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## 1 Summary

1.1 In line with public surveys going back years, it was established by the Commission on Flags, Identity, Culture and Tradition (FICT) that the status quo regarding the display of flags and emblems from street furniture (owned, in practice, by the Department for Infrastructure) is unacceptable. The proposals consulted on were fundamentally about the abuse of emblems on street furniture to exclude or intimidate; more precisely, it sought to make the display of emblems from street furniture lawful subject to a code of conduct, to establish a body responsible for determining whether the code of conduct was being adhered to, and to enforce the removal of emblems displayed contrary to such a code of conduct particularly if their display was contrary to *Section 12 or 13 of the Terrorism Act 2000*.

1.2 The consultation process involved a series of meetings with key stakeholders, including the Department itself, the PSNI, those involved with FICT, academic experts, human rights campaigners, Loyal Orders and other relevant public bodies, as well as correspondence with other important bodies including Government Departments. The public consultation consisted of a media launch and a 12-week period during which interested individuals and organisations could respond to an online survey hosted by Survey Monkey or make written submissions.

1.3 The public consultation found significant support for the proposal that the display of emblems from street furniture should be made lawful, but also that it should be carried out upon demonstration of community support and identification of an individual responsible for removing the emblems at the end of a reasonable time period. There was, however, less support for a “Parades Commission”-type organisation and some concern about the cost of enforcement. A qualitative overview of responses may be summarised as (in no particular order):

- emblems on street furniture are not the only issue – there are broader issues (e.g. around memorials or bonfires) and they are also representative of underlying concerns (e.g. paramilitary intimidation or glorification of terrorism in general).
- there is broad (though not universal) acceptance of the display of emblems on street furniture, but this acceptance rises considerably if this display is time-bound (though there are varying views on how much time) and if the emblems are not paramilitary.
- there was broad recognition of a clash between the value of displaying emblems for the purpose of celebration (e.g. around festivals) and the potential for them to cause antagonism or division (e.g. through intimidation or territory marking), though views on how to manage this balance diverged significantly.
- there was considerable concern (albeit from various angles) at the ability of the police and other authorities to enforce the law, and specifically to do so in a way which was fair to all communities (this may explain how apparent acceptance of the need for a “code of conduct” was matched by apparent opposition to a “regulatory framework”).

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- there were divergent views on the idea that the approach to the display of emblems should vary depending on location (e.g. outside places of worship, near schools, on thoroughfares, etc.).
- there is clear support for the idea that emblems should be displayed with community support, though exactly why this is (and what is understood by “community support”) may vary considerably.
- there was strong support for having someone nominated as responsible for removing emblems from street furniture (though there was some divergence about who).
- there was some (cautious) support for the idea of an “online portal”, similar to that used to report broken streetlights, for reporting unwanted emblems on street furniture.
- there was support for removing emblems which did not meet the requirements of a code of conduct, although some divergence about when and about who should do so.
- the concept of penalties did not have widespread support, though in some instances this was simply because respondents felt they would not be fairly enforced or imposed.
- there was little appetite for significant cost specifically to the public to arise from legislation on this topic.

1.4 The consultation assisted in the development of the proposal in two main ways. First, it was established that there is no clear desire for the establishment of a new commission for determining whether a regulatory framework is being adhered to (although there is an appetite, as noted above, for a public authority – that is, most likely, an existing body – to be notified about community support and a responsible individual). Second, the passage of legislation through Westminster, ongoing at time of writing, reduces the prioritisation initially planned for the specific removal of emblems displayed contrary to the *Terrorism Act*, as that Act will itself be amended to enable (though not compel) this (6.3 below). This leaves the central objective of making lawful the display of emblems from street furniture subject to appropriate consent from the landowner (in practice, the Department for Infrastructure), taking into account the clear desirability of genuine community support and identification of a responsible individual.

1.5 It was clear that there was some orchestration of responses to the public consultation, as two specific templates were used (i.e. copied and pasted) by multiple respondents. Although this skewed the responses somewhat quantitatively (towards a Unionist perspective), the overall range of public viewpoints remained clear. Fundamentally, there is broad recognition of the value of displaying emblems for the purpose of celebration and commemoration and broad opposition to their abuse for the purpose of intimidation or territory marking, though views on exactly how to manage this (and what is practical) do diverge.

1.6 The initial proposals included the establishment of a new body or the extension of the role of a current body (which may have been legislatively complex if it involved an extension of the role of an organisation established by Westminster legislation) and a statutory requirement on public authorities to remove emblems displayed unlawfully, particularly if in breach of the *Terrorism Act 2000*. Developments during the consultation period means these proposals need not form a significant part of the Bill and that it may be refined and made considerably more straightforward than initially thought necessary. There will now be a single focus on making lawful the display of emblems with genuine community consent and the identification of a responsible person for their removal after a reasonable time period, after which time it would fall to a statutory body to have them removed.

1.7 It was never envisaged that the proposed legislation would come at a significant cost (indeed, it was always arguable that it would reduce costs in the long run). Given the refinement of the proposal, any associated costs will be further reduced.

