



## Cutting it far too close – Budget cuts and their impact on Northern Ireland civil society

**Introduction - Robyn Scott, Communications & Equality Coalition Coordinator, CAJ**

The cuts arising from the 2023/24 NI budget have not occurred in isolation, rather they should be viewed in the wider context of decades of funding blows impacting the community and voluntary sector, including the consequences of previous UK ‘austerity’ measures and the loss of the European Social Fund (ESF). Cumulatively, the effect of these developments has been devastating for the sector. The expectations and demands placed on civil society organisations have remained the same - or even increased over time - while the available funding has continued to dry up. This latest round of cuts has occurred in the midst of a cost of living crisis, which has meant organisations require additional resources to comfortably offer the same level of services. Instead they are being given less support and, in some cases, losing vital core funding.

The process surrounding the 2023/24 NI budget has been criticised by civil society groups (including members of the Equality Coalition) for being opaque, including in relation to how the equality duty (Section 75) was applied to budgetary decisions. It is unclear whether there was a draft budget and, if so, whether individual departments conducted equality screenings or Equality Impact Assessments (EQIAs) on this draft. Most departments instead held public

consultations on EQIAs on their **budget outcome** for 2023/24, with a focus on how the budget will impact their spending plans and policy. These EQIAs were of variable quality; some failed to set out specific mitigations in response to the adverse impacts of policy decisions that the departments had themselves identified. Additionally, the EQIA consultations were open only for a short time and were held so late on in the budgetary process that major changes in policy were unlikely, regardless of the response received. We still do not have a functioning NI Executive and Assembly, and it appears the latest collapse of power sharing has, to an extent, led to bad practice regarding Section 75 within some Executive departments.

Community and voluntary sector organisations play a huge role in supporting people in Northern Ireland, often stepping in to plug gaps and provide vital services when the state fails to offer adequate support. However, the sector is also chronically under-valued and over-looked; these latest cuts are merely further evidence of this.

Overleaf we hear about the impact of the cuts from representatives of three different civil society organisations, all of which are active members of the Equality Coalition.

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## The impact of the cuts on women and the women's sector - Anne McVicker, Director, WRDA

What has the Covid pandemic, the cost-of-living crisis, and the punishing budget imposed by Secretary of State, Chris Heaton Harris, all got in common? They all have, and continue to have, a disproportionate impact on women and women's organisations delivering support services.

WHY? Because empirically we know that women are poorer over the course of their lives than men. Women are more likely to work part time hours and earn less per hour, to have precarious and zero hours contracts, to be the main carer for children and other family members, and to claim benefits. They also tend to have much smaller pensions than men.

More women than men are already operating on poverty's edge and continue to be the shock absorbers of poverty. If you layer on top of this the additional needs of disabled, migrant, LGBTQI+, and older women, the degree of poverty is scaled up dramatically. The budget cuts in NI have, and will, hit women and young people the hardest, and their future is an unremittingly bleak picture.

These cuts are across all departments, although arguably those by the Department for Communities (DfC), Department of Education (DE), Department of Health (DoH), Department for the Economy (DfE), and Department for Infrastructure (DfI) will be the most damaging. Some of the headline areas that have already been impacted by cuts, or may be impacted in future under current proposals, are 'holiday hunger' payments, the SmartPass (Concessionary Fares Scheme), Discretionary Support, Discretionary Housing Payments, libraries, free period products, the provision of social care, and core grant funding. DfI consulted on turning off streetlights earlier this year, though it appeared that no final decision had been taken on this at the time of writing (December 2023).

Although most of these cuts are not obviously gendered on the surface, they are, in reality, gendered cuts that have a disproportional impact on women and young people. For example, less funding will be available for HSC social care contracts with companies that provide home help to people deemed in need by their HSC, including elderly people who are otherwise healthy, but need assistance. As a result of this, it is likely that fewer people will be able to stay in their homes, leading to women coming out of work to care for people.

The loss of 'holiday hunger' payments will cause significant harm to children - who will not receive the nutrition they need to thrive - and will also have a highly detrimental impact on their mothers as poverty levels increase further. Cuts to funding for libraries will disproportionately affect women and children because they are more likely to visit and use library services. Changes to Concessionary Fares will particularly impact older women, including rural women, who use smart passes more often in trip 'chaining', while men are more

likely to use smart passes to take longer journeys.

Switching off streetlighting, especially in winter, will have a significant impact on young, older, migrant, disabled, and LGBTQI+ women given the currently high levels of sexual harassment, abuse, and hate crimes in NI.

Given the removal of, or deep cuts, to these public programmes and services, it is glaringly obvious that communication between departments is poor and that the joined-up government we, the public, have been led to believe exists is actually non-existent. An example of this is government policy on Violence Against Women and Girls (VAWG) – three days before The Executive Office (TEO) closed the consultation on its VAWG Strategy, Women's Aid lost its Core Funding from DoH!

The core grant scheme represents 0.05% of the DoH 2023/24 budget. Despite the small budget of £2m approximately per annum, this scheme supports community and voluntary organisations to deliver a wide range of essential services that support our health and social care system. These services include early intervention help, family and parental support, counselling and mental health support, policy development support, education and training, and the list goes on ...

My organisation, WRDA, received core funding which enabled the delivery of workshops on breast, cervical, and bowel cancer awareness to women and men to increase the uptake of screening services. Cutting this core funding ignores the added value community and voluntary organisations bring to the health and social care sector. DoH does not seem to understand the value of regional services provided and how they divert many people from needing more intensive health services. This pennywise and pound-foolish approach will ultimately lead to even more pressure on our critically ill National Health Service (NHS).

There are also outstanding commitments made in the New Decade New Approach (NDNA) agreement that remain unmet, such as the central commissioning of abortion services and three funded rounds of IVF treatment for those who need it.

The budget cuts have had a worrying impact on women's sector organisations. For example, NO pay increases have been implemented since 2008 in the women's sector - essentially meaning pay cuts in real terms because of inflation. All women's sector organisations have lost funding across a range of government departments, including DfC, DoH, and DE. In addition, they have lost funding from health trusts and the Public Health Agency (PHA), meaning there is no job security. Annual funding contracts are up to the wire, with most staff, including CEOs, sitting on permanent protective notice.

The services that our women's centres provide are critical to communities. They are often the first place that women

can go to access support services, benefit checks, family support, addiction services, mental health and wellbeing services, education and training, and childcare. Impacts on the workers in women's centres is huge - they are carrying the burden of the cuts so their users don't face more stress. Mental health is fragile, with a rise in suicidal ideation, poverty, addiction, and homelessness across society. Our centres are feeling the pressure. They cannot continue to be under-resourced, under-valued, and under-siege, while at the mercy of weak leadership and constant political instability.

The Secretary of State talks about income generating

ideas that have sent our communities into a spiral of panic and fear. It seems absurd that we are hitting the most vulnerable by discussing removing bus passes and proposing turning off streetlights with little regard for safety. There is now talk of water charges when most families can't afford to heat their homes and are forced to food banks! I say to the Secretary of State, if you want to income generate, don't do it on the backs of the most vulnerable – get the political systems back in place and get a programme for government (PfG) and a budget that is fit for purpose, not a budget that punishes women and families.

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## The impact of budget cuts on older people - Helen McLaughlin, Engagement Manager, Age NI

Age NI is the leading older people's charity in Northern Ireland. We believe that people should be supported to enjoy later life; to know and understand their rights; remain as independent as possible; and stay connected to their communities.

It has long been known that our population is ageing, and that services need to be reconfigured accordingly. When confronted with the multiple and substantive cuts being proposed across departments, it is difficult to avoid the conclusion that the systemic failure to plan for demographic changes has made the situation - and the adverse impacts on older people - even more significant and profound. The long shadow of the Covid pandemic, the ongoing cost of living crisis, and the absence of the NI Assembly and Executive serves to further compound an already challenging context.

This article will focus on proposals made by the Department of Health (DoH) and Department for Infrastructure (DfI).

**Health and Social Care:** Older people have told us that the health and social care system is fragmented and difficult to navigate; and that more and better services are required to support them and their family carers. For many, trying to access their GP is 'stressful' due to long waits on the phone and the lack of availability of face-to-face appointments. The impact of long waiting lists on a person's condition and health outcomes and the importance of intervening early has also been highlighted.

DoH's proposals to reduce waiting list initiatives, restrict the range of core demand led services across acute and community services, and increase car parking charges will, we believe, have a significant and detrimental impact on older people. Data from the 2021 Census referenced in the EQIA on these proposals shows that 17% of people aged 65+ have bad or very bad health and that 56.8% of the 65+ population have activities limited by a long-term health problem or disability. Of concern, too, is the identification by DoH of areas where it may make additional cuts should further savings be required. These include proposals to further reduce funding for waiting list activity; to reduce payments given for support services

provided by the community and voluntary sector; and to reduce expenditure on community aids and adaptations, domiciliary care packages, training places, and residential and nursing placements.

These proposals will have serious adverse impacts on older people, and others, and fly in the face of what matters to older people.

The department's own EQIA raises red flags about the differential impact of these cuts on older people but does not offer measures to remove or mitigate these: "Older people tend to have more frequent, and more complex needs than the general population, any reduction in the provision of health services will affect them disproportionately."

**Transport:** For many older people, public and community transport, along with the SmartPass, acts as a gateway to other services and is key to staying healthy, active, and connected with their community. Proposed reductions in funding or eligibility criteria would have major detrimental impacts on older people and others. This summer, Age NI supported older people to share their views on the DfI's proposal to remove the SmartPass from people aged 60-64/65. One participant had used her SmartPass to accompany a friend from a rural area in mid-Ulster to a Belfast hospital for cancer treatment over a number of weeks. Without the SmartPass, her friend would have been unable to access treatment and she would not have been able to accompany and support her – an unthinkable outcome for both.

**Listening to older people:** In the current context of severe pressures on public sector funding, it is even more important to comply with EQIA requirements, engaging with older people and other Section 75 groups directly affected by proposed changes, as well as relevant interest groups. Older people are a diverse population and disaggregated data, reflecting multiple identities, is key to understanding differential impacts and effective measures which will mitigate or eradicate adverse impacts.





## If our children are the future, what better investment can we make than investing in them? - Ernest Purvis, Policy Officer, Children in Northern Ireland (CiNI)

When Northern Ireland's Budget 2023/24 was announced by the Secretary of State in April 2023, Children in Northern Ireland (CiNI) strongly criticised the proposed cuts and argued that the impact would be felt disproportionately by children, young people, and their families. In March, a week before the Easter school holidays, the Department of Education (DoE) announced the end of the School Holiday Food Grant Scheme. That decision left families on the lowest incomes, whose children normally receive Free School Meals during term time, without much-needed financial support. It came at a time when food prices had risen over 19% compared to last year - the highest annual increase in over 45 years - and at a time when the Trussell Trust were telling us that families with children are overrepresented in those who turn to food banks. Our work with young people experiencing poverty and food insecurity shows us that the immense financial pressure on low income families as a result of significant rises in the cost-of-living has severe implications for children's health, education, and social inclusion. Why was their most basic need, the provision of healthy food, not prioritised by those making decisions in the absence of Ministers?

Further cuts by the Department of Education (DE) were announced, including cuts to a number of programmes (Happy Healthy Minds, Engage, and the Extended Schools Programme) and reduced funding for Special Educational Needs (SEN). This means less counselling and therapies for young children who are struggling emotionally and psychologically; less support for those recovering from lost learning and development because of the Covid-19 pandemic; less wraparound care for our most disadvantaged young people; and less resources to support children with disabilities and additional needs. It

begs the question, what is more important than allocating sufficient resources to these initiatives?

The relief felt by many across the children's sector when the Department announced that it was not proceeding with proposed cuts to youth services and early years programmes, such as Sure Start, was tarnished only a few days later when schools were told that funding for SEN Coordinators would be cut in half, from £22m to £11m. The latest estimates suggest that there is still a £65m shortfall in funding for Special Educational Needs, which means more and more children being unable to access the education that they are entitled to. As noted by the 'rapid response' [report](#) compiled by local academics in June, "The short-term savings [...] are likely to be dwarfed by the costs which will be generated in the long run [...] Our overarching conclusion is that the cuts will increase poverty, widen existing educational achievement gaps, further exacerbate NI's mental health crisis and send Special Education Needs provision beyond the brink of collapse."

