activity is due to take place

*City Hall - We ask organisers to allow 8 weeks minimum to allow sufficient time for review of requests, approval and planning process.'*³²

Therefore, in Belfast - which, according to the Parades Commission, is the most used location for moving protests in NI - onerous and time-consuming administrative hurdles stand in the way of protesters, especially those from smaller groups with fewer resources.³³

In response to our request for comment on the concerns that administrative processes can act as an effective barrier to the right to protest in the area, Belfast City Council said,

'There is a lead-in time for all events held on our land to allow officers sufficient time to liaise with the event organiser and gather all the relevant documentation, including an event risk assessment, to ensure safety standards will be met.

Requests to hold certain types of event, including protests, may require approval by the relevant council committee. Lead-in times vary, depending on the location, the scale and nature of the event, and the date of the next committee meeting.'

[30] Belfast City Council, Response to AM/FOI/ Events and Rallies 2025, 2 June 2025 (available upon request).

[31] Ibid.

[32] Ibid.

[33] A comparative search of locations in Northern Ireland (using the location field in the 'Advanced Search' tab and using the search term 'Belfast') on the Parades Commission website shows that in 2025-26, Belfast is the most used location for moving protests with 8,190 moving protests or parade-related protests notified (figures are not available for static protests). See <https://www.paradescommission.org/advancedsearch.aspx> (last accessed 8 July 2025)

We made similar freedom-of-information requests to other local councils, and their responses fell into two categories: either they did not (and presumably still do not) have any relevant policies that would apply to protests, or they pointed us to their events policies. For those councils that pointed to their events policies, some were vague or included requirements that were even more potentially onerous than those found in Belfast:

- Mid and East Antrim Council stated that '[f]ees to use Council property [are] not dependant on the reasons for use.'³⁴ We understand this to mean that fees for protests are the same as fees for large events.
- Fermanagh and Omagh District Council stated that it does 'not have a policy specific to authorising protests on council property' and does 'not have specific criteria to decide whether to approve or deny the use of Council property for a protest or rally.'³⁵ This means that protesters making an application to hold a protest on council land will have to guess whether their application will meet the approval of the council (who could even be the subject of the protest, and therefore potentially have a conflict of interest).
- Lisburn and Castlereagh City Council (LCCC) stated that it 'do[es] not hold a policy for authorising protests or rallies' and that '[f]or any events LCCC will hold a risk assessment and Council Health & Safety Procedure (CHaSP).'³⁶ This means that a protest will be treated as an event subject to a health and safety assessment by the Council.

Armagh, Banbridge and Craigavon District Council's response to our freedom-of-information request also created a complex administrative picture.³⁷

'The Council confirmed to us that it applies a series of local bye-laws to protests on 'designated pleasure ground[s]'.³⁸ This term has a wide application, as it includes 'any public park, children's playground, recreation ground, public walk, playing fields or open spaces provided by the Council...'

For example, this definition is applied in Bye-law 6, which states that:

'A person shall not in a designated pleasure ground without the consent of the Council:

(i) deliver, or read, any public speech, lecture, or address of any kind, or sing any song, unless of a sacred nature, or enter into public discussion, or hold, or cause, or take part in public assemblage or hold any public entertainment;

(ii) play or make sounds on any musical instrument, or operate or cause be operated any wireless set, gramophone, amplifier, or similar instrument as to give reasonable cause for annoyance to other persons, or make or cause to be made any noise which is so loud and so continuous or repeated as to give reasonable cause for annoyance to other persons.'

Bye-law 6 therefore restricts the right to protest, by requiring the 'consent of Council' before a protest could occur. (We note that the terms of this bye-law are so broad and vague as to violate the right to free expression even for people who have no intention of protesting, in our view.)

[34] Mid & East Antrim Borough Council, Response to FOI/083/2526, 16 June 2025 (available upon request)

[35] Fermanagh and Omagh District Council Response to ATI 5300/25, 16 June 2025 (available upon request)

[36] Lisburn and Castlereagh City Council, Response to FOI726, 16 June 2025 (available upon request)

[37] Armagh, Banbridge and Craigavon District Council, Response to a Request for Internal Review of FOI IR-2025-301, 1 August 2025 (available on request)

[38] Bye-laws issued pursuant to Public Parks (Ireland) Act 1869, Section 10; Local Government (Ireland) Act 1898, Section 36; Open Spaces Act 1906, Section 15; Local Government Act (Northern Ireland) 1972, Section 90; Recreation and Youth Service (Northern Ireland) Order 1973, Article 9.

In response to our request for comment on its practice of engaging with protest movements, Armagh, Banbridge and Craigavon District Council told us: 'Armagh City Banbridge and Craigavon Borough Council does not have a policy relating to protests on Council land. No protest group has sought Council approval in the past.' However, in what is perhaps a contradictory statement, it also told us that '[i]f a contractor or a community group requested Council permission to use Council land for an event or another purpose, it would require Council approval.' (We interpret this latter statement as suggesting that there is, in fact, a policy relating to protests on council land – that is, a policy of requiring Council approval.)

Meanwhile, Belfast City Council – the local authority with legal responsibility for the area in which most protests occur – has recently proposed new laws that appear to go even further than this law of Armagh, Banbridge and Craigavon District Council's. It has done so by adopting a Parades-Commission-style approval process (see below) for some static protests that takes place in Belfast.

In 2024, the Council drafted bye-laws 'for the good governance of Belfast city centre and for the prevention and suppression of nuisances in Belfast city centre' with the intention of introducing a permit system in two designated areas of the city centre regarding 'any amplified performance', any use of 'amplification devices' and 'any non-commercial stand or stall'.^[39] The risk for protest rights is that Belfast City Council will determine whether any static protest in the designated city centre retail area using any amplification device should proceed, which could mean a ban for the protest or a fine for protesters breaching the ban.

Accordingly, the permit scheme would operate as a mechanism to authorise protests and could limit the scope for protesters to organise protests in the parts of the city centre where they usually do so.

From this discussion, we can see that councils in NI have been left to their own devices to decide how to regulate protests – with onerous consequences, a lack of predictability, and a clear potential for arbitrariness and biased decision-making (whether intentional or unintentional). We found no uniform approach from council to council, adding to the existing complexity for activists and civil society, and making it needlessly difficult for protest organisers to understand how they can satisfy all the administrative hurdles before holding a protest.

It also appears possible that some council restrictions or practices are not on the books. We heard an allegation by a member of Reclaim the Agenda, a group that addresses violence against women, that Belfast City Council had flagged them as a 'controversial' group – a designation not set out in law – and had given them 'a 4-month approval process'.^[40] The Council did not respond to our request for comment on this issue.

While issues regarding public liability insurance and other council-imposed hurdles have not previously hit the headlines, each of the eight protesters we interviewed told us that they created a hidden barrier to their exercise of their rights to assemble and express themselves. In particular, many activists saw these barriers as preventing new, less experienced and often younger activists from organising protests. Simply put, many may have been put off from organising protests due to being uncertain about how to navigate the bureaucracy.^[41]

[39] See Belfast City Council, 'Bye-laws for the good governance of Belfast city centre and for the prevention and suppression of nuisances in Belfast City Centre' (2024): <https://www.belfastcity.gov.uk/Documents/Bye-laws-for-the-good-governance-of-Belfast-city-c>

[40] Interview (in person) 30th April 2024. This event was documented in Emma Campbell, 'Addressing photography as a feminist socially engaged arts practice in the movement for abortion rights in the North or Northern Ireland', Doctoral Thesis, Ulster University, 2023, pp. 269-270

[41] Interview (in person) 30th April 2024

Other administrative hurdles appear to be better known in activist circles, although this does not mean they are easy to navigate. Approval processes, such as the Parades Commission's 28-day notification process for moving protests or related 14-day notification process for counter-protests, are a key administrative hurdle chilling protesters' rights. (By contrast, in England and Wales, under the Public Order Act 1986 (POA), march or procession organisers must give written notice to the police, but the notice period is only six days before the event.) Interviewees told us these processes require them to conduct additional burdensome administrative work prior to holding protests and can impact their ability to effectively advertise upcoming gatherings.⁴²

In our view, the Parades Commission operates a de facto government authorisation process for protests by being able to place restrictions or conditions on planned moving protests under the Public Processions (Northern Ireland) Act 1998. Some conditions may involve liaising with the police, which the PSNI emphasises is important, stating that it may contact the protest organisers by way of reminder:

'We may contact the organiser of a public procession or associated protest to better understand what is planned. This reduces the likelihood that police will need to intervene on the day.'

If appropriate, we will attend the public procession to ensure that the rights of all concerned are upheld.

We may identify any issues of concern e.g. potential criminal offences or unacceptable impact on the rights of others.'

We may issue lawful instructions to organisers and participants in order to ensure the public procession and any protest remains lawful.

We will keep a record of our interactions with organisers to facilitate accountability.

If breaches of any [P]arades [C]ommission determination, or any other offences, take place, we will take lawful and proportionate action in response.⁴³

Contact by the police in advance of a protest may have a chilling effect on protesters and their willingness to proceed as planned or at all, as recently demonstrated when a parade organiser reportedly complained that she was approached by police at her home and warned that she could face legal consequences for protesters displaying support for Palestine Action at the protest she had organised, even though the protest was not planned in support of, or by, the organisation.⁴⁴ (Palestine Action is currently proscribed in the UK under the Terrorism Act 2000.)

Inconsistency in the PSNI's approach to moving protests led to a 2017 UK Supreme Court case regarding the force's handling of protests in Belfast in 2012 and 2013 stemming from a Belfast City Council decision to fly the Union flag over city hall only on certain days, rather than every day.⁴⁵ These moving protests by (as the Court observed) people perceived to be loyalists passed through an area of Belfast known as Short Strand, which was locally known as a CNR area. According to the Court, '[t]here was substantial violence and disorder as the parade went through that nationalist area', including '[s]ectarian abuse' and rock-throwing aimed at local people, as well as attacks on their homes.⁴⁶ The police initially decided to bar the protests from the city centre, then reversed course, allowing protests in the centre to 'allow for some venting of anger and [relief of] community tension on this issue', as the Court said.⁴⁷

[42] See Annex A. See also Interview (in person) 30th April 2024

[43] See PSNI, 'Processions and Protests' (no date): <https://www.psni.police.uk/safety-and-support/keeping-safe/processions-and-protests>

[44] See John Breslin, 'Protest organiser warned of potential criminal charges over Palestine Action displays in crowd' (The Irish News, 16 August 2025): <https://www.irishnews.com/news/northern-ireland/protest-organiser-warned-of-potential-criminal-charges-over-palestine-action-displays-in-crowd-KQMHV4IQZFWDJUHUPSIZISPU/>

[45] DB v. Chief Constable of Police Service of Northern Ireland [2017] UKSC 7

[46] Ibid., paras 11-12

[47] Ibid., paras 13-14

The Court found that the PSNI had misinterpreted its legal powers to stop parades and had wrongly allowed unnotified marches to proceed through or near the Short Strand area during the protests.⁴⁸ The Court's decision clarified that when a march breaks the law, for example by failing to comply with the requirement to notify the Parades Commission, the PSNI remains responsible for enforcing the law – including by preventing unnotified parades from taking place; police also remain empowered to stop marches to prevent disorder.⁴⁹ (The European Court of Human Rights had previously found that notification requirements will not necessarily violate the Convention, although this will depend on the extent of the requirement and in some instances, spontaneous protests will be protected by the Convention.) The PSNI apparently allowed the flag protests to proceed because the force viewed itself as obligated under the ECHR to facilitate 'peaceful' protests -- even though, as the Court observed, the flag protests were 'far from peaceful' and had not complied with the notification requirement, making them 'plainly illegal'.⁵⁰

The Court's decision in that case did not take issue with the Parades Commission's powers, particularly where the regulation of marches or protests that are not sectarian parades per se are concerned.

Based on our research for this report, we do not believe the decision was sufficient to ensure compliance with human rights on the part of the law or various official practices. We conclude that real risks of inconsistency and arbitrariness remain in how the PSNI interprets the conditions imposed by the Parades Commission or in how it handles protests that have not been notified to it (e.g. a decision to disperse a parade which has not been lawfully notified).

Our interviews raise the possibility that in part, how the police treat a protest may come down to contacts. An individual from Springfield Residents' Action Group whom we interviewed stated,

*We normally engage with the senior team in the PSNI, not really the community team as a starting point – we know who to speak to [in order] to get our voices heard.*⁵¹

By contrast, the Environmental Activist – an activist who has advocated for environmental protection as part of, and alongside, many NI civil society organisations – told us,

*I have come across police liaison officers, but I have never engaged with them. High turnover rates in the PSNI means that so many officers are now less familiar with protesters and the scene. It makes it difficult to get to know them.*⁵²

The PSNI has said it views a concept of 'policing with the community', which was central to the Patten review, as core to its model of policing.⁵³ This process involves keeping in close and ongoing contact with community leaders.⁵⁴ However, whom the PSNI sees as 'community leaders' was a concern raised by the members of Reclaim the Agenda with whom we spoke.⁵⁵ None of the activists or civil society groups we interviewed had any experience with 'community policing' in organising their protests or had a relationship on which they could draw when preparing for protests. Indeed, the members of Springfield Residents' Action Group – the group that had the most frequent constructive contact with the PSNI among our interviewees – told us that they frequently bypassed engaging with the community policing team in their area for the sake of efficiency.⁵⁶ The PSNI did not respond to our request for comment.

[48] Ibid., paras 10 and 64

[49] Ibid., paras 45 and 57

[50] Ibid., paras 59 and 62

[51] Interview (in person) 29th April 2024

[52] Interview (in person) 29th April 2024

[53] D. Harkin. 'Community safety partnerships: the limits and possibilities of 'policing with the community'', 2018, Crime Prevention and Community Safety, vol. 20, pp. 125-136.

[54] J. Topping and J. Byrne. 'Shadow policing: the boundaries of community-based 'policing' in Northern Ireland', 2016, Policing and Society, vol. 26, pp. 522 – 543.

[55] Interview (in person) 30th April 2024

[56] Interview (in person) 29th April 2024

While, legally speaking, the Parades Commission does not have the power to prevent protests from occurring (it can merely restrict parades by placing conditions on them and on parade-related protests), we take the view that it nonetheless has a de facto authorisation function because some of these conditions can be so onerous or impractical that the protest may not proceed (or may only proceed with significant difficulty), especially with the notification periods of 28 and 14 days respectively. Those notification periods may be necessary and have a legitimate aim (as required by the ECHR) where PUL and CNR sectarian parades, specifically, are concerned, but we do not believe the government has shown that the notification periods are necessary for other protests – and the sweeping manner of the requirements makes the risk of unnecessary restrictions real.

Parades Commission determinations only apply to moving protests, or any protest related to a moving protest (that is, a counter-protest).⁵⁷ However, some of the bye-laws and policies that we outline above – particularly from Armagh, Banbridge and Craigavon District Council and Belfast City Council -- risk replicating the problematic de facto ‘authorisation’ process that the Parades Commission uses for moving protests, applying it to static protests.

Therefore, we are concerned that the organisation of spontaneous static protests in local authority districts may be negatively impacted because the length of the notification process creates a ‘chilling effect’ on activists – that is, the notification process excessively discourages people from exercising their human rights.



For example, a Reclaim the Agenda activist described a perceived risk of being accused of trespass for a spontaneous static protest on the cobblestones in front of Belfast City Hall, a popular location for static protests or allies following moving protests. The activist said this because of Belfast City Council's requirement for protesters to ask for permission to protest on Council-owned land (whether there is a preceding moving protest or not). Therefore, the activist from Reclaim the Agenda said that they will always seek permission from Belfast City Council to protest because of what they perceive to be a risk of prosecution.⁵⁸

Perceived differential treatment based on cause or identity

A group of women activists marches across Belfast to protest against gender-based violence. Having experienced or witnessed such harms, these protesters take to the streets to publicise and fight back against injustice.

You might expect that a march to protest against gender-based violence would be a space free from such violence; and, if it were to occur, that the police would intervene.

According to five of the eight protesters we interviewed, you would be wrong.

“You might expect that a march to protest against gender-based violence would be a space free from such violence... According to five of the eight protesters we interviewed, you would be wrong.”



[57] Public Processions (Northern Ireland) Act 1998, s7

[58] Ibid.

In our interviews, protest participants described facing violence or threats of violence from members of the public and counter-protesters, in plain view – they said – of police who were watching. Yet, they told us, the police did not respond: they did not take steps to prevent physical confrontation, nor did they respond to direct acts of violence against protesters.

We cannot prove that these accounts are true, and in some instances, the alleged incidents that interviewees recounted to us were hearsay. However, they provide evidence of a perception among at least some protest groups in NI that the PSNI is not preventing violence against protesters – or may not be preventing it equally for all. Conversely, the representative from Reclaim the Agenda expressed a view that the PSNI treats peaceful protesters as the potentially violent ones:

‘... the police treat us as agitators that are going to kick off, both when we are protesting and counter-protesting. This is despite our record as a non-violent movement.’⁵⁹

Gender justice and reproductive rights

A prime example of protesters’ perceptions of differential policing regarding gender justice relates to the creation of ‘safe access zones’ around abortion clinics, following what a member of Alliance for Choice alleged to us is a PSNI failure to prevent aggressive harassment around abortion clinics, leading to a traumatic impact on women.⁶⁰

Three reproductive rights activists with whom we spoke reported experiences in which, they said, anti-choice demonstrators threw salt or ‘holy water’ at them, which we understand could amount to a criminal offence of assault.⁶¹ Alliance for Choice has further publicly explained that:

‘As clinic escorts, we have witnessed first-hand, aggressive harassment and its traumatic impact on women and pregnant people ... The fervent harassment is targeted deliberately and directly at abortion seekers and those who provide legal abortion services. It includes filming of patients, family and friends and healthcare workers; verbal abuse, referring to people as “murderers”, baby-killers, or “mother of a dead baby” after their appointments, patients being told they are “eternally damned to hell”; and patients having “holy water” thrown over them or salt.’⁶²

The action of throwing salt is associated with the Catholic Church’s teachings on sin, while the act of throwing holy water suggests a process of absolution for the perceived sin of receiving health care for reproductive rights in the form of an abortion.⁶³ The implication is that at least before passage of the Abortion Services (Safe Access Zones) Act (Northern Ireland), or ‘SAZ Act’, in 2023, the PSNI did not stop such assaults or harassment.

Parliament passed the SAZ Act partly in an attempt to respond to reports of such harassment, to imposing restrictions on some activities within what it has designated as ‘safe access zones’ near reproductive health care facilities.⁶⁴

[59] Interview (in person) 30th April 2024

[60] For further detail, see Naomi Connor and Emma Campbell, ‘Write to your MLA in support of Clare Bailey’s anti-harassment bill’ (Alliance for Choice, no date): <https://www.alliance4choice.com/letter-to-mlas-on-protestors>

[61] See Rory Carroll, ‘Siege days are over: how Northern Ireland came to lead the UK on abortion’ (The Guardian, 21 March 2024):

<https://www.theguardian.com/world/2024/mar/21/how-northern-ireland-came-to-lead-the-uk-on-abortion>

[62] For further detail, see Naomi Connor and Emma Campbell, ‘Write to your MLA in support of Clare Bailey’s anti-harassment bill’ (Alliance for Choice, no date): <https://www.alliance4choice.com/letter-to-mlas-on-protestors>

[63] See Belfast News Letter, ‘Abortion clinic buffer zones: Belfast Health Trust apologises to MLAs over protest incident figures’ (no date):

<https://www.newsletter.co.uk/health/abortion-clinic-buffer-zones-belfast-health-trust-apologises-to-mlas-over-protest-incident-figures-3645886>.

[64] Henry McDonald, ‘Anti-abortion activist found guilty of harassing Belfast Marie Stopes boss’ (The Guardian, 19 November 2014):

<https://www.theguardian.com/uk-news/2014/nov/19/abortion-activist-guilty-harassing-belfast-marie-stopes>. See also Women and Equalities

Committee, 16 January 2019, Evidence on Abortion law in Northern Ireland, Written submission from Dr Pam Lowe (ANI0266):

<https://committees.parliament.uk/writtenevidence/97437/html/>. The Government’s reasoning for introducing the SAZ Act is set out in the ‘Background and Policy Objections to the Act’: <https://www.legislation.gov.uk/nia/2023/1/notes/division/2>. These objectives include ‘to ensure women and others visiting or working in the premises with legitimate reason (and those accompanying them) are not approached in an unsolicited manner within this zone’ and ‘to prevent activities designed to cause distress or to deter a person from approaching a building – e.g. filming, recording, unsolicited ‘counselling’ and pamphlet distribution.’

The government said it wanted ‘to ensure women and others visiting or working in the premises with legitimate reason (and those accompanying them) are not approached in an unsolicited manner within this zone’ and ‘to prevent activities designed to cause distress or to deter a person from approaching a building – e.g. filming, recording, unsolicited “counselling” and pamphlet distribution.’⁶⁵

The SAZ Act creates a shield around reproductive health care clinics, including those that offer abortions, in order to protect the patients using those clinics as well as the people who work there. The Act protects both the premises and the public area outside of it to a distance of 100 metres from each entrance or exit.⁶⁶ It is a criminal offence to harass people in a safe access zone. However, an activist from Alliance for Choice alleged to us that, in their experience, the PSNI still treat the behaviour of anti-choice protesters more favourably in terms of how they handle protests in Safe Access Zones. We have been unable to verify these allegations, but asked the PSNI for comment on how their policing of Safe Access Zones has changed since the 2023 Act became law. The PSNI did not respond to our request for comment.

An individual we interviewed from Reclaim the Agenda also described differential treatment that they perceived at their protests against conversion therapy, a practice that tries to change someone’s sexual orientation or gender identity to stop the person.⁶⁷

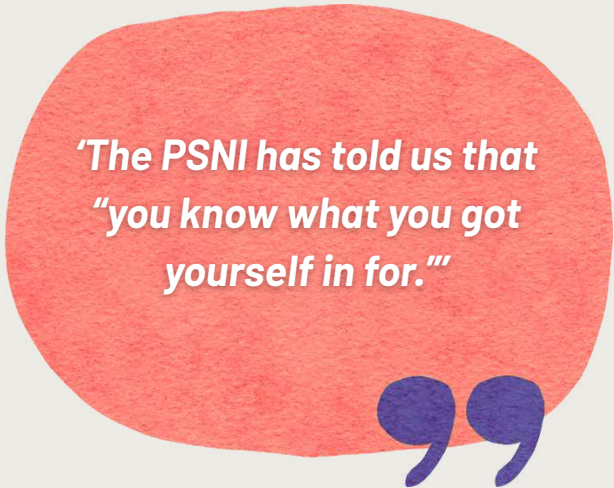
According to the British Psychological Society, conversion therapy can include talking therapies and prayer, but more extreme forms can include exorcism, physical violence and food deprivation; therefore, the organisation, along with more than 25 other professional associations, has characterised all types of conversion therapy as ‘unethical and potentially harmful.’⁶⁸ This is the medical context in which the Reclaim the Agenda activist claims,

‘With our conversion therapy protests, they have been heavily policed. But [employees and/or religious supporters of the practice who may also be protesting] came out from the conversion therapy centre and come to us to confront us without being stopped. However, we were told not to cross the street, but they were allowed to do so unhindered.’⁶⁹

They further alleged that,

‘The PSNI has told us that “you know what you got yourself in for.” So, now we generally don’t report things.’⁷⁰

We asked the PSNI to comment on this allegation, but the force did not respond.



***‘The PSNI has told us that
“you know what you got
yourself in for.”’***

[65] Abortion Services (Safe Access Zones) Act (Northern Ireland) 2023 - Explanatory Notes: <https://www.legislation.gov.uk/nia/2023/1/notes/division/2>

[66] Ibid. Section 4(2)

[67] See BACP, ‘Memorandum of understanding on conversation therapy in the UK’ (July 2024): <https://www.bacp.co.uk/events-and-resources/ethics-and-standards/mou/>. See also BBC News, ‘What is conversion therapy and when will it be banned?’ (20 September 2024): <https://www.bbc.co.uk/news/explainers-56496423>

[68] See BACP, ‘Memorandum of understanding on conversation therapy in the UK’ (July 2024): <https://www.bacp.co.uk/events-and-resources/ethics-and-standards/mou/>

[69] Interview (in person) 30th April 2024

[70] Interview (in person) 30th April 2024

The implication is that the PSNI is more sympathetic to those supporting the practice of conversion therapy than to those protesting against it, and has told those who protest against conversion therapy that they should expect some form of retaliation. This Reclaim the Agenda activist also said of the PSNI, 'It appears that there is a lack of understanding that women don't feel safe when protesting.'⁷¹

In another example, representatives from Reclaim the Agenda described their perception of a two-tiered approach to policing when they advocate for reproductive rights and/or against conversion therapy:

'[At] an event after lockdown ... the police wouldn't say if they had cameras on or not. We had permission, paperwork and everything we needed but the counter-protesters [who were predominantly male] did not. There is a distinct lack of care when women are organising; the PSNI won't aim to protect us, and it's left to us to do that ...'⁷²

Many activists may be sceptical about their prospects of success in pursuing formal complaints about such perceived issues.

PONI, in response to our freedom-of-information request, told us that it had received 57 complaints about PSNI officer conduct related to parades or protests between 1 May 2022 and 31 April 2025 (12 in 2022/23, 20 in 2023/24 and 25 in 2024/25). Few complaints reached the stage of a formal PONI investigation, with the majority closed either following the Ombudsman's initial assessment or initial enquiries.

There also appears to be a gendered aspect to these complaints, with 51 per cent of complaints made by men compared to 39 per cent by women.⁷³ While there are a range of potential reasons for this disparity (e.g. perhaps men are more likely to protest or have direct interactions with police), we are concerned that men may feel more empowered to complain than women do, or may be more likely to believe that complaining will be effective.

Where the perceived differential treatment of pro-choice protesters is concerned, we note the possibility of institutional prejudice against pro-choice views on the part of the PSNI, as evidenced by a 2021 written submission to a consultation on the then-draft Abortion Services (Safe Access Zones) Bill in which the PSNI placed 'health' (in the sense of the health of pregnant persons) in scare quotes and assumed there were 'competing' ⁷⁴ because of recent legislative changes:⁷⁵

'Compliance with competing Human Rights.

*The over-riding "health" considerations of this Bill will inevitably draw it in to legal challenge with the competing rights of the unborn child which is the key area of ground for the protestors.'*⁷⁶

The PSNI followed this written submission with oral evidence in early 2022:

'I was asked to provide an additional response in the commentary towards the end of my letter about the overriding health considerations, where I put the word health in inverted commas. To clarify for the Committee, that was to give the broadest possible interpretation of "health", bearing in mind that different groups and campaigning groups have a different

[71] Interview (in person) 30th April 2024

[72] Interview (in person) 30th April 2024. We have been unable to corroborate the identity of the counter-protestors with reference to publicly available sources.

[73] It is unclear whether this data refers to an individual's self-identification of their gender, or the PONI's perception. The remaining complaints were marked 'N/A', as 'either there was no way to determine the gender of the complainant... or there was no public complainant': see Ibid.

[74] See Northern Ireland (Executive Formation, etc) Act 2019, Section 9; Abortion (Northern Ireland) Regulations 2020; Abortion (Northern Ireland) (No. 2) Regulations 2020.

[75] See Northern Ireland (Executive Formation, etc) Act 2019, Section 9; Abortion (Northern Ireland) Regulations 2020; Abortion (Northern Ireland) (No. 2) Regulations 2020.

[76] See Melanie Jones, Letter to the Health Committee on behalf of the Police Service of Northern Ireland, 28 October 2021:

<https://www.niassembly.gov.uk/globalassets/committee-blocks/health/2017---2022/police-service-of-northern-ireland.pdf>

*priority around health: health of the unborn child; health of the expectant mother; and, of course, not forgetting the health and well-being of people who are employed at the clinics and other places that offer such services.*⁷⁷

We are concerned that these statements may point to an institutional bias against reproductive rights and pro-choice demonstrators.

Racial justice

We also heard claims that differential policing of protests impacts those advocating on racial justice issues. For example, the PSNI's handling of the Black Lives Matter protests in 2020 – fining protesters for purportedly breaching COVID-19 lockdown rules – caused particular alarm for some of the groups we interviewed.⁷⁸ An activist for the Rainbow Project told us,

*'I did not get fined by the PSNI for my presence at the Black Lives Matter protests, but I saw Black and Brown people getting fined.'*⁷⁹

The Police Ombudsman ultimately upheld protesters' complaints about such differential treatment following an investigation into how police handled such protests.⁸⁰

The PSNI's treatment of the Black Lives Matter movement can be contrasted with the force's approach to those who gathered on the day of Bobby Storey's funeral during the lockdown. Storey was a senior Irish republican and a former member of the Irish Republican Army (IRA).

His funeral brought thousands of mourners to the streets of Belfast, with similarities to a paramilitary-style gathering in what was akin to an Irish republican parade/assembly; however, those attending the funeral did not receive fines.⁸¹ Although the Ombudsman believed that this differential treatment was not intentional and not based on race or ethnicity, she said confidence in policing among some within racialised communities in Northern Ireland had been severely damaged.⁸²

The NI Policing Board subsequently produced a report on the police's handling of the Black Lives Matter protests, stating:⁸³

'Protestors who raised their rights were told that the Regulations were the law and/or that Article 2 (the right to life) trumped their rights to freedom of assembly and expression. None of the police officers in the clips viewed appeared to consider the delicate balance required by the ECHR or the attempts by the protestors to obey the social distancing guidance and instead seemed to follow the approach dictated by senior officers in advance.'

[77] See Committee for Health, 'OFFICIAL REPORT (Hansard): Abortion Services (Safe Access Zones) Bill: Police Service of Northern Ireland', 11 January 2022: <https://www.niassembly.gov.uk/globalassets/committee-blocks/health/2017--2022/committee-299391.pdf>. See also Rebecca Black, 'The Independent, Enforcement of abortion clinic safe access zones 'must balance competing rights'', (The Independent, 11 January 2022): <https://www.independent.co.uk/news/uk/health-committee-stormont-green-party-bill-ireland-b1990917.html>

[78] Interview (in person) 29th April 2024, Interview (in person) 30th April 2024 and Interview (in person) 1st May 2024. See also Northern Ireland Policing Board, '5 Year Human Rights Review' (2 July 2024): <https://www.nipolicingboard.org.uk/files/nipolicingboard/2024-07/Human%20Rights%205%20Year%20Review%20-%20Final.pdf>

[79] Interview (in person) 1st May 2024

[80] See Julian O'Neill, 'PSNI chief 'sorry' over policing at Black Lives Matter protests' (BBC News, 22 December 2020): <https://www.bbc.co.uk/news/uk-northern-ireland-55399659>. The Police Ombudsman for Northern Ireland, Marie Anderson, found that the PSNI handling of 'Black Lives Matter' protests and a counter demonstration amounted to unfairness and discrimination. See Police Ombudsman for Northern Ireland, 'An Investigation into Police policy and practice of protests in Northern Ireland', (December 2020): <https://www.policeombudsman.org/news/discrimination-concerns-are-justified-but-not-on-grounds-of-race-or-ethnicity>

[81] See Luke Sproule, 'Why was Bobby Storey's funeral so controversial?' (BBC News, 14 May 2024): <https://www.bbc.co.uk/news/uk-northern-ireland-53275733>

[82] See Police Ombudsman for Northern Ireland, 'An Investigation into Police policy and practice of protests in Northern Ireland', (December 2020): <https://www.policeombudsman.org/news/discrimination-concerns-are-justified-but-not-on-grounds-of-race-or-ethnicity>

[83] Northern Ireland Policing Board, 'Report on the Thematic Review of the Policing Response to Covid-19' (2020): <https://www.nipolicingboard.org.uk/files/nipolicingboard/publications/report-on-the-thematic-review-of-the-policing-responder-to-covid-19.PDF>, p. 51

...

*[This] was ... not the approach taken by other police services, for instance, in London. The Metropolitan Police was careful to ensure that senior officers clearly supported the Black Lives Matter movement and few enforcement actions were taken.*⁸⁴

An interviewee from Reclaim the Agenda suggested that this episode had a chilling effect: they told us that although the fines were rescinded, the incident stopped racialised minorities from attending protests. They also referred to a controversy about alleged police tolerance shown during a 'Protect Our Monuments' protest associated with PUL communities, compared with alleged intolerance during the Black Lives Matter protests.⁸⁵ Regarding this controversy, PONI has stated:

*'Confidence in policing of some within the Black, Asian and Minority Ethnic Communities of Northern Ireland was damaged by the PSNI's policing of the "Black Lives Matter" protests. The shortcomings that I have identified in the PSNI's investigation of "Protect our Monuments" when compared to the "Black Lives Matter" protests shows a lack of consistency and is likely to compound damage in confidence in policing within the Black, Asian and Minority Ethnic community.*⁸⁶

Interviewees told us that this perceived differential treatment is a systemic issue in protest policing in NI.

Five interviewees argued that the 'rise of the far-right' was coupled with what they perceived to be a more relaxed policing approach to right-leaning or far-right protests.⁸⁷ For example, members of Reclaim the Agenda claimed,

*'The PSNI do not facilitate our protests like they do for others. We have many members that do not feel safe because of counter-protesters and the police do nothing to ensure our safety. Police facilitate others, but we feel like we have to go above and beyond with everything that we do – for example when Britain First are present, sometimes the PSNI hasn't even shown up.'*⁸⁸

We approached the PSNI to ask what concrete changes it had implemented since the NI Policing Board's and PONI's reports on the policing of the Black Lives Matter protests, but the PSNI did not respond.

In terms of racial justice and policing, it is worth highlighting that the Patten Report placed a key focus on the 50:50 recruitment measure, which proposed that 'an equal number of Protestant and Catholics would be drawn from the pool of qualified candidates' for the PSNI.⁸⁹ However, this process failed to properly consider and address the policing of racial minorities in NI. Patrick Yu, the Executive Director of the NI Council for Ethnic Minorities, has criticised the 50:50 measure for using only two categories: Catholics and 'non-Catholics', rather than considering other specific communities within NI.⁹⁰

[84] The Met Police statement said: 'Officers engaged with those taking part, and on the whole the demonstration passed without event, and only a small number of arrests were made.'; Kirstie McCrum, 'Metropolitan Police issue statement on Black Lives Matter protests' (MyLondon, 6 June 2020): <https://www.mylondon.news/news/zone-1-news/metropolitan-police-issue-statement-black-18376521>

[85] Interview (in person) 30th April 2024

[86] Ibid. See also Police Ombudsman of Northern Ireland, 'Statutory Report: An Investigation Into Police Policy and Practice of Protests in Northern Ireland' (December 2020): <https://www.policeombudsman.org/getmedia/13974c58-70ff-4095-bb88-ab2b8c19f22e/PUBLIC-STATEMENT-BLACK-LIVES-MATTER-FINAL.aspx?ext=.pdf>; Northern Ireland Policing Board, 'Report on the Thematic Review of the Policing Response to Covid-19' (November 2020): <https://www.nipolicingboard.org.uk/thematic-review-policing-response-covid-19>

[87] Interview (in person) 29th April 2024, Interview (in person) 30th April 2024, Interview (in person) 30th April 2024, Interview (in person) 1st May 2024 and Interview (by phone) 17th May 2024.

[88] Interview (in person) 30th April 2024. For an overview of the activity of Britain First in Northern Ireland, see Patrick Hermansson, 'Britain First and Northern Ireland' (Hope Not Hate, 30 June 2022): <https://hopenothate.org.uk/2022/06/30/britain-first-and-northern-ireland/>

[89] See the Police (Recruitment) (NI) Regulations 2001; Police (Northern Ireland) Act 2000, ss44(5)-(7) and s46; The Hon Lord Patten, 'A New Beginning: Policing in Northern Ireland - The Report of the Independent Commission on Policing for Northern Ireland' (1999): <https://cain.ulster.ac.uk/issues/police/patten/patten99.pdf>

[90] See Northern Ireland Office, 'Police (Northern Ireland) Act 2000 - Review of Temporary Recruitment Provisions' (2010): <https://www.gov.uk/government/consultations/police-northern-ireland-act-2000-review-of-temporary-recruitment-provisions>

It is also possible that some PSNI officers have let their personal views influence their policing of racial justice protests and right-leaning or far-right events. For instance, some PSNI officers have been pictured wearing emblems on their uniform that activists allege represent far-right causes in the United States.⁹¹ Following the subsequent public backlash, the PSNI stated that the officers did not intend to cause offence, and confirmed that it had reminded officers of the PSNI's uniform policy.⁹² Regardless of whether the officers involved have been influenced by their personal views when it comes to how they conduct policing operations, such news stories continue to fuel the perception that PSNI officers treat protesters differently depending on their cause or their (perceived) identity.

Predominance of the PUL-CNR binary

Above and beyond any other potential reasons for this perceived differential treatment of progressive causes, interviewees (and our additional research) suggest that policing, and law and policy more broadly in NI, continue to be informed by the historic PUL-CNR binary and the impact of the Troubles. The interviewees perceive activists or causes that may appear to represent PUL or CNR communities as such, for example because they advocate on constitutional issues (that is, the status of NI in the UK), as having greater latitude in how they protest.

Few of the activists with whom we spoke protested during the Troubles. However, the Environmental Activist outlined their decades of experience of protesting on issues outside the PUL-CNR binary.

Protests in which they said they were involved included, among other things, organising 'critical mass bike rides' – a form of direct action in which people travel as a group on bicycles at a set location and time – as a form of protest.⁹³ They described the impact of a securitised and fragmented approach for environmental protests, and how they said this has developed over time:

'Although parading is often seen as an orange/green issue technically, legislation and regulations have hoops that we all need to jump through ... Initially on our critical mass rides, we informed the Royal Ulster Constabulary ahead of time. They did not shut us down purely for not requesting permission – there were lots of demonstrations at that time – but their tactic was partly due to the peace process ongoing at the time...

In the past I have made complaints about the PSNI, probably to the PONI, about the "Woodburn Forest protest" slow walk. They moved us aside so that traffic could go through. One officer said "don't be afraid to get stuck in lads" to his colleagues. At the end of a long process, I was told that the officer's number did not exist, or he was not on duty at the time (the story kept changing). After this, officers were given permission not to show their badges due to a suspicion of IRA activity ...

There is a difference between the way that the police treat protesters in NI and Great Britain, and this is Troubles-related. Police feel unopposed in Great Britain and less so here ...⁹⁴

The reference by the Environmental Activist to the Woodburn Forest protest relates to protests against oil and gas exploration in County Antrim.

[91] Conor Lynch, 'Police investigation after riot officers pictured with badges alleged connected to American right wing groups' (Belfast Live, 4 August 2024): <https://www.belfastlive.co.uk/news/belfast-news/police-investigation-after-riot-officers-29675518>

[92] BBC News, 'Police helmet emblems not intended to cause offence' (BBC News, 5 August 2024): <https://www.bbc.co.uk/news/articles/crlrrkgnr8no>

[93] See Jason Rodrigues, 'After 30 years, Critical Mass is still fighting for cyclists on London's roads' (The Guardian, 12 April 2024):

<https://www.theguardian.com/environment/bike-blog/2024/apr/12/after-30-years-critical-mass-is-still-fighting-for-cyclists-on-londons-roads>

[94] Interview (in person) 29th April 2024. For a more detailed discussion of the policing of environmental protesters, see Committee on the Administration of Justice, 'Policing the Protectors: A Narrative Report of PSNI Policing of Environmental Protest in the Sperrins' (September 2024):

<https://caj.org.uk/publications/reports/policing-the-protectors-a-narrative-report-of-psni-policing-of-environmental-protest-in-the-sperrins/>

In 2016, energy firm Infrastrata set up an exploratory well in Woodburn Forest on land leased from Northern Ireland Water. The work proceeded under 'permitted development' rights rather than a full public planning application, which angered local people.⁹⁵ Residents' and campaigners' main concerns included what they said were potential risks to the drinking water supply, a lack of proper planning consultation, and harmful climate and biodiversity impacts.⁹⁶ (In response to these protests, Infrastrata has said, 'Infrastrata is committed to carrying out this conventional exploration in an environmentally-responsible manner'.⁹⁷) Local and international activists mounted sustained, peaceful protests and vigils at the forest; there were arrests (for example, for alleged obstructive sitting and attempts to block convoy access), road closures and legal notices ordering protesters to leave.

Activists made several complaints to the PONI about how the PSNI had handled the protests at Woodburn Forest.⁹⁸ Protesters complained about what they said was heavy-handed policing, with accusations that PSNI officers were hostile and overly aggressive, and used more force than necessary.⁹⁹ For instance, they said they were threatened with arrest for 'aggravated trespass' even while on public land. Some protesters argued that police prevented them from using public paths or rights of way, even though parts of the forest were public land.¹⁰⁰ Others also raised concerns about the large number of police vehicles, the use of special units (Tactical Support Group), and what many saw as an excessive show of force relative to the protest's small size and peaceful nature.¹⁰¹

As the Environmental Activist explained, protesters at Woodburn also claimed that some PSNI officers did not display badges or shoulder numbers, although the news reports we reviewed do not clearly link that to Troubles-related reasoning.¹⁰² The PSNI has pointed to public safety, as well as the safety of specific protesters, to explain its handling of the protest.¹⁰³ We approached the PSNI to ask how they ensure accountability when officers do not display their badges or identity numbers, but the force did not respond.

Nevertheless, the complaints we heard regarding the policing of environmental protests in NI, such as the Woodburn Forest protest, suggest an inappropriately 'security' basis for policing that has been influenced by Troubles-era policing practice in NI. Another example of this excessively Troubles-influenced approach, in our view, arose during the 2012-2013 'flags protests' that led to the 2017 UK Supreme Court case described above, in which police chose to allow rather than shut down the protests due to a perceived 'need to try and facilitate some form of protest at Belfast City Hall to allow for some venting of anger and [relief of] community tension on this issue'.¹⁰⁴ The relevant Assistant Chief Constable later reported: 'The intelligence at the time informed us that had we stopped the protests from going to the city centre that the risk to life posed by the resultant disorder and violence posed too great' a risk to the human right to life.¹⁰⁵

[95] Gerry Moriarty, The Irish Times, 'Environmental Battle as InfraStrata searches for Antrim Oil,' (23 May 2016): https://www.irishtimes.com/news/environment/environmental-battle-as-infrastrata-hunts-for-antrim-oil-1.2656902?utm_source=chatgpt.com

[96] Ibid.

[97] Conor Macauley, 'Woodburn oil well: 'stand off' between police and protestors at drill site' (BBC News, 18 February 2016):

<https://www.bbc.co.uk/news/uk-northern-ireland-35602782>

[98] See Police Ombudsman, 'Number of complaints about police officers is falling' (30 June 2017): <https://www.policeombudsman.org/news/number-of-complaints-about-police-officers-is-falling>

[99] Linda Stewart, Belfast Telegraph, 'Woodburn Forest oil drill protesters rap 'heavy-handed' policing approach' (1 March 2016):

<https://www.belfasttelegraph.co.uk/news/northern-ireland/woodburn-forest-oil-drill-protesters-rap-heavy-handed-policing-approach/34499076.html>

[100] Ibid.

[101] Ibid.

[102] Linda Stewart, Belfast Telegraph, 'Woodburn Forest oil drill protesters rap 'heavy-handed' policing approach' (1 March 2016):

<https://www.belfasttelegraph.co.uk/news/northern-ireland/woodburn-forest-oil-drill-protesters-rap-heavy-handed-policing-approach/34499076.html>

[103] Ruth Hayhurst, Drill or Drop, 'Arrest at Woodburn Forest Drilling Protest' (9 May 2016): <https://drillordrop.com/2016/05/09/arrest-at-woodburn-forest-drilling-protest/>

[104] DB v. Chief Constable of Police Service of Northern Ireland [2017] UKSC 7, para 14

[105] Ibid., para 20

Such statements appear to us to suggest an underlying fear that if the government takes too many measures to constrain sectarian protests, as such, the result will be violence. While the Supreme Court in the ‘flags protest’ case described ‘[s]topping the parades without taking account of what further violence that [step] might provoke’ as ‘not an option’, we note that such a fear-based approach to protests in NI would appear to be unique in the UK and not conducive to fair and equitable policing at a systemic level.¹⁰⁶ In other words, it does not appear to us that police in the rest of the UK hold back from controlling protests because they fear a riot.

In our perception, these often-unspoken fears of violent unrest, and the also-unspoken political power that sectarian protest movements may have, are the unacknowledged backdrop to the approach to the policing of all protests in NI. It appears to us possible that in this sense, sectarian movements in NI are more powerful than the police, perhaps because they have greater political backing. If so, then there is a risk that even violent sectarian protests will become ‘untouchable’ – while the fear-based approach leads to repression for smaller and non-sectarian gatherings.

Interviewees frequently claimed to us that protests or parades on constitutional issues – or those otherwise linked to PUL or CNR communities – are given preferential treatment by the police. For example, an interviewee who is part of Reclaim the Agenda alleged,

‘If there’s an Orange march or a St Patrick’s Day parade, then people would be instantly prevented from stopping a march or stepping out in front of it [by the PSNI]. In our context, people are allowed to do that, assault us and get away...’¹⁰⁷

On the issue of authorisation, we note that the impact of protest authorisation requirements on constitutional (often termed ‘sectarian’) parades or protests is unclear. Information from the Parades Commission indicates that many do receive authorisation¹⁰⁸; however, news coverage of unauthorised parades or parade-related protests is limited, meaning that it is difficult to pinpoint how many such unauthorised gatherings take place.

We asked the Parades Commission whether, and how, it distinguishes between sectarian and non-sectarian parades or protests when making its decisions. The Commission told us that it ‘does not classify parades as “sectarian” or otherwise,’ adding, ‘All notifications of intention to hold a public procession are dealt with individually and in accordance with the applicable legislation and policy.’

The Commission did, however, address the question of ‘sensitive’ parades by explaining to us that, during the reporting year 2024-2025, it classified 186 protests as being ‘sensitive’ and imposed conditions on 149 of them. It also told us that a ‘sensitive’ parade is one that ‘ha[s] the potential to raise concerns and community tensions, including where it is the subject of a notified protest.’ However, outside of this explanation, and based on the information available to us, it appears to us that the Commission does not have a list of criteria it uses to determine whether a protest is ‘sensitive’. For us, any government power to take decisions without criteria raises concerns about potential bias, arbitrariness or politicisation.

[106] Ibid., para 62

[107] Interview (in person) 30th April 2024. See also Interview (in person) 1st May 2024

[108] As can be seen through reviewing the Parades Commission’s database of notified parades and protests related to parades: <https://www.paradescommission.org/Home.aspx>

The right to protest under the European Convention on Human Rights

After considering this range of human rights concerns about contemporary protest policing in NI, we turn to the main legal mechanism for addressing those concerns: the European Convention on Human Rights (ECHR), which is given effect in UK courts via the Human Rights Act 1998.

The ECHR contains a right to freedom of assembly – meaning the right to hold meetings and organise gatherings – at Article 11, but it also contains other rights that have implications for the practices and policies outlined in this report, including:

- The right to freedom of expression, under Article 10;
- The right to respect for private life, under Article 8; and
- The right to freedom from discrimination in how the state respects rights, including on bases such as sex, religion, race and political or other opinion. This right is found at Article 14.¹⁰⁹

We discuss each of these rights in turn, before applying the law to the evidence we have collected.

The ECHR may protect not only the act of gathering as a group, but also non-violent actions that people take during an assembly

Freedom of assembly

Article 11 of the ECHR states:

1. *'Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.'*
2. *No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.'*

The term 'assembly' is a broad one, and covers each of the types of protest outlined in this report – static and parading protests, spontaneous and planned protests.¹¹⁰ The ECHR may protect not only the act of gathering as a group, but also non-violent actions that people take during an assembly, such as 'sit-ins', processions, the holding of banners or the attaching of banners to walls, the creation of roadblocks, the chanting of slogans and the dissemination of leaflets.¹¹¹

Protesters are also generally entitled to choose the time and place for their assembly; however, the ECHR does not automatically create a right to enter all private or public property, with restrictions imposed on the basis of the grounds discussed below.¹¹²

[109] Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950, entered into force 3 September 1953, 213 UNTS 221 (ECHR), as incorporated into UK law by virtue of the Human Rights Act 1998. The Northern Ireland Assembly cannot pass any legislation which is incompatible with the ECHR: see Northern Ireland Act 1998, s6(2)(c)

[110] Including unplanned gatherings (Application Nos. 29580/12, 36847/12, 11252/13, 12317/13 and 43746/14, *Navalnyy v. Russia*, Judgment, 15 November 2018, para. 110), static demonstrations and 'flash mobs' (Application No. 58954/09, *Obote v. Russia*, Judgment, 19 November 2019, para. 35). Generally, see Application No. 37553/05, *Kudrevičius and others v. Lithuania*, Judgment, 15 October 2015, para. 91

[111] On the act of assembling, see Application No. 10613/10, *Can and others v. Turkey*, Judgment, 8 March 2022, para. 68. On 'sit ins', see Application No. 51346/99, *Cisse v. France*, Judgment 9 April 2002, paras. 39–40. On processions, see Application No. 4048/09, *Aydin v. Turkey*, Judgment, 26 May 2020, para. 50. On banners, see Application No. 3704/13, *Çetin v. Turkey*, Judgment, 26 May 2020, para. 26; Application No. 19620/12, *Akarsubaşı and Alçiçek v. Turkey*, Judgment, 23 January 2018, paras. 31–33. On roadblocks, see Application No. 39013/02, *Lucas v. the United Kingdom*, Admissibility, 18 March 2003. On slogans and leaflets, see Application No. 10613/10, *Can and others v. Turkey*, Judgment, 8 March 2022, para. 91

[112] Application No. 44079/98, *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, Judgment, 20 October 2005, para. 103; Application No. 44306/98, *Appleby and others v. the United Kingdom*, Judgment, 6 May 2003, para. 47

If an assembly is not 'peaceful', and therefore it is not protected by the Convention, protesters will nonetheless hold the other rights outlined in this section.¹¹³

The European Court of Human Rights (ECtHR) determines whether a state's restriction on a protest violates Article 11 by examining:

1. Whether the state action has interfered with the Article 11 right.
2. Whether the interference was done with a legitimate aim.
3. Whether the interference respected the law.
4. Whether the interference was necessary for pursuing the legitimate aim.

An interference with the Article 11 right can include many different types of state action, such as.¹¹⁴

- A prohibition on a protest;¹¹⁵
- The prevention of protests in certain areas, at certain times or using certain means;¹¹⁶
- The punishment of people who take part in protests;¹¹⁷
- The pre-emptive arrest or detention of suspected protesters;¹¹⁸

- The use of travel bans to prevent people from travelling to protests;¹¹⁹ and
- The use of force against protesters.¹²⁰

This is not an exhaustive list.

If a state action interferes with Article 11 rights, the Court will go on to look at whether the interference had a legitimate aim. The possible legitimate aims are listed in Article 11(2), which provides an exclusive list. The most frequently cited justifications appear to be the prevention of disorder and the protection of the rights and freedoms of others.¹²¹ In the NI context, we could also see national security or public safety justifications, including where assemblies may attract paramilitary groups.¹²²

At times, some individuals and governments may argue, incorrectly, that protests relating to abortion rights and LGBTQ+ rights – both subjects of debate and assembly in NI – engage the public health or morals justification.¹²³ On the latter point, the ECtHR has asserted that restrictions LGBTQ+ rights cannot be justified on the basis of the protection of morals.¹²⁴

[113] Application No. 24838/94, *Steel and others v. the United Kingdom*, Judgment, 23 September 1998, paras. 92 and 113. In determining whether the group is violent or non-violent, the Court looks at the organisers' intentions, while the burden of proof is on the authorities to demonstrate that the organisers had violent intentions: Application No. 37553/05, *Kudrevičius and others v. Lithuania*, Judgment, 15 October 2015, para. 92; Application No. 25196/04, *Christian Democratic People's Party v. Moldova* (No. 2), Judgment, 2 February 2010, para. 23. The fact that some individuals may join the protest and act violently does not take away the protections afforded by Art. 11 (Application No. 17391/06, *Primov and others v. Russia*, Judgment, 12 June 2014, para. 155), but it may have implications for the legality of any restrictions on the right (Application Nos. 8080/08 and 8577/08, *Schwabe and M.G. v. Germany*, Judgment, 1 December 2011, para. 103)

[114] Of course, many of the interferences noted in this section may also lead to violations of other fundamental rights

[115] Application No. 1543/06, *Baczowski and others v. Poland*, Judgment, 3 May 2007, paras. 66–68

[116] Application Nos. 29221/95 and 29225/95, *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, Judgment, 2 October 2001, paras. 79–80 and 108–109

[117] Application No. 11800/85, *Ezelin v. France*, Judgment, 26 April 1991, para. 39

[118] See the discussion in Application Nos. 67630/11, 67694/11 and 69379/11, *Huseynli and others v. Azerbaijan*, Judgment, 11 February 2016, paras. 84–97

[119] Application No. 20652/92, *Djavit An v. Turkey*, Judgment, 20 April 2003, paras. 61–62

[120] Application Nos. 35880/14 and 75926/17, *Zakharov and Varzhabetyan v. Russia*, Judgment, 13 October 2020, para. 88

[121] European Court of Human Rights, 'Guide on Article 11 of the European Convention on Human Rights: Freedom of assembly and association' (31 August 2022): https://ks.echr.coe.int/documents/d/echr-ks/guide_art_11_eng, paras. 60–61. Art. 11(2) states: 'No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others...'

[122] Parading is regulated by the Public Processions (Northern Ireland) Act 1998 and the Parades Commission, 'Public Processions and Related Protest Meetings: A Code of Conduct' (April 2005): <https://www.paradescommission.org/getmedia/a8135b81-ee6c-45e3-8e1c-33b5d073b312/NorthernIrelandParadesCommission.aspx>. For an overview, see Police Service of Northern Ireland, 'Processions and Protests' (PSNI, no date): <https://www.psni.police.uk/safety-and-support/keeping-safe/processions-and-protests>

[123] Jayne McCormack, 'Abortion: Protest exclusion zones become enforceable by PSNI' (BBC News, 7 May 2023): <https://www.bbc.co.uk/news/uk-northern-ireland-65497779>; BBC News, 'Transgender-related protesters divided by police in Belfast' (BBC News, 16 April 2023): <https://www.bbc.co.uk/news/uk-northern-ireland-65293157>.

[124] Application Nos. 67667/09, 44092/12 and 56717/12, *Bayev and others v. Russia*, Judgment, 20 June 2017, paras. 66–69. It has likewise held that restrictions based on incompatibility with others' religious views are unlawful: Application No. 37477/11, *Centre of Societies for Krishna Consciousness in Russia and Frolov v. Russia*, Judgment, 23 November 2021, para. 55

Regardless of a state's purported legitimate aim in restricting a protest, the ECtHR interprets the aims listed in Article 11(2) narrowly.¹²⁵

To be 'prescribed by law', a restriction on the right to freedom of assembly must have a basis in domestic law: in this case, it must be legal under the laws of the UK and NI, as well as international law. The law allowing the restriction must be accessible and foreseeable – meaning that people are able to understand the law and how it applies to them.¹²⁶ To meet this requirement, the law must not grant the authorities unfettered discretion in exercising any powers to prevent protests or otherwise limit the Article 11 right, and there must be safeguards to prevent officials from misusing their discretionary powers.¹²⁷

When examining 'necessity', the Court will assess whether the interference was necessary for achieving the legitimate aim. In relation to necessity under Article 11, the ECtHR has also found a proportionality requirement, meaning that not only does a lawful interference have to meet a 'pressing social need', but the measure must also strike an effective balance between the pursuit of the legitimate aim and the protesters' rights, and consider any competing rights – for instance, the rights of counter-protesters to assemble and express themselves.¹²⁸

The ECtHR also attaches weight to any 'chilling effect' that restrictions could have on legitimate protests. A 'chilling effect' occurs when a law or policy has an 'undesirable discouraging effect or influence'.¹²⁹ In this context, it would mean that people feel unable to assemble or protest as a result of a law or policy, even though they would have a human right to do so.¹³⁰ The Court has recognised that both procedural measures (such as administrative requirements) and forceful ones (such as an oppressive police presence) have the capacity to create a chilling effect.¹³¹

When the Article 11 right applies, the authorities also have some 'positive obligations' to facilitate the safe passage of assemblies and protests: in other words, they must affirmatively do things to make a safe protest possible.¹³² In particular, this obligation applies when the protesters are vulnerable to victimisation because of the views they hold or the characteristics they share.¹³³ For instance, when it appears to the authorities that protesters may be subject to abuse and harassment by virtue of their support for a particular cause, the ECHR requires that the authorities take steps to restrain or remove counter-protesters.¹³⁴ While the Court recognises a right to counter-demonstrate, it explains that counter-protesters cannot exercise this right in a way that limits another person's right to demonstrate, or involves hate speech. In sum, the authorities' role is to facilitate the exercise of both protesters' and counter-protesters' rights.¹³⁵

[125] Application Nos. 29580/12, 36847/12, 11252/13, 12317/13 and 43746/14, *Navalnyy v. Russia*, Judgment, 15 November 2018, para. 122

[126] Application No. 37553/05, *Kudrevičius and others v. Lithuania*, Judgment, 15 October 2015, paras. 108-110; Application no. 20652/92, *Djavit An v. Turkey*, Judgment, 20 February 2003, paras. 63-67

