

First Report
October 2018

INDEPENDENT REPORTING COMMISSION

FIRST REPORT

Presented to the Government of the United Kingdom and the Government of Ireland pursuant to Article 4 of the International Agreement establishing the Independent Reporting Commission

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Any enquiries regarding this publication should be sent to us at:

Independent Reporting Commission

PO Box 2205

Belfast

BT4 9EL

Email - enquiries@IRCommission.org

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Foreword

The establishment of the Independent Reporting Commission stems from the Fresh Start Agreement of November 2015, which itself was the product of a crisis in the political process in Northern Ireland that had been sparked by two paramilitary-related murders in 2015.

Conscious that some 17 years after the creation of the Belfast/Good Friday Agreement, the continued existence of paramilitarism in Northern Ireland remained a significant impediment to the efforts to deliver the sustained, peaceful, democratic future charted in the Agreement which was overwhelmingly endorsed by a referendum in Northern Ireland and Ireland in May 1998, the two Governments and the Northern Ireland Executive resolved that a new and sustained effort was needed to bring about an end to paramilitarism once and for all. The result was the Fresh Start Agreement.

Fresh Start sets out a range of measures by which paramilitarism was to be ended, including the establishment of the Independent Reporting Commission to report on progress towards ending paramilitary activity and on measures being implemented by the NI Executive, the UK Government and Irish Government to tackle the issue.

Our mandate extends to 2021 and we are pleased to present the first of a series of reports on the progress that is being made.

Contents

Page

Foreword

Section A	Overview	4
	A1: Introduction	4
	A2: Observations	10
	A3: Reporting on Progress so far	17
	A4: Conclusion	20
Section B	Current Landscape: Data and Indicators	21
	General Reporting	21
	Links to Deprivation	23
Section C	Implementation of Measures	26
	Part I: Executive Action Plan	27
	Part II: Other Measures	71
Section D	Recommendations	75
Appendices		
	A Extracts from Fresh Start Agreement	79
	B International Treaty establishing the Independent Reporting Commission	81
	C Indicators of Paramilitary Presence	85
	Multiple Deprivation Measures	87
	Security Situation Statistics	88

SECTION A: OVERVIEW

Section A1: Introduction

1.1 The Fresh Start Agreement was concluded on 17 November 2015 between the UK and Irish Governments and the Northern Ireland Executive following intensive discussions between the Northern Ireland political parties and the two Governments, in response to continued paramilitary activity in Northern Ireland. In the Agreement they reiterated “the primacy and centrality of peace and the political process to the continued transformation of our society”. A key goal identified in that regard was the ending of paramilitarism “once and for all”. One of the instruments identified by the Fresh Start Agreement to help with the implementation of this goal was a four-person Independent Reporting Commission (IRC)¹. The role of the IRC would be to report on progress towards ending paramilitarism under the terms of the Fresh Start Agreement.

1.2 The UK and Irish Governments jointly established the IRC in August 2017 by way of an International Agreement² and through corresponding legislation in both jurisdictions³. Its members are Mitchell Reiss (nominated by the UK Government), Tim O’Connor (nominated by the Irish Government) and John McBurney and Monica McWilliams (nominated by the Northern Ireland Executive). This is our first Report. We will report each year of our four-year term which expires in 2021.

1.3 We wish to make clear at the outset that our guiding mandate as the IRC is to report and make recommendations. We have no operational role, nor do we make security assessments about the various paramilitary organisations. Our task is to consult with stakeholders involved in tackling paramilitarism, as well as communities and individuals on the ground in Northern Ireland, and to

¹ Relevant extracts are set out in Appendix A to this Report. See also Section A of the Fresh Start Agreement: https://www.northernireland.gov.uk/sites/default/files/publications/nigov/a-fresh-start-stormont-agreement_0.pdf

² See Appendix B to this Report

³ The IRC’s founding legislation is set out, in the UK, in <http://www.legislation.gov.uk/ukpga/2016/13/contents>, <http://www.legislation.gov.uk/uksi/2016/1121/contents/made>, and <http://www.legislation.gov.uk/uksi/2016/1122/contents/made>, and, in Ireland, in <http://www.irishstatutebook.ie/eli/2017/act/25/enacted/en/html>

report on progress towards ending paramilitary activity as well as on the effectiveness of the measures to tackle it.

1.4 While the IRC was created by an International Agreement between the UK and Irish Governments, a key factor in this work is our independence. We hope through this Report and those to come that we can contribute to the critically important task identified in the Fresh Start Agreement of bringing paramilitarism to an end and ensuring the continued transformation of life and society in Northern Ireland. We make recommendations in Section D of this Report to help reach that goal.

Our approach

1.5 In undertaking our work we met with a range of groups and individuals, including those working in public sector organisations, political parties, representatives of faith based organisations, victims of the Troubles whose lives have been impacted directly by paramilitarism, and those living in, and working with, local communities. We are grateful to all those who have met with us. We thank them for their time and their valuable insights, which have been very helpful to us in drawing up our report⁴. We also thank those who wrote to us during the year and invite others to do the same if there are issues they wish to draw to our attention⁵.

1.6 The cross-border dimension is a critical part of our work. We wish to thank both Governments and the Northern Ireland Administration for their support and co-operation in our work. In particular we thank our colleagues in our Joint Secretariat for their hard work and professionalism, as well as officials in the Northern Ireland Department of Justice, the Executive Office and the wider NI Departments for their support throughout the past year.

⁴ The IRC's official archives and premises have the same inviolability as that afforded to official archives and premises of a diplomatic mission. IRC meetings with groups and individuals are not reported.

⁵ Our postal address is PO Box 2205, Belfast BT4 9EL. Our e-mail address is enquiries@IRCommission.org

1.7 As a Commission, we have been assigned two reporting functions: (a) to report generally on progress towards ending paramilitary activity, and (b) to report specifically on implementation of measures of the UK and Irish Governments and of the NI Executive, including implementation of the Executive Action Plan. This Report covers both of these reporting functions.

Context

1.8 As the IRC, we have been conscious from the outset of the context in which our work takes place. In the Fresh Start Agreement, the UK and Irish Governments and the NI Executive “entered into the most far-reaching commitments ever taken to uphold the rule of law and bring about the end of paramilitarism”. In policy terms, we believe that Fresh Start constituted the first attempt at a comprehensive approach to tackling paramilitarism. Previous initiatives, including the Belfast/Good Friday Agreement, involved a more piecemeal approach, tackling specific elements of the problem such as illegal weapons or the reintegration of prisoners, but the new dimension of Fresh Start was that it mapped out a much more comprehensive and holistic approach to the task of ending paramilitarism.