1.8 It is recognised that legislation passing through the UK Parliament will now meet some of the objectives of this legislative proposal; however, this only makes the argument stronger for complementary legislation at Stormont. This will reinforce the lawfulness of public displays for the purpose of celebration or commemoration. Such legislation will also encourage action against displays clearly designed to intimidate or mark territory (noting that even at time of writing, correspondence is continuing to be received stating concerns about this, particularly near new housing developments). Therefore, in line with correspondence with the Department, it is now envisaged (see Section 6 below) that the proposed bill will be quite straightforward with a very direct single focus and that it may be drafted taking account of legislation already applying in England and Wales referring to “deemed” and “express consent” (albeit adapted for Northern Ireland’s particular circumstances).

## 2 Current Position

2.1 The Commission on Flags, Identity, Culture and Tradition (FICT) was established on the basis that, as one of its Co-Chairs put it, “*fundamentally, the legislation [around flags, identity, culture and tradition] isn’t working at the moment*”. In fact, one of several areas on which FICT was unanimous in its agreement was that the current situation, where flags are flown (and, broadly, emblems are displayed) from public property in an unregulated way, cannot continue.

2.2 There are several reasons for this disenchantment with the *status quo*:

- there is general agreement (FICT, 11.20) that “*flags associated with... proscribed organisations should not be displayed*”.

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- a number of rights, including (as listed by the *Human Rights Commission*) to cultural identity, freedom of expression, equality & non-discrimination and access to services without intimidation, are not currently being respected.
- flags, banners and other emblems are placed in some locations in contravention of *Section 12 of the Terrorism Act 2000*.
- flags are themselves disrespected if they are left to fly until they become rags (*FICT 11.3*).
- there is no further recourse if the *Joint Protocol in Relation to the Display of Flags in Public Areas (2005)* is either breached or simply does not result in local agreement.

2.3 There is also evidence that the anonymous display of emblems (most obviously but not exclusively flags) can on occasions be associated with intimidation and territory marking. *FICT (11.40-41)* accepts the need for legal clarification, but the proposals aimed also to ensure that clarification around this is accompanied by local input and meaningful enforcement.

2.4 Fundamentally, the proposal discussed in the consultation on the bill was to make lawful the display of flags and emblems (including banners) from public property for the purpose of commemoration or celebration, provided this is done so in line with a Code of Practice similar to that outlined in *FICT (11.48)*.

2.5 It was proposed that it will be an offence not to comply with the Code of Practice, and there will also be a statutory duty placed on public authorities (most obviously though perhaps not exclusively the Department for Infrastructure) to ensure the removal of emblems (most obviously flags or banners) displayed unlawfully.

2.6 No change to the laws and customs surrounding the display of emblems on private property, nor on civic or government buildings or memorials, was proposed.

2.7 The goal was to secure wider support for the display of emblems in public spaces as a means of celebrating and commemorating in a shared and diverse society (in which, as per *Together: Building a United Community*, “all public spaces are shared spaces”), while at the same time securing their removal from public property where they have been placed with intimidatory intent.

2.8 The presumption, therefore, would be in favour of the display of emblems, but the Department for Infrastructure (or any other public body) would be entitled to set up an independent organisation or appoint another organisation to which notification of the display of emblems from public property could be made for the purpose of determining whether the Code of Practice has been complied with.

2.9 There is evidence from past surveys, and indeed from this consultation, that there is a demonstrable and persistent desire amongst the public to ensure that emblems are displayed in an open and respectful manner. Objections to emblems, or the way in which they are displayed, can come from all parts of the community, including from people who are assumed to share allegiance to the flag or emblem in question.

2.10 Conversely, it may also be noted that “shared space” is not “neutral space”. It was anticipated that these proposals would preserve, and indeed specifically make lawful, the display of flags and emblems in areas where they are *not* representative of the majority of the local community. This will be challenging for some, but it is the nature of a genuinely shared society.

### 3 Process Summary

3.1 On 2 July 2024, a proposal was submitted by Paula Bradshaw MLA for a Member’s Bill, provisionally entitled the *Display of Emblems Bill*. This began the consultation process, a significant (but not only) part of which was a public consultation run via *Survey Monkey* which commenced on 6 January 2025 and concluded on 31 March 2025.

3.2 The relevant Department, the Department for Infrastructure, provided three responses during this period. Initially, in October 2024, it provided a short and then longer response which detailed opposition to the proposal on the grounds that it would be difficult for the Department to enforce any law resulting from the proposals. However, on 13 January 2025 a meeting was held with the then Minister, John O’Dowd, accompanied by Departmental officials and his Special Adviser, at which he explained he was not opposed to the Bill but would wish to be kept informed about any duties being imposed on the Department. Further to this, there was correspondence with the new Minister, Liz Kimmins, upon her coming into office the following month in which she indicated an interest in how “deemed consent” and “express consent” may work, thus suggesting a reversal of the October 2024 position towards at least potential support.

