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Display of Flags and Emblems Bill

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This Bill Paper provides an overview of the Display of Flags and Emblems Bill. It outlines the current legislative framework as well as policy and guidance responses to flag displays. It discusses what the Bill proposes and includes scrutiny points Members may wish to consider during their examination of the Bill.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Key Points

- The Display of Flags and Emblems Bill would place a statutory duty on the Department for Infrastructure to remove certain flags and emblems displayed on public street furniture in specified circumstances.
- The Bill distinguishes between circumstances where removal would be mandatory and circumstances where there would be a presumption in favour of removal. Members may wish to consider the extent of the Department's discretion under these different provisions and how decisions would be reached in practice.
- The Bill would require the Department to establish a procedure for receiving notifications and representations relating to the display of flags and emblems and to develop a code of practice. Members may wish to consider whether there is sufficient detail on the face of the Bill or whether key operational matters are left to the code of practice, which would not be subject to Assembly approval.
- The Bill would place duties on the Department in relation to a broad range of public street furniture, including items owned by other public authorities. Members may wish to consider how these responsibilities would operate in practice and what issues may arise where the Department is not the owner of the relevant property.
- Under current arrangements, the Department seeks advice from the PSNI when complaints are received about unauthorised items attached to Departmental property. The Bill would also allow the Department to request PSNI assistance when removing flags or emblems in specified circumstances. Members may wish to consider how the proposed arrangements differ from current practice and what resource implications may arise for both organisations.
- In January 2026, the PSNI published a Service Instruction on responding to complaints about public displays. The Instruction sets out factors to be considered when assessing complaints and the current approach to responsibility for removal. Members may wish to consider how the Bill would interact with the existing PSNI Service Instruction and the amended section 13 of the Terrorism Act 2000.

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Introduction

The Display of Flags and Emblems Bill is a Non-Executive Bill, introduced to the Assembly by Paula Bradshaw MLA ('the Bill sponsor') on 30 June 2026. It completed Second Stage on 22 September 2026 following debates in the Assembly on the [7 September](#), [14 September](#) and [22 September](#).

As set out in the Bill's Explanatory and Financial Memorandum (EFM), the Bill "seeks to tackle the persistent issue of public property being abused for the display of flags or emblems which are designed to exclude or intimidate."¹

The Bill would seek to address this issue through creating a statutory duty on the Department for Infrastructure (DfI or 'the Department') to remove flags from public street furniture under circumstances laid out in the Bill. It would also create a new offence of obstructing the Department in the removal of a flag or emblem.

This paper provides some background to the current legislative framework in Northern Ireland in respect of flags and emblems as well as some policy and guidance approaches.

The paper discusses the specific clauses of the Bill as well as scrutiny points that Members may wish to note. These are highlighted within blue boxes for ease.

This paper does not consider the financial implications of the Bill. This paper should be read in conjunction with RalSe briefing paper [NIAR-264-2026](#) which provides a review of costs associated with the Bill.

¹ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p1

1 Current Legislation in Northern Ireland

At present, there is no single, specific legislative framework in Northern Ireland to govern the display of flags, symbols, or emblems by individuals or groups on public property, nor is there an agreed set of customs to determine what is or is not acceptable. The criminal and civil law can be used where such displays impact public order, amount to harassment or hate speech, or otherwise breach planning or roads regulations. The appropriate legislation to be invoked will depend on the nature of each situation.²

In an evidence session at the 5 June 2024 meeting of the Committee for the Executive Office, Dominic Bryan, former co-chair of the Commissions on Flags, Identity, Culture and Tradition (FICT), stated that the current laws do not adequately address the problem of flags.³

Additionally, the various agencies tasked with monitoring flags report that the legislation lacks clarity and specificity regarding flags, causing agencies to struggle with its application, resulting in limited and inconsistent interventions. Specifically:

- The lack of explicit mention of flags in legislation leads to varying interpretations and cautious approaches by authorities.
- Fear of exacerbating public disorder discourages proactive enforcement.
- Reliance on community cooperation, which has not been consistently effective, further limits confidence in the ability to intervene successfully.⁴

Leadership and responsibility in managing flag displays are also unclear. There is confusion among statutory agencies about who should act, although it is often perceived to be the PSNI. While local councils and political parties sometimes

² Northern Ireland Human Rights Commission, [The Display of Flags, Symbols and Emblems in Northern Ireland](#) (2013)

³ Committee for The Executive Office, [Briefing from the Commission on Flags, Identity, Culture and Tradition](#) (5 June 2024)

⁴ Nolan, P and Bryan, D, [Flags: Towards a New Understanding](#), Queens University Belfast (2016)

take the lead in negotiating local agreements, these efforts are inconsistent and lack broader strategic support.⁵

This section of the paper will briefly outline the current legislation in place that can be used in relation to the display of flags and emblems in Northern Ireland.

1.1 Public Order (Northern Ireland) Order 1987

Sections 9 and 19 of the Public Order (Northern Ireland) Order 1987 prohibits provocative conduct in a public place or at a public meeting or procession.⁶

This includes the display of anything with the “intent to provoke a breach of the peace or by which a breach of the peace or public order is likely to be occasioned.”⁷

The display of written material that is threatening, abusive, or insulting is also prohibited if it is intended to stir up hatred or arouse fear, or is likely to do so. This offence can be committed in public or private. However, if the display is confined to a private setting and not visible to the general public, the law does not consider it an offence.⁸

1.2 Protection from Harassment Order (1997)

The Protection from Harassment Order (1997) sets out that harassment is a criminal offence and may be prosecuted accordingly. The order covers situations where someone engages in conduct that another person might reasonably believe is intended to harass or create fear of violence.⁹

1.3 Planning (Control of Advertisements) Regulations 1992

Under Schedule 2 of the Planning Regulations 1992, the Department of Agriculture, Environment and Rural Affairs (DAERA) regulates materials it