1.9 A further key factor is that the outcome of Fresh Start is intended to be “transformational”. That word is contained in the opening lines of the Fresh Start Agreement. If viewed through that prism, therefore, a key issue for us will be whether the measures being implemented are transformational, or contribute tangibly to transformation towards ending paramilitary activity.

1.10 Based on our mandate, we believe that the implementation of Fresh Start measures on ending paramilitarism should be based on two over-arching and twin-track approaches: (a) the criminal justice responses needed to end paramilitarism and criminality and (b) the wider, systemic changes needed to bring about the transformation of the communities in which paramilitaries operate. In our view, both approaches are of equal importance and it is only through implementing both together that the objective of supporting long term peace and stability in society and stable and devolved Government in Northern Ireland can be achieved.

- **Panel Report and the Executive Action Plan**

1.11 It is important to clarify the sequence involved in the implementation of the Fresh Start Agreement in terms of ending paramilitarism. In advance of the IRC's establishment, the Fresh Start Agreement proposed the appointment of a three-person Panel to report to the Executive on recommendations for a strategy to disband paramilitary groups. This Panel comprising Lord Alderdice, John McBurney and Monica McWilliams, produced a comprehensive report containing 43 recommendations in May 2016⁶. All 43 recommendations were accepted and in July of that year, the Executive published its Action Plan setting out how the recommendations would be implemented. An implementation structure was established by the Executive to take forward the Action Plan, with co-ordination resting with the Department of Justice under the umbrella of a Tackling Paramilitarism Programme Board⁷.

1.12 In the period since publication of the Action Plan, work has been proceeding on its implementation⁸. Taken overall, therefore, and in our view for the first time, a clear, detailed and focused pathway is being mapped out as to how the ending of paramilitarism is to be achieved.

- **Absence of Political Decision Making**

1.13 The absence of political decision making in Northern Ireland, since January 2017, has had a major adverse impact on the implementation of the Fresh Start Agreement commitments to tackle paramilitarism. The ending of paramilitarism and the disbandment of paramilitary organisations in a society coming out of conflict is a complex task, inextricably tied up in the roots of the conflict itself. While we commend those in the public, voluntary and community sectors who are working to tackle the issue, their efforts can only take matters so

⁶ <https://www.northernireland.gov.uk/publications/fresh-start-panel-report-disbandment-paramilitary-groups-northern-ireland>

⁷ Further detail on the Board and the supporting delivery structure is provided in paragraph 3.3 of this Report

⁸ The Action Plan is being taken forward by NI Departments under four delivery approaches: Long term prevention, Building confidence in the justice system, Strategies and powers to tackle criminal activity, and Building capacity to support transition

far. A key factor in bringing paramilitarism to an end and achieving community transformation is political leadership. The absence of the structures of political leadership in Northern Ireland over the past two years has been a significant impediment in terms of implementing that task. Nobody should be under any illusion in that regard.

1.14 We have no operational role in terms of the politics of Northern Ireland, but we have a duty to state our view that the restoration, and good functioning, of the political institutions is a key requirement if the goal of Fresh Start to end paramilitarism and achieve community transformation is to be met. We welcome the recent announcements of the Secretary of State for Northern Ireland regarding her intention to give greater clarity and certainty to enable the Northern Ireland Departments to continue to take decisions in the public interest and ensure the continued delivery of public services. We reiterate the importance of the efforts of the UK and Irish Governments and the parties towards a restoration of the institutions.

- **Brexit**

1.15 Brexit has also been a major background factor since the outset of our work. The uncertainty it has led to has been felt right across the board, not least in terms of the impact it has had on efforts to restore the Executive. A satisfactory resolution to the situation is critically important in that regard and to ensure that the work of implementing the Fresh Start Agreement can be fully taken forward.

- **Legacy**

1.16 We note the commitments made by the UK and Irish Governments in the Stormont House Agreement of 2014⁹ to address the critical issue of legacy. We welcome the public consultation process initiated by the Secretary of State

⁹ <https://www.gov.uk/government/publications/the-stormont-house-agreement>

for Northern Ireland in May of this year¹⁰ as an important step in the process of addressing the past. In the interests of ensuring progress on the issue we encourage the two Governments to continue to prioritise this important work.

1.17 Legacy is a sensitive and challenging issue. Given that many of the factors involved in dealing with legacy issues inter-act with the efforts to bring paramilitarism to an end, it is vital that this work is taken forward as quickly as possible. We will continue to closely monitor how the legacy issue unfolds.

- **Victims of Violence**

1.18 A key group for us in the conduct of our work at the IRC are the victims of violence – both the bereaved and those who were injured or traumatised during the Troubles and subsequently. We wish to thank the Commissioner for Victims and Survivors for arranging the Victims and Survivors Forum meeting with the IRC. The members of the Forum gave us powerful testimony on the significant – and, for many of them, ongoing - impact that the actions of paramilitaries have had on their lives.

1.19 We are conscious that for victims and survivors, the issue of bringing paramilitarism to an end has a particular resonance. It is deeply personal for them and they remain at the sharp end of this debate. We will continue to engage with victims' groups as we take forward our work.

¹⁰ <https://www.gov.uk/government/news/secretary-of-state-launches-public-consultation-on-proposals-to-address-the-legacy-of-northern-irelands-past>

SECTION A2: OBSERVATIONS

1.20 In this section we report our observations in terms of our work to date, and some of the issues we have encountered.

Paramilitarism: a complex picture

1.21 Some 20 years after the Belfast/Good Friday Agreement, paramilitarism remains a stark reality of life in Northern Ireland. The picture in terms of paramilitarism is a complex one and cannot be easily summarised. There is a wide spectrum involved. At one end are gangsterism and criminality – paramilitaries who use the conflict as a cloak behind which they engage in criminal activity. At the other end are people holding membership of illegal paramilitary organisations, who do so for a mix of political, societal and personal reasons but who, notwithstanding that they hold membership which is in itself a criminal offence, are not actively engaged in criminal activity. And undoubtedly some retain their membership because they are fearful of the repercussions if they decide to leave their paramilitary organisation.

1.22 And there is a whole range of people in between. Many of these retain membership of paramilitary organisations for what they regard as legitimate political and cultural reasons – for example, that their organisation is a definition of their identity, that the “war” is not yet over, or that there is still an “enemy” out there against whom on-going vigilance is needed. There are also those for whom the goal for which the organisation was set up has not yet been achieved.

