



**TROUBLES (LEGACY AND RECONCILIATION) BILL –
MEMORANDUM LAID BEFORE THE ASSEMBLY UNDER STANDING ORDER 42A
(4)(b)**

Background

1. This memorandum has been laid before the Assembly by the Minister for Communities under paragraph (4)(b) of Standing Order 42A.
2. Standing Order 42A Legislative Consent Motions details the procedure for seeking the agreement of the Assembly to the Westminster Parliament considering provisions of a Bill that deals with a devolution matter. Paragraph (2) of Standing Order 42A prescribes that a legislative consent memorandum shall be laid in respect of any devolution matter for which a legislative consent motion is proposed. Under paragraph (4) of Standing Order 42A, the Minister whom the devolution matter concerns shall, normally not later than 10 working days after the relevant day, either—
 - (a) lay a legislative consent memorandum before the Assembly; or
 - (b) lay a memorandum before the Assembly explaining why a legislative consent motion is not sought.
3. The Secretary of State has to date not written to me about the provisions in the Troubles (Legacy and Reconciliation) Bill, which is currently before Parliament, and how they impact on devolution matters and would therefore engage the LCM process. However, my officials attended a meeting with the NIO on 5 July in relation to memorialisation and oral history to gain a better understanding of the new legislation in respect of the designated persons and the functions they would carry out, and what implication it would have for the relationship between the Minister, and in particular PRONI as part of the Department, and NMNI as an Arm's Length Body. Given the uncertainty around when an Executive might be formed and the likelihood of a further Assembly election, I am putting on record that I am not minded to seek a legislative consent motion.
4. This memorandum is in respect of the clauses in the Bill insofar as they relate to the Department for Communities, namely clauses contained in Part 4 of the Bill. It is not



possible to seek the agreement of the Assembly under Standing Order 42A on this occasion and, as noted above, there is no Executive in place to seek agreement. Even if it were possible to bring an LCM to the Executive, however, I am opposed to the provisions made in the Bill and would, therefore, not be in a position to recommend that the Executive or the Assembly agree to an LCM.

Summary of the Bill and its policy objectives

5. The Troubles (Legacy and Reconciliation) Bill was introduced to the House of Commons on 17 May 2022. The current version of the Bill can be found at [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill - Parliamentary Bills - UK Parliament](#).

6. The principal purpose of the Bill is to address the legacy of the Troubles and promote reconciliation by establishing an Independent Commission for Reconciliation and Information Recovery (ICRIR), limiting criminal investigations, legal proceedings, inquests and police complaints, extending the prisoner release scheme in (Sentences) Act 1998, and providing for experiences to be recorded and preserved and for events to be studied and memorialised.

Provisions which deal with a Devolution Matter

7. The provisions relating to memorialisation and oral history touch on matters that fall within the remit of the Department for Communities. The Bill also contains provisions relating to the establishment of the ICRIR, limiting criminal investigations, police complaints, legal proceedings, and inquests, which fall outside of my department's remit.

8. The purpose of the Bill is to end all current legacy investigations, inquests and civil proceedings and set up a new ICRIR to review legacy cases involving deaths and other 'harmful conduct'. The Bill also provides for memorialisation and oral history.

Reasons for not seeking a legislative consent motion

9. Ordinarily the Executive would be asked by the relevant Minister to agree to the policy content of provisions, to these provisions being carried in a Westminster Bill and to consent by the Assembly being sought - in the absence of an Executive this is not possible.



10. In addition, I am opposed to the provisions set out in the Bill. I have expressed concerns that the proposals do not meet the needs of victims, may not comply with human rights obligations, may not be workable, might undermine the rule of law, and represent an interference in the devolved justice system that risks undermining public confidence in it.

Engagement with the British Government

11. I expressed my concerns to the Secretary of State about the provisions on 26 October 2022.

Engagement with the Executive and the Committee for Communities

12. There has not yet been an opportunity for me to engage with Executive colleagues or the Communities Committee about the Bill.

Conclusion

13. I am opposed to the British Government Legacy Bill and advocate discussion on the implementation and delivery of the Stormont House Agreement (2014), which was negotiated and agreed by the Irish and British Governments, local parties and endorsed in public consultation.

DEIRDRE HARGEY MLA
MINISTER FOR COMMUNITIES
27 October 2022