⁵ Commission on Flags, Identity, Culture and Tradition, [Final Report](#) (2021)

⁶ [The Public Order \(Northern Ireland\) Order](#) 1987

⁷ [The Public Order \(Northern Ireland\) Order](#) 1987 sec. 19(1)

⁸ [The Public Order \(Northern Ireland\) Order](#) 1987 sec. 9

⁹ [The Protection from Harassment \(Northern Ireland\) Order](#) 1997

considers to be advertisements.¹⁰ Under the Planning Regulations, consent is required for such an advertisement, which can include flags. However, there is an exemption for national flags of any country, provided the flag is displayed on a single flagstaff and does not display any advertisement or subject matter additional to the design of the flag.¹¹

1.4 The Roads (Northern Ireland) Order 1993

This order permits the regulation of roads by the Department. The legislation empowers the Department to regulate any advertisement, picture, letter, sign, or mark that is on the surface of the road, tree, or any other fixture pertaining to the roads. Breach of these regulations is a criminal offence, and the DfI retains the authority to remove the offending item and recover the costs of doing so.¹²

The Order also regulates the erection of arches or other such apparatus over or along a road. These displays are unlawful unless consent from the DfI has been sought. Consent may be subject to conditions, which could include the applicant being required to put in place insurance for the erection, produce a safety certificate, and erect and remove the arch within a specified time period.

1.5 Section 13 of the Terrorism Act 2000

In June 2026, changes to section 13 of the Terrorism Act 2000 ('TACT') came into force UK-wide. Relevant to the Bill is the amendment to the seizure powers contained in section 13 of TACT. This change was recommended by the Independent Reviewer of Terrorism Legislation (IRTL), Jonathan Hall KC, in his report ['the Terrorism Acts 2022'](#). Section 13 previously allowed for seizure of a flag (or other article) where police reasonably suspected that the item could be connected to a specific offence of arousing suspicion of belonging to or supporting a proscribed organisation. However, the police also had to be

¹⁰ [Planning \(Control of Advertisements\) Regulations \(Northern Ireland\)](#) 1992 Sch. 2

¹¹ Nolan, P and Bryan, D, [Flags: Towards a New Understanding](#), Queens University Belfast (2016)

¹² [The Roads \(Northern Ireland\) Order](#) 1993

satisfied that it was necessary to seize it in order to preserve as evidence for criminal proceedings.¹³

As the IRTL notes, this is a particular issue in Northern Ireland where flags often appear on lampposts and it is not possible to connect an individual to them, and therefore to be satisfied that the flag's seizure could form part of criminal proceedings.¹⁴

The IRTL recommended that TACT be amended “to allow the seizure of any article if the constable reasonably suspects that it has been displayed in such a way or in such circumstances as to arouse reasonable suspicion that a person is a member or supporter of a proscribed organisation.”¹⁵

This change was made by the UK Government through [section 233 of the Crime and Policing Act 2026](#) which has effect UK-wide. On its introduction, the Explanatory Notes explained that “in practice, this would enable the seizure of a flag or poster which arouses reasonable suspicion the individual who displayed it was a member or supporter of a proscribed organisation, but where there is no evidence to connect the display of the article with a specific individual (e.g. where it has been abandoned but is on display).¹⁶

¹³ Independent Reviewer of Terrorism Legislation, [The Terrorism Acts in 2022](#) (2024) pp122-123

¹⁴ Independent Reviewer of Terrorism Legislation, [The Terrorism Acts in 2022](#) (2024) pp122-123

¹⁵ Independent Reviewer of Terrorism Legislation, [The Terrorism Acts in 2022](#) (2024) p123

¹⁶ Crime and Policing Bill, [Explanatory Notes](#) (2025) p148

2 Policy and Guidance approaches

Alongside legislation to address the issue of flag displays, there have also been attempts to tackle the issue through policies and guidance produced over the last twenty years by a range of stakeholders, including police, government, community groups, and the third sector.

2.1 Police Service of Northern Ireland Service Instruction

In January 2026, the PSNI published a Service Instruction ('the Instruction') on 'Responding to Complaints about Public Displays'. This has the aim of providing "guidance as to how the Police Service of Northern Ireland should respond to, report and investigate incidents involving displays in public spaces. This includes material which may constitute a criminal offence or be causing harm by its continued display."¹⁷

The Instruction is 27 pages and this paper will not provide a thorough discussion on the contents of it but will highlight some of the key areas contained in it. The Instruction notes criticism the PSNI has received in relation to failing to act or not acting consistently in relation to complaints around the display of words, flags and emblems and aims to help PSNI officers and staff to understand the legal obligations and to ensure a consistency of approach.¹⁸

The instruction contains operational guidance in relation to flags, emblems and associated displays with two areas of relevance for the Bill; whether there are grounds for removal and who should remove it.

2.1.1 Considering grounds for removal

The guidance asks users to consider a number of questions:

- Does the material constitute an offence?
- Does the material's physical presence constitute a hazard?