1.23 We believe that there are those who are sincere in their wish to see a sustained peace in Northern Ireland and are committed to the goals of the Belfast/Good Friday Agreement but remain connected to these organisations. We believe that they are genuine in their desire to promote transition to a society where paramilitarism no longer exists but feel that the only way to do so is to continue the dialogue with others in the organisation.

1.24 But we also believe that there are those who continue to use membership of paramilitary organisations for the sole purpose of exercising coercive control over their communities.

1.25 As part of this coercive control, paramilitary-style attacks continue to be carried out in both Loyalist and Republican areas. Although there has been a reduction of such attacks in the past 20 years, their continuation reflects the power which those affiliated to paramilitary organisations still hold and their belief that they can undertake these assaults with impunity. Such attacks are reprehensible and must stop.

1.26 On the positive side, we note recent research that points to a decrease in incidents where paramilitary connections or alleged paramilitary connections were used to threaten, control and/or abuse victims of domestic violence¹¹. Such coercion must also end.

1.27 Also on the positive side, we note the statement of 9 April 2018 entitled “A Loyalist Declaration of Transformation from the Red Hand Commando, Ulster Defence Association and the Ulster Volunteer Force”. The statement includes some constructive language, including condemning all forms of criminality, restating the commitment of these organisations to the peace process and ensuring that “loyalist communities are at the centre of Northern Ireland’s peace and of its political transformation”. Important as these words are, the test will be the actions that follow. Some of the actions that took place in parts of Belfast in the lead-up to the Twelfth of July this year, particularly around bonfires, were in stark contrast to the statement. The unacceptable behaviour that was displayed, albeit at a small number of events, reinforces the need to close the gap between words and deeds. At the same time, we acknowledge and commend the efforts of those, including from wider society and within the Loyalist community, who have been seeking to engage with loyalist paramilitaries as “critical friends” and who in that capacity made a valuable contribution in ensuring that the disturbances that took place were contained. On the bonfires issue, we note that some positive progress was made this year and that the number of instances where there was trouble was relatively small.

¹¹ www.politicalsettlements.org/.../intimate-partner-violence-in-conflict-and-post-conflict

1.28 We note the Red Hand Commando's application for deproscription, which was submitted to the UK Government in September 2017, and understand that it did not meet the criteria for deproscription as set out in the Terrorism Act 2000¹².

1.29 On the Republican side we note the assessment that the threat from Dissident Republicans to national security in Northern Ireland remains severe¹³. We also note the declaration of a ceasefire by Óglaigh na hÉireann in January 2018 and its affirmation to transition to exclusively peaceful politics. As is the case with such declarations, the focus will be on deeds as well as words.

1.30 We are, of course, conscious of the disturbances which occurred at Easter and in August this year, particularly in the Centre of Derry/Londonderry, and the serious incidents which occurred in the City in July when shots were fired and petrol bombs and an Improvised Explosive Device were thrown at police officers. Again, we acknowledge the valuable role played by respected intermediaries and commend those within the local community for their quick response in helping to contain the situation.

¹² <https://www.legislation.gov.uk/ukpga/2000/11/contents>

¹³ <https://www.mi5.gov.uk/threat-levels>

Attitudes of Communities on the Ground

1.31 In terms of the attitudes of communities on the ground where the paramilitaries operate, we found a spectrum of views. In some communities, there was a sense of fear and anger about the continuing coercive control exercised by paramilitaries and a strong desire to be rid of such coercion. By contrast, the paramilitaries were regarded by some in the community as protecting their areas. This was obvious during the build up to the Twelfth of July this year, and particularly in relation to some bonfires.

1.32 We have also encountered strong views in the wider public discourse on paramilitarism. The headline attitude expressed through the media, both print and broadcast, is strongly negative about the continuation of paramilitarism. Those headline views could be summed up as follows: “paramilitarism is bad and wrong, it should have no place in the Northern Ireland of 2018, paramilitaries should just go away”.

1.33 Such views are understandable and, indeed, reflect our goal to support the swiftest possible ending to paramilitarism. But the challenge for society in Northern Ireland is how does transition from the current situation to a society free of all paramilitary activity actually take place. While clearly criminality has to be tackled aggressively at the policing level and the perpetrators brought to justice, nobody is suggesting that a criminal justice only response will be the answer to the current reality.

Whole of Society/Whole of Government

1.34 What will achieve long term, sustainable success in terms of bringing paramilitarism to a definitive end is the comprehensive, twin-track approach of the Fresh Start commitment to tackle paramilitary activity – that involves tackling systemic issues at community level alongside a criminal justice response. This requires societal engagement and support at the political level and the involvement of professional and statutory bodies, the voluntary and community sector and local people, and must be addressed for the outcomes in the Fresh Start Agreement to be achieved.

1.35 There is a need for a wider debate at societal level on all of these matters; one that engages with the full complexities involved. Bringing paramilitarism to an end and tackling the deep systemic issues that affect communities where the paramilitaries operate are significant challenges and their achievement will require public buy-in and public confidence in the measures needed to address them. These outcomes can only be arrived at through a full debate across the whole of society.

1.36 All of this is going to take time. We appreciate the sentiments of those who say “but it’s been 20 years since the Belfast/Good Friday Agreement, how much longer must we wait?” We understand and empathise with this view but it also needs to be recognised that whilst it has been 20 years since the peace Agreement, much of that time has involved on-going challenges and crises at the political level, culminating in the current stalemate. The reality is that Northern Ireland is a society still in transition.

1.37 The key point we are making in our Report is that, in the form of the Fresh Start Agreement and its implementation structures, there is now, for the first time, a comprehensive and credible pathway to a more positive peace that includes the ending of paramilitarism as well as a sustainable investment in communities that have fallen behind. The task is to ensure that the opportunity this provides is taken to the full.

Disbandment

1.38 We are frequently asked what disbandment means. The word comes from the Fresh Start Agreement where the political parties involved signed up to a set of principles: “All the parties to this Agreement further ... call for, and work together to achieve, the disbandment of all paramilitary organisations and their structures”¹⁴.

1.39 Disbandment was the term given to the authors of the Panel Report, and interpreted in the section “Understanding of Disbandment” by the six steps

¹⁴ See paragraph 2.5 of Section A of the Fresh Start Agreement: “Statement of Principles”

that would have to be met¹⁵. The IRC endorses these steps, which if followed, would amount to effective disbandment. The clearest demonstration that paramilitarism is over is, of course, their tangible and sustained application.

1.40 The political parties which were dedicated to the principles set out in the Fresh Start Agreement need to re-engage in this process. The media also has a role to play in helping to inform the “whole of society” debate, thereby generating maximum public confidence in regard to all of the measures needed.