3.3 The following meetings concerning the Bill also took place during this period:

- Ulster University (face-to-face meeting 6 August 2024)
- Police Service of Northern Ireland (meeting 13 August 2024)
- Committee on the Arbitration of Justice (meeting 14 August 2024)
- NI Housing Executive (meeting 22 August 2024)
- Queen’s University (correspondence on 27 August 2024; meeting 19 September 2024)
- Parades Commission (meeting 29 August 2024)
- Equality Commission (meeting 29 August 2024)
- Loyal Orange Lodge of Ireland (meeting 30 August 2024)

- Amnesty International (correspondence on 20 September 2024)
- Northern Ireland Office (correspondence on 21 March 2025)

3.4 The NI Human Rights Commission and Community Relations Council did respond to requests for meetings, noting the content of the proposal. The former in the end felt it had already been suitably engaged with; the latter wished to see more detailed legislative proposals before providing an input.

3.5 It may also be noted that a broad outline proposal was being considered at time of Assembly collapse in 2017; at this stage, consultation meetings had begun and, notably, included a meeting with the Apprentice Boys of Derry in addition to some of the organisations above.

3.6 There was over the entire consultation period a not inconsiderable amount of correspondence from individuals on the proposals, often noting their own experience seeking local accommodation in the past. An email option was also presented.

3.7 It should be emphasised that the consultation, even though it is backed by seven years of research on the topic, was on *proposals*, not on *decisions*. Therefore, the consultation was not designed to assess “support” versus “opposition” as such, but rather to seek comments on particular proposals arising fundamentally from that research and from the report of the Commission on Flags, Identity, Culture and Tradition (1.1).

3.8 One notable challenge throughout the consultation period was a misrepresentation of the proposals (such as [this one](#)). Unfortunately, this meant that a significant amount of correspondence concerning them, both formally in response to the consultation survey and more generally in public debate, was in fact irrelevant to what was (and is) in fact being proposed.

3.9 Arising from this also was the demonstrable determination of some groups to maximise their input to the survey by having the same template response submitted multiple times (forming, in effect, stock responses).

## 4 Support and Opposition

4.1 As noted above, the proposed legislation consisted of several elements, and the consultation process was a genuine attempt at seeking public input into both their desirability and their viability. There were 8030 responses to the consultation, of which 7870 were from individuals (although a significant number of those followed two sets of template responses; 2.9). There were also 20 further detailed written responses (which did not necessarily

particularly follow the questions as laid out in the survey), as well as numerous other pieces of correspondence over the entire consultation period in addition to meetings outlined at 2.3 above. The following is a reasonable assessment, based on all of that, of what was deemed desirable and viable.

4.2 According to the survey, **43%** of respondents **strongly disagreed** that *“the display of emblems associated with promoting or supporting proscribed organisations should generally be prohibited from street furniture in public places”*, though this view was not replicated in any other responses to the consultation in general and, notably, even many of those “strongly disagreeing” noted there was no support for *“paramilitary flags”* (suggesting, perhaps, some dispute or even misunderstanding around the term *“proscribed”*, which is taken directly from the *Terrorism Act 2000*). Some of those who disagreed did so because they felt *“care needs to be taken about adjudication of emblems – taking into account historical context such as 1912 UVF versus current proscribed organisations”*; some did so out of concern about *“free speech”*; others did so not because they were supportive of the display of such emblems but because they felt the proposals did not go far enough (that, for example, they should include *“murals”* and *“graffiti”* as well); one made the interesting comparison with the ban on *“billboards advertising cigarettes”*. There was also concern about the impact on ongoing *“good relations activities”*. Although comments noted that most who disagreed were from a Unionist background, not all were; some respondents were concerned that *“Palestinian flags”* could fall within the definition. **For reasons noted later in this summary, the requirement to legislate in this specific area has been reduced in any case by the passage through Westminster of the *Crime and Policing Bill*, which at Section 123 amends the *Terrorism Act* in much the way the legislative proposal had recommended.**

4.3 Over **71%** agreed (and **23%** disagreed) that *“the display of emblems on street furniture for the purposes of commemoration or celebration should be permitted”*, suggesting that the proposal to make this specifically lawful has significant (though not universal) support. The most common template response made reference to the *“long established tradition of towns and villages being decorated for community events”*. Notably, however, others who agreed with the proposal nevertheless argued flags should not be left up *“indefinitely”* and, even among this group, there was concern about flags being used for *“antagonism”*. Those opposed argued that even the emblems of proscribed organisations could be claimed as being displayed for *“celebration”* or to *“honour murderers”*. Others argued that they felt people should be free to display emblems, but not from public property.

4.4 Similarly, around **73%** agreed (and **18%** disagreed) that *“it is important that national, cultural or sporting emblems are displayed to mark historical or community events”*, reinforcing a broad but not universal view that such displays are supported.

4.5 Similarly again, **70%** agreed (and **20%** disagreed) that *“emblems being displayed on street furniture can have a positive impact on the local community, especially around significant cultural events or anniversaries”*. Those who agreed referred to emblems being used to *“bring a community together”* and made reference to how this occurs in other countries. Those opposed expressed doubt that Northern Ireland could manage this effectively, or that while they may be permitted in some locations they should not appear in *“mixed communities”*.