[127] Application Nos. 57818/09 and 14 others, *Lashmankin and others v. Russia*, Judgment, 7 February 2017, para. 430. This also applies if policing measures are imposed on protests that are not intended to be directed at limiting lawful assembly: see Application No. 34320/04, *Hakobyan and others v. Armenia*, para. 107; Applications nos. 29580/12, *Navalnyy v. Russia*, Judgment, 15 November 2018, para. 115

[128] Application No. 37553/05, *Kudrevičius and others v. Lithuania*, Judgment, 15 October 2015, paras. 142-144

[129] Merriam-Webster Dictionary, 'Chilling effect' (Merriam-Webster, no date): <https://www.merriam-webster.com/legal/chilling-effect>

[130] For instance, see Marcial Boo, 'The Public Order Bill will have a chilling effect on democratic freedom' (Equality and Human Rights Commission, 21 November 2022): <https://www.equalityhumanrights.com/en/our-work/blogs/public-order-bill-will-have-chilling-effect-democratic-freedom>

[131] On procedural measures, see Application No. 1543/06, *Baczkowski and others v. Poland*, Judgment, 3 May 2007, paras. 66-68. On the use of force, see Application No. 1774/11, *Nemstov v. Russia*, Judgment, 31 July 2014, paras. 77-78; Application Nos. 35880/14 and 75926/17, *Zakharov and Varzhabetyan v. Russia*, Judgment, 13 October 2020, para. 90; Application no. 25/02, *Balçık and others v. Turkey*, Judgment, 29 November 2007, para. 41; Applications nos. 32124/02, 32126/02, 32129/02, 32132/02, 32133/02, 32137/02 and 32138/02, *Aldemir and others v. Turkey*, Judgment, 18 December 2007, para. 34; Application no. 37586/04, *The United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, Judgment, 18 October 2011, para. 135; Application no. 28793/02, *Christian Democratic People's Party v. Moldova*, Judgment, 14 February 2006, para. 77; Application no. 4524/06, *Yildiz and others v. Turkey*, Judgment, 14 October 2014, para. 33

[132] For instance, the duty to communicate with the leaders of a protest demonstration to ensure peaceful protest, see Application no. 74568/12, *Frumkin v. Russia*, Judgment, 5 January 2016, para. 129

[133] Application No. 1543/06, *Baczkowski and others v. Poland*, Judgment, 3 May 2007, para. 64

[134] Application No. 46712/15, *Berkman v. Russia*, Judgment, 1 December 2020, paras. 55-57

[135] Application No. 10126/82, *Platform 'Ärzte für das Leben' v. Austria*, Judgment, 21 June 1988, para. 32; Application No. 40721/08, *Fáber v. Hungary*, Judgment, 24 July 2012, para. 43. On hate speech, see Application No. 46712/15, *Berkman v. Russia*, Judgment, 1 December 2020, para. 56

Freedom of expression

The right to freedom of assembly (discussed above) is the principal ECHR right applicable in the context of protests. However, other ECHR rights still apply in this context: for example, the Article 10 ECHR right to freedom of expression is relevant, considering that one of the primary aims of protesting is to express opinions or beliefs.¹³⁶

Article 10 states:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.'

This right becomes particularly relevant when the authorities impose restrictions on protests because of the participants' views or opinions (or the reactions those views or opinions might inspire).¹³⁷

The steps in the analysis under Article 10 are the same as those under Article 11. The ECtHR will assess:

1. Whether the state action has interfered with the Article 10 right.
2. Whether the interference was done with a legitimate aim.
3. Whether the interference respected the law.
4. Whether the interference was necessary for pursuing the legitimate aim.

Similarly to its approach to the freedom of assembly, the Court interprets the right to freedom of expression broadly, with a wide range of acts capable of infringing on it. In the context of protests, possible interferences include detention, criminal investigations and prosecutions before, during or after a protest, or written warnings in advance of a protest.¹³⁸

As with the right to freedom of assembly, the right to freedom of expression is not absolute, and the ECHR allows the State to interfere with these rights in some limited circumstances. The legitimate aims the ECHR lists for interferences with Article 10 rights are: the interests of national security, the protection of public safety, the prevention of disorder or crime, the protection of health or morals, and the protection of the rights and reputations of others.¹³⁹

Broadly speaking, the ECtHR assesses legitimate aim, legality and necessity under Article 10 in a manner very similar to the way it approaches Article 11 (see above).

[136] Application No. 23885/94, *Freedom and Democracy Party (ÖZDEP) v. Turkey*, Judgment, 8 December 1999, para. 37. For an overview of the ECtHR jurisprudence, see European Court of Human Rights, 'Guide on Article 10 of the European Convention on Human Rights: Freedom of expression' (31 August 2022): <https://rm.coe.int/guide-on-article-10-freedom-of-expression-eng/native/1680ad61d6>. Other international agreements which the UK has signed up to also provide similar obligations, including the ICCPR (Art. 19(2)).

[137] Application No. 17391/06, *Primov and others v. Russia*, Judgment, 12 June 2014, para. 92; Application Nos. 29221/95 and 29225/95, *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, Judgment, 2 October 2001, para. 85

[138] See, respectively, Application No. 24838/94, *Steel and Others v. the United Kingdom*, Judgment, 23 September 1998, para. 92; Application No. 27520/07, *Akçam v. Turkey*, Judgment, 25 October 2011; Application Nos. 21279/02 and 36448/02, *Lindon, Otchakovsky-Laurens and July v. France*, Judgment, 22 October 2007, para. 59; Application No. 16435/10, *Karastelev and Others v. Russia*, Judgment, 6 October 2020, paras. 70-76

[139] Application No. 13470/02, *Khuzhin and Others v. Russia*, Judgment, 23 January 2009, para. 117

Freedom of religion and belief

In the NI context, it is also worth briefly noting that people who join sectarian parades as such may regard these as an expression of religious beliefs.¹⁴⁰ The freedoms of thought, conscience and religion are protected under Article 9 ECHR, which states:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

*2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others.*¹⁴¹

The steps in the analysis of how this right applies, and other aspects of the ECtHR's approach, are broadly the same as for Articles 10 and 11 (see above).

In balancing competing interests, the ECtHR has emphasised the state's role in ensuring mutual tolerance between competing groups by acting as 'the neutral and impartial organiser of the exercise of various religions, faiths and beliefs'.¹⁴²

The ECtHR has recognised that the co-existence of different religions may require interferences with Article 9 'to reconcile the interests of the various groups and ensure that everyone's beliefs are respected'.¹⁴³ Reconciling the interests of various groups could include the regulation of the place and type of display of religious symbols.¹⁴⁴

Respect for private life

The right to respect for private life is protected by Article 8 of the ECHR. It states:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

*2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*¹⁴⁵

Article 8 protects people from a wide range of interferences with their private lives by the state, such as the storage and use of their personal data. For example, the mere collection or storing of information can amount to an interference with private life under the expansive protection afforded by the Article 8 right.¹⁴⁶

[140] See, e.g., Belfast News Letter, 'Annual Drumcree parade is held, then protest at Orangemen being refused permission to complete the march' (Belfast News Letter, 8 July 2024): <https://www.newsletter.co.uk/news/people/annual-drumcree-parade-is-held-then-protest-at-orangemen-being-refused-permission-to-complete-the-march-4693750>. See also Fionnuala Mckenna, 'Parades and Marches – Background Information on the Main Parading Organisations' (CAIN Web Service, no date, <https://cain.ulster.ac.uk/issues/parade/organis.htm>

[141] For an overview of the ECtHR jurisprudence, see European Court of Human Rights, 'Guide on Article 9 of the European Convention on Human Rights: Freedom of thought, conscience and religion' (31 August 2024): https://ks.echr.coe.int/documents/d/echr-ks/guide_art_9_eng. Other international agreements which the UK has signed up to also provide similar obligations, including the ICCPR (Art. 18)

[142] Ibid, para. 107

[143] Application No. 14307/88, Kokkinakis v. Greece, Judgment, 25 May 1993, para. 33; See also Application No. 10519/03, Barankevich v. Russia, Judgment, 26 July 2007, para. 30

[144] Application Nos. 41340/98, 41342/98, 41343/98 and 41344/98, Refah Partisi (The Welfare Party) and others v. Turkey, Judgment, 13 February 2003, para. 95

[145] For an overview of the ECtHR jurisprudence, see European Court of Human Rights, 'Guide on Article 8 of the European Convention on Human Rights: Right to respect for private and family life, home and correspondence' (31 August 2022): https://ks.echr.coe.int/documents/d/echr-ks/guide_art_8_eng. Other international agreements which the UK has signed up to also provide similar obligations, including the ICCPR (Art. 17)

[146] Application nos. 30562/04 and 30566/04, S and Marper v. the United Kingdom, Judgment, 4 December 2008, para. 67; Application no. 62332/00, Segerstedt-Wiberg and others v. Sweden, Judgment, 6 June 2006, para. 73; Application nos. 58170/13, 62322/14 and 24960/15, Big Brother Watch and others v. the United Kingdom, Judgment, 25 May 2021, paras. 324-331

Such information may include biographical information (for example, the person's name and age) as well as photographs or video recordings of them, biometric data, or information regarding their racial or ethnic origin, political opinions, religious beliefs or lack thereof, or sexual orientation.¹⁴⁷ Whether the storage or sharing of information will amount to an 'interference' with the right to privacy will depend on the situation as well as the content of the data collected.

If the state has interfered with the right, then the remaining steps of the analysis apply: legitimate aim, legality and necessity. Where secret surveillance is concerned, the ECtHR has set out a heightened standard of 'strict necessity'.¹⁴⁸

Prohibition on discrimination in the state's respect for rights

Article 14 of the ECHR establishes that the state cannot engage in discrimination in terms of how it respects the other rights in the Convention, stating:

The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination

*on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*¹⁴⁹

The application of Article 14 is 'ancillary' in nature.¹⁵⁰ That is, it does not ban all discrimination as such; instead, it means (for the purposes of this report) that the state cannot engage in discrimination on the basis of sex, race, etc. in how it applies the rights of freedom of association/assembly, freedom of expression and respect for private life.¹⁵¹ If the state does not allow a person to exercise their rights in the same way as another individual, and the reason for this differential treatment is that they have or lack a particular characteristic, then Article 14 becomes applicable.¹⁵²

The characteristics to which this obligation against discrimination clearly apply are sex and gender identity; sexual orientation; race and ethnicity; language; religion; political or other opinion; national or social identity; age; association with a minority group; health; and birth, parental, marital, immigration, employment or property-holding status.¹⁵³

[147] On racial or ethnic origin, see Application nos. 30562/04 and 30566/04, *S and Marper v. the United Kingdom*, Judgment, 4 December 2008, paras. 66, 71. On opinions and beliefs, see Application no. 43514/15, *Catt v. the United Kingdom*, Judgment, 24 January 2019, para. 112; Application no. 21924/05, *Işık v. Turkey*, Judgment, 2 February 2010, para. 37; Application no. 66490/09, *Mockutė v. Lithuania*, Judgment, 27 February 2018, para. 117; Application no. 21924/05. On sexual orientation, see Application nos. 3153/16 and 27758/18, *Drelon v. France*, Judgment 8 September 2022. Application nos. 47621/13, 3867/14, 73094/14, 19298/15, 19306/15 and 43883/15, *Vavříčka and others v. the Czech Republic*, Judgment, 8 April 2021, para. 261.

[148] Application no. 5029/71, *Klass and Others v Germany*, Judgment, 6 September 1978, paras. 55, 59 and 75.

[149] For an overview of the ECtHR jurisprudence, see European Court of Human Rights, 'Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention: Prohibition of discrimination' (31 August 2022): https://ks.echr.coe.int/documents/d/echr-ks/guide_art_14_art_1_protocol_12_eng. Other international agreements which the UK has signed up to also provide similar obligations, including the ICCPR (Art. 2(1)), the Convention for the Elimination of All Forms of Discrimination Against Women, New York, 18 December 1979, entered into force 3 September 1981, 1249 UNTS 13, and the Convention on the Rights of Persons with Disabilities, New York, 13 December 2006, entered into force 3 May 2008, 2515 UNTS 3.

[150] Article 14 refers to the prohibition of discrimination in 'the enjoyment of the rights and freedoms set out in the Convention'. See, further, Application No. 6833/74, *Marckx v. Belgium*, Judgment, 13 June 1979, para. 32.

[151] There are other causes of action based on the prohibition of discrimination in Northern Ireland law: for instance, see the Northern Ireland Act 1998, ss75-76. The Equality Act 2010 – which applies to the rest of the UK – generally does not apply to Northern Ireland. For an overview of equality legislation in Northern Ireland, see Equality Commission for Northern Ireland, 'Legislation' (ECNI, no date): <https://www.equalityni.org/Legislation>

[152] The ECtHR has confirmed that this applies to the rights to freedom of expression, assembly and association, as well as aspects of the right to private and family life: see Application No. 1543/06, *Bączkowski and others v. Poland*, Judgment, 3 May 2007. A claimant does not necessarily need to claim that the underlying right has been violated in their case, just that their treatment has been different in relation to that right: see Application No. 6833/74, *Marckx v. Belgium*, Judgment, 13 June 1979.

[153] Application No. 17484/15, *Carvalho Pinto de Sousa Morais v. Portugal*, Judgment, 25 July 2017 (sex); Application No. 73235/12, *Identoba and Others v. Georgia*, Judgment, 12 May 2015, para. 96 (gender identity); Application No. 33290/96, *Salgueiro da Silva Mouta v. Portugal*, Judgment, 21 December 1999, para. 28 (sexual orientation); Application Nos. 27996/06 and 34836/06, *Sejdić and Finci v. Bosnia and Herzegovina*, Judgment, 22 December 2009, para. 43 (race and ethnicity); Application Nos. 1474/62, 1677/62, 1691/62, 1769/63, 1994/63 and 2126/64, *Case 'Relating to certain aspects of the laws on the use of languages in education in Belgium' v. Belgium (Merits)*, Judgment, 23 July 1968 (language); Application No. 71156/01, *Case of 97 members of the Gldani Congregation of Jehovah's Witnesses and 4 Others v. Georgia*, Judgment, 3 May 2007, para. 131 (religion); Application No. 9103/04, *The Georgian Labour Party v. Georgia*, Judgment, 8 July 2008 (political or other opinion); Application No. 55707/00, *Andrejeva v. Latvia*, Judgment, 18 February 2009 (national identity); Application No. 38590/10, *Biao v. Denmark*, Judgment, 24 May 2016, para. 126 (social identity); Application No. 44818/11, *British Gurkha Welfare Society and Others v. the United Kingdom*, Judgment, 15 September 2016, para. 88 (age); Application No. 37193/07, *Todorova v. Bulgaria*, Judgment, 25 March 2010 (association with a minority group); Application No. 13444/04, *Glor v. Switzerland*, Judgment, 30 April 2009, paras. 80-84 (health); Application No. 16574/08, *Fabris v. France*, Judgment, 7 February 2013 (birth status); Application No. 44399/05, *Weller v. Hungary*, Judgment, 31 March 2009 (parental status); Application No. 3976/05, *Yiğit v. Turkey*, Judgment, 2 November 2010, para. 79 (marital status); Application No. 22341/09, *Hode and Abdi v. the United Kingdom*, Judgment, 6 November 2012, para. 47 (immigration status); Application No. 31950/06, *Graziani-Weiss v. Austria*, Judgment, 18 October 2011, para. 65 (employment status); Application No. 57412/08, *Chabauty v. France*, Judgment, 4 October 2012 (property status).

This list is not exclusive, and the ECtHR has at times recognised additional grounds as societal views have evolved.¹⁵⁴ It is also important to recognise that the ECHR also protects against discrimination based on perceived characteristics (for example, in situations where a decision-maker is mistaken about someone's race, religion or opinion) as well as actual characteristics.

When it applies, Article 14 prohibits direct discrimination, indirect discrimination and discrimination by association. Direct discrimination, in the ECtHR's view, involves a 'difference in treatment of persons in analogous, or relatively similar situations'.¹⁵⁵ The Court describes indirect discrimination as occurring when a law or policy is expressed in neutral terms, but nonetheless results in discriminatory impacts on certain people.¹⁵⁶ Discrimination by association occurs when the state treats someone differently due to their association or perceived association with someone else, based on their associate's characteristics; examples might include being a carer for a disabled or elderly person, or being in an interracial relationship.¹⁵⁷ When assessing whether a person has been differentially treated under Article 14, the ECtHR analyses whether there has been a difference in treatment based on a particular characteristic – or, at times, whether the state should have given a person or community different treatment but failed to do so (for example, by not providing schools that offer education in a minority language).

[154] Application No. 7205/07, *Clift v. the United Kingdom*, Judgment, 13 July 2010, para. 55

[155] Application No. 38590/10, *Biao v. Denmark*, Judgment, 24 May 2016, para. 89

[156] Application No. 24746/94, *Jordan v. the United Kingdom*, Judgment, 4 May 2001, para. 154

[157] See the discussion in Application No. 23682/13, *Guberina v. Croatia*, Judgment, 22 March 2016



Application of the ECHR to the regulation and policing of protests in Northern Ireland

Regarding Articles 8, 10 and 11 ECHR, we believe many of the laws, policies and practices discussed in this report would easily meet the relatively low threshold for establishing an ‘interference’ with the right. For example, we have no doubt that the Court would find that restricting when, where and how a protest can take place, imposing a substantial notice period, and requiring public liability insurance are all actions or policies that have an impact on the right. The question then becomes whether the authorities are creating interferences with a legitimate aim in mind, and then whether the measures are lawful and necessary to achieving the legitimate aim. We set out below an analysis of some of the laws and policies regarding protests in NI under Articles 8, 10 and 11 ECHR, as well as the application of Article 14 ECHR to these rights.

Notification Requirements

We believe the laws and policies imposing notification requirements for moving protests in NI – implemented by the Parades Commission, the PSNI, and local councils – clearly amount to interferences with ECHR rights, because they restrict the exercise of protest rights, especially the ability to properly plan protests. We must therefore look at the questions of legitimate aim, legality and necessity.

In our view, the ECtHR would likely find that these notification requirements have a legitimate aim, such as ensuring public order. In practice, it is rare for the Court to find that a state’s interference with rights under Articles 8, 10 or 11 do not have a legitimate aim, and there is caselaw indicating that a prior notification requirement may legitimately pursue goals such as public order or public safety.

However, there may be an issue when it comes to the legality requirement. Notifications for moving protests under the Public Processions (Northern Ireland) Act 1998 are prescribed by law, as the notification requirement is set out in law. However, in the case of some local authorities – for example, Newry Mourne and Down District Council – the lack of criteria or the vagueness of criteria for determining whether a static protest can take place on their land is so unclear and broad as to allow virtually unfettered discretion. We do not consider such bye-laws to meet the ‘prescribed by law’ requirement. We also regard the legal standards that may allow ‘spontaneous protests’ without notification in some circumstances as unclear, with the potential to create inconsistencies or allow discrimination.

Regarding necessity, the ECtHR has provided some helpful guidance that is relevant to the NI context. First, state authorities are generally prohibited from interfering with a protest or other assembly on the grounds of the messages the participants express – the only exception being cases involving incitement to violence or hate speech.¹⁵⁸

However, the Court has been more willing to accept procedural restrictions, for example those based on the location, duration, and public impact of protests.¹⁵⁹ The Court has further explained that a legal requirement for protesters to seek authorisation from, or otherwise notify, the authorities before protesting will only be permissible in limited situations, while its approach differs depending on whether the obligation is a notification obligation – simply to tell the authorities of an upcoming protest – or an authorisation one, meaning that people must seek prior approval for a protest to take place. We believe the ‘notification’ requirement in NI is actually an authorisation requirement.

[158] Application No. 37553/05, *Kudrevičius and others v. Lithuania*, Judgment, 15 October 2015, para. 145

[159] *Ibid*, para. 156

The Court has held that a notification requirement may be lawful if it is:

- Used with a view to facilitating a protest in a manner that allows the authorities to uphold their human rights obligations;¹⁶⁰
- Formulated with sufficient precision and with foreseeable consequences;¹⁶¹
- Applied flexibly;¹⁶²
- Not a hidden obstacle to people exercising their right to freedom of assembly;¹⁶³ and
- Enforced proportionately, in the sense that a failure to notify does not necessarily grant the authorities the power to stop the protest. Instead, the authorities must consider the disruption a protest may cause, and what a necessary response would be to uphold the rights of all.¹⁶⁴

It has also held that, in some limited circumstances, the state can implement authorisation requirements. The Court has held that an authorisation requirement may be lawful if it is:

- Formulated with sufficient precision and with foreseeable consequences;¹⁶⁵
- Applied flexibly;¹⁶⁶
- Applied reasonably;¹⁶⁷
- Not a hidden obstacle to people exercising their right to freedom of assembly;¹⁶⁸ and

- Enforced proportionately, in the sense that the fact a protest has not received authorisation does not necessarily grant the authorities the power to disrupt the protest. Instead, the authorities must consider the disruption a protest may cause, and what a necessary response would be to uphold the rights of all.¹⁶⁹

However, according to the ECtHR, the existence of notification or authorisation requirements in the law should not affect protesters' rights to hold a spontaneous protest without interference.¹⁷⁰ Indeed, states must ensure that such requirements are waived under domestic law to allow people to spontaneously respond to events.¹⁷¹ The Court has also explained that governments may be entitled to sanction organisations or individuals that do not comply – but only in the most extreme cases, such as unauthorised or unnotified protests involving acts of violence; protesters should not be sanctioned for contravening administrative processes.¹⁷²

In the NI context, we do not see a sufficient justification for a notification requirement that requires 28 days' advance notice for moving protests. We consider this 'notification' process to be an authorisation process in fact – with potentially serious consequences, including criminal prosecution, for people who protest without the Parades Commission's approval.

[160] Application No. 10877/04, *Kuznetsov v. Russia*, Judgment, 23 October 2008, para. 42; Application No. 61821/00, *Ziliberberg v. Moldova*, Decision, 4 May 2004

[161] Application No. 17391/06, *Primov and others v. Russia*, Judgment, 12 June 2014, paras. 121-128

[162] Application Nos. 57818/09 and 14 others, *Lashmankin and others v. Russia*, Judgment, 7 February 2017, para. 422

[163] Application No. 74552/01, *Ataman v. Turkey*, Judgment, 5 December 2006, para. 38

[164] Application No. 51346/99, *Cisse v. France*, Judgment, 9 April 2002, para. 50; Application No. 25691/04, *Butka and others v. Hungary*, Judgment, 17 July 2007, para. 34; Application No. 17391/06, *Primov and others v. Russia*, Judgment, 12 June 2014, para. 119

[165] Application No. 17391/06, *Primov and others v. Russia*, Judgment, 12 June 2014, paras. 121-128

[166] Application Nos. 57818/09 and 14 others, *Lashmankin and others v. Russia*, Judgment, 7 February 2017, para. 422

[167] Application No. 1543/06, *Baczowski and others v. Poland*, Judgment, 3 May 2007; Application Nos. 6991/08 and 15084/08, *Hyde Park and others v. Moldova* (Nos. 5 and 6), Judgment, 14 September 2010, para. 41. See the example of revoking a previously-given authorisation just before a protest was due to take place: Application No. 35082/04, *Makhmudov v. Russia*, Judgment, 26 July 2007, paras. 55-71.

[168] Application No. 74552/01, *Ataman v. Turkey*, Judgment, 5 December 2006, para. 38

[169] Application No. 51346/99, *Cisse v. France*, Judgment, 9 April 2002, para. 50; Application No. 25691/04, *Butka and others v. Hungary*, Judgment, 17 July 2007, para. 34; Application No. 17391/06, *Primov and others v. Russia*, Judgment, 12 June 2014, para. 119

[170] Application No. 25691/04, *Butka and others v. Hungary*, Judgment, 17 July 2007, para. 36. Penalties for non-notification of assembly intentions should not be criminalised, as they impose undue restrictions on the right to peaceful assembly, see Application Nos. 28495/06 and 28516/06, *Akgöl and Göl v. Turkey*, Judgment, 17 May 2011, para. 43

[171] Application Nos. 57818/09 and 14 others, *Lashmankin and others v. Russia*, Judgment, 7 February 2017, paras. 451-454

[172] Application No. 61821/00, *Ziliberberg v. Moldova*, Decision, 4 May 2004; Application No. 58954/09, *Obote v. Russia*, Judgment, 19 November 2019. On the use of violence, see Application Nos. 15367/14 and 13 others, *Shmorgunov and others v. Ukraine*, Judgment, 21 January 2021, paras. 492-493; Application Nos. 7534/12, 2695/15 and 55325/15, *Razvozhayev v. Russia and Ukraine and Udaltsov v. Russia*, Judgment, 19 November 2019. Although, sometimes the ECtHR considers a small fine to be a necessary and proportionate response in the circumstances, see: Application Nos. 71314/13 and 68028/14, *Csiszer and Csibi v. Romania*, Judgment, 5 May 2020, paras. 118-122; Application Nos. 26258/07 and 26255/07, *Rai and Evans v. the United Kingdom*, Decision, 17 November 2009; Application No. 34202/06, *Berladir and others v. Russia*, Judgment, 10 July 2012

Simply put, this is an unnecessary restriction on rights that has the potential to place unreasonable or disproportionate conditions on moving protests based on, for example, outdated or inflated security concerns over related protests (i.e. counterprotests). The fact that NI has a protest authorisation regime creates a needlessly high risk that the authorities will treat protests for some causes less favourably than others.

Additionally, we view the lengthy period of these 'notification' requirements as disproportionate because the legitimate aim under the legislation could be pursued and achieved through much shorter notification periods, as occurs in other parts of the UK. In the case of some local authorities, the 'notification' requirements for static protests on council land are even longer and can amount to an eight-week application process. In both instances, we consider that the 'notification' requirements are in fact an authorisation process that breaches ECHR rights, and that cannot be justified.

We recall here that this report considers only political protests, not sectarian parades. It seems possible to us that an authorisation regime for sectarian parades, specifically, could be compliant with the Convention, given that they have historically been accompanied by real risks of violence and intimidation. However, we view it as unnecessary and therefore rights-violating for laws and policies in NI to treat protests as if they were sectarian parades.

Notification Requirements

The conditions the Parades Commission can impose on when, where and how a peaceful moving protest takes place in NI amount to interferences with ECHR rights because they restrict the practical organisation and conduct of such protests. As with the notification requirement, there may be a legitimate aim for such interferences for reasons of public order, public safety or national security. These interferences are (at least largely) prescribed by law under the Public Processions (Northern Ireland) Act 1998.

However, the Parades Commission's practice of treating some non-sectarian or so-called 'sensitive' peaceful moving protests (or static counter-protests) in a manner that is akin to how it treats sectarian protests, which have a realistic potential for public disorder, appears to us to be unnecessary in a democratic society. We believe restrictions may be disproportionate if, as some interviewees have alleged, the PSNI overstate the potential for public disorder and monitor or limit a protest/counterprotest excessively. The state could pursue its legitimate aim through less restrictive means. For example, in England and Wales, under the Public Order Act 1986 (POA), march or procession organisers must give written notice to the police, but the notice period is only six days before the event, and the notice must be given to the police station in the area where the march will start. (In NI, protesters must go to the Parades Commission and, in some instances, also the PSNI.¹⁷³) If it is not 'reasonably practicable' to give six days' notice (for example, when a protest is spontaneous), the law in England and Wales allows shorter notice, although organisers must still inform police as soon as possible. While we do not agree with the UK government's apparent stance that all protesters should tell the police about their planned protests, the POA helps show how burdensome the approach in NI is, and suggests that the NI requirement of 28 days is unnecessary.

[173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psni.police.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

Public liability insurance requirements

Local authorities' categorisation of static protests as 'events', or failure to have specific policies on protesters' use of publicly owned land, leads to interferences with ECHR rights, as these restrictions mean that local authorities have the power to impose insurance requirements or other administrative hurdles, or simply disallow protests.

Local authorities may claim that they have a legitimate aim in restricting when and how anyone, including protesters, may use public land, for example to prevent crime or disorder. However, the breadth of their discretion in practice means that the authorities are capable of using these powers far beyond the 'prevention of crime or disorder' ground included in the ECHR. The fact that these policies are often vague, broadly worded or seemingly arbitrary suggests to us that they often do not meet the 'legality' or 'necessity' requirements of the Convention.

Protests categorised as 'events'

Many local authorities in NI require protesters to obtain public liability insurance in order to receive permission to protest, and we believe this financial barrier to protesting clearly amounts to an interference with ECHR rights – and just as clearly violates the Convention. It does not appear to us that these requirements – which effectively obligate people to pay to protest – pursue any of the legitimate aims set out in the ECHR. Unusually, we do not believe it is even arguable that these insurance requirements have a legitimate aim for Convention purposes.

Even if these requirements had a legitimate aim, we conclude, based on the documents we have seen, that local authorities in NI have not shown that such insurance requirements for protests are necessary to achieving that aim.

We further note that requiring people to pay to protest may create a risk of rights-violating indirect discrimination based on socioeconomic status or other protected characteristics.

Violence against protesters

Interviewees alleged that they were subjected to violence and intimidation during certain protests or counter-protests, including by protesters/counter-protesters on the other side of the issue. If these claims are true, any failure by police to prevent or investigate the violence may amount to an interference with ECHR rights. Such failures would almost certainly not have a legitimate aim or be necessary in a democratic society.

Article 14 ECHR in the NI context

Article 14 ECHR establishes that the UK cannot discriminate in how it respects Convention rights. Article 14 is particularly relevant in the context of NI protests due to the allegations we heard that the PSNI treats protesters differently depending on their sex, race or political opinion (whether actual or perceived). If it is true the PSNI is not allowing women or racialised people to exercise their rights in the same way other protesters – as our interviewees have alleged – and the protesters' identities or perceived identities are the reason for the PSNI's differential treatment, then Article 14 applies. Differential treatment is sometimes allowed under Article 14 if it pursues a legitimate aim and is necessary and proportionate. However, where the ground for that differential treatment is 'suspect' (race, sex, sexual orientation, etc.), the Court applies very strict scrutiny and is far less likely to accept that a legitimate aim justifies different treatment. We regard it as highly unlikely that any police force would have a legitimate aim in treating protesters differently depending on their sex, race or political opinion (except where, for example, the 'political opinion' risks inciting violence against others).

[173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psni.police.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

For these reasons, we conclude that:

- The 28-day authorisation requirement for moving protests and the 14-day notification requirement for counter-protests to moving protests;
- The Parades Commission's broad powers to restrict when, where and how moving protests take place;
- Local authorities' categorisation of protests as events and requirements for public liability insurance; and
- Any failure by the PSNI to protect protesters from violence or threats of violence
- Violate Articles 8, 10, 11 ECHR and may further entail discrimination under Article 14.



[173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

Conclusion

In NI today, laws and policies treat all protests with hostility and suspicion, imposing onerous requirements on protesters. These restrictions are unique in the UK and are not consistent with the democratic society that NI has striven to become, following a conflict in which the repression of protesters featured heavily.

Over 25 years after the B/GFA paved the way for landmark policing reforms, the law and official practices in NI still treat non-violent protesters as if they were all potential threats to national security. We have uncovered serious and unnecessary burdens, arbitrary policies and even a pay-to-play system. In no democracy should the planners of a peaceful protest universally need authorisation from the state, let alone four weeks or even three months in advance. In our view, the requirement for protesters to buy public liability insurance – let alone coverage for egregious amounts such as £5 million or £10 million – goes beyond being unnecessary and enters the realm of the absurd.

We have concluded that the laws and policies governing protest in NI violate the European Convention on Human Rights, including the rights to peaceful assembly and free expression.

We have also heard numerous allegations of discriminatory distinctions in the policing of protests, including alleged failures to prevent harassment of or assaults against protesters. The range of these allegations indicates to us that, at minimum, protesters (especially for progressive causes) believe police are not interested in protecting them and may in fact be hostile to them.

Such a breakdown in trust indicates to us that the PSNI should urgently examine how it polices protests and whether it is fully respecting the rights of all. High turnover among officers involved in policing protests may also be a factor and is a potential problem worthy of investigation.

The impacts described to us were gendered: women interviewees and activists for reproductive rights reported specific harms to us, such as being targeted with religion-based harassment and assault tactics. At the same time, the statistics we uncovered suggest that women are not making complaints to the Police Ombudsman as frequently as men are. In combination, these circumstances suggest to us that women protesters (and protesters for gender-related rights) in NI are absorbing mistreatment without confidence that the authorities would be willing to address it.

We have concluded that the policing of protests in NI may be discriminatory in ways that violate the ECHR.

In order to achieve meaningful change to the policing of protests in NI, many actors need to change: from the UK government and NI Assembly to local authorities, the Parades Commission and the police. In our view, the necessary changes are entirely feasible and easy to identify: the authorisation regime should end and be replaced by a notification system that is at least on par with that in England and Wales; local authorities should immediately stop imposing insurance requirements on protests, create a distinction between protests and other ‘events’, and urgently review the legality of their other policies about activities on public lands; both the PSNI and an appropriate independent body should examine how the force handles protests; and law-makers should remove protests that are not sectarian parades from the remit of the Parades Commission.

Protests are an essential part of a healthy democracy, and rather than undermining peace, they promote it. The authorities in Westminster and NI must begin viewing peaceful demonstrations for what they really are: part of the solution to conflict, not part of the problem.

Recommendations

- **The UK government, working in tandem with the NI Assembly, should:**

- Remove the 28-days notification requirement for de facto authorisation of moving protests and 14-days notification requirement for de facto authorisation of protests related to moving protests.
- Remove non-sectarian protests from the Parades Commission's remit.

- **Local authorities in NI should:**

- Refrain from direct or indirect overreach on protest rights via onerous administrative requirements such as public liability insurance, and remove any such measures already in existence, especially policies that treat applications to protest on council land as akin to applications to hold events.
- Obtain independent legal reviews all protest-related bye-laws for compliance with the ECHR/Human Rights Act 1998.

- **The Parades Commission should:**

- Form a separate unit to regulate non-sectarian moving protests (currently termed 'others' in its reporting).
- With input from civil society, clarify its methodology for determining whether a moving protest is 'sectarian' and/or 'sensitive' and provide criteria for any restrictions on such protests.

- **The PSNI should:**

- Implement the recommendations in the NIPB's Human Rights Annual Report 2021/2022 and the NIPB's 5 Year Human Rights Review in 2024.¹⁷⁴

- Form a separate unit to more clearly distinguish between protests on constitutional (sectarian) issues and other issues, including those we have discussed in this report (such as those pertaining to gender justice, reproductive rights, racial justice or the environment). There should also be continuity in PSNI personnel dealing with protests.

- Undergo both external and internal reviews of how it handles protests, particularly the force's treatment of women and minoritised groups – and its response to the alleged mistreatment of protesters by third parties such as counter-protesters.

- Provide additional regular training to its officers on protests based on relevant human rights principles to enhance capacity, capability and resources.

- Clarify the role of tactical support groups or Police Support Units in circumstances where they may be deployed if there is disorder at a protest, as outlined in the Conflict Management Manual.

- Provide a liaison officer who should be clearly identifiable for legal observers to contact in advance of a protest and during the protest itself with the opportunity to report back on any complaints that the protesters may have regarding police conduct.

- **The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association should:**

- Undertake a country visit to the UK to consider the present state of protest rights, with a special focus on NI, and make recommendations for reform.

[174] See Northern Ireland Policing Board, 'Human Rights Annual Report 2021/22' (18 January 2023): [173] See, e.g., [Police Service of Northern Ireland, 'Protests and Civil Disobedience' \(PSNI, no date\): https://www.psni.police.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience](https://www.psni.police.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience)

;Northern Ireland Policing Board, '5 Year Human Rights Review' (2 July 2024): [173] See, e.g., [Police Service of Northern Ireland, 'Protests and Civil Disobedience' \(PSNI, no date\): https://www.psni.police.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience](https://www.psni.police.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience)

Acknowledgements

We would like to acknowledge the time given to us in the course of our interviews by members of Springfield Residents Action Group, Reclaim the Agenda, Alliance for Choice, United Against Racism, Trademark and the Rainbow Project, as well as the Environmental Activist. We are also grateful for the time of the other activists that contributed to this project but whose contributions we have not quoted directly in this report.

This report was researched and drafted by Declan Owens, RSI's NI Human Rights Officer, and Jacob Smith, Freedom of Expression and Belief Team Leader, with valuable research and input provided by consultant Dr Nazia Latif. Review and legal input was provided by Sarah St Vincent, Executive Director. Renee Karunungan, Communications Officer, formatted and published the report.



Annex 1: The right to protest under Northern Ireland law

Legal framework

What follows is a summary of the law; it is not legal advice.

Protest laws in NI are markedly different from the law across the rest of the UK.¹⁷⁵ Notably, the many restrictions that the former Conservative government at Westminster introduced prior to 2024's general election – for instance, through the Public Order Act 2023 (POA 2023) – do not apply in NI.¹⁷⁶ The POA 2023 grants police new powers during protests which, among other things, allow them to increase the use of stop-and-search, ban people from participating in protests, and control protesters' movement/activity/associations.¹⁷⁷ The legislation also criminalises certain kinds of protests altogether. The then-government explicitly referred to the organisation and conduct of protests by groups such as Extinction Rebellion, Just Stop Oil and Insulate Britain as justification for the POA 2023 – groups which use non-violent and long-utilised protest tactics to make their messages heard, even if those tactics are controversial.¹⁷⁸ The POA 2023 builds on the existing legal framework governing the policing of protests in Great Britain, which is mainly contained in the Public Order Act 1986, a piece of legislation that remains in force.¹⁷⁹

However, in NI, the legal framework is different. This difference is due to the devolution settlement arising out of the B/GFA – meaning that it is the Stormont Assembly, not the Westminster Parliament, that is responsible for legislating on policing in NI, including the policing of protests. The violence associated with the history of parading in NI meant that Westminster law-makers decided to pass bespoke legislation to deal with this subject, in the form of the Public Processions (Northern Ireland) Act 1998 (PPNIA 1998). As mentioned in the introduction, the PSNI continues to consider public order factors in its policing of parades and protests as a consequence of experiences of policing violent confrontations that occurred during the Troubles.¹⁸⁰

The PPNIA 1998 regulates moving public assemblies, such as parades and marches, and 'related protest meetings' (including related static protests).¹⁸¹ According to section 17 of the PPNIA 1998, a protest meeting is 'related' to a public procession 'if the purpose (or one of the purposes) of the meeting is to demonstrate opposition to the holding of that procession on its route or proposed route.' The law is not clear about the minimum number of people that would

[175] See the specific PSNI guidance on the use of stop and search powers: Police Service of Northern Ireland, 'Stop and search' (PSNI, no date); [174] See Northern Ireland Policing Board, 'Human Rights Annual Report 2021/22' (18 January 2023); [173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>; Northern Ireland Policing Board, '5 Year Human Rights Review' (2 July 2024); [173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

[176] Public Order Act 2023

[177] See Liberty, 'Public Order Act: New protest offences & 'serious disruption'' (Liberty Human Rights, no date); [174] See Northern Ireland Policing Board, 'Human Rights Annual Report 2021/22' (18 January 2023); [173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

; Northern Ireland Policing Board, '5 Year Human Rights Review' (2 July 2024); [173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

[178] See Home Office, 'Public Order Bill: factsheet' (Gov.uk, 30 August 2023); [174] See Northern Ireland Policing Board, 'Human Rights Annual Report 2021/22' (18 January 2023); [173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

[179] See College of Policing, 'Public Order Act 2023: Supplementary content' (October 2024); [174] See Northern Ireland Policing Board, 'Human Rights Annual Report 2021/22' (18 January 2023); [173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

; Northern Ireland Policing Board, '5 Year Human Rights Review' (2 July 2024); [173] See, e.g., Police Service of Northern Ireland, 'Protests and Civil Disobedience' (PSNI, no date): <https://www.psnipolice.uk/safety-and-support/advice-and-information/protest-and-civil-disobedience>

[180] See N. Jarman and D. Bryan (1996), *Parade and Protest: a Discussion of Parading Disputes in Northern Ireland*, University of Ulster, Coleraine. See also N. Jarman (1998), *Regulating Rights and Managing Public Order: Parade Disputes and the Peace Process, 1995-1998*, *Fordham International Law Journal*, Vol 22 Issue 4, Article 15

[181] Public Processions (Northern Ireland) Act 1998, s7

constitute a public procession.¹⁸² The Public Order (Northern Ireland) Order 1987 regulates static protests that are not related to a moving protest.¹⁸³

In sum, under the PPNIA 1998, protest organisers have to tell the Parades Commission at least 28 days in advance if they are planning to hold a moving protest, unless it is not reasonably practical to do so. (It is unclear what 'reasonably practical' means and the phrase appears to be subject to the PNSI's, the Parades Commission's, or the courts' interpretation.)¹⁸⁴ In response to our request for comment, the Parades Commission told us that:

'The question of whether any failure to submit a notification of intention to organise a public procession more than 28 days in advance was due to it not being reasonably practicable to do so is a question of fact, which is determined on a case-by-case basis.'

To notify the Commission, protest organisers must fill out a notification form online, via the Commission's website, or fill out a hard copy of the form. If they fill out a hard copy of the form, they must submit it to the PSNI, again at least 28 days in advance of the protest.¹⁸⁵ To reiterate, this obligation only applies to moving protests, or static protests 'related to' a moving protest.

If a march or moving protest has been organised and protesters are organising a counter-protest ('a related-protest meeting'), including a static counter-protest, the counter-protesters need to notify the Parades Commission 14 days in advance

(unless it is not reasonably practical to do so) either through the Commission's online form or by sending a hard copy to the PSNI.¹⁸⁶

During the period 1 April 2024 to 31 March 2025, the Parades Commission received 3,673 notifications for parades, moving protests and parade-related protests.¹⁸⁷ According to the Parades Commission, it received 2,534 notifications related to Protestant/Unionist/Loyalist (PUL) parades or protests, 78 related to Catholic/Nationalist/Republican (CNR) causes and 1,061 'other' notifications.¹⁸⁸

The Commission also records the number of notifications it deems to be 'sensitive'. It explains that a parade or a protest is 'sensitive' when it 'ha[s] the potential to raise concerns and community tensions.'¹⁸⁹ If the Commission decides that a parade or protest is 'sensitive', it can impose additional restrictions: for example, it can decree that at places of worship, only hymn tunes should be played. According to the Commission, 'In making its decisions, the Commission seeks to balance the conflicting rights of different groups within the statutory criteria laid down in the legislation.'¹⁹⁰ In the year ending 31 March 2025, the Commission recorded 192 notifications it decided were 'sensitive'. It noted 186 'sensitive' notifications related to PUL parades or protests, two related to CNR parades or protests, and 34 'Others'.¹⁹¹ The 'Others' category includes 'charity, civic, rural and sporting events, as well as church parades'.¹⁹²

[182] Ibid, s17 states that a 'public procession' means a procession in a public place, whether or not involving the use of vehicles or other conveyances.

[183] Public Order (Northern Ireland) Order 1987

[184] Ibid, s4. In Great Britain, the requirement is to provide notice in writing six days before the march or if it is arranged at short notice, the police must be informed 'as soon as you can.' See Home Office, 'Protests and marches: letting the police know' (Gov.uk, no date): <https://www.gov.uk/protests-and-marches-letting-the-police-know>

[185] Ibid.

[186] Public Processions (Northern Ireland) Act 1998, s7

[187] See Parades Commission for Northern Ireland, 'Annual Report and Financial Statements for the year ended 31 March 2025', HC 1053 (7 July 2025): [https://www.paradescommission.org/Publications/Annual-Report-and-Financial-Statements-for-the-\(3\).aspx](https://www.paradescommission.org/Publications/Annual-Report-and-Financial-Statements-for-the-(3).aspx)

[188] Ibid.

[189] Ibid. The Parades Commission's Code of Conduct under the Public Processions (Northern Ireland Act 1998 refers to 'sensitive locations' but does provide a definition and these are listed in Appendix B as 'Places of Worship, War Memorials and Cemeteries and 'Where the Majority Population of the Vicinity are of a Different Tradition, and in Interface Areas.'

[190] Ibid.

[191] Ibid.

[192] Ibid.

The Commission also has powers to place conditions on moving protests and public processions under section 8(1) of the PPNIA 1998. By virtue of subsections (5) and (6), when deciding whether or how to use these powers, the Commission must have regard to:

- applicable guidelines;¹⁹³
- any public disorder or damage to property that may result from the procession;
- any disruption to the life of the community that the procession may cause;
- any impact the procession may have on relationships within the community;
- any failure to comply with the Code of Conduct on Public Processions and Related Protest Meetings;
- the desirability of allowing a procession customarily held along a particular route to be held along that route.

The Commission has various conditions it can place on a protest, such as where it can take place, how long it can last, or the maximum number of people allowed to participate. The Parades Commission also considers whether these conditions are necessary and proportionate to their perceived objective.¹⁹⁴

According to its 2024-25 statistical release, the Commission placed 149 parades and parade-related protests under restrictions (146 PUL-associated protests/parades), two CNR-associated moving protests and one 'other').¹⁹⁵ It stated that the types of restrictions placed on parades or parade-related protests included 'the route, size and timing of a parade or parade related protest, type of music to be played, behaviour and dress code'.¹⁹⁶

In relation to static protests, organisers do not need to ask the Parades Commission or the PSNI for permission to organise. However, in some circumstances, the police can designate a protest as being subject to the Public Order (Northern Ireland) Order 1987. Section 4 of the 1987 Order allows senior PSNI officers to impose restrictions on static protests, but only when the officer has a reasonable belief that the protest may result in serious public disorder, serious damage to property, serious disruption to the life of the community, or the intimidation of others. If protesters organise or participate in a protest subject to a restriction and knowingly do not comply with one of these conditions, they could be prosecuted, although they would have a defence if they could prove that the failure to comply was because of circumstances outside of their control.¹⁹⁷

Under Section 9 of the PPNIA 1998, the SOSNI may review a determination of the Parades Commission, in respect of a public procession or a protest meeting, on application by the Chief Constable. Upon review, the Secretary of State may revoke, amend or confirm the determination. Only the Secretary of State holds the power to prohibit a procession or related protest meeting. Section 11 empowers the Secretary of State to prohibit an individual parade or protest; all parades of a particular class or description in an area, or all parades and protests in an area for a period of up to 28 days. Any person who knowingly organises or takes part in a parade or protest which has been prohibited may be prosecuted.

[193] Parades Commission, 'Public Processions and Related Protest Meetings, A Code of Conduct, Parades and Related Protests' (April 2005):

<https://www.paradescommission.org/getmedia/a8135b81-ee66-45e3-8e1c-33b5d073b312/NorthernIrelandParadesCommission.aspx#:~:text=Related%20protest%20meetings%20should%20be%20positioned%20so%20as%20not%20to,the%20police%20in%20this%20regard.&text=Alcohol%20should%20not%20be%20consumed,during%20a%20related%20protest%20meeting>. These Guidelines are produced under the Public Processions (Northern Ireland) Act 1998, s5, as amended.

[194] In *DB v Chief Constable of Police Service of Northern Ireland* (Northern Ireland) [2017] UKSC 7, the UK Supreme Court (UKSC) examined the PSNI's legal powers to stop unnotified flag protest parades. After initially not permitting protesters to march to the city centre, the PSNI changed its approach and sought to facilitate the protest to ease community tension. The UKSC held that PSNI had misconstrued its legal powers to stop the demonstrations. The PSNI had a duty to prevent the commission of offences. Taking part in unnotified parades is a criminal offence and the PSNI had powers to prevent the parades. The Court also held that there was a duty to prevent, where possible, illegal parades in order to protect the right to private life of others under Article 8 subject to operational constraints.

[195] See Parades Commission for Northern Ireland, 'Annual Report and Financial Statements for the year ended 31 March 2025', HC 1053 (7 July 2025): [https://www.paradescommission.org/Publications/Annual-Report-and-Financial-Statements-for-the-\(3\).aspx](https://www.paradescommission.org/Publications/Annual-Report-and-Financial-Statements-for-the-(3).aspx)

[196] Ibid.

[197] Public Order (Northern Ireland) Order 1987, s4

A prosecution for this offence occurred in November 2024 when an anti-immigration protester who was prominent in an illegal parade in Belfast (during the August 2024 racist riots) was jailed for three months.¹⁹⁸

During all protests in NI, a PSNI officer will need reasonable grounds to search a protester. Some stop-and-search powers, such as those under Article 23B of the Public Order (Northern Ireland) Order 1987 or Section 24 of Schedule 3 to the Justice and Security (Northern Ireland) Act 2007 (JSA), allow a police officer to search a person without reasonable suspicion that they may have committed a criminal offence, but in such instances a police officer must rely on an authorisation under Section 24 of Schedule 3 to the JSA.¹⁹⁹

Through its normal policing powers under the Public Order (Northern Ireland) Order 1987, the PSNI has the authority to stop and search protesters if officers have reasonable grounds to suspect that the protester is carrying illegal items, such as weapons or prohibited substances, or if they believe a protester is involved in criminal activity (whether related to or separate from the protest).²⁰⁰

It is also worth noting that the Terrorism Act 2000, which applies UK-wide, allows stop-and-search on the basis of 'reasonable suspicion' (Section 43) when there are specific reasons to suspect involvement in terrorism—or without reasonable suspicion (Section 47A) if the search is authorised by a senior officer in response to a credible terrorist threat in a designated area.²⁰¹

Similarly, under the JSA, PSNI officers can stop and question any individual to ascertain their identity, where they are going and the purpose of their journey (Section 21). The PSNI can use such a power broadly, and officers do not require reasonable suspicion of a crime. Therefore, a protester attending or traveling to a protest may be stopped and questioned (not searched) under this section, especially if the protest takes place in a sensitive area or during times of heightened tension.

The PSNI and individual officers must also comply with human rights and equality law. Section 75 of the Northern Ireland Act 1998 requires the PSNI to have 'due regard' to the need to promote equality of opportunity (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; (b) between men and women generally; (c) between persons with a disability and persons without; and (d) between persons with dependants and persons without. The PSNI must also have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinions or racial groups.²⁰²

The Police (Conduct) Regulations (Northern Ireland) 2016 set out the PSNI's Code of Ethics.²⁰³ Article 1 of the Code states that police officers must 'protect human dignity and uphold the human rights and fundamental freedoms of all persons as enshrined in the Human Rights Act 1998, the ECHR and other relevant international human rights instruments.'²⁰⁴ Regardless, all public bodies in NI (and throughout the UK) are subject to the ECHR by virtue of the Human Rights Act 1998.

[198] See Alan Erwin, 'Anti-immigration protester who waved tricolour at Belfast protest is jailed for three months' (Belfast Telegraph, 4 November 2024): <https://www.newsletter.co.uk/news/crime/anti-immigration-protester-who-waved-tricolour-at-belfast-protest-is-jailed-for-three-months-4851876>

[199] Justice and Security (Northern Ireland) Act 2007

[200] Public Order (Northern Ireland) Order 1987, s23B (Powers to stop and search in anticipation of violence)

[201] Terrorism Act 2000

[202] See Police Service of Northern Ireland, 'BAME Community Reference, Engagement and Listening (REaL) Event 08 September 2023' (PSNI, March 2024): <https://www.psni.police.uk/bame-community-reference-engagement-and-listening-real-event-08-september-2023>

[203] Police (Conduct) Regulations (Northern Ireland) 2016

[204] Ibid.

Annex 2: Relevant police guidance

A. PSNI Guidance

The PSNI has created two different guidance materials that are relevant to this area of policing: one on public preaching and protests,²⁰⁵ and another on processions and protests.²⁰⁶ The latter guidance refers to the right to freedom of expression and the PSNI's commitment to 'uphold the rights of all without discrimination', but does not refer specifically to the right to peaceful assembly. The guidance also states that protesters participating in a public procession or a protest against a public procession must 'respect the rights of others', although it does not provide any examples of what this might mean in practice. Other than a general commitment to facilitate parades and the right to freedom of expression, and descriptions of some enforcement action that the police may undertake, the guidance is lacking in detail with regard to the PSNI's specific duties.

The PSNI has also produced a Conflict Management Manual (CMM), which officers must use when dealing with protests that may attract counter-protests.²⁰⁷ Chapter 13 deals with 'Public Order', and includes several references to Article 11 ECHR and the police's duty to facilitate protesters' enjoyment of this right.

According to the CMC, the primary responsibility for using force rests with the individual officer, who is answerable ultimately to the law. Individual officers must be in a position to justify their actions in the light of their legal responsibilities and powers.²⁰⁸

Therefore, any use of force, other than in training, whether intentional or otherwise, must be reported by the officer concerned and recorded in the officer's official notebook or journal.²⁰⁹ Obedience to the orders of a supervisor shall be no defence if a police officer knew that the order to use force was unlawful and had a reasonable opportunity to refuse to obey it.²¹⁰ Responsibility will also rest with the supervisor who gave the unlawful order.

Ultimately, where a complaint is made by a member of the public against a police officer regarding that officer's use of force, the Police Ombudsman will investigate such complaint.²¹¹ Any situation in which a police officer has used force, regardless of whether or not a complaint has been made, may become the subject of Police Ombudsman investigation.²¹²

Furthermore, the PSNI uses the CMC to guide officers in their handling of protests and counter-protests. In the chapter on 'Public Order', the Manual frequently references Article 11 ECHR and the police's duty to facilitate protesters' enjoyment of this right.²¹³ For example, paragraph 13.14 states:

'Throughout all stages of the planning process (including the Strategy/Planning Meetings and production of the Operational Order), the impact of Section 32 of the Police (Northern Ireland) Act 2000, the Human Rights Act 1998, the Public Order (Northern Ireland) Order 1987, the Police and Criminal Evidence (Northern Ireland) Order 1989 and the PSNI Code of Ethics should be taken into account.'

[205] Police Service of Northern Ireland, 'Police Advice on Public Preaching and Protests' (PSNI, no date): <https://www.psni.police.uk/safety-and-support/advice-and-information/police-advice-public-preaching-and-protests>

[206] Police Service of Northern Ireland, 'Processions and Protests' (PSNI, no date): <https://www.psni.police.uk/safety-and-support/keeping-safe/processions-and-protests>

[207] Chapter 13, 'Public Order', Police Service of Northern Ireland, 'Conflict Management Manual' (no date): <https://www.psni.police.uk/about-us/our-policies-and-procedures/corporate-policy/conflict-management-manual>

[208] Ibid. Para 13.11. See also Appendix 'K' Evidence Gathering Teams - Public Order Events

[209] Ibid. Para 13.123. See also Appendix 'K' Evidence Gathering Teams - Public Order Events

[210] Ibid. Para 13.17 and Article 4.2 of the PSNI Code of Ethics.

[211] Police Ombudsman for Northern Ireland, 'Making a complaint' (Police Ombudsman for Northern Ireland, no date): <https://www.policeombudsman.org/how-to-make-a-complaint>

[212] Police Ombudsman for Northern Ireland, 'When you must contact the Police Ombudsman's Office' (Police Ombudsman for Northern Ireland, no date): <https://www.policeombudsman.org/information-for-police-officers/when-you-must-contact-the-police-ombudsman-s-office>

[213] Police Service of Northern Ireland, 'Conflict Management Manual' (no date): <https://www.psni.police.uk/about-us/our-policies-and-procedures/corporate-policy/conflict-management-manual>

In the Manual, the PSNI further explains the accountability processes for police conduct at protests at paragraph 13.15:

‘As part of the Audit Trail, in the Strategy Meeting Minutes, Form 11/13, the Planning Meeting Minutes, Form 11/14 and the Operational Order, Form 11/6, in respect of each of the articles of the European Convention on Human Rights (ECHR) set out, consider:

- **Whether police actions may interfere with any of the rights protected by the article; and**
- **What steps will be taken to ensure that any interference is lawful.**²¹⁴

However, the police are also under a positive duty to secure the rights of others, particularly when they deem that protests may be ‘contentious’ or attract significant quantities of counter-protesters. As set out in paragraph 13.16:

‘This may include taking appropriate action to prevent unlawful conduct by persons which prevents persons from enjoying their rights. (Further advice can be sought from the Human Rights Legal Adviser if necessary).²¹⁵

Additionally:

‘Police objectives in respect of this type of protest should be established at the planning stage if advance notice or information is received regarding the protest action. Police objectives should include the following:

- Maintenance of public safety.
- Maintenance of officer safety.
- Protection of right to freedom of assembly and association.

- Protection of the right to freedom of expression.
- Protection of the right to respect for private and family life.
- Protection of the right to liberty and security.
- Protection of right to freedom of thought, conscience and religion.²¹⁶

B. College of Policing Guidance

There is also additional guidance that the PSNI has not developed, but has adopted. For example, the force has adopted the ‘Principles of Public Order Policing’ (the POP Principles) as a form of standard operating procedure (SOP). The POP Principles were initially developed by several UK police forces and published by the College of Policing, before the PSNI adopted them in 2022. Although the force has adopted the POP Principles, the PSNI’s website does not mention them on its website or in its guidance.²¹⁷ The six overarching POP Principles relate to:

1. Policing style and tone – impartiality, approachability and identifiability;
2. Communication – encouraging dialogue, clarity and explanation of actions;
3. Use of the national decision model – maintaining an audit trail that records decisions and rationale;
4. Command – ensuring that commanders are trained and specialist advice is available;
5. Proportionate response – policing based on relevant human rights principles; and
6. Capacity and capability – maintaining sufficient training and resources.²¹⁸

[214] Ibid, para 13.15

[215] Ibid, para 13.16

[216] Ibid, para 13.90

[217] College of Policing, ‘Public order public safety’ (College of Policing, 23 October 2013): <https://www.college.police.uk/app/public-order-public-safety>

[218] Ibid.



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