Definition of Transition

1.41 In the Fresh Start Agreement the concept of “transition” was also raised. We want to make a number of general comments on what we understand its meaning to be. The Fresh Start Agreement notes that “There has been huge progress in recent years in helping transform society in Northern Ireland. However, it is clear that there is work that still remains to be done in completing this transition”¹⁶. It adds that a key element of that remaining work is the ending of paramilitarism. In the process of implementation of Fresh Start, the concept of “transition” has become increasingly used. In the Panel Report there are several references to transition in the context of moving from involvement in paramilitarism to exclusively peaceful pursuits. The concept was subsequently incorporated into the Executive Action Plan with specific actions to build capacity to support transition.

1.42 As part of our work on the IRC, we comment on the concept to ensure a shared understanding of what it means in the context of bringing paramilitarism to an end. In our view, transition is the journey from a situation where paramilitarism exists to where it does not. The term can apply inter-changeably to paramilitaries individually, to paramilitary organisations and to communities where paramilitaries operate. In its ultimate form in the Northern Ireland context,

¹⁵ See section 3 of the Panel Report: “Barriers to Progress” which sets out the following six steps to disbandment: ending recruitment into the group; giving up paramilitary structures, weapons, training and activity; ceasing paramilitary-style attacks and all other forms of violence, threat of violence or intimidation; ceasing to exercise coercive power and control in communities; committing to democracy and the rule of law, including by encouraging law-abiding responses to criminality; successor organisations must not benefit from or be associated with criminal activity of any kind.

¹⁶ See paragraph 2.1 of Section A of The Fresh Start Agreement: “Statement of Principles”

transition can also be seen as applying to society as a whole – the end-state being a society entirely free of paramilitarism. We believe, for practical reasons therefore, that the definition should be a broad one – covering a culture of lawfulness but also embracing the opportunity for individuals and communities to achieve their full potential as part of a transformed society. Just as the Panel Report following the Fresh Start Agreement adopted a comprehensive approach to the ending of paramilitarism, so too the concept of transition must embrace not only a sense of lawfulness but also equality of opportunity in the widest sense.

SECTION A3: REPORTING ON PROGRESS SO FAR

1.43 The IRC has a dual reporting role: (a) to report more broadly on progress towards ending paramilitary activity and (b) specifically to report on implementation of measures of the UK and Irish Governments and the NI Executive, including the Executive's Action Plan.

1.44 In Section B we set out our views on the current landscape and the data and baselines against which we will report progress towards ending paramilitary activity in future reports.

1.45 In Section C we consider the practical measures being undertaken to implement the Actions set out in the Executive Action Plan, which are founded on the Panel's recommendations. In the absence of an Executive and despite the serious effort being made by those tasked with implementing the Action Plan, much work remains to be done. We recognise and welcome that the twin-track approach of a criminal justice response side by side with tackling systemic issues at community level is being broadly followed. We recognise that the criminal justice strand of this work is more tangible, whilst tackling systemic challenges is a more complex and longer-term project. It is our view that they must be taken forward together and we urge all those involved to continue with this path.

1.46 We also recognise that a significant amount of preparatory work has been required, in particular in designing measures to address systemic issues at the community level, to ensure that the responses deliver what the community needs and that funding is managed appropriately and in line with good governance.

1.47 We are aware that the criminal justice measures began much earlier than some of those dealing with the societal issues. We welcome the creation of the Paramilitary Crime Task Force. Such a Task Force has never existed before and we note the encouraging start it has made¹⁷ and its potential to have significant impact against paramilitary crime. As more cases come to trial the

¹⁷ See Action C4 in Section C of this Report

work of the Task Force also has potential to build public confidence in what can be achieved.

1.48 We also welcome the cross-Departmental and cross-agency approach designed to deal with the systemic issues at community level. We recognise how broad a strand of work this is, involving a very large number of statutory bodies as well as groups and agencies on the ground. We accept that getting the approach and structures established to respond to these difficult systemic issues is a complex one. We appreciate the efforts being made, especially in the absence of Ministers, in various Departments of the NI Administration, co-ordinated and supported by the Tackling Paramilitarism Programme Board and the Tackling Paramilitarism Programme Team which is located in the Department of Justice. We explain more about the structure which has been put in place to deliver the Executive's Action Plan in Section C of this Report. We note that this outcomes-based approach reflects the Draft Programme for Government published by the Executive in 2016¹⁸ and recommend that it be continued.

1.49 Having said that, a number of concerns remain that the implementation of specific recommendations may not be at a sufficient level of ambition. A key consideration in reporting on progress towards ending paramilitary activity will be whether the measures being implemented under the Executive Action Plan are transformational or can be demonstrated as making a contribution to transformation. Part of the challenge involved is in achieving the necessary outcomes, for example, by ensuring that those living in the communities in which paramilitaries operate have the same education, training and employment opportunities as those in other communities across Northern Ireland. This is a complex and long-term process which requires the engagement of many different Government and non-governmental bodies.

1.50 Whilst welcoming the progress that has been made by NI Departments to implement the range of measures set out in the Executive Action Plan, we have some concerns that delivery falls short, in some areas, of what we would

¹⁸ <https://www.northernireland.gov.uk/consultations/draft-programme-government-framework-2016-21-and-questionnaire>

have expected to see at this stage. Some of those involved in implementing the measures may also have other roles to perform and it may not be possible for them to dedicate the amount of time necessary to ensure effective and timely implementation of those Actions for which they are responsible. What is involved in terms of ending paramilitarism is too important to be put at risk by the pressures of other Departmental business. Sufficient priority should be given to this task across all Departments as we move forward. We therefore recommend in Section D of this Report that Departments consider an additional approach to drive delivery of the Action Plan programme.

1.51 This IRC Report analyses implementation of the Executive Action Plan to date and also provides commentary on the implementation of other measures of the UK and Irish Governments. Implementation of itself will not bring an end to paramilitarism if the measures being put in place do not deliver the desired outcomes. We therefore encourage those working on the ground with communities and those coordinating implementation at the centre to ensure real impact is assessed effectively.

SECTION A4: CONCLUSION

1.52 The continuation of paramilitarism 20 years after the Belfast/Good Friday Agreement is unacceptable and remains one of the key residual legacies of the conflict. We have set out in this Overview and in the remainder of our Report the realities and complexities that are involved. But most of all, our message is that the Fresh Start Agreement offers the opportunity of a comprehensive and sustainable basis to deal with this. The challenge now – for society and for Government – is to ensure that this opportunity is fully grasped in all its facets. We acknowledge the encouraging start that has been made on implementing the Actions and have set out specific recommendations on how these can be built upon in the period ahead.