4.6 As with 3.2 above, a very similar number both *“strongly agreed”* and *“strongly disagreed”* with the idea that *“emblems displayed on street furniture are in some instances displayed for reasons of intimidation or exclusion”*. However, all written responses agreed with this idea, and in fact at one time or another all political parties in the Assembly have also agreed with it in public comments within the past six years. One reason for the divided outcome in response to the actual question may be an uncertainty, apparent in responses, as to what constitutes *“demarcation of territory”* and whether displays that are *“temporary”* are distinct from those which are not. There was also an argument that the question is moot because existing laws already cover it (though *which* existing laws was not clarified). We would argue, therefore, that the idea in fact has the broad agreement of the public, albeit with perhaps a natural reticence to include what people perceive as their *own* emblems (such as their own national flags) within the list of those causing *“intimidation or exclusion”*.

4.7 Views on the impact of *“emblems displayed from street furniture on business and tourism”* were almost exactly evenly split across all five answers from *“very positive”* to *“strongly negative”*; over a fifth of respondents actually ticked *“neither”*. From the survey it is therefore neither clear that the display of emblems from street furniture is generally good for business and tourism, nor that it is bad; from the comments both to the survey and in other correspondence it appears to depend on which emblems and in which contexts, perhaps endorsing the need for some kind of code of practice. It was also evident that the very same issue can be viewed in two diametrically opposing ways: for example, the display of emblems from street furniture in residential areas was dismissed by some on the grounds that *“people know what to expect when moving into an area”* but prioritised by others as *“detriment[al] to property prices”*. Throughout the consultation period, concerns were expressed at the presence of flags near new housing developments (such correspondence is continuing to the dedicated email address even at time of writing, with the public consultation closed).

4.8 A very narrow majority (just over **52%**) *disagreed* that *“the display of emblems should be permitted on street furniture specifically within a new regulatory framework designed to ensure that they are displayed within the terms of a Code of Conduct”*. The comments suggest this majority was made up of three separate groups: one who think the display of emblems should be permitted without restriction; another who think the display of emblems should

not be permitted at all; and a third who did not think that *all* emblems should be subject to a regulatory framework. As will be noted later in the summary, although the proposal cannot account for completely divergent views, the proposal will be adapted to account for the last of these groups.

4.9 Similarly, just over 52% thought that a “*regulatory framework that ensures emblems displayed from street furniture are displayed within a Code of Conduct*” would have a “*negative*” impact on community relations; comments again suggest this 52% falls into three groups – those who think any restriction on emblems displayed is negative, those who think the display of any emblems is negative, and those who think some specific emblems should not fall within such a framework (while being open to the idea with reference to others). As noted at 3.8, the proposal will be adapted to account for this. Some other respondents felt they could not clearly answer the question without knowing the content of such a framework.

4.10 The most common answer by far in the survey to “*how long do you feel it is reasonable for emblems to be displayed on street furniture when this is done for the purposes of celebration or commemoration within a Code of Conduct*” was “*depends on circumstances*”, though this was still a minority at **45%**. Of the remainder, **16%** thought they should not be taken down at all; others were split on timeframes between “*one week*” and “*one month*” almost evenly. Even among the 45% there were divergent views: some said “*one day*” and others “*three months*”, whereas some thought it depended on which emblem (notably, from comments, the *nature* of the emblem rather than its *location* was mentioned more often, though both were mentioned) and others thought it should be specific to the period of the particular celebration or commemoration (whatever that may be). There were also some responses which again demonstrated a misreading of the actual proposal, as they referred to displays “*in gardens*”. Some respondents specified that there should be an exception for Christmas; one respondent even argued that displays should not be timebound, but rather determined by how long the person or organisation responsible for the display was prepared to pay “*rent*” to do so.

4.11 A narrow majority of respondents to the survey (**56%**) did *not* believe that “*extra restrictions should be placed on the specific locations in which emblems may be displayed from street furniture (e.g. outside schools, near places of worship, close to hospitals, on thoroughfares)*”. It may be noted that among those 56% were not just those opposed to restrictions on the display of emblems (typically because they felt “*interpretation*” would prove too difficult in practice), but also those opposed to the display of emblems *at all*.

4.12 **57%** *agreed* (and **24%** *disagreed*) that “*people or groups who want to display emblems from street furniture should demonstrate genuine community support for this*”, which suggests that in fact those wishing to display emblems do need to demonstrate local backing. It is worth noting, however, that in the comments there were significant concerns about how

this could meaningfully be done (notably given the potential for “*intimidation*”); those opposed tended to cite concerns that this could become an “*objectors’ charter*” and even some of those in support expressed concern about the potential for local “*tensions*”.

4.13 Similarly, **62% agreed** (and **25% disagreed**) that “*people or groups who want to display emblems from street furniture should nominate someone to be responsible for their subsequent removal*”, again suggesting that there is support for ensuring that emblems are not displayed by faceless individuals but rather openly with community support. One significant reason given for this was the sense that those putting up emblems on street furniture should also bear the cost (in time and money) of removing them again. Among those disagreeing, notably, was an organisation with specific expertise in trying to manage the same process in social housing.

