

Submitted to Display of Flags and Emblems - Call for Evidence  
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## Clause 1: Removal of flags or emblems in the public interest

6 Do you agree with Clause 1 of the Bill?

No

7 Please provide information to support your answer here

Accessible:

I do not support Clause 1 as currently drafted. The duty it places on the Department to remove flags or emblems where it considers it to be "in the public interest" grants a broad discretionary power without providing a sufficiently clear definition of what constitutes the public interest. This creates the potential for inconsistent decision-making and undermines public confidence in the impartial application of the legislation.

Any decision to remove a flag or emblem should be based on clear, objective, and transparent criteria rather than a subjective assessment. The legislation should also include robust safeguards, including a requirement to consult affected parties where appropriate, provide written reasons for decisions, and establish an independent right of appeal. Without these protections, the clause risks disproportionately interfering with lawful expressions of cultural identity and community tradition.

## Clause 2: Sensitive places

8 Do you agree with Clause 2 of the Bill?

No

9 Please provide information to support your answer here

Accessible:

I do not support Clause 2 as currently drafted. The definition of "sensitive places" is overly broad and could capture a wide range of public spaces that are part of everyday community life. Including locations such as arterial roads, shopping centres and public parks gives the legislation a potentially extensive reach without clearly demonstrating why restrictions should apply in each case.

While it is reasonable to ensure that public services can be accessed in a safe and welcoming environment, the Bill should clearly distinguish between behaviour that intimidates or causes harm and the mere display of a lawful flag or emblem. The presence of a flag or emblem alone should not automatically justify its removal simply because it is near a location defined as "sensitive."

The legislation should provide clearer, more objective criteria for determining when intervention is necessary, ensuring that decisions are proportionate, evidence-based and respectful of the rights of all communities to express their cultural identity lawfully.

## Clause 3: Procedure for / notification of, or giving views on, flags or emblems

10 Do you agree with Clause 3 of the Bill?

Yes

11 Please provide information to support your answer here

Accessible:

I support Clause 3 as drafted. The requirement for the Department to establish an online portal for the voluntary notification of the display of flags and emblems is a practical and proportionate way to improve transparency and engagement. By allowing members of the public to provide their views on the display of a flag or emblem, the portal would help ensure, as far as practicable, that such displays remain in line with a Code of Practice based on that outlined in the report of the Commission on FICT.

This approach recognises both the rights of those wishing to erect flags or emblems and the concerns of those who may object to their display. The information gathered through the portal would give the Department valuable details to consider when weighing up the public interest test and cultural identity protections, helping to ensure decisions are balanced, evidence-based and respectful of all communities.

## Clause 4: Code of Practice

12 Do you agree with Clause 4 of the Bill?

No

13 Please provide information to support your answer here

Accessible:

I disagree with Clause 4 because it allows too much time before the Code of Practice is introduced. Waiting up to eighteen months after the Bill becomes law means there could be a prolonged period without clear guidance on the display of flags and emblems, potentially allowing disputes and inconsistencies to continue.

I am also concerned that, although the Department must consult organisations such as the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Police Service of Northern Ireland, it is not required to follow their recommendations. This could make the consultation process less meaningful.

In addition, the Code of Practice is drafted by the Department rather than being subject to stronger scrutiny or approval by the Northern Ireland Assembly. Given the sensitive nature of flags and emblems, there should be greater democratic oversight and broader consultation with affected communities before the Code is finalised.

#### Clause 5: Offence of obstructing the Department in removal of flag or emblem

14 Do you agree with Clause 5 of the Bill?

No

15 Please provide information to support your answer here

Accessible:

I strongly disagree with Clause 5. The proposed offence and financial penalty risk criminalising individuals who may be acting peacefully or expressing their cultural or political identity. A level 3 fine is excessive and could discourage legitimate expression and community participation. The focus should be on dialogue, mediation, and voluntary compliance rather than creating new offences and imposing penalties. Enforcement should be a last resort and only used where there is a genuine threat to public safety or evidence of criminal behaviour.

#### Clause 6: Request for assistance from police

16 Do you agree with Clause 6 of the Bill?

No

17 Please provide information to support your answer here

Accessible:

I disagree with Clause 6 because it gives the Department broad discretion to involve the PSNI based on the possibility of a breach of the peace or anticipated obstruction, rather than requiring clear evidence that such risks exist. This could result in unnecessary police involvement in matters that might be resolved through other means, placing additional pressure on police resources. It also risks escalating tensions within communities by introducing a policing response to situations that may not require it. Any request for PSNI assistance should be based on clear, objective criteria and used only as a last resort where there is a genuine and immediate risk to public safety.

#### Clause 7: Interpretation

18 Do you agree with Clause 7 of the Bill?

No

19 Please provide information to support your answer here

Accessible:

I disagree that Clause 7 merely provides interpretations of terms used in Clauses 1 to 6. Clause 7 may have a broader function, encompassing substantive definitions that affect the operation and scope of the Bill as a whole, rather than simply serving as an interpretative provision for earlier clauses. Therefore, characterizing it solely as an interpretation clause understates its legal significance and effect.

#### Clause 8: Commencement

20 Do you agree with Clause 8 of the Bill?

No

21 Please provide information to support your answer here

Accessible:

I disagree with the description of Clause 8. The clause does not provide a clear or certain commencement framework because it combines a fixed commencement date for some provisions with a requirement that other provisions come into operation “twelve months, or as soon as is practicable after this date,” following Royal Assent. This wording may create ambiguity regarding the precise commencement date of the remaining clauses and could lead to uncertainty about when all provisions of the Act take legal effect.

## Clause 9: Short title

22 Do you agree with Clause 9 of the Bill?

No

23 Please provide information to support your answer here

Accessible:

I disagree that Clause 9 merely sets out the short title of the Bill. While it identifies the name by which the Act may be cited, the short title also serves an important legal and practical function by providing the official reference for the legislation in legal proceedings, official documents, and future amendments. Therefore, Clause 9 has significance beyond simply naming the Bill.