Our analysis of the cut to Core Grant Funding by the Department of Health (DoH) shows there is likely to be a multiplier effect. That is to say, the budgetary decisions being made across all government departments, and the harm this is inflicting upon children and families, will be exacerbated by cuts to the community and voluntary sector organisations that support them. The cumulative disadvantage faced by children and young people, arising from the 2023/24 budget, poses significant economic, social, and human costs. Children with disabilities, those entitled to free school meals, and those from ethnic minority backgrounds will be the hardest hit. If we cannot prioritise our children now, what will the future hold?

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## Seeing is believing: dual-language street signage policies as restorative community action

*Cuisle Nic Liam and Dr Pádraig Ó Tiarnaigh, Conradh na Gaeilge*

Language visibility, particularly in the context of minoritised languages, has been consistently identified in international research as a key tool in the normalisation process of languages; both among the minority language community themselves, and those with limited exposure to the language. The case for Irish language visibility here is particularly unique, not only because over 95% of place names here derive directly from Irish, but because countless attempts by political unionism have sought to proactively delegitimise, deny, and marginalise the Irish language. This attempt at erasure, partnered with an inspiring display of community

activism at grassroots level, has awoken an entire generation of Gaeilgeoirí who are keen to make sure that the days of 'see no Irish, hear no Irish, speak no Irish' are a thing of the past.

In 1949, Stormont introduced legislation to officially ban Irish language from street signage through an 'English-only' law. Section 19 of The Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1949 included provisions that gave legislative expression to a long-standing ban, in practice, on dual-language street signs under Unionist majority rule. This change was supported by UUP MP Brian Faulkner who, in October 1949, said: "Apparently certain local authorities in County Down are at the moment naming streets in a language which is not our language and I do not think that should be allowed."

The repeal of those provisions, first muted in the Anglo-Irish Agreement in 1985, would finally come in 1995, following a British Government commitment from then Secretary of State and Conservative MP, Patrick Mayhew, in December 1992. By then, a paper published by CAJ in 1993, entitled *The*

*Irish Language in Northern Ireland: The UK Government's approach to the Irish Language in light of the European Charter for Regional or Minority Languages, had confirmed that "Irish language activists [had] erected over 500 Irish street signs in nationalist areas".*

Article 11 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1995 was simply a repeal of the 1949 legislation, leaving the fate of the Irish language on street signs up to the future interpretation and persuasion of local councils themselves, whilst requiring them to "have regard to any views on the matter expressed by the occupiers of premises in that street".

Speaking during the passage of the 1995 Order in the House of Lords on Thursday 23 February 1995, Baroness Jean Denton of Wakefield, Parliamentary Under-Secretary of State at the NIO from 1994-7, confirmed the intention of the legislation was to merely lift the ban, stopping short of proscribing the procedures or criteria by which demand would be gauged, saying: "However, before deciding to erect the second nameplate, a council must have regard to any views expressed by the occupiers of premises in the street concerned... It is considered that councils using their local knowledge can best decide how to have regard to the views of occupiers when considering whether to erect a second nameplate. We believe that to impose requirements as to how a council should undertake that task could prove unduly restrictive and bureaucratic and is best dealt with in relation to specific local circumstances."

With the legal powers shifted via proxy legislation to local government, it would take three years before the first council would step forward to provide policy cover to compliment the 1995 order, with Belfast City Council first adopting a policy for the erection of dual language street signs in 1998. That policy set an incredibly high bar for local residents to access and achieve dual-language signage, requiring a petition signed by 1/3 of residents on the street to trigger an official council canvas via survey. That survey, to be deemed applicable, would require a 2/3 majority of residents on the street. Any resident who did not respond would be deemed and counted automatically as being against the application. The application would then be brought through council committee and full council for approval. That policy would be challenged in 2014 by a resident of Ballymurphy Drive in West Belfast when 52 residents of the eligible 92 responded in favour of the application, 1 opposed and 39 did not respond. Despite an overwhelming majority of the responses being in favour of the application, the 67% threshold was not met, the application was deemed unsuccessful.

Following an unsuccessful judicial review, a recommendation to replace the 2/3 requirement with one seeking a simple majority was rejected. As Mr Justice Horner ruled: "a public authority [...] cannot be obliged to treat itself as bound to act in compliance with international obligation. Even where it does so it is clear from the authorities that the courts will adopt a very light touch review which will not extend to ruling on the meaning or effect of the International Treaty."

The European Charter for Regional and Minority Languages, which was signposted as a huge gain under the Good Friday Agreement, became a useful guidance document, but was,



according to Horner, domestically unenforceable in court.

Other councils, as normal, followed the heavy-handed precedent set by the Belfast 'mother council'. Councils with unionist majorities, such as Lisburn and Castlereagh City Council (2018); Armagh City, Banbridge and Craigavon (2020); Antrim and Newtownabbey (2022) (following Judicial Review action by Conradh na Gaeilge in 2018); and Ards and North Down (2023) adopted street signage policies which were based upon Belfast's restrictive practices. It comes as no surprise, therefore that, to date, no bilingual signs have been erected in any of these council areas. At the time of writing, the only local authority yet to comply with the 1995 Order and introduce a policy is Mid & East Antrim.

That 1998 Belfast City Council policy remained in place until it was replaced in 2022, following decades of lobbying from residents and Irish language groups. In that period, 1998-2022, only 265 applications were made for bilingual street signs. Our experience tells us that this is not due to a lack of demand. Within 2 weeks of adopting a more progressive, minority-compliant policy in 2022, under which a single resident could trigger the application, the Council received more than 500 applications. At the time of writing, Belfast City Council have received over 1,000 valid applications. Demand was never the problem. Even in instances where 'supermajority' demand has been clearly demonstrated and all excessively high thresholds within these draconian policies met, policies contain mechanisms that allow councillors to override successful applications.