4.14 A narrow plurality felt that “*if emblems are not removed within a reasonable period of time, a public authority should be given responsibility for removing them*” – approaching **39%** said “*yes*”, nearly **35%** said “*no*”, and over **25%** said “*depends*”. Of those latter, there were a number of reasons given as to why they had not selected “*yes*” or “*no*”, ranging from uncertainty about the definition of “*reasonable period*” to concern about which “*public authority*”. Nevertheless, there was significant support for removal of flags becoming “*tatty*” and there was significant concern that the status quo leaves people feeling “*powerlessness*” about emblems appearing in their local community. Those saying “*no*” tended to cite cost and a belief that removal should be “*community managed*”.

4.15 Similarly, when asked what is a “*reasonable time period for intervention*” by a public authority (re 3.14 above), again **35%** of survey respondents were opposed to such an intervention and **25%** marked “*it depends*”; of those choosing a time period, a plurality chose “*one week*” but opinions were notably divergent and it would not be reasonable to say this was a consensus view. There was some support for a system which would enable those putting emblems up to state how long they should be up for and on what basis; others felt removal should occur simply once flags begin to “*look bad*” or “*become an eyesore*”.

4.16 Similarly again, most people felt the “*public could be involved in assisting with and identifying if there are emblems displayed on street furniture unlawfully*”. Here, **36%** were opposed to such involvement; a similar number thought an “*online portal*” would be the best way for such involvement to take place. A significantly high number (**9%**) wrote “*no opinion*”; of these, some noted in the comments that they had no strong view on how such involvement should take place, only that it should. Those responding with comments also noted they felt it was important that any such involvement be anonymised as appropriate. **It was noted, early in the overall consultation period, that the Department for Infrastructure already has a phone number for such reports; this was unclear at the time the question was drafted.**

4.17 A plurality, though not quite an overall majority, felt there should be “*no penalty*” for “*displaying an emblem from street furniture unlawfully*”; of these, a significant number were not opposed in principle but felt it would in practice be unenforceable and others felt it would simply be impossible to determine to whom any such fine should apply. Some respondents also indicated they had ticked “*no penalty*” but this should be read with reference specifically to national flags. Those in favour felt that fines would act as a deterrent and that consideration should be given to “*paramilitary flags [attracting] a higher fine*”. There was only very limited support for a “*criminal conviction*” (under 9%).

4.18 There was considerable uncertainty about what the “*potential costs*” of such a Bill would be, but respondents were clear that they felt such a Bill should not bring with it a substantial cost to the public purse. In comments, some felt it simply should not be costly to ensure that emblems displayed on street furniture were displayed reasonably, some felt any “*costs*” could be recouped through “*finest*”, and others simply felt there were other things to prioritise for public spending.

4.19 Although more than half of respondents technically chose to add further comments, most were simply to confirm they had nothing further to add or to re-state a brief point. There was some concern expressed that “*memorials*” or “*bonfires*” were not to be included in the legislation; some respondents were also of the view that the “*Unionist community [would be] disproportionately impacted*”. Longer responses tended to emphasise the balance to be struck between “*celebrating cultural diversity*” on one hand and “*intimidation*” on the other. Respondents noting that they lived in “*mixed neighbourhoods*” were most likely to note that they felt helpless about removing flags they do not want. Some also drew a parallel between intimidation associated with the display of emblems on one hand, and broader paramilitary intimidation on the other.

4.20 A comfortable majority of those responding to the survey were above age 45. It may be noted that the average age in Northern Ireland at the time of the consultation was almost exactly 40. This would suggest that, even among adults, there was a tendency for older people to be likelier to respond.

4.21 Almost three quarters of those answering the question on gender said they were “*male*”, a notable skewing versus the population as a whole.

4.22 Only 10% responding said they were resident in a Council area wholly west of the Bann; this suggests a significantly higher proportion from the broad Belfast Metropolitan area.

## 5 Development of Proposal

5.1 As noted at 3.16, it is now evident that the Department for Infrastructure already has a dedicated phone number for reporting the appearance of unwanted emblems on street furniture (even if this is, perhaps, understood to mean flags and banners specifically). This appears not to be widely advertised, nor widely known (it was evident that respondents to the consultation were not aware of it); there is also some evidence that call handlers do not necessarily know what to do with reports from the public. However, it does mean that the proposal can build on a reporting system already (at least partially) in place.

5.2 A significant challenge within the proposal was what to do about the display of emblems evidently promoting paramilitary (or, in law, “proscribed”) organisations. The proposal initially sought to reinforce the point that the display of such emblems is already illegal, both in the sense that it is not authorised (and thus, arguably, constitutes trespass given it consists of the display of flags from street furniture without the owner’s permission) and in the sense that it appears to be illegal under the *Terrorism Act 2000* (which, at Sections 12 and 13, prohibits the “invitation to support for” a proscribed organisation). The particular challenge was how to legislate for the removal of emblems which were displayed illegally, particularly if this was done in contravention of the *Terrorism Act 2000*. A lot of correspondence and discussion around this legislative proposal concerned the frustration that emblems (typically flags) displayed in contravention were not being removed by the police, apparently on the grounds that they could only be removed for the purposes of use in evidence arising from a charge. However, as noted at 3.2 above, a recommendation from the UK Independent Reviewer of Terrorism Legislation to allow for the removal of displays in contravention of the *Terrorism Act 2000* regardless of whether they were to be used in evidence arising from a charge has been accepted by the UK Government. This is being implemented at Section 123 of the *Crime and Policing Bill* proceeding through Parliament at the time of writing. It may be emphasised that this does not totally meet the objectives of the original legislative proposal, which sought not only to enable such removal but in fact to compel it. Nevertheless, given this was always going to be a challenging outcome to achieve (not least because, arguably at least, it involved amending legislation passed by the UK Parliament rather than the NI Assembly) and that an amendment to the law is now highly likely in this area, it is now the case that consideration may be given to providing a greater focus to the Bill away from how to promote the removal of flags whose removal will now be enabled in law in any case.

5.3 The consultation survey showed clear support for a requirement for community input into which emblems are displayed from street furniture in their locality and for clarity about who is responsible for those displays (and, specifically, for their removal). However, there was less support for any sort of “Parades Commission”-style organisation which would oversee and perhaps provide determinations on which flags could be displayed at which locations

during which timeframes. Given such a proposal would in any case have been legislatively complex, consideration may now be given to achieving the Bill's objectives without it.

5.4 It is difficult to assess exactly how a consensus which is supportive of community support and identification of a responsible person was arrived at when there was no particular consensus in favour of a legislative framework. The question arises how community support can be determined and how the identification of a responsible person can be assured without a legislative framework (and without legal penalties, on which there was also no consensus). Nevertheless, consideration will now be given to how to proceed on the basis of this consensus, perhaps replacing the notion of a "regulatory framework" and even of a "code of conduct" with the notion of a "code of practice". However, it remains the case, as noted in the [report of the Commission on Flags, Identity, Culture and Tradition](#), that an approach which is all "carrot" and no "stick" does not generally work and that at least some consideration of legal remedies needs to be included.

5.5 The issue of "freedom of expression" was raised by respondents to perhaps a greater degree than was initially envisaged. This was done from all angles – some felt it would be entirely inappropriate to remove emblems displayed from street furniture on the basis that they were a source of "freedom of expression" whereas others, notably including those approaching the issue from an equality or human rights angle, argued quite the opposite and suggested that there was a significant issue of potential "hate expression". With some reluctance, consideration is being given to not addressing this particular issue in this particular legislative proposal, not least because it may be dealt with in forthcoming legislation emanating from the Department of Justice either in this mandate or the next. Nevertheless, discussion of this is ongoing not least given the possibility of an amendment to any proposed legislation.

5.6 It is therefore envisaged that the legislative proposal will now be reduced significantly in scope (6.1 below); however, given developments in policy and legislation elsewhere (6.3 below), the need for and urgency of such legislation has now perhaps increased further to ensure the process of establishing consent for the display of emblems on street furniture is modernised (6.5 below).

5.7 As noted elsewhere, some weighting would be required to give a full statistical analysis of the consultation outcome, because it was clear that a significant number of responses were based off two specific templates (both of which tended towards the view that emblems should be displayed with limited or no restriction, particularly if the emblem concerned was the Union Flag or the Ulster Banner). However, although this has been noted as appropriate in Question 3, this did not have a particular impact on the qualitative aspect of the overall consultation response.

## 6 Revised Proposal

6.1 As noted elsewhere in this summary (notably at 1.4), two aspects of the initial proposal were fundamentally reconsidered during the consultation process.

6.2 The consultation itself demonstrated that there is no clear desire for the establishment of a new commission for determining whether a regulatory framework is being adhered to, for three key reasons:

- it became clear that a Bill incorporating a new Parades Commission-style body would not enjoy cross-community support.
- respondents from various locations and, evidently, of various community backgrounds expressed concern about how the decisions of any such body would practically be enforced.
- there was no appetite among respondents (of any community background) for the Bill to attract significant cost to the public purse.

Therefore, while the establishment of a new body was perhaps implicit rather than explicit in the initial proposal, the revised proposal makes clear that this Bill should seek to attain its objectives without the need for the establishment of any new public body.

6.3 The passage of the *Crime and Policing Bill* through Westminster, currently ongoing, amends (at *Section 123*) the *Terrorism Act 2000* (specifically *Section 13*) in a way which is not exactly what was required in the initial proposal for this Member's Bill, but clearly quite close to it. There has also been clarity that this amendment, advocated initially by the Independent Reviewer of Terrorism Legislation, has the support of the Police Service of Northern Ireland, and indeed the police has already indicated that it has amended its guidelines to meet the requirements of this new legislation. Given the additional potential complexity of amending Westminster legislation via a Member's Bill at Stormont and the considerable body of opinion evident in the consultation that any such Bill should not result in significant pressure on the public purse (including through pressure on police resources), this aspect of the initial proposal no longer needs to be taken forward (in the short term, at least).