¹⁷ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p1

¹⁸ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p4

- Is the material likely to cause significant disorder / unrest?
- Is the material display causing harm / offence to communities?¹⁹

It also notes that where the material in question does not fall into any of these categories, it is unlikely, under the current legislative framework, that police would have the necessary grounds for removal or to assist in its removal.²⁰

2.1.2 Considering who should remove the material

The Instruction states that primary responsibility for removing material always resides with its owner or the owner of the street furniture or property on which it's displayed.²¹ It does, however, also state that where an offence is suspected and material can be removed quickly and easily and at no risk then it should be removed.²²

Where there isn't a need to remove the material to preserve evidence, the Instruction says that, where the owner of the material or property is identifiable, the PSNI should try to communicate with them and, if required, remind them of their responsibilities. Where they cannot be identified or are unwilling or unable to remove the material, PSNI should consider removing the material themselves.²³

In making decisions on the removal of material, as outlined in the Instruction, this should be structured, rationalised and documented using the National Decision Model and that when the display of any material constitutes an offence

¹⁹ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p21

²⁰ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p21

²¹ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p21

²² Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p21

²³ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) pp21-22

the PSNI has an obligation to act, in particular where the continued display of the material is / will cause harm.²⁴

Further, the Instruction notes that the display of contentious, illegal, or offensive material can have an impact on community tensions, and the potential for unrest, and that the following should also be considered:

- Impact Assessments should be completed, and input sought from the Neighbourhood Policing Team and / or Intelligence where appropriate;
- Engagement with local stakeholders should form an ongoing and central aspect of all stages of the decision making process, to gain insight into local perspectives, explain Police's actions and rationale, and encourage partnership working; and
- All decisions (including decisions not to act) should be fully recorded, along with their rationale.²⁵

2.1.3 Interaction with the Terrorism Act 2000

Following changes to section 13 of the TACT coming into force on 29 June 2026, the UK Government's Independent Reviewer of Terrorism Legislation, Jonathan Hall KC, called for the PSNI to update their Service Instruction. He called the Instruction "seriously out of date" most notably because it says that an officer may only seize a flag of a proscribed organisation if they believe that it might form part of criminal proceedings but "this is no longer the law".²⁶ He also noted that the change to TACT also meant that police can remove flags in such circumstances where before it may have been argued that it was the property owner's responsibility.²⁷

²⁴ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p23

²⁵ Police Service of Northern Ireland, [Service Instruction SI0226 Responding to Complaints about Public Displays](#) (2026) p23

²⁶ ['PSNI urged to ditch guidelines as officers get power to tear down paramilitary flags after years of 'buck passing''](#). *Belfast Telegraph*, 3 July 2026

²⁷ ['PSNI urged to ditch guidelines as officers get power to tear down paramilitary flags after years of 'buck passing''](#). *Belfast Telegraph*, 3 July 2026

At the meeting of the Policing Board on 2 July 2026, a question was asked of PSNI on its approach to the new legislative powers around removing paramilitary flags and banners and what difference this will make in practice.²⁸ Assistant Chief Constable Henderson responded that PSNI is considering its own duties in light of the new legislation but that the duty to remove flags was still with landowners and that they should take action.²⁹

No update to the Instruction following the enactment of the amendment to section 13 of TACT has been published to date. PSNI have told RalSe that they “do not currently collate data on the number of occasions on which officers have acted under the new Service Instructions, including instances where material has been removed by police or where support has been provided to property owners or contractors to facilitate removal. This includes information on the time spent by police on such activity.”³⁰

Members may wish to ask PSNI what further consideration they have undertaken of the amendment to TACT, whether they plan to update their Service Instruction following this and how this might interact with the Bill, as introduced.

2.2 Policy and Research 2005-2021

There were several different policy approaches in this time period. In different ways these tried to establish a strategic and cooperative approach to managing the display of flags and emblems. They included a Joint Protocol and attempts at new community relations strategies. Some, such as the ‘Shared Future’ policy in 2005, proposed specific actions such as removing paramilitary flags and controlling flag displays in sensitive areas.

Overall, while numerous policies and protocols have been introduced to regulate the display of flags in Northern Ireland, the success of these efforts has

²⁸ Northern Ireland Policing Board, [Question to the Chief Constable – Flags](#), 2 July 2026

²⁹ The PSNI response can be found in the recording of the [Policing Board meeting](#) from 2 July 2026.

³⁰ Correspondence between RalSe and PSNI, 8 May – 4 August 2026.

been limited, as highlighted in the Commission on Flags, Identity, Culture and Tradition report discussed below.

2.3 The FICT Report (2021)

The Stormont House Agreement of 2014 and the subsequent 'Fresh Start' agreement in 2015 addressed the flags issue through the establishment of the Commission on Flags, Identity, Culture and Tradition (FICT).³¹

FICT was tasked with making recommendations on how to manage these contentious issues and included members from various political parties as well as independent members. Established in March 2016, FICT was originally due to report by November 2017; however, its work was stalled due to the collapse of Stormont in January 2017. FICT submitted its final report to the Executive Office in July 2020.

Following the submission, a series of next steps, including the development of a FICT implementation plan, was approved by the Executive on 25 March 2021. On 1 April 2021, the initial engagement of Departments was approved by Ministers.³²

On 13 May 2024 the deputy First Minister reported that officials had met with junior Ministers to discuss matters relating to the report and the possible way forward. In June 2026, the First Minister and deputy First Minister stated that the FICT recommendations are being considered as part of the wider review of the Together: Building a United Community (T:BUC) Strategy and that they are working to develop a refreshed approach to Good Relations.³³

The FICT report's findings indicate that the current legislation on flags is inadequate for managing flag displays effectively, leading to confusion and inconsistency. The report called for legislative changes to provide clearer

³¹ The Executive Office, [A Fresh Start - The Stormont Agreement and Implementation Plan](#) (2015)

³² [AQO395/22-27](#)

³³ [AQW48119/22-27](#)

authority and guidelines for flag displays in order to promote a culture of respect and lawfulness.³⁴ These are discussed in more detail in the next section.

2.4 Outcomes of the FICT report

In its findings, FICT recognised that flying flags to mark significant cultural or historic events is a legitimate form of cultural expression. However, the current legislation does not give citizens the authority to place flags on public infrastructure like lampposts. The responsibility to permit such actions lies with the landowners, usually the DfI or local councils. There is an existing legal exemption for election posters, but this does not extend to flags.

The FICT Commission debated changing the law to allow an exemption for flag flying similar to the one for election posters. However, they couldn't agree on whether such changes should be made. If an exemption were created, it would need to clearly define the authority to place flags on street furniture and the conditions under which this could occur.