A recent case in Armagh City, Banbridge and Craigavon Council (ABC), following the relatively recent adoption of a dual-language street sign procedures based on the 1998 Belfast model, has seen councillors exercise their 'residual discretion' (i.e. their *veto*) to deny an application from Woodside Hill that had met all criteria up to that stage. The Woodside Hill request overcame all obstacles and demonstrated significant demand for dual language street signage. It is understood at least 64 residents voted in favour, and only 3 against, and so it became the very first application in the council area to ever be deemed successful at that stage. As the 'valid' application then passed through the ABC committee and full council stages for further approval. However, councillors from a unionist background ultimately used their 'discretion' to refuse the request, using the guise of 'confidentiality' to hold private council sessions where the sign was discussed and vetoed. To date, residents are

unaware of the publication of any rationale used by councillors to deny the application.

The new Belfast City Council **dual-language street signage policy**, which was first proposed in 2020, passed in 2021, and came into effect in 2022, was hard won, following a long-running campaign and robust legal scrutiny, including many unionist ‘call-ins’ questioning the legal merit of the proposals. This update would ultimately reset local governments’ pre-existing relationship with Irish language policies, with a council adopting, for the very first time, a set of procedures broadly compliant with UN and Council of Europe (CoE) human rights treaties on minority languages and the rights of national minorities.

Guidance from the CoE Advisory Committee, which monitors state compliance with the Framework Convention for the Protection of National Minorities (FCPNM), has debunked the much misused contention that dual-language signs can somehow be offensive and in contravention of the rights of English speakers. In its ‘Third Opinion’ on the UK’s implementation of FCPNM, the Advisory Committee stated: “The Advisory Committee was disconcerted to hear that some representatives of the authorities consider that promoting the use of the Irish language is discriminating against persons belonging to the majority population. Such statements are not in line with the principles of the Framework Convention... It also reiterates that... implementation of minority rights protected under the Framework Convention [is] not be considered as discriminating against other persons.”

This international guidance is given further strength when read alongside the Equality Commission for Northern Ireland’s submission to a consultation by the Department of Culture, Arts and Leisure on ‘Proposals for an Irish Language Bill’. This 2015 submission notes that the use of Irish in signage is, in the Commission’s opinion, “a neutral act”, and that this is in keeping with political agreements. The Commission further states that, “The Commission also considers that the speaking of any language in Northern Ireland should not be perceived as a threat to any individual or group, nor should it be used in such a manner” – the submission also specifies that this applies to the wider use of both Irish and Ulster Scots.

As the development of Belfast City Council’s new dual-language street signage policy gained cross-party support, attention quickly focused on setting new criteria around the street survey stage. Barriers were addressed. The initial requirement for ⅓ of residents to support a petition, which had no equivalent practice in any other Belfast City Council policy, was replaced with a mechanism under which a single resident could trigger the application.

Intervening with further international guidance, Conradh na Gaeilge lobbied councillors to move away from majoritarian quotas when dealing with minority rights and to instead set a lower threshold at which applications for dual language signage to be deemed successful. The rights of those minority communities should never be dependent on winning majority referenda, rather, surveys of residents should seek to establish if there is sufficient support for the minority position. The question, then, was, how to define ‘sufficient minority support’.

The United Nations Special Rapporteur on Minority Issues provided guidance on that very issue in *Language Rights of Linguistic Minorities: A Practical Guide for Implementation* (2017), setting out previous international examples for gauging minority thresholds in street signage in European and international jurisdictions at 5-20%. This states: “Street and locality names and topographical indicators intended for the public are important as markers of social identity, culture and history. A good, practical approach adopted in most countries is for the authorities to provide transparent legislation or procedures to allow bilingual or even trilingual signs, usually following the proportionality principle where there is a sufficient concentration or demand for such signs in minority languages. While national legislation varies, the low threshold where it is considered practicable and reasonable to provide such signs tends to vary between 5 per cent and 20 per cent of the local population, with the lowest threshold usually associated with the use of a minority language that also has some kind of official status or for traditional, historical reasons. The criteria for the display of signs in minority languages must be given a clear and unambiguous legislative basis for it to be effectively implemented. Bilingual or multilingual signs used by public authorities demonstrate inclusiveness, and that various population groups share a locality in harmony and mutual respect.”

The political negotiation landed on 15% of residents and that was adopted, becoming the very first UN endorsed, ‘minority rights’ compliant street signage policy on the island. Whilst this was certainly a huge step in the right direction for Belfast City Council, we are not naive to the fact that we still have a very long way to go in challenging a long-established culture of limited progress and obstruction in relation to the Irish language. That very approach has dominated the policy framework of public institutions for centuries, the footprint of which can still be seen by the fact that public and shared spaces continue to exclude the Irish language, creating de facto ‘English-only’ zones as ‘neutral’ spaces. In many campaigns, equality legislation designed to protect marginalised groups on grounds of discrimination is often used against us; third level institutions refuse to increase the visibility of the Irish language without legislation compelling them to do so and bilingual signs are vandalised all across the north, with media commentary rarely vilifying the perpetrators in the same way they do the language.

As requests rolled in in their hundreds, Belfast City Council took many months to even begin to deal with the queued applications and set a maximum quota of six applications per month. Activists quickly calculated that the 600th application in the line could expect a survey by the early 2030s. “Rights delayed are rights denied” contend local, rate-paying, Irish speakers, as they continue to challenge the delays and barriers to dual-language signage in streets and shared facilities and spaces. This is more than simply “sticking Irish up alongside the English”. This is a restorative linguistic movement, reinstating Irish as authentic and the source of the overwhelming majority of our original placenames, which were once banished from the public eye.



## Progress on Relationship and Sexuality Education (RSE) in NI schools - A qualified victory

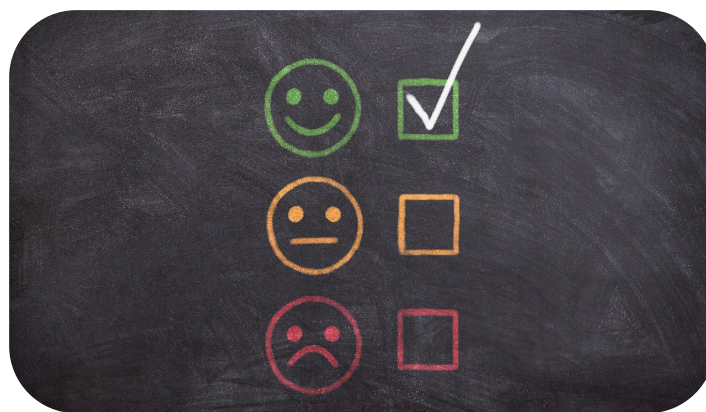
*Elaine Crory, Women's Sector Lobbyist, WRDA*

In August 2023, the Department of Education (DE) in Northern Ireland took the unusual step of writing to every school principal in Northern Ireland, during the summer holidays, about Relationship and Sexuality Education (RSE). This was unusual because they were not writing to update schools on regulations mandating changes to the RSE curriculum, announced by the Secretary of State in June 2023, or about any new policy for the coming school year; they were writing to dispel disinformation about RSE.

In the months following the announcement that the curriculum would be updated, misinformation thrived across social media, in leaflets handed out at schools, and among messaging groups. Several campaigns seemed to operate at once, claiming that a dizzying array of changes to the curriculum were being 'imposed'. In truth, many of the claims were entirely false, others exaggerated. One set of claims insisted that the curriculum was focused on primary schools, when in fact the changes related only to Key Stage 3 and up in secondary schools (i.e. pupils aged 11+). Others claimed that issues were being included in the curriculum that simply were not part of the changes at all. Other complaints related to genuine changes to the curriculum, but misrepresented how these issues would be approached, especially on the issue of abortion.

The Department of Education then opened a consultation on RSE, which closed on 24 November 2023. The questions are not ideal; they seem to frame RSE as controversial by definition, and they are all about the possibility of opting out of part of the curriculum, which is allowed under this legislation, but not necessarily a desirable outcome. This analysis is not about the shortcomings of the consultation, however, it is about the way the most essential part of the debate has been lost to the noise of misinformation and controversy.

These regulations have been introduced to meet human rights standards. They stem from legislation passed in the UK Parliament in 2019 to bring Northern Ireland in line with recommendations from the UN Committee on the Elimination of Discrimination against Women (CEDAW). That is the most important element of this discussion. Children have certain rights with regards to their education, and the state has the duty to provide



education that fulfils these rights; this includes the right to scientifically-accurate, age-appropriate, and comprehensive RSE. The public conversation around the issue seems to forget this reality.

As well as fulfilling a human right, good quality RSE is essential in equipping children and young people with the knowledge that they need to lead a healthy adult life and to have good quality relationships. There is evidence that shows how harmful it can be when children and young people are denied proper RSE, and how it can leave them vulnerable to abuse. We should be wary of narratives that talk about RSE as extreme, or that focus on the option to opt out. This is dangerous and stigmatising; it implies that RSE is inherently harmful and corrupting. In fact, the opposite is true; proper, comprehensive RSE, delivered in a scientifically accurate and age-appropriate way can and does save children and young people from abuse as a child, from harmful relationships, from exploitation, and reduces unplanned pregnancies and STIs. This fact has been recognised by the Gillen Review, in the recent draft strategic framework for Ending Violence Against Women and Girls, and by education experts and campaigners alike.

Overall, this is a good news story; RSE will finally improve after many years of campaigning. The work is not complete, however. Some parts of the curriculum need to be updated urgently, and all materials should be reviewed in light of the need to be scientifically accurate and comprehensive. In addition, a lot of RSE in Northern Ireland is presently provided by external providers, and their training materials need to be made subject to the same scrutiny as those produced by the Council for the Curriculum, Examinations & Assessment (CCEA) - every child in every classroom deserves the same quality of materials and delivery. We also have deep reservations about the idea that parents have the right to withdraw their child from parts of the curriculum, perhaps even against their child's wishes. In the current atmosphere, however, any improvement feels like a victory.

# Protecting the Common Travel Area in the post-Brexit era

Úna Boyd, Immigration Solicitor, CAJ

In June 2023, CAJ and North West Migrants Forum (NWMF) met with members of the British Irish Parliamentary Assembly (BIPA). BIPA were producing a report on the Common Travel Area (CTA) and were engaging with stakeholders across the UK and Ireland to gather evidence. This meeting gave us an opportunity to submit evidence to the committee from our joint CAJ/NWMF CTA campaign. We briefed BIPA on the campaign, the key issues, and gave examples of lived experience of the impacts. We also discussed potential solutions and outlined our key asks for the British and Irish governments.

On October 2023, BIPA published *Protecting the Common Travel Area in the post-Brexit era*. This report aims to “offer a number of constructive suggestions to ensure the continued smooth operation of the CTA, enabling the freedom of movement on these islands, and reciprocal rights which is vital for many UK and Irish citizens across these islands on a day-to-day basis”.

CAJ welcomed the findings of this report, which reflect on the importance of the CTA in facilitating cross border life for everyone on the island of Ireland. The report accurately outlines some of the key challenges facing the CTA, the impact of the CTA on North-South cooperation, and links with the Belfast/Good Friday Agreement. Many of the recommendations of the report are in line with the asks highlighted in CAJ and NWMF’s CTA campaign. We can see the clear impact of the evidence we provided during our meeting with BIPA representatives. This report vindicates and strengthens our campaign, lending an authoritative voice drawn from across the UK and Irish governments.

We have summarised some of the key recommendations of the report below.

**Electronic Travel Authorisation (ETA):** BIPA raised concerns about the impacts of Electronic Travel Authorisation on the island of Ireland, stating, “ETA is currently unworkable on the island of Ireland and is at odds with long-standing CTA arrangements and principles that underpinned the Belfast/Good Friday Agreement.” Although an exemption has been created for legal residents of the Republic of Ireland, ETA still applies to the land border. This will have a particular impact on visitors to the island of Ireland. The report outlines some of the concerns raised by tourism bodies and recommends that the introduction of an ETA for tourists is suspended until

the UK government has taken appropriate measures to mitigate the negative impact on the tourism industry. CAJ supports this recommendation and shares the concerns raised about the impact of ETA requirements for visitors on the land border. We

are particularly concerned about this differentiated system leading to increased racial profiling and unlawful, ad-hoc immigration checks on the island of Ireland.

**Impact of Visa Requirements:** BIPA reflected on the impact of visa requirements in the UK and Ireland, which prevent visa nationals living fluid cross border lives. The report states, “The Committee believes that there is scope for closer cooperation with regards to visa lists and it believes that migrants who are permanently resident in either Ireland or the UK should be exempt from the requirement to obtain a visa for short visits to other jurisdictions.” The Committee also recommended that both the Irish and the UK governments explore the possibility of creating joint work visas, allowing people to work in both the UK and Ireland. CAJ welcomes this recommendation which reflects the asks of our joint CTA campaign with NWMF.

**Border conscious legislating:** BIPA raised ETA as an example of the negative impacts of legislating without considering the impact on Northern Ireland and the land border. The report recommends that in future, when new legislation is brought forward, consideration must be given to its potential impact on Northern Ireland. CAJ supports this recommendation. We have consistently raised the impact of the UK government legislating as one size fits all, without considering the unique impacts on Northern Ireland and the land border. Another recent example is the rolling out of the Illegal Migration Act, which applies on the land border without exemption.

CAJ welcomes the findings of the BIPA report and is grateful for the opportunity to provide evidence to the committee. The changes recommended in this report would have a significant and positive impact for everyone in our communities. We will continue to campaign for the UK and Irish governments to act on these recommendations.

You can download the BIPA report here:

[www.britishirish.org/assets/Committee-A-2023-/231024-COM-A-Protecting-the-CTA-post-Brexit-.pdf](http://www.britishirish.org/assets/Committee-A-2023-/231024-COM-A-Protecting-the-CTA-post-Brexit-.pdf)





## Legal challenges to the legacy act

*Gemma McKeown, Solicitor, CAJ*

Before Christmas, another set of judicial review proceedings concerning the ‘Troubles’ were heard before our courts in Northern Ireland. This time the legal challenge is not related to issues of delays, under resourcing or non-disclosure in processes such as coronial inquests, Police Ombudsman investigations or civil cases, but the widely criticised, Northern Ireland Legacy (Troubles and Reconciliation) Act 2023, which came into law in September 2023. The legal challenge – comprised of several cases addressing different points of law – ended without judgement at the end of November 2023. Although Mr Justice Colton reserved his verdict, he stated his intention to deliver a ruling as soon as possible.

This Act will bring to an end, in May 2024, the above processes as well as police investigations and prosecutions concerning the conflict here, which have provided a measure of truth, justice and accountability to many victims and survivors. They are to be replaced by ‘reviews’ carried out by the Independent Commission for Reconciliation and Information Recovery (ICRIR) - a body set up through this legislation. The Act also brings in a scheme that provides immunity for suspected perpetrators who co-operate by providing information to the ICRIR, which has been widely criticised as having a low and subjective threshold. It requires that any former security personnel or paramilitary must be granted an amnesty if they tell the ICRIR what they believe to be the true version of what happened during a conflict related event. It is CAJ’s view, echoed by international human rights experts at the United Nations and the Council of Europe, that these provisions are unlawful and in breach of the European Convention on Human Rights (ECHR), which was introduced into local law through the Human Rights Act 1998.

The Act is also widely rejected by the Irish government, human rights organisations, victims and survivors, and politicians alike, yet the UK government pushed on with this legislation regardless.

Given the wide impact of this legislation, it is unsurprising that over 20 applicants sought to judicially review various provisions of this Act. The High Court granted permission to six cases to proceed (the rest were stayed), with the lead case, *Dillon & Others*, deemed to address the broad list of issues arising under the Act concerning inquests, civil proceedings, Police Ombudsman investigations, criminal investigations, and immunity from prosecution. The other cases include one taken by Gemma Gilvary,

which addresses whether the Act is compatible with Article 3 ECHR (prohibition of torture); another taken by Patrick Fitzsimons which focuses on the prohibition of proceedings and compensation regarding Interim custody orders; and, finally, a case taken by Pearse Jordan on civil and criminal proceedings.

While these cases proceed through our domestic courts, the spotlight is also on the Irish government, which has decided to take an inter-state case against the UK before the European Court of Human Rights, in light of its previous criticism of provisions of the Act and, in particular, concerns that the Act is incompatible with the UK’s obligations under ECHR. Ireland has previously taken such high-level action in a case concerning the torture of the ‘five techniques’ in 1971 against the ‘Hooded Men’ during internment in the case of *Ireland v UK 1978*.

On 15 November the Taoiseach indicated that he had received advice from the Irish Attorney General on this issue and the Irish government was studying the implications of making such an application, including the potential impact on the bilateral relationship between Ireland and Britain. Subsequently, on 20 December, the Irish government confirmed in a [public statement](#) that it would indeed be proceeding with a case to Strasbourg.

CAJ’s Director, Daniel Holder, commented on this decision saying: “This is the right decision and a necessary one. CAJ and academic colleagues first raised the remedy that could be provided by an inter-state case straight after the legacy bill was introduced in May 2022. We addressed the issue before an Oireachtas Committee in July 2022, noting that there was a real onus on the Irish government to act, both as co-guarantor of the Good Friday Agreement and also in the context of the precedent and contempt for the international rule of law that the legislation has set.

“An inter-state case is the best way to challenge the whole legacy act and the quickest way to get this legislation before an international court, that is the European Court of Human Rights in Strasbourg. The litigation in Northern Ireland courts would have to go through many stages of appeal and could take years whilst the damage of the legacy act would already be underway.”

The current legal challenges before the courts in NI and the inter-state case will no doubt be closely monitored by both victims and survivors, as well as those who have voiced their concerns about their lawfulness. Having the Irish government mount their challenge at Strasbourg is a monumental step for many of these victims who want their voices heard internationally.

# Defending our privacy in our 'Big tech' modern world

*Dessie Donnelly, Director, Rabble Cooperative*

The Covid-19 lockdowns exposed the extent to which society depends on internet-based technologies. We do everything over the world wide web, from the mundane to the highly sensitive. But while our social fabric increasingly relies on the freedoms made available through the internet, the 'Big Tech' software platforms we depend upon are inherently anti-social: they are privatised spaces commodifying us behind veils of convenience, obscure terms of service, user ignorance, and vendor lock-in.

It has become an accepted fact that if you are accessing a 'free' product on the internet – be that an email address, a shared drive, a news website, a social media account or survey tool – then more likely than not, *you* are the product being sold. By harvesting our personal and professional data (collected in any number of ways including user registration, terms of service, cookies, and fingerprinting), monetising and selling it, these companies play a critical role in the increasingly evident manipulation of our anxieties and fears for political and commercial ends. While headline grabbing stories such as the 2018 Cambridge Analytica scandal are what come to mind, the practice is often less salacious and accepted as mainstream, such as the UK government's targeting of minority communities to promote certain messages around migration, jobs and crime (see, for example, this [article](#) from The Guardian on how minorities are being targeted on Facebook).

## There are two responses to this problem.

The first aims to regulate how and under what conditions online platforms collect information about users. The application of GDPR to the internet is an example of this approach in the UK and EU. It is an approach which seeks to enhance the accountability and transparency of private entities – and it is an approach with potentially transformative powers. For example, a working group of German data regulators have concluded that Microsoft cloud services, Microsoft 365, have consistently [failed to comply](#) with GDPR standards on the processing of users' data. The potential impact across public institutions including schools, civil service, and universities, is massive.

The second response, embodied in the Free, Libre and Open Source Software (FLOSS) movement, involves supporting existing, and creating new, alternatives to proprietary software platforms which, by design, respect the right to privacy. 'Open source software' means that users have the right to use, study, change, and distribute the software for any purpose. How users' data is being handled and potential vulnerabilities in the software is transparent and capable of being scrutinised. Open source does not necessarily mean 'free' in the sense of 'no cost' – in fact the eco-system of open-source software depends upon people being able to make a living developing and growing open source software. However, what is abandoned in this model are restrictive

copyright laws primarily valuing 'intellectual property'.

The recent launch by the German government of [openDesk](#) – a package of open source software developed for use across public institutions in order to transition away from proprietary software – is a prime example of how these approaches are complementary. In fact, the strategic adoption of open source software solutions by states is widespread: the governments of China, Russia, Cuba; the US White House; and the French parliament and police force – and many more - all use open source operating systems as a recognition that the ownership and control of data requires an underlying software infrastructure which is not prone to the risks and vulnerabilities associated with proprietary software solutions.

This raises a pertinent question for NGOs in general, and human rights organisations in particular: how do we opt for technology which reflects our value base?

Utility, convenience, and habit are the most compelling reasons for our dependence on 'Big Tech'. Communities build up around their platforms, creating a critical mass resulting in vendor lock-in. Monopolistic practices, such as preventing inter-operability with other software, make it extremely difficult for organisations to leave – no matter how much they disagree with their practices. Furthermore, the promotion of private software in our education system inculcates a dependency on this software from childhood.

We have to recognise that our choice of technology is not value neutral. Following and supporting organisations like Privacy International, Electronic Freedom Foundation, and Open Rights Group is critical to understanding the intersection between tech, corporate power, and state power.

But, more than that, we should start adopting open source software in our organisational ecosystems. While this may not apply to social media platforms, where usage may be necessitated due to modern communication needs, almost every piece of software we use in our daily lives has an open source alternative. Supporting organisations to use software compatible with their ethos requires a mixture of education, capacity building and customised technical support. We need to understand how to build coalitions between social movements and technologists that enable us to produce technologies that serve our interests, respect our privacy, and safeguard our autonomy.

To learn more about the Rabble Cooperative, who can provide bespoke sessions on the issues raised within this article, please visit [www.rabble.coop](http://www.rabble.coop).



## ICCL-CAJ Conference: Police Surveillance North and South

On 24 October 2023, the Irish Center for Civil Liberties and CAJ hosted a conference in Dublin titled ‘**Police Surveillance North and South: Covert Intelligence, Facial Recognition Technology, Oversight and Human Rights**’. This conference brought stakeholders together to discuss the current and future landscape of covert policing through the lens of human rights. This is part of a series of seminars and conferences organised by CAJ and ICCL on the thematic issue of human rights-based policing North and South.

Following recommendations by the Commission on the Future of Policing, police reforms in the South are entering a critical phase, with legislation currently moving through the Oireachtas that will dramatically impact the future of law enforcement oversight mechanisms. Legislation has also been introduced that will also potentially expand police powers to track and monitor people’s movements and advance police use of surveillance devices such as drones and facial recognition technology.

In the North, significant concerns have been expressed about the potential for a roll-back of human rights-based policing, in light of recent unlawful police action taken to arrest journalists, the use of disruption tactics by national security operations on communities, and the ramifications on information recovery in relation to legacy cases due to the Legacy Act.

The conference opened with a keynote plenary from investigative journalists Barry McCaffery and Trevor Birney, Baroness Nuala O’Loan (First Police Ombudsman for Northern Ireland) and David Kaye (Former UN Special Rapporteur on Freedom of Expression and Opinion). The first half of the conference examined human rights-based



oversight mechanisms of covert intelligence, and involved discussions of best practice, recommendations for improved oversight and the inherent tensions in legislating for covert intelligence.

The second half of the conference focused on the human rights based implications of facial recognition technology, including the impact of this technology on ethnic minority community members, as well as testimony regarding the impact of national security ‘disruption tactic’ operations on women and children. The conference ended with a panel focused on oversight mechanisms for national security and terrorism legislation.

A final conference report will soon be published on the CAJ and ICCL websites. This report will highlight the recommendations and inputs from panel members. For more information about these conferences, or if you would like to be notified about future events, please email [emily.williams@iccl.ie](mailto:emily.williams@iccl.ie).

*ICCL’s ‘Policing for Peace’ project is supported by the Joseph Rowntree Charitable Trust. This event is supported by the Community Foundation and Community Foundation Northern Ireland programme.*

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## CAJ AGM & Annual Lecture 2023

CAJ held our AGM and Annual Lecture 2023 in The MAC on 12 December 2023. This year we were delighted to have Professor Fionnuala Ní Aoláin as our keynote speaker. Fionnuala is a long-standing CAJ board member and the current editor of this newsletter. From 2017 until the end of her mandate in October 2023, she served as the UN Special Rapporteur on counter-terrorism and human rights.

In her lecture, Fionnuala reflected on the six and a half years she spent working within the UN special procedures mandate, while also highlighting current global challenges. She talked about the key areas she focused on during her mandate.

These were: The architecture of counter-terrorism (CT), including the various organizations and entities involved both within and outside the UN; addressing the negative impact of CT on civil society; focusing on states of emergency and use of exceptional powers in the CT arena; gender mainstreaming

in the CT context; CT and technology; and the examination of national CT legislation.

She spoke about her strong feminist convictions, which she brought into the role, and the need to build connections and relationships with individuals and states to be an effective Special Rapporteur. She stressed the importance of acting as a ‘watchdog’ and pre-empting bad decisions and practice, commenting that “Bad counter terrorism does not solve terrorism; it can create cycles of violence.”

In conclusion, Fionnuala acknowledged that it can sometimes seem as if we are losing the fight to protect human rights. Yet we still need to “keep pushing the boulder up the hill”. She said: “We are fighting the long fight for human rights, but I believe it is those on the journey with you who make it worth it.”

CAJ’s latest annual report can be downloaded here: [www.caj.org.uk/publication\\_type/annual-reports](http://www.caj.org.uk/publication_type/annual-reports).



# Civil Liberties Diary - Sept to Nov 2023

Compiled by Zoha Siddiqui from various sources



**1 September 2023:** The Department of Education (DE) opened a 12-week long public consultation into updating the NI Relationships and Sexuality Education (RCE) curriculum. The consultation focused on parents' right to excuse their child from age-appropriate education on sexual and reproductive health and rights, such as access to contraception and abortion. (An [analysis](#) of the response to the consultation was later published on 5 January 2024.)

**28 September 2023:** An investigation by [The Detail](#) found that racist hate crimes in Botanic, one area of South Belfast, more than doubled since 2017, from 70 racist hate crimes committed from 2017-18 to 147 committed from 2022-23. Immigrant-owned businesses are particularly vulnerable to racist hate crimes, and perpetrators are often still-prevalent loyalist paramilitaries. CAJ has urged the PSNI to disclose statistics on the number of hate crimes committed by loyalist paramilitaries to form strategies to tackle these crimes.

**11 October 2023:** Belfast-based NGO Children in NI (CiNI) led a [meeting](#) at Stormont with all main political parties, the Department of Health, and over 20 NGOs affected by the Department's cuts to core funding. Given the cuts to funding, these NGOs and others face challenges in delivering public health and social wellbeing services to NI communities and even risk collapse. The NGOs were given 'no assurances' by the Department over whether any core funding would be made available to them next year.

**20 October 2023:** Belfast City councilors [approved](#) blanket dual-language signs across the city's Gaeltacht Quarter. Under the approved plan, all Gaeltacht Quarter applications for new signage would be approved 'en bloc' rather than on an individual basis, although individual residents may still object to dual-language signs on their street. The

plan is meant to save costs associated with reviewing applications individually. The DUP heavily criticized the very existence of the Gaeltacht Quarter in Belfast following the vote, while Irish-language rights groups welcomed the plan.

**15 November 2023:** The UK Supreme Court unanimously ruled that the government's Rwanda asylum policy is unlawful. The policy would have put asylum seekers on a one-way flight from the UK to Rwanda and banned the individuals from returning to the UK. On **16 November**, PM Rishi Sunak announced his intention to present a full law to Westminster that would allow the government to sidestep the Court's decision. However, [legal experts note](#) that such a law would still breach the European Convention of Human Rights, which is incorporated into Northern Irish law under the Good Friday Agreement.

**21 November 2023:** A [legal challenge](#) to the recent UK legacy act began in Belfast's High Court. Lawyers representing victims of Troubles-era crimes and their families argued that by offering conditional amnesty to perpetrators and extinguishing past truth-seeking mechanisms, the Act violates the European Convention on Human Rights. John Larkin KC, a lawyer for the families, stated in court that the Act is a 'secondary trauma' for victims. Martina Dillon, one of the claimants, lost her husband in a loyalist attack in 1997 and stated outside the court, "I fight this oppressive legislation in my husband's memory and in solidarity with other victims having their rights denied."

**23 November 2023:** Dublin City Center saw destructive [rioting](#) by far-right individuals following a stabbing in which three children and a teaching assistant were injured outside their school. The rioters were driven by misinformation that a foreign national perpetrated the

attack and emboldened by hate speech toward immigrants. At least 11 police vehicles were destroyed, as were public transportation vehicles, and shops were damaged and looted. The PSNI brought in water cannons upon request from the Irish Garda. 48 people were arrested for participating in the riots, following calls from the Irish PM, Minister for Justice, and others for rule of law and justice.

**24 November 2023:** The United Nations reported it delivered **61 trucks of humanitarian aid** to northern Gaza, during the first hours of a negotiated four-day ceasefire between Israel and Hamas. Another 200 trucks were later dispatched, most of them reaching Gaza to deliver critical although insufficient aid. The UN [continues](#) to call for a permanent ceasefire. Dozens of Israeli hostages and Palestinians jailed in Israeli prisons were released home as part of the ceasefire agreement. Emily Hand, a 9-year-old Irish-Israeli girl, was one of the Israeli hostages released by Hamas.

**26 November 2023:** [Environmental protestors](#) gathered in Toome to protest environmental degradation of Lough Neagh, which supplies half of the drinking water in Belfast and 40% of drinking water in NI overall. Protestors called for the establishment of a single environmental body in NI to regulate the water quality of this lake and other bodies of water in NI. An earlier [investigation](#) by [The Detail](#) into the NI environmental crisis found that farms fabricated soil samples to avoid regulation, resulting in excess slurry entering Lough Neagh and other lakes and rivers and contributing to the degradation of their water quality.

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**Just News** is published by the Committee on the Administration of Justice. Readers' news, views and comments are welcome. Correspondence should be addressed to the Editor, **Fionnuala Ní Aoláin**, and sent to CAJ Ltd, 1st Floor, Community House, Citylink Business Park, 6A Albert Street, BT12 4HQ. Phone: (028) 9031 6000. Email: [info@caj.org.uk](mailto:info@caj.org.uk). Website: [www.caj.org.uk](http://www.caj.org.uk).

*The views expressed in Just News are not necessarily those of CAJ.*