6.4 This demonstrates the value of the consultation process, in that the process in and of itself has not just provided a reasonable oversight of the public's view of the initial proposal, but it has also encouraged other actors to take action to implement some of the aspects initially proposed. The fact in particular that the UK Government is taking steps to amend the *Terrorism Act 2000* to make it easier to remove displays of support for proscribed organisations from public property demonstrates that the process of development of this legislation has already borne fruit.

6.5 Nevertheless, the central objective of making lawful the display of emblems from street furniture subject to appropriate consent from the landowner (in practice, the Department for Infrastructure), taking into account the clear desirability of genuine community support and identification of a responsible individual, remains to be achieved. Our view is that the consultation process demonstrates that there remains clear public support for this objective, but also that it can be achieved through a Bill which will in practice be much more straightforward in form than that initially proposed.

6.6 The proposal has now been simplified to a concept, familiar in other jurisdictions, of making the display of emblems from street furniture lawful (a view supported by a substantial majority of correspondents and respondents) but subject to a code of practice including consent by the landowner (in practice, in Northern Ireland, the Department for Infrastructure). It is envisaged that such consent would in some instances be “deemed” (essentially, automatic) and in other instances be “express” (essentially, requiring written permission), depending on the type of emblem displayed, the location, the duration and arrangements for implementing the code of practice. This would in fact make the legislation, at least in principle, even more straightforward than that applying in England.

## **7 Competence issues**

7.1 Two concerns about competence were raised during the consultation process. Firstly, there was the potential for attempts to enforce the *Terrorism Act 2000* ultimately to involve an amendment to that Act, which would have been difficult as that Act was passed by the UK Parliament, not the NI Assembly. Secondly, there was potential for the quickest route to establishing some kind of Commission to be an amendment to the *Public Processions Act 1998* (which established the Parades Commission), also UK Parliament legislation.

7.2 However, as outlined at 4.2 and 4.3, consideration may now be given to not proceeding on this basis, given in the first instance the passage through the UK Parliament of an amendment to the *Terrorism Act 2000* and in the second clear opposition during the consultation process to a legislative framework involving any kind of “Commission” making determinations.

7.3 This does not, however, preclude the Department for Infrastructure itself choosing to use an existing body to assist it in determining whether a display has “deemed” or “express” consent (4.6; these terms are taken from existing legislation applying elsewhere).

## 8 Financial considerations

8.1 During the consultation it was clear that the Bill should not proceed at substantial cost to the taxpayer, and indeed it was always envisaged that it would be close to cost neutral.

8.2 In determining financial considerations, however, it must also be noted that the status quo comes at a considerable financial cost. For example, enabling paramilitary organisations in effect to control what emblems are and are not displayed from street furniture in particular communities comes at a considerable cost to those communities – including with reference to likely investment, efficiency of public service provision, local property prices and so on. Some respondents did also express concern at how long the “marching season” seems to last, especially if they felt the display of emblems led to a cost to local businesses.

8.3 It is not unreasonable to suggest, therefore, that the legislation as now proposed may in fact significantly reduce costs to local communities currently facing the burden of faceless individuals erecting emblems on street furniture without genuine community support – both in the short and long term. There is also increasing evidence from the “Ending the Harm” programme within the Department of Justice that such “marking of territory” is the first step to coercive control by paramilitaries of entire communities, which comes at considerable cost not just in terms of immediate opportunity but also for a lifetime in terms of economic and health outcomes.

**ANNEX A BACKGROUND QUESTIONS**

- **Are you responding as an individual or on behalf of an organisation?**

An individual

An organisation

If you are responding on behalf of an organisation, what is the name and the address of your organisation?

- **Do you consent to your comments being attributed to you/your organisation?**

Yes

No

- **Please choose one of the following:**

I am content for this response to be published and attributed to me or my organisation

I would like this response to be published anonymously

I would like this response to be considered, but not published (“not for publication”)

**DATA PROTECTION DECLARATION**

**I confirm that I have read and understood the Privacy Notice to this consultation which explains how my personal data will be used.**

**PRIVACY STATEMENT**

In respect of individuals’ rights over their personal data, this consultation will be managed in line with the Alliance Party’s Privacy Policy, which can be accessed here:

<https://www.allianceparty.org/privacy>

**ANNEX B – PUBLIC CONSULTATION QUESTIONS**

2. To what extent do you agree that the display of emblems (such as on flags, bunting, banners or posters) associated with promoting or supporting proscribed organisations should generally be prohibited on street furniture in public spaces?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

*Comments:*

3. To what extent do you agree that the display of emblems should be permitted on street furniture for the purposes of celebration or commemoration?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

*Comments:*

**DISPLAY OF EMBLEMS BILL CONSULTATION SUMMARY**

4. To what extent do you believe that it is important that national, cultural or sporting emblems are displayed on street furniture to mark important historical or community events?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

*Comments:*

5. To what extent do you believe that emblems being displayed on street furniture can have a positive impact on the local community, especially around significant cultural events or anniversaries?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

*Comments:*

DISPLAY OF EMBLEMS BILL CONSULTATION SUMMARY

6. To what extent do you believe that emblems displayed on street furniture are in some instances displayed for reasons of intimidation or exclusion?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

Comments:

7. What impact do you think that emblems displayed from street furniture have on business and tourism?

- Very positive*
- Positive*
- Neutral*
- Negative*
- Very negative*
- Don't know*
- No opinion*

Comments:

8. To what extent do you believe that the display of emblems should be permitted on street furniture specifically within a new regulatory framework designed to ensure that they are displayed within the terms of a Code of Conduct?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

Comments:

9. What impact do you think a new regulatory framework that ensures emblems on street furniture are displayed within a Code of Conduct would have on community relations?

- Very positive*
- Positive*
- Neutral*
- Negative*
- Very negative*
- Don't know*
- No opinion*

Comments:

10. How long do you feel it is reasonable for emblems to be displayed on street furniture when this is done for the purposes of celebration or commemoration within a Code of Conduct?

- One week*
- Two weeks*
- One month*
- Depends on circumstances*
- Should not be taken down*
- Don't know*
- No opinion*

*Comments:*

11. Do you believe that extra restrictions should be placed on the specific locations in which emblems may be displayed from street furniture (e.g. outside schools, near places of worship, close to hospitals, on thoroughfares)?

- Yes*
- No*
- Don't know*

*Comments:*

**DISPLAY OF EMBLEMS BILL CONSULTATION SUMMARY**

12. To what extent do you believe that people or groups who want to display emblems from street furniture should demonstrate genuine community support for this?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

*Comments:*

13. To what extent do you believe that people or groups who want to display emblems from street furniture should nominate someone to be responsible for their subsequent removal?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

*Comments:*

**DISPLAY OF EMBLEMS BILL CONSULTATION SUMMARY**

14. If emblems displayed on street furniture are not removed within a reasonable period of time, should a public authority be given the responsibility for removing them?

- Yes*
- No*
- Depends on circumstances*
- Don't know*

*Comments:*

15. If a public authority is to be held responsible for removing emblems displayed on street furniture outside the terms of a Code of Conduct, what is a reasonable time frame for this intervention?

- One week*
- Two weeks*
- One month*
- Depends on circumstances*
- Should not be taken down*
- Don't know*
- No opinion*

*Comments:*

16. How best do you think the public could be involved in assisting with identifying if there are emblems displayed on street furniture unlawfully?

- Through an online portal (like that used for reporting broken streetlights)*
- By responding on a website or app*
- By telephoning a dedicated hotline*
- The public should not be involved at all*
- Don't know*
- No opinion*

*Comments:*

17. What penalty should exist for displaying an emblem from street furniture unlawfully?

- A criminal conviction*
- A fixed penalty fine*
- A warning, and then a fine for repeated breaches*
- No penalty*
- Don't know*
- No opinion*

*Comments:*

**DISPLAY OF EMBLEMS BILL CONSULTATION SUMMARY**

18. To what extent do you believe any potential costs associated with the proposed bill would be proportionate to its intended outcomes?

- Strongly Agree*
- Agree*
- Neither agree nor disagree*
- Disagree*
- Strongly disagree*
- Don't know*
- No opinion*

*Comments:*

19. Do you have any further comments?

20. What is your age group?

- Under 18*
- 18-24*
- 25-34*
- 35-44*
- 45-54*
- 55-64*
- 65 and over*
- Prefer not to say*

21. What is your gender?

- Male*
- Female*
- Non-binary*
- Prefer to self-identity*
- Prefer not the say*

22. Which Council area to you live in?

- Antrim & Newtownabbey*
- Ards & North Down*
- Armagh, Banbridge & Craigavon*
- Belfast*
- Causeway Coast & Glens*
- Derry & Strabane*
- Fermanagh & Omagh*
- Lisburn & Castlereagh*
- Mid & East Antrim*
- Mid Ulster*
- Newry, Mourne & Down*
- Don't live in NI*
- Prefer not to say*

## ANNEX C – DEFINITIONS

Six particular terms are used regularly in this consultation, defined as below.

A **Code of Conduct** means a published set of rules which outline the expected behaviour of a group or individual.

**Emblems** refer to any sort of symbol. These are typically displayed on flags, bunting, banners or posters, but may even be directly painted on to street furniture.

A **proscribed organisation** is an organisation listed as banned by the Home Office due to its involvement in terrorism; membership of such an organisation is, in itself, an offence.

A **public authority** refers to any body carrying out public functions. This would include government departments, local councils, agencies and courts.

A **Regulatory Framework** is a set of rules, standards and guidelines which govern how a particular process operates.

**Street furniture**, for the purposes of this consultation, applies to objects fixed in the public realm, typically along a street, for public safety, decoration or service. This therefore includes items such as lamp posts, telegraph polls, safety barriers, road signs, post boxes and trees. In practice, however, reference is to street furniture owned by the Department for Infrastructure, as that is the type used for the display of emblems (including flags, bunting, banners and posters).