Despite the lack of consensus on legislative changes, the Commission discussed a potential code of practice if such changes were made. They suggested that:

- Flags should only be flown to commemorate significant events and within specific periods (e.g. Easter, July, August).
- Flags should not be placed in locations where they could be seen as intimidating or threatening, such as near homes, places of worship, or schools.
- Flags should not be flown around public service buildings or in areas where they could be construed as antagonistic.
- Flags should always be in good condition and never be defiled or burned.
- Communities should be informed about who is placing flags and for how long.

³⁴ Commission on Flags, Identity, Culture and Tradition, [Final Report](#) (2021)

- The placement of flags must not compromise road safety.

The Commission acknowledged that there might be special occasions outside of the specified periods when groups wish to fly flags. For these occasions, they suggested a process where groups would need to notify a designated local council officer at least 10 days in advance, providing detailed information about the event, the flags to be used, and evidence of community consultation.

The Commission agreed that flags supporting paramilitary organisations should be prohibited. However, there was no agreement on how to enforce this. Two options were discussed:

- Option A: Only allow national, regional, county, traditional sporting, and flags from long-established cultural organizations. The body granting authority would be the final arbitrator.
- Option B: Ban flags associated with proscribed organisations but this faced difficulties in defining and enforcing what constitutes such a flag.

FICT stressed that any new regulations or codes of practice must be enforced consistently and promptly to build public confidence. The enforcement responsibility would lie with the property owner, in consultation with the PSNI if necessary. FICT emphasised that flags used to commemorate individuals, historical events, or cultural organisations should be flown only under respectful and limited circumstances. Overuse or prolonged display could turn them into territorial markers.

3 Consultation

The Bill sponsor undertook a public consultation on the proposals between 6 January and 31 March 2025 to which 8,030 responses were received with 7,870 of these from individuals.³⁵ It is noted in the EFM that the responses reflected divergent views on the issue of flags and emblems.³⁶

There was also direct engagement between the Bill sponsor and a range of stakeholders before, during and after the online consultation period, including but not limited to:

- the Department for Infrastructure,
- The Executive Office,
- Queen's University Belfast,
- Ulster University,
- Police Service of Northern Ireland (PSNI),
- the Committee on the Administration of Justice,
- the Northern Ireland Housing Executive,
- the Parades Commission,
- the Grand Orange Lodge of Ireland,
- Amnesty International and,
- the Northern Ireland Office.³⁷

The [published consultation summary](#) provides further detail on responses to the consultation but some high level summary is provided here. It is important to note that, as with all public consultations, responses are not representative of the population as a whole. They reflect the views of those who chose to respond to the consultation.

The consultation summary reports that 71% of respondents supported permitting the display of emblems on street furniture for commemorative or celebratory purposes. A majority also supported requiring evidence of

³⁵ Display of Emblems Bill, [Consultation Summary](#) p7

³⁶ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p4

³⁷ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p4

community support (57%) and the nomination of an individual responsible for the subsequent removal of displays (62%).³⁸

There was less support for any sort of organisation overseeing flags and emblems similar to the Parades Commission and responses also contained concerns regarding the cost of enforcement.³⁹

The consultation responses led to changes to the initial proposal which have impacted the Bill as introduced. Notably, the initial proposals included the establishment of a new body, or the extension of a role of an existing one, to oversee the regulatory framework and potentially provide determinations on which flags could be displayed where and for how long. There was no clear support for this through the responses although there was for a way of notifying a public body about community support and a responsible individual.⁴⁰ This more formally regulated system has been “simplified into a judgement for the Department and the relevant factors they must take into account on the face of the Bill.”⁴¹ The system proposed in the Bill is discussed within the clause by clause analysis at [section 4](#) of this paper.

³⁸ Display of Emblems Bill, [Consultation Summary](#) p2

³⁹ Display of Emblems Bill, [Consultation Summary](#) p2

⁴⁰ Display of Emblems Bill, [Consultation Summary](#) p3

⁴¹ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p4

4 Display of Flags and Emblems Bill

The Bill contains 9 clauses which are outlined below. Some of these, given their more technical or standard nature, may require less discussion than others. It does not repeat, in full, all the Bill's clauses and should be read in conjunction with the [Bill itself](#). The Department responsible for the implementation of the Bill is the Department for Infrastructure.⁴²

4.1 Removal of flags or emblems in the public interest

Clause 1 of the Bill would require the Department to remove a flag or emblem on public street furniture and displayed in a public place, if it is in the public interest to do so.⁴³ Clause 1(1) would set out that the Department **must**⁴⁴ do this. Clause 7(1) of the Bill, on Interpretation, provides a number of definitions which are relevant here. For the purposes of the Bill:

- “‘flag or emblem’ includes bunting, poster, banner, billboard or similar medium of display”.
- “‘public place’ means any street, road or highway and any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- “‘public street furniture’ includes lampposts, bus shelters, trees, rubbish and recycling bins, street signs, bollards, railings and fences.

The EFM states that the Department for Infrastructure was chosen as the lead department as they are responsible for most street furniture.⁴⁵ The Bill, as outlined above at clause 7(1) defines “public street furniture” broadly and this includes items for which the Department may not or does not have responsibility. For example, rubbish and recycling bins are the property of local

⁴² [Display of Flags and Emblems Bill](#) (2026) clause 7(1)

⁴³ Any reference to ‘flag or emblem’ in the Bill means a flag or emblem that is attached to public street furniture and displayed in a public place. This is per clause 7(2) of the Bill.

⁴⁴ Emphasis added in this paper to help clarify the requirements in relevant clauses.

⁴⁵ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p2

councils and railings on a public building may belong to another body. The Bill, therefore, would make it the Department's statutory responsibility to remove flags or emblems from public street furniture that it potentially does not own.

This issue was raised by the Minister for Infrastructure during the Second Stage debate on 7 September 2026 who had concerns about how flags or emblems would be dealt with when they are on other governmental property.⁴⁶ The Bill sponsor, in response noted that she would be open to an amendment to the Bill that might clarify this.⁴⁷

Members may wish to ask the Department what legal and practical issues could arise where a flag or emblem is attached to public street furniture owned or controlled by another public authority.

Clause 1 sets out, for the purposes of the Bill, what is meant by the public interest in relation to the removal of a flag or emblem by the Department. Clause 1(2) would provide three categories of flag or emblem which, if the Department believes a flag or emblem falls under, **is** deemed in the public interest to remove it. These are if the flag or emblem is:

- a) intimidatory or threatening,
- b) likely to stir up hatred or arouse fear,
- c) invite support for, or is the flag or emblem of, a proscribed organisation.⁴⁸

Where these circumstances apply, clause 1(6) would apply, this states that the Department **must** remove the flag or emblem as soon as is possible.

⁴⁶ Northern Ireland Assembly Official Report 7 September 2026 [Vol. 197, No 3 p73](#)

⁴⁷ Northern Ireland Assembly Official Report 7 September 2026 [Vol. 197, No 3 p73](#)

⁴⁸ Clause 7(1) of the Bill sets out that "proscribed organisation" has the meaning given in section 3 of the Terrorism Act 2000.

The current drafting does not include “and” or “or” when outlining these three categories at clause 1(2)(a)-(c) which could lead to legal uncertainty. Members may wish to ask the Bill sponsor if that was the intention.

Clause 1(2) creates a category of flags and emblems for which removal is mandatory. Clause 1(3) creates a category of flags and emblems which are **presumed** to be contrary to the public interest, but where the Department retains a degree of discretion. These circumstances arise when, in the Department’s opinion, one or more of the following apply to the flag or emblem:

- a) it is offensive, abusive or insulting
- b) it is in the vicinity of a sensitive place and
 - i. is antagonistic, or not conducive to good community relations, or
 - ii. demarcates that place as belonging exclusively to persons with a particular national or cultural identity⁴⁹, or
- c) it is a public hazard.

The Bill provides further definition, at clause 2, of what constitutes a sensitive place and this is discussed at [section 4.2](#) of this paper.

This presumption of a public interest to remove of flag or emblem can be rebutted and in doing so the Department **must** consider a number of factors listed in clause 1(4), as introduced. These are:

- a) any views expressed by virtue of the procedure referred to in clause 3 (this is discussed at [section 4.3](#) of the paper),
- b) the views of those living in the vicinity of the flag or emblem,
- c) the importance of being able to live free from harassment and intimidation,
- d) whether the flag or emblem has been displayed for an excessive period of time,

⁴⁹ As per clause 7(1) of the Bill, “national and cultural identity” is to be construed in accordance with section 78F(3) of the Northern Ireland Act 1998.

- e) whether the flag or emblem is displayed for the purposes of celebration or commemoration,
- f) whether the flag or emblem is displayed in a disrespectful manner,
- g) whether the display of the flag or emblem complies with the code of practice referred to in clause 4 (discussed at [section 4.4](#) of this paper).

In undertaking the functions given to it in clause 1, the Department, in line with clause 1(5) **must** consider:

- a) all the circumstances in their context, including the particular flag or emblem displayed, the particular place it is displayed and the particular time it is displayed,
- b) the impact or effect that the display of the flag or emblem would have upon a reasonable person.

Finally in clause 1, subsection (7) would ensure that none of the above, in clause 1, would apply in respect of a flag or emblem that is displayed by a public authority. Public authority is defined in clause 7(1) of the Bill as a person who is exercising functions of a public nature.

Clause 1 would involve subjective tests for the Department. Officials would have to consider, for example, what is meant by antagonistic or insulting. There were concerns raised around this in the second stage debates, including what is meant by “in the vicinity” and how widely this could be drawn.⁵⁰ These decisions could involve judgements around a number of sensitive issues such as community relations, intimidation and expressions of identity. These matters are removed from the Department’s core responsibilities and it may not have the existing expertise in these areas.

Concerns also focused on the pressure that civil servants may feel in making these subjective decisions. Given the subjective nature of these assessments it may be that decisions on whether to remove a flag or emblem, or not, could become subject to legal challenges.

⁵⁰ Northern Ireland Assembly Official Report 22 September 2026 [Vol. 198, No 4 p21](#)

Under the current arrangements, where a complaint is made about a flag on Departmental property, the Department seeks advice from the PSNI before deciding whether any action should be taken.⁵¹ The removal of flags can raise operational and safety considerations, and the Department has stated that it must take account of its duty to protect staff.⁵²

The Department has reported that they occasionally remove flags when they pose a traffic hazard but generally do not undertake proactive interventions due to fears of public disorder, lack of confidence in negotiating with local communities, and the lack of funding to make flags on street furniture a priority.⁵³

In response to an Assembly Question in 2024, the then Minister for Infrastructure, that:

“The number of reports about flags attached to street lighting columns received by my Department was 69 in 2022 and 107 in 2023. With the exception of a few banners that presented a danger to road users, my Department did not remove any flags from its street lighting columns during this time.”⁵⁴

In correspondence with RalSe, the Department confirmed that this is still the current position and that in addition to the Department not removing flags, with the exception of some for safety reasons, their external contractors also refuse to get involved in removals.⁵⁵

The Bill contains a provision, at clause 6, that would allow the Department to request assistance from the PSNI in specified circumstances. This provision is discussed further in [section 4.6](#).

⁵¹ [AQW48907/22-27](#)

⁵² [AQT2421/22-27](#)

⁵³ Nolan, P and Bryan, D, [Flags: Towards a New Understanding](#), Queens University Belfast (2016) and [AQW10045/22-27](#)

⁵⁴ [AQW9237/22-27](#)

⁵⁵ Correspondence between RalSe and Department for Infrastructure officials, 8 -27 May 2026

Members may wish to ask the Bill sponsor to clarify the intended distinction between the categories in clauses 1(2) and 1(3), including the extent of the Department's discretion where a flag or emblem falls within clause 1(3) but not clause 1(2).

As a whole, clause 1 would require the Department to weigh a number of factors when deciding whether a flag or emblem should be removed. Several of these factors involve the exercise of judgement and may require consideration of competing views and circumstances. Members may wish to consider how these factors would be applied in practice and what support may be required to inform decision-making

Members may wish to consider whether DfI is the appropriate Department to consider some of the areas required under the Bill, particularly those around Good Relations which the Executive Office leads on.

4.2 Sensitive places

Clause 2 would provide a list of places that the Department **may** regard as a sensitive place. These, listed at clause 2(1) are:

- a) a place where public services are provided,
- b) a shared communal place,
- c) an interface area,
- d) a new housing development, or
- e) a place of worship.

The two other subsections of clause 2 would give further definition to what is meant by the places listed above at a) and b). Clause 2(2), as introduced, says that the Department **may** regard the following as a place where public services are provided:

- a) school,
- b) medical facility,

- c) leisure centre,
- d) library,
- e) any other place where public services are provided.

Clause 2(3) would list what the Department **may** regard as a shared communal place, these being:

- a) shopping centre,
- b) arterial road,
- c) public park,
- d) any other place that persons of all national and cultural identities could reasonably be expected to have access to.

Clause 2 sets out a range of locations that the Department may regard as sensitive places, including places where public services are provided, shared communal places, interface areas, new housing developments and places of worship. The use of the word "may" suggests that the Department would need to make case-by-case assessments as to whether a particular location should be considered a sensitive place.

While the Bill identifies categories of location that may fall within the definition, it does not specify the factors that should be taken into account when making such assessments. This may be particularly relevant for categories such as new housing developments and interface areas, where the circumstances of individual locations may vary.

Clauses 2(2) and 2(3) provide further examples of places that may fall within the definition of a sensitive place.

The EFM notes that these categories are not intended to be exhaustive and includes broader provisions such as "any other place where public services are provided" and "any other place that persons of all national and cultural identities could reasonably be expected to have access to".⁵⁶

⁵⁶ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p6

Taken together, the provisions in clause 2 appear to provide the Department with a broad discretion in determining whether a location should be regarded as a sensitive place. Members may wish to consider how these provisions would operate in practice and whether any further guidance or criteria may be required to support consistent decision-making.

4.3 Procedure: notification of, or giving views on, flags or emblems

Clause 3 would **require** the Department to establish, or adapt, a procedure for receiving information about the display of flags and emblems. This would include notifications from those displaying, or proposing to display, a flag or emblem, as well as views from members of the public on existing or proposed displays. The clause suggests that such notifications and representations could be submitted through an online portal. Use of the online portal, or similar, would be voluntary.

The consultation summary notes that there was clear support within the responses 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, in particular, for their removal.⁵⁷ This clause in the Bill seeks to allow this without creating a specific Commission.

The EFM explains that this would “ensure, as far as practicable, that displays remain in line with a Code of Practice... This information – both from those wishing to erect flags or emblems and those who have concerns about their erection – will provide the Department with details to be taken into consideration when weighing up the public interest test and cultural identity protections.”⁵⁸ The code of practice referred to here is contained in clause 4 of the Bill and is discussed in the next section of the paper.

⁵⁷ Display of Emblems Bill, [Consultation Summary](#) p13

⁵⁸ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p7

Concerns were raised during the second stage debates that an online portal will likely only be used to notify a flag display by individuals who would be likely to put up and remove flags in a responsible manner already rather than those who put up flags of proscribed organisations or those putting up flags who are part of paramilitary groups or similar.

Members may wish to ask the Bill sponsor what level of engagement with the notification system is anticipated and how the Department would take account of flag displays where no notification has been provided

Members may wish to ask the Department how it would verify notifications received through a portal and how it might manage duplicate, coordinated or conflicting submissions.

4.4 Code of practice

As mentioned above, clause 4, as introduced, sets out some requirements for a code of practice in relation to the display of flags and emblems. The EFM notes that a code of practice is relevant for the consideration of whether flags and emblems ought to be removed to assist in “a streamlined approach” and that it would set “clear expectations around what constitutes respectful display of flags and emblems for legitimate commemoration, celebration and cultural expression”.⁵⁹

Under Clause 4(1) and 4(2), the Department **must** issue such a code of practice within 12 months of that part of the Bill coming into operation. It **must** also review the code once every 5 years and it **must** be reissued after a review.

Before issuing a code of practice, the Department, by virtue of clause 4(3) **must** consult with a number of bodies listed in the legislation and, under clause 4(4) **must** consider the FICT Commission’s final report. The specific bodies who **must** be consulted under the Bill are:

⁵⁹ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) pp1-2

- a) the Northern Ireland Human Rights Commission,
- b) the Police Service of Northern Ireland,
- c) the Office of Identity and Cultural Expression,
- d) the Northern Ireland Community Relations Council,
- e) the Equality Commission for Northern Ireland,
- f) the Northern Ireland Housing Executive,
- g) the Executive Office,
- h) district councils,
- i) such other person as appear to the Department to be appropriate.

Whilst it is for the Department to decide the exact content of the code of practice, the Bill suggests a number of areas, at clause 4(5), that it **may** contain guidance on. These are:

- a) how flags or emblems ought to be respected,
- b) how communities ought to be respected,
- c) how events ought to be respected,
- d) how flags or emblems ought to be displayed and taken down,
- e) what is an excessive period of time for a flag or emblem to be displayed for.

The code of practice appears likely to play an important role in the practical operation of the Bill. A number of the questions raised during scrutiny relate to matters that may ultimately be addressed through the code rather than on the face of the legislation, such as how the Department would assess whether a display is ‘antagonistic’, what constitutes an ‘excessive period of time’, or how locations would be determined to be ‘sensitive places’.

While the Bill requires the Department to consult specified bodies when developing the code, the content would be determined by the Department and would not be subject to Assembly approval. At the Committee for Infrastructure meeting on 1 July 2026, the Bill sponsor stated that the Bill contains the principles and that definitions and “finer details” were for the code of practice

and secondary legislation.⁶⁰ The Bill, as introduced, contains no provision for secondary legislation.

Members may wish to note that there is no provision for any secondary legislation within the Bill, as introduced. As currently drafted, any further definitions to terms used within the Bill would need to come in the code of practice, which would not come before the Assembly.

Members may wish to consider whether there is sufficient detail on the face of the Bill or whether greater certainty around the content and status of the code may be required.

4.5 Offence of obstructing the Department in removal of flag or emblem

The Bill would introduce a new offence at clause 5, that of obstructing the Department, or someone acting on their behalf, from removing a flag or emblem under this legislation. Should a person be found guilty of such an offence, they would be liable on summary conviction to a fine not exceeding level 3 on the standard scale. This is currently set at £1000 as per section 5(2) of the [Fines and Penalties \(Northern Ireland\) Order](#) 1984.

4.6 Request for assistance from police

Whilst the Department is responsible for the removal of any flag or emblem that would be required under the Act, if passed, clause 6 would allow it to request assistance from the PSNI. This can be requested if, in the Department's opinion, there may arise a breach of the peace or an offence under section 5 (as outlined above) when removing the flag or emblem.

This clause would require the Department to decide whether a breach of the peace may arise or whether an offence may be committed. This may be a

⁶⁰ Committee for Infrastructure, [Display of Flags and Emblems Bill: Ms Paula Bradshaw MLA](#) 1 July 2026 p6

further resource requirement for the Department as it may need to have specific intelligence around the situation in the specific location to make such a determination. Given the nature of some of the flags and emblems within the scope of the Bill, it may be that a request for PSNI support is made relatively often. It is not clear what would happen in regards the removal of the flag or emblem where the PSNI do not provide assistance when it is requested. It may also be the case that the Department, for example, believes a breach of the peace may arise but the PSNI may not. It is not clear what would happen in such a circumstance.

In the EFM, the Bill sponsor notes that they engaged with the PSNI on the current model of enforcement and the relevant issues they take into account when undertaking this. It is not clear what their views are on this in relation to the initial proposals or the Bill, as introduced.

In response to an Assembly Question in July 2026, the Minister for Infrastructure stated that when a complaint is received regarding “unauthorised attachments” to DfI property, Departmental officials will contact PSNI, to determine if removal action is likely to increase community tensions.⁶¹

The Minister also outlined how frequently the Department had asked PSNI for this advice. For the last 5 years, the number of risk assessments requested are contained in the table below.

Table 1 – Number of PSNI Risk Assessments requested by DfI following complaints of “unauthorised attachments” to Departmental property, 2021-2025

Year	No. of Risk Assessments Requested⁶²
2021	197
2022	68

⁶¹ [AQW50215/22-27](#)

⁶² It is worth noting this is the number of risk assessments requested around the removal of “unauthorised attachments” to DfI property and may not necessarily be a flag or emblem which would be captured under the Bill.

Year	No. of Risk Assessments Requested⁶²
2023	115
2024	157
2025	264

The Minister's response indicates that the Department requests an assessment from PSNI with each complaint about an unauthorised item on Departmental property. It may be that such a risk assessment could form part of the Department's decision making under clause 6 of the Bill, but this would be for the Department to consider in its process.

In correspondence with RalSe, the PSNI noted that they do not currently collate data on the number of complaints received concerning the display of flags, emblems or other material, or the actions taken in response to those complaints. They are, however, currently establishing recording mechanisms for the number of items removed by police and correspondence issued to relevant landowners, including the Department for Infrastructure and the Northern Ireland Housing Executive. This remains in development at present.⁶³

In June 2026, the Minister indicated that the Department has been working with the PSNI and other statutory bodies on a memorandum of understanding (MoU) regarding the removal of flags on Departmental property.⁶⁴ It is not clear what this MoU may involve.

⁶³ Correspondence between RalSe and PSNI, 8 May – 4 August 2026

⁶⁴ [AQT2421/22-27](#)

Members may wish to ask:

- the Bill sponsor what discussions they had with PSNI regarding this clause and what consideration they have given if the Department and PSNI's view of a potential offence differs in relation to this clause.
- the PSNI what considerations they have given to this clause and their views on the impact this may have on time and resources.
- the Department on how it might consider whether a breach of the peace or a section 5 offence may arise.
- The Department on further details on the MoU with PSNI and others mentioned by the Minister in the Assembly.

4.7 Interpretation

Clause 7 of the Bill would deal with the interpretation of a number of references in the Bill. These have all separately been mentioned through the paper, where relevant and so are not discussed again here.

4.8 Commencement

Commencement of the provision of the Bill would take effect at different times as per clause 8. Clauses 1,5 and 6 (in relation to the removal of flags or emblems, the new offence created and the assistance of the PSNI) would come into operation on 1 January 2029. All other provisions in the Bill would come into operation 12 months after Royal Assent.

4.9 Short title

Finally, clause 9 of the Bill sets out the short title: 'Display of Flags and Emblems Act (Northern Ireland) 2026'.

5 Equality and Human Rights considerations

5.1 Human Rights Considerations

The flying of flags in Northern Ireland is a form of cultural expression that recognises the importance of identity and heritage for individuals and communities.

This expression is protected under Article 10 of the European Convention on Human Rights (ECHR), which guarantees the right to freedom of expression. This includes the freedom to hold opinions and impart information and ideas without interference by public authorities.⁶⁵

The Northern Ireland Human Rights Commission (NIHRC), in its 2013 report on 'The Display of Flags, Symbols and Emblems in Northern Ireland', states that public authorities must ensure their policies on the regulation of flags comply with the ECHR and the treaty obligations of the Council of Europe and the United Nations system. This includes respecting rights such as cultural expression, private and family life, freedom of thought, conscience, and religion, as well as equality and non-discrimination, access to services, tolerance, mutual respect, and the protection of minorities.⁶⁶

While flag displays can be a form of cultural expression, they can also lead to conflict and tension, particularly when flags are associated with specific political or paramilitary groups. The presence of such flags can threaten the rights of individuals who may feel intimidated or marginalised by these displays.⁶⁷

As such, the right to fly flags is not absolute. Article 10 of the ECHR allows for restrictions on this right in the interests of national security, public order, crime prevention, health, morals, the protection of the reputation or rights of others, and maintaining judicial authority and impartiality.⁶⁸ This means that while

⁶⁵ Council of Europe, [The European Convention on Human Rights](#)

⁶⁶ Northern Ireland Human Rights Commission, [The Display of Flags, Symbols and Emblems in Northern Ireland](#) (2013)

⁶⁷ Nolan, P., et al. [The Flag Dispute: Anatomy of a Protest](#). Queen's University Belfast (2014)

⁶⁸ Council of Europe, [The European Convention on Human Rights](#)

individuals and groups have the right to display flags, this must be balanced with the rights of others and the need to prevent public disorder.

In the case of flags, the context in which they are displayed determines which rights may be invoked and the extent to which public bodies may impose necessary restrictions. For instance, a Union flag on a government building presents a different context compared to one on a lamppost, a house visible to the public, or inside a private living room.⁶⁹

Public authorities in Northern Ireland have struggled for decades to navigate the boundaries between protecting the rights of citizens while at the same time recognising that the flying of flags, particularly those that promote proscribed organisations, can have far-reaching social and economic consequences.⁷⁰

There is some consideration of the ECHR rights the Bill sponsor believes are engaged by the Bill, contained within the EFM. Specifically:

- Article 8 (right to respect for private and family life) – In the Bill’s context, the EFM highlights the importance of living free of fear and harassment and the protection of communities “subjected to the intimidating display of flags and emblems.”⁷¹
- Article 10 (freedom of expression) – Including expressions of cultural identity.
- Article 11 (freedom of assembly and association) – Including where this takes place for the purpose of celebration of cultural identity.
- Article 14 (prohibition of discrimination)⁷²

The EFM further notes that the public interest test, included in the Bill and “underpinned by a code of practice” will balance the Convention rights

⁶⁹ Northern Ireland Human Rights Commission, [The Display of Flags, Symbols and Emblems in Northern Ireland](#) (2013)

⁷⁰ Nolan, P and Bryan, D, [Flags: Towards a New Understanding](#), Queens University Belfast (2016)

⁷¹ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p3

⁷² Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p3

potentially engaged. It specifically notes that as little restriction as possible are placed on Article 10 rights whilst protecting those under Article 8.⁷³

The Bill sponsor, in the EFM, considers the Bill, as introduced, to be compatible with both the ECHR and Article 2(1) of the Windsor Framework and that the balance of rights proposed through the Bill is proportionate.⁷⁴

The ECHR rights mentioned in the EFM are not absolute rights. This means that these rights can be restricted by public authorities. For example, in restricting Article 10 rights, it must be shown that such restriction is lawful, necessary and proportionate in order to, amongst other things:

- protect national security, territorial integrity (the borders of the state) or public safety
- prevent disorder or crime
- protect health or morals
- protect the rights and reputations of other people.⁷⁵

In relation to human rights, section 6 of the Northern Ireland Act 1998 requires that provisions of an Act are compatible with the ECHR in order to be within the legislative competence of the Assembly. They must also be compatible with Article 2(1) of the Windsor Framework in relation to the protection of individual's rights following the UK's withdrawal from the EU.⁷⁶ These considerations, and others, are considered by the Speaker and a Bill can only be introduced if they consider all provisions are within the legislative competence of the Assembly.⁷⁷

The Assembly's Legal Services Office has undertaken a Convention Rights Memorandum (CRM) on the Bill. Whilst not legal advice, this provides Members with further information in relation to human rights considerations around the Bill.

⁷³ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p3

⁷⁴ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p9

⁷⁵ Equality and Human Rights Commission, [Article 10: Freedom of expression](#) (2021)

⁷⁶ [Northern Ireland Act](#) 1998 sec.6

⁷⁷ Northern Ireland Assembly, [Standing Orders](#) 30(3)

Members should consider the CRM alongside this paper and any human rights implications of the Bill's proposals.

Members may wish to ask the Northern Ireland Human Rights Commission for their view of the Bill and the potential Convention rights engaged, particularly as it has changed since the initial legislative proposal which was shared with them.

5.2 Equality Considerations

As this Bill has been brought by a Member rather than the Executive, no screening under section 75 (of the Northern Ireland Act 1998) or Equality Impact Assessment (EQIA) is undertaken as these are only for public authorities. However, the Bill sponsor has stated in the EFM that they are satisfied the Bill's provisions do not discriminate any of the section 75 groups.⁷⁸ The EFM also notes that the Equality Commission for Northern Ireland (ECNI) did not raise any potential adverse effects to the outline proposal and that it may indeed have a positive effect on some groups.

It is also important to note that the Department, in implementing the provisions of the Bill and developing the code of practice would be required to adhere to their obligations under section 75.

Members may wish to ask ECNI of its view of the Bill, as introduced, particularly as it is different from the initial legislative proposal which was shared with them.

⁷⁸ Display of Flags and Emblems Bill, [Explanatory and Financial Memorandum](#) (2026) p9