SECTION B: CURRENT LANDSCAPE: DATA AND BASELINES

2.1 The IRC is required to report generally on progress towards ending paramilitary activity, and specifically on implementation of relevant measures of the UK and Irish Governments and the NI Executive.

2.2 Establishing the trends and baselines against which we can measure and report on progress, and drawing together information which will help us make that evaluation in future reports, is therefore an important part of our work. Using a range of data sources, we have established baselines by which we can measure progress in coming years and explain our approach in more detail below.

2.3 Using the available data, we have taken an area based approach to map, at ward level, indicators of paramilitary presence and have looked at links to social deprivation. We have drawn on a number of sources of information and are grateful to the statutory agencies who have provided us with the relevant input.

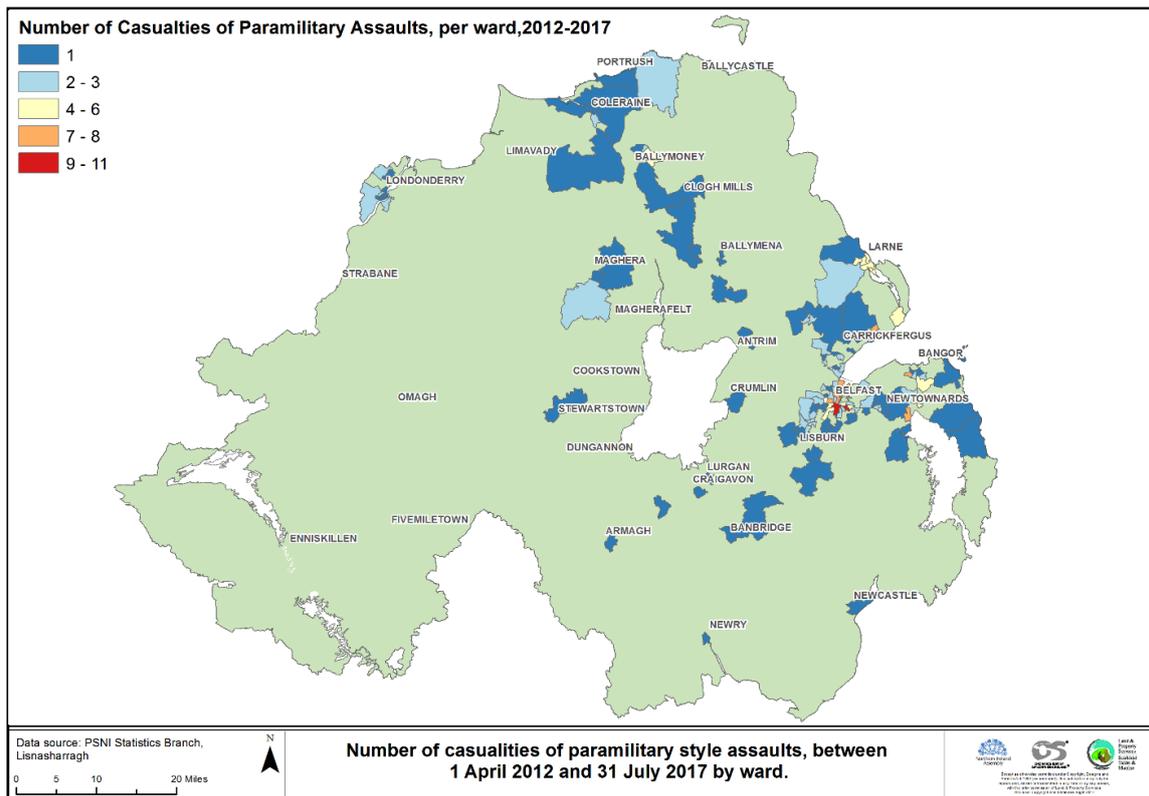
General Reporting

2.4 To enable us to report on progress towards ending paramilitary activity we have followed the twin track approach of the Fresh Start Agreement of tackling criminal justice alongside societal and systemic issues by gathering relevant data. We have drawn upon security related statistics¹⁹ to set the baselines against which we will measure progress towards ending paramilitary activity in future reports. The baselines, which are set out in Appendix C of this Report, include data on the number of paramilitary shooting and bombing incidents, paramilitary style shootings and assaults, and the incidences of people accepted as homeless due to paramilitary intimidation.

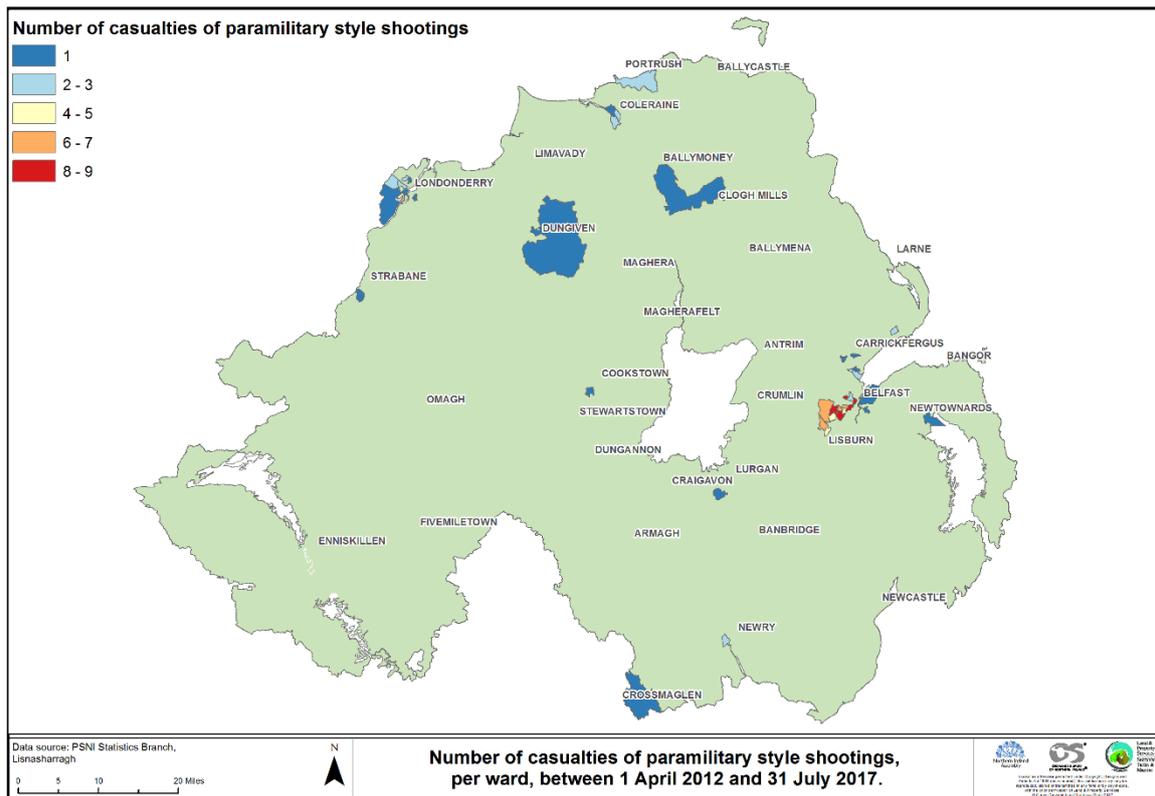
2.5 We have also mapped at ward level across Northern Ireland certain indicators of paramilitary presence to enable us to consider links to social deprivation. These are set out below and are replicated in larger scale at Appendix C²⁰.

¹⁹ <https://www.psni.police.uk/inside-psni/Statistics/security-situation-statistics/>

²⁰ These maps have been prepared using Open Data Ordnance Survey NI products



2.6 Paramilitary style attacks are a clear manifestation of paramilitary activity and can be seen as ways for paramilitary organisations to assert control. The difference between the geographical locations of paramilitary assaults and paramilitary shootings is due to affiliation. Assaults, for example, are more likely to be attributed to Loyalist paramilitaries, whereas shootings are more likely to be linked to Republican paramilitaries. Whilst figures between individual years have fluctuated, we note there has been a decrease in the number of paramilitary assaults between 2016/17 and 2017/18.



Links to Deprivation²¹

2.7 The mapping of the locations of paramilitary assaults and paramilitary style shootings has enabled us to consider the extent of links between vulnerability to paramilitary activity and deprivation, and to look at what kinds of deprivation are more relevant in this regard. Deprivation measures were mapped at ward level and were analysed alongside indicators of paramilitary activity²². This showed that of the 462 wards in Northern Ireland, some form of paramilitary incident has taken place in 218 of them. To make the analysis more meaningful, the wards with the highest frequency of each of the paramilitary indicators were then identified. This showed that in terms of multiple deprivation, nine of the ten most deprived wards in Northern Ireland also contained at least one paramilitary indicator. Eight of the ten most deprived wards contained at least one indicator at a higher frequency.

²¹ The deprivation domains are Education and Skills, Health and Disability, Employment, Income, Living Environment, Crime and Disorder and Access to Services

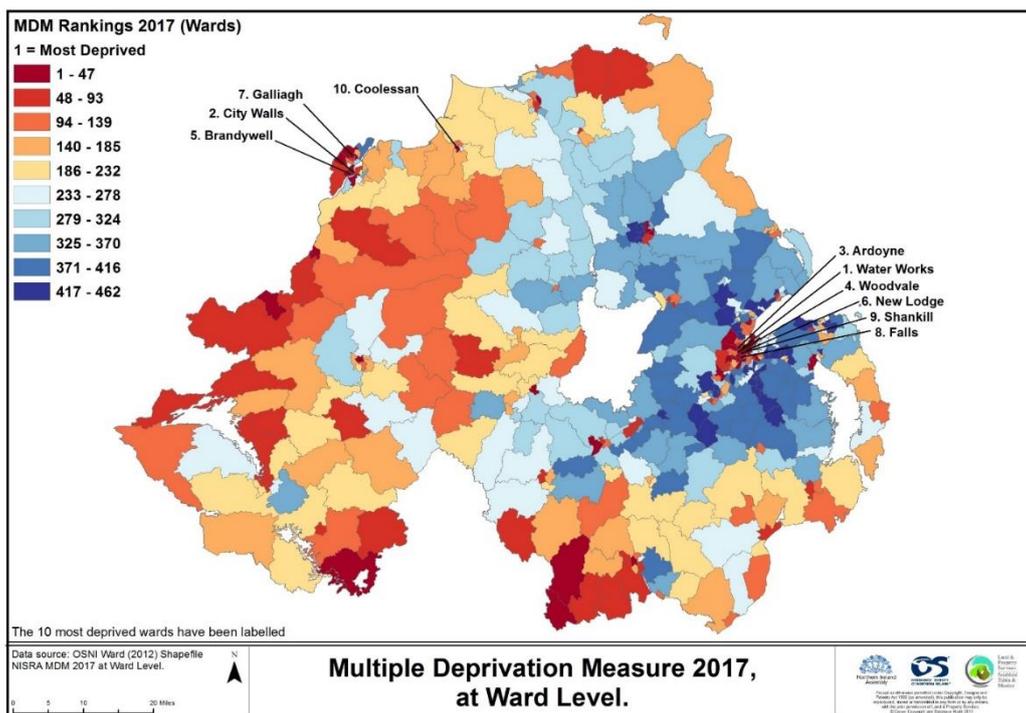
²² For the purposes of this analysis, indicators in addition to paramilitary assaults and shootings have been used. The additional indicators are all shootings and bombings, paramilitary murals and memorials, and conflict-related deaths.

2.8 The same analysis was undertaken for each of the seven individual deprivation domains and found a correspondence between the **Education and Skills** and **Health and Disability** domains and paramilitary indicators. All of the ten most deprived wards in both domains had indicators of paramilitary activity and nine of those were in areas of higher frequency of indicator.

2.9 There is also correspondence between the ten most deprived wards in the **Employment and Income** domains and paramilitary indicators, as both had a higher than average count of wards with paramilitary indicators and a higher frequency of paramilitary indicators.

2.10 While the **Living Environment** and **Crime and Disorder** domains showed a higher than average count of paramilitary indicators, there were fewer with a higher frequency of paramilitary incidents than the domains above.

2.11 The **Access to Services**²³ domain showed the least correspondence with paramilitary activity.



²³ Comprises physical and online access to key services including hospitals, GPs, libraries and dentists, and broadband speeds

2.12 We accept that correspondence should not be assumed to demonstrate causation. However, it would appear from this analysis that social deprivation and paramilitary activity are related and that this is particularly strong in relation to Education and Skills and Health and Disability. This reinforces the need for a truly joined up approach to tackling these issues and achieving societal transformation.

2.13 In the following Section we provide our response to the implementation of the NI Executive Action Plan, and to other actions which are for the UK and Irish Governments to take forward. Whilst it is not our role to measure the impact of individual actions – outcomes will be monitored by the NI Departments and the other statutory bodies who are implementing the measures – we expect to see the cumulative effect on these baselines and links to social deprivation as implementation progresses.

SECTION C: IMPLEMENTATION OF MEASURES

3.1 As already noted above, the IRC also reports on the progress being made to implement the Executive Action Plan, as well as on implementation of measures of the UK and Irish Governments.

3.2 We have explained the key stages in the implementation of the Fresh Start Agreement in terms of ending paramilitarism and the comprehensive work of the three-person Panel and its recommendations to the Executive for a strategy to disband paramilitary groups²⁴. The Executive's response to the Panel's recommendations was the development of an Action Plan, published in July 2016, reflecting a programme of work through which the recommendations would be implemented. The Action Plan sought to identify the lead NI Departments and Agencies who would take the work forward.

3.3 In this context, we welcome the structures which have been created within the Northern Ireland Civil Service to drive delivery. These include a Tackling Paramilitarism Programme Board, which is chaired by a senior official who is based in the Department of Justice and who reports directly to the Head of the Civil Service. The Board includes senior representatives from The Executive Office, the Department of Finance, the Department of Education, the Department of Health and the Department for Communities, a senior representative from PSNI who attends in an advisory capacity, and a representative of the Northern Ireland Office who attends with observer status given the Northern Ireland Office's role in co-funding the programme of work. The Tackling Paramilitarism Programme Board supports the Chair in setting strategic direction, making collective decisions on implementation, advising on delivery mechanisms and funding, and monitoring and reporting on progress. Another key part of the new delivery structures is the Tackling Paramilitarism Programme Team, which is located in the Department of Justice. The Team was established to co-ordinate and drive delivery of the programme and promote collaboration across all actions.

²⁴ See paragraph 1.11 of this Report

3.4 We note the outcome of a Review²⁵, which was commissioned by the senior official responsible for supporting delivery of the Action Plan and Chair of the Tackling Paramilitarism Programme Board, to evaluate the effectiveness of these implementation arrangements. We refer to some of the findings of the Review in this Section of the Report. Of the Panel's 43 recommendations, 38 are for the NI Departments or other Northern Ireland statutory bodies to take forward and are set out in the Executive Action Plan. We report on the implementation of these in this Section of the Report, and on the implementation of the other five Actions which are to be taken forward by the Irish and/or UK Governments.

3.5 In reporting on the progress which is being made to implement the Actions, it is important to recognise the complexities and challenges involved in delivering a programme of this scale, in particular in the absence of an Executive. By reporting on implementation of the measures we are seeking to highlight areas where we believe good progress has been made, but also to highlight areas that fall short of our expectations so that those tasked with taking these issues forward may evaluate what more they need to do.

3.6 We accept that measuring the impact of the Actions which focus on societal transformation will require a longer term approach. This does not, however, mean that significant progress cannot be made in the next three years, including in terms of ensuring the optimum design of the measures being put in place.

PART I: EXECUTIVE ACTION PLAN

3.7 In the following part of the Report we provide commentary on the implementation status of each of the Actions as outlined in the Executive Action Plan.

3.8 Our approach has been to review the updates received from the Tackling Paramilitarism Programme Board and from representatives of the lead Departments and other statutory bodies to further explore the current position in meetings with key

²⁵ The Review has not been published but we are grateful to the Board for sharing the outcome of the Review with us.

stakeholders. For each Action we have considered what the Executive stated it would do, what progress has been reported, and our evaluation.

3.9 The measurement we have applied in each case is:

Action complete. An Action from the Action Plan which, in our view, has been undertaken and completed.

Action under way. An Action from the Action Plan which, in our view, has been started but is not yet complete. We note where follow up is required.

Action planned. An Action from the Action Plan which, in our view, has not yet started but there are clear plans to do so. We note where follow up is required.

Action not taken. An Action from the Action Plan which, in our view, has not been planned or is suspended. We note where follow up is required.

Sources of information

3.10 Since its inception, the IRC has received quarterly updates co-ordinated by the Tackling Paramilitarism Programme Team and shared by the Chair of the Tackling Paramilitarism Programme Board. We have also engaged with senior Departmental officials and representatives of other statutory bodies outside of this quarterly reporting cycle to hear about their work and, where necessary, have written to Departments seeking clarification or further information.

3.11 The IRC is grateful to the Programme Board and Departmental representatives for the assistance they have provided. We are also grateful to law enforcement and other statutory and non-statutory bodies for their helpful engagement with us.

3.12 In line with our consultative function, we have received feedback on the implementation of the Executive Action Plan from representatives of civic society, from Non-Governmental Organisations, and from members of communities impacted by paramilitary activity.

Executive Action Plan: Analysis

3.13 The following is our analysis of the progress that is being made to implement the Executive Action Plan, which is based on the recommendations of the Panel Report of May 2016. The lettering and numbering below relates to the lettering and numbering used in the Panel Report and in the Executive Action Plan and the “commitment” set out for each Action is what the Executive said it would do when it published its Action Plan in July 2016.

A1: The Executive should make promoting lawfulness a priority.

Commitment: The draft Programme for Government Framework demonstrates through outcome 7²⁶ that promoting lawfulness is a key priority in the current mandate. *A Fresh Start* sets out the Executive’s commitments to upholding the rule of law, tackling paramilitarism, organised crime and criminality. These values and the commitment to disbanding paramilitary organisations and their structures are reflected in the new Ministerial Pledge of Office.

Progress to date: The Ministerial Pledge of Office has been revised to include specific commitments relating to working together to tackle paramilitarism. The commitments also form the basis of a new undertaking for each Member of the Legislative Assembly²⁷.

IRC Comment: We welcome the additions to the Pledge of Office for Ministers and to the undertaking by Members of the Legislative Assembly as outlined within the Fresh Start Agreement. We encourage all in public life to respect and actively fulfil these principles, which also call for support to those determined to make the transition away from paramilitarism.

Implementation Status: Action underway.

²⁶ Outcome 7 of the Programme for Government is that “we have a safe community where we respect the law, and each other”

²⁷ See sections 7 and 8 of the Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016: <http://www.legislation.gov.uk/ukpga/2016/13/contents/enacted>

A2: The Executive should use all avenues available to it to increase public awareness of what people can do about criminality in Northern Ireland and promote active citizenship in building a culture of lawfulness.

Commitment: We welcome the emphasis that *A Fresh Start* (Section A) and the Panel Report have placed on the need to increase the public's understanding of criminality. The Department of Justice will launch a public awareness campaign before the end of 2016 on the issue of organised crime and its links to paramilitary activity which will promote active citizenship in building a culture of lawfulness. This will build on community views and understanding, and will provide more information for citizens and communities about the harm faced from organised crime. Alongside this, the Department of Education will consider commissioning the development of additional curriculum materials to support teachers and youth workers in delivering these aspects of the curriculum.

Lead responsibility: Department of Justice and Department of Education

Progress to date: A number of activities have taken place, including a public awareness campaign sponsored by the Department of Justice. The campaign, "*I Am Your Money*", was launched in December 2016. The campaign promoted the message that buying fake or illegal goods helps fund organised crime gangs in Northern Ireland, and encouraged reporting of criminal activity to law enforcement. An awareness campaign on paramilitary style attacks was launched in October 2018. A range of educational resources have been developed for Key Stages 3 and 4 pupils to give them opportunities to address the issues of paramilitary activity, criminality and organised crime, and to assist post-primary school teachers explore curriculum based topics on the theme of lawfulness.

IRC Comment: This is a very wide ranging action. We recognise the current activity which is underway. It is important that linkages are developed with regard to both the awareness campaign and the ongoing work in schools. It is essential that further provision is made within a safe environment to address issues affecting communities where young people are vulnerable to paramilitary activity and coercive control.

Implementation Status: Action underway.

A3: The Executive should work with leading figures and organisations throughout all sectors of society to take a stand against criminality in Northern Ireland and promote responsible co-operation with authorities as part of a culture of lawfulness.

Commitment: We agree the need to take forward this recommendation to promote these messages throughout society, and to clearly speak to the issues of concern to communities and citizens. We plan to take forward a number of actions across the Executive to further ensure that all sectors of society are equipped to take a stand against criminality and encourage responsible co-operation with relevant authorities. The Department for Communities will bring forward proposals for engagement on this issue via community, voluntary, and sports forums.

Lead responsibility: Department for Communities and Attorney General's Office

Progress to date: The Department for Communities delivered three "lawfulness" pilots during 2017/18 and is working with voluntary and community sector partners to deliver three further lawfulness programmes during 2018/19. More broadly, the Department for Communities is considering how a "One Department for Communities Approach" can be taken forward to consolidate the promotion of lawfulness across various areas of its remit. Workshops are being delivered for over 250 participants as part of the NI National Citizenship Service on lawfulness; Redeeming Our Communities is proposing to deliver a further two, more focussed, community conversation events; and Volunteer Now, in partnership with Sport NI and the Ulster University, are delivering a programme on the importance of lawfulness for young people in 15 primary schools in areas where paramilitary style attacks are prevalent.

The Attorney General is rolling out the *It's Your Law* programme, which aims to promote lawfulness and active citizenship.

IRC Comment: Progress in delivering this Action has been slow and somewhat piecemeal. We note the three pilot lawfulness projects, funded by Department for Communities, which have taken place and note the consideration of a "One Department for Communities Approach". We hope that this will result in a sustainable and strategic programme of work under this Action and expect to see

evidence of this by our next report. Given the Executive's commitment to "take forward a number of actions across the Executive", we would have expected to have seen evidence of what other NI Departments are doing to promote responsible co-operation with authorities as part of a culture of lawfulness.

Implementation Status: Action underway. Follow up required.

A4: As part of its "cross-departmental programme to prevent vulnerable young people being drawn into paramilitary activity", the Executive should commission appropriate initiatives aimed at promoting lawfulness in schools and through youth work in communities.

Commitment: The Department of Education will develop initiatives to ensure that those schools and youth groups dealing with the effects of paramilitary activity on young people are appropriately trained to identify risk factors and to adopt a whole school/group approach to help deal with those challenges. The Department of Education and The Executive Office will deliver Youth Intervention programmes specifically targeted at vulnerable young people, including those most at risk of becoming involved in, or affected by paramilitary activity, so that they can make a positive contribution to their communities.

Lead responsibility: Department of Education

Progress to date: The Education Authority has undertaken a number of activities to meet this commitment, including a Capacity Building Programme for Teachers and Youth Workers and a Youth Outreach Programme. The Outreach Programme included placing an Outreach Worker in each of the "B4 areas"²⁸. The Education Authority has also contributed some of its own resources to this work.

IRC Comment: Youth workers play a key role in many communities and we note the work being undertaken by the Education Authority. We will request updates from those involved in the Capacity Building Programme for Teachers and Youth Workers and the Youth Outreach Programme.

Implementation Status: Action underway. Follow up required.

²⁸ See Action B4 below

A5: The Executive, the Policing Board and the PSNI should review the resourcing and operation of policing in communities to ensure that policing is visible and resourced to fully engage in those communities most vulnerable to criminal control.

Commitment: The Executive, the Policing Board and the Police Service of Northern Ireland will review the resourcing and operation of policing in communities to ensure that policing is visible and resourced to fully engage in those communities most vulnerable to criminal control.

Bespoke interventions and training designed to enhance confidence and trust between the police and communities will be developed.

Lead responsibility: Northern Ireland Policing Board and Police Service of Northern Ireland

Progress to date: Research into confidence in policing, completed in 2017, has provided a basis for initiatives and events being delivered in local Police District areas. Training materials have been developed and training for officers and key personnel is underway. The Police Service of Northern Ireland and the Northern Ireland Policing Board joint consultation on the future delivery of local policing concludes shortly. Analysis of the results is due to be presented to the NI Policing Board by the end of November 2018.

IRC Comment: The commitment made by the NI Executive in July 2016 envisaged a review of resourcing and operation of policing in communities to ensure visibility and appropriate resourcing levels. The review has taken much longer than we would have expected. We note that a public consultation was launched in August 2018 by the Police Service of Northern Ireland and the NI Policing Board, as part of the Local Policing Review 2018, which will explore how police can best meet public need and demands and deliver the most effective local policing. Whilst we acknowledge the importance of appropriate training, in our view the Local Policing Review should have been concluded before expenditure was incurred on training packages for officers and key personnel.

We consider that the Local Policing Review is central to establishing, post Patten Report²⁹, if there is a sufficient number of neighbourhood police officers to deal with the challenges faced by communities blighted by continuing paramilitary activity. In our engagement with civic society, notwithstanding wide public confidence in the Police Service of Northern Ireland more broadly, we have heard views expressed that there are not enough dedicated and visible neighbourhood police officers serving those communities most adversely impacted by paramilitary activity. We appreciate that the Police Service of Northern Ireland has faced significant budget constraints over recent years and note that the absence of an Executive impacts on budