

## Written Evidence from the Equality Coalition to the Committee for Communities of the Northern Ireland Assembly – the Anti-Poverty Strategy

### *About the Equality Coalition*

1. The Equality Coalition is a network of over 100 non-governmental organisations and trade unions co-convened by the Committee on the Administration of Justice (CAJ) and UNISON. The Coalition members cumulatively work across all nine equality categories within Section 75 of the Northern Ireland Act 1998 (as well as on other protected equality grounds). The Equality Coalition provides a forum for unity between multiple sectors when campaigning for equality and socio-economic rights.
2. The implementation of the statutory duty on the Executive to adopt an Anti-Poverty Strategy on the basis of objective need has long been a focus of the Equality Coalition, with a number of member groups involved in the co-design group established by the Department for Communities to take forward the strategy from the 2020 mandate.

### *Equality Coalition Barnardo's and NIAPN Stormont seminar on Anti Poverty Strategy*

3. In June 2023, the Equality Coalition in partnership with member groups Barnardo's NI and the Northern Ireland Anti-Poverty Network (NIAPN), held a half-day seminar at Stormont, '*Progressing an anti-poverty strategy for Northern Ireland*'. The event was sponsored by Emma Sheerin MLA, Mike Nesbitt MLA, Gerry Carroll MLA, Sinéad McLaughlin MLA and Kate Nicholl MLA. Following the restoration of the institutions, with the same sponsors, we held a launch event for the report from this seminar on Monday 4 March 2024.<sup>1</sup>

### *The duty to Adopt the Anti-Poverty Strategy*

4. Following the 2006 St Andrews Agreement, a statutory duty was introduced on the Northern Ireland Executive under the revised Northern Ireland Act 1998,<sup>2</sup> stating:  
S28E Strategy relating to poverty, social exclusion etc  
(1) The Executive Committee shall adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need.  
(2) The Executive Committee –  
(a) must keep under review the strategy; and  
(b) may from time to time adopt a new strategy or revise the strategy.

### *Judicial reviews of the Northern Ireland Executive*

5. Before the restoration of the devolved institutions post St Andrews, the then direct-rule administration adopted an anti-poverty strategy entitled *Lifetime Opportunities: government's anti-poverty and social inclusion strategy for Northern Ireland*. In 2008 the Executive agreed to adopt the 'broad architecture and principles' of this strategy.
6. Into the 2011-2015 mandate there was no identifiable successor strategy nor a formally adopted anti-poverty strategy. CAJ engaged extensively with The Executive

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<sup>1</sup> The report can be accessed here: <https://www.equalitycoalition.net/wp-content/uploads/2024/01/Progressing-an-anti-poverty-strategy-for-Northern-Ireland-JAN-24-FINAL.pdf>

<sup>2</sup> S28E, as inserted by s16 of the Northern Ireland (St Andrews Agreement) Act 2006.

Office during 2013 and 2014 contending that the statutory duty was not being complied with and ultimately issued judicial review proceedings.

7. The High Court in Belfast on 30<sup>th</sup> June 2015 consequently found that:

The Executive Committee of the Northern Ireland Assembly has acted unlawfully by failing to adopt an identifiable strategy for the purpose of section 28E of the Northern Ireland Act 1998.<sup>3</sup>

8. In relation to objective need Mr Justice Treacy had the following to say regarding definition:

The concept of 'objective need' is obviously central to the statutory provision the intention of which is to remove or reduce the scope for discrimination by tying the allocation of resources to neutral criteria that measure deprivation irrespective of community background or other affiliation...It is difficult to see how the Executive could develop and deliver a Section 28E compliant strategy without adopting some agreed definition of objective need but that will be a matter for the Executive in due course.<sup>4</sup>

9. The High Court judgement became final later in 2015 when no appeal was lodged. There was little tangible progress on developing and adopting the Strategy in the short 2016 mandate before the collapse of the Executive between 2017-2020.

10. It should be noted that two further judicial reviews have been taken by *Conradh na Gaeilge* that have also found that the Executive acted unlawfully for failing to adopt a strategy – in this instance the Irish language strategy. Whilst this is a separate strategy, also put into legislation as a statutory duty as a result of St Andrews, the formulation of the duty on the Executive to adopt a strategy is similar and hence there is read across from this case law to the duty to adopt the anti-poverty strategy.<sup>5</sup>

11. Notably in the most recent High Court ruling on the Irish Language Strategy (in 2022) the Court held, noting the blocking of progress, that regardless of whether the clock starts ticking with each new Executive it had “*exhausted the leeway available to it in terms of the time available to comply with its statutory obligation.*” The Court ruled there was a limited amount time available to a new Executive to comply with an obligation to adopt the Strategy, in particular, in light of past non-compliance and development work:

The reasonable period of time available to an Executive Committee to comply with its obligation has to be judged according to all the circumstances. What is reasonable will be shaped, inter alia, by what has gone before. In the present case, given the lengthy period of failure on the part of preceding Executive Committees to comply with their legal obligations such that no Irish language strategy had been adopted at all - and particularly against the background of a previous High Court declaration to this effect *and* the renewed hope of expeditious progress in light of the commitments in the NDNA deal - it was incumbent upon the Executive to act with alacrity. It has

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<sup>3</sup> [Application of CAJ for Judicial Review](#), 2015 NIQB 59. Para.45.

<sup>4</sup> [Application of CAJ for Judicial Review](#), 2015 NIQB 59. Para.51.

<sup>5</sup> [Conradh na Gaeilge's Application](#) [2017] NIQB 27 and [Conradh na Gaeilge's Application](#) [2022] NIQB 56

plainly failed to do so. ...The question for the court, however, is simply whether the Executive has discharged its obligation to adopt a strategy within a reasonable period of time in all of the circumstances. It has not.<sup>6</sup>

12. In terms of the powers of the Court to seek enforcement, the judgment also held out the potential for individual members of the Executive thwarting the adoption of a strategy to face enforcement action directly noting that a court order “could be directed in substance and/or form to each member of the Executive and, in the case of non-compliance, only those shown to be thwarting the order might be sanctioned, provided this could be clearly determined.”<sup>7</sup>

#### *2020-2022 Mandate to present*

13. In 2020, there was a clear commitment in the New Decade, New Approach (NDNA) deal that “The Executive will develop and implement an Anti-poverty Strategy” as part of the agreed ‘immediate priorities’ for the restored Executive agreed by the parties.<sup>8</sup>
14. The Department for Communities then appointed an Anti-Poverty Strategy Expert Advisory Panel in October 2020 to “advise DfC on the direction and development of a new Anti-Poverty Strategy which is evidence-based and targeted to address objective need.”<sup>9</sup> The Panel produced a report, providing a comprehensive blueprint for the anti-poverty strategy, published in March 2021.<sup>10</sup> The Department also established an Anti-Poverty Strategy Co-Design Group to advise on the development and drafting of the Anti-Poverty Strategy.<sup>11</sup> Following regular engagement with the Department, some members of the Anti-Poverty Strategy Co-Design Group, working independently from the Department, took forward the development of a recommendations paper to inform consideration of a draft strategy.<sup>12</sup> This paper drew upon the Expert Advisory Panel’s prior report.
15. Some of the areas explored across these processes included:
  - Creating an Anti-Poverty Act and Anti-Poverty Commission;
  - Implementing a new child payment, delivering a childcare strategy, making participation in school cost-free, and restoring the value of social security benefits for children;
  - Dealing with low pay and precarious work, through measures like the ‘real Living Wage’, collective bargaining, and prohibiting the use of ‘zero-hour’ contracts;
  - Strengthening the benefits and social security system to protect against poverty, including via reforming supports for persons with disabilities and

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<sup>6</sup> [Conradh na Gaeilge's Application](#) [2022] NIQB 56, para 25.

<sup>7</sup> [Conradh na Gaeilge's Application](#) [2022] NIQB 56, para 47.

<sup>8</sup> NDNA, part 1, page 9.

<sup>9</sup> <https://www.communities-ni.gov.uk/articles/anti-poverty-strategy-expert-advisory-panel-terms-reference>

<sup>10</sup> [Report from the Anti-Poverty Strategy Expert Advisory Panel | Department for Communities \(communities-ni.gov.uk\)](#)

<sup>11</sup> <https://www.communities-ni.gov.uk/articles/anti-poverty-strategy-co-design-group-terms-reference>

<sup>12</sup> <https://www.nicva.org/article/members-of-the-dfc-anti-poverty-strategy-co-design-group-produce-key-recommendations-paper>

removing the bedroom tax, benefit cap, two-child limit, and five-week wait for Universal Credit;

- Tackling poverty amongst pensioners and older people;
  - Addressing cross-cutting issues impacting on poverty, such as housing, employment inclusion, and access to services.
16. However, despite the extensive work undertaken through the Expert Panel and Co-Design processes, a strategy was not adopted by the Executive before the collapse in 2022.
  17. The Equality Coalition's seminar at Parliament Buildings in June 2023 sought to highlight that the work that has been done to date should provide a solid foundation for the development of a draft Anti-Poverty Strategy for public consultation. The organisers called for the adoption and implementation of an overarching, comprehensive Anti-Poverty Strategy based on objective need to be a day one priority for a new Executive.
  18. At our June 2023 Seminar the Department set out that a draft strategy had been prepared to be taken forward by an incoming Executive. The Departmental spokesperson stated:

...We do have a draft [anti-poverty] strategy there. We have something that's ready to present to an incoming minister. It's taken on board all of the input and the views that we have gathered through the co-design process, but the final content of it, ultimately, is for the Executive to agree. When we get a new Minister, we will present that draft to them for consideration.<sup>13</sup>
  19. Following the reappointment of the Executive in early 2024 we were therefore concerned by the contrasting position articulated by the Department when the Permanent Secretary appeared before the Committee on the 29 February 2024.
  20. On this occasion the Committee was told by the Department that a strategy 'was some months away' from being in a 'strong enough shape' to be put before the Executive. The Permanent Secretary stated that 'an initial conversation' had been held with the Minister only and that more detailed briefing would follow. A view was then presented that appeared to significantly depart from the previous work undertaken by the Department to develop the strategy. A view appeared to be presented that Child Payment measures that had lifted persons out of poverty in Scotland were 'a bit of a prop' and that more 'sustainable' intervention should be made. A view was then expressed that appeared to imply the existing draft Anti- Poverty Strategy, described as an 'early draft', was 'simplistic'.<sup>14</sup>
  21. We were concerned that this intervention may indicate that considerable expert-driven, evidence-based, work on anti-poverty may have been summarily unpicked and consultation on a strategy that had been under development for some time further delayed.

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<sup>13</sup> Equality Coalition 'Progressing an anti-poverty strategy for Northern Ireland' 2023. Page,21

<sup>14</sup> Committee for Communities, evidence from Permanent Secretary, 29 February 2024

<https://niassembly.tv/committee-for-communities-meeting-thursday-29-february-2024/> at 55 Minutes.

22. In March 2024, the Northern Ireland Audit Office published a critical report 'Child Poverty in Northern Ireland',<sup>15</sup> highlighting the failures to address poverty in Northern Ireland and the weaknesses of previous strategies. The report emphasised the need for an anti-poverty strategy to have clear targets for poverty reduction and a ring-fenced budget attached to it, with ongoing timely data and monitoring of outcomes throughout the strategy's lifetime.
23. On 15 April 2024 the Assembly debated an opposition motion on 'child poverty'. The Minister's response to this motion indicated firstly that 'An anti-poverty strategy that will also address child poverty is likely to have a lifespan of 10 years', and stated that it was 'not just about financial resources' but also opportunities, and set out in relation to the Anti-Poverty Strategy:

I have been considering how best to take the work forward at pace. I will shortly bring a paper to my Executive colleagues, setting out how we will develop the anti-poverty strategy and a timetable for that. Once the Executive agree the approach, I will be in a position to share it more widely. I note that much work was undertaken previously on an anti-poverty strategy. However, given the time that has passed since that initial work was undertaken, the changing economic circumstances and a changing budgetary environment, it will be necessary to revisit and build on that work, reflecting the changing pressures and priorities that we face today and will face in the years to come.<sup>16</sup>
24. Given the amount of work that has been undertaken to date and the failure to comply with what is a clear legal obligation, we remain concerned the Executive has limited leeway to adopt an anti-poverty strategy meeting the terms of S28E, before it would again be acting unlawfully.
25. We view the development of an Anti-Poverty strategy as a key priority for the Executive which should be taken forwards as quickly as possible, not just because of the legal duty that exists upon the Executive to adopt such a strategy, but because such a strategy is of vital and increasing importance in order to deal with the longstanding issues of poverty across our society, issues that have been further exacerbated by the cost of living crisis.

**April 2024**

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<sup>15</sup> Northern Ireland Audit Office, 2024, <https://www.niauditoffice.gov.uk/files/niauditoffice/documents/2024-03/NI%20Audit%20Office%20Report%20-%20Child%20Poverty%20in%20Northern%20Ireland.pdf>

<sup>16</sup> Official Report NI Assembly, 15 April 2024, 4.30pm, Minister Lyons  
<https://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2024/04/15&docID=396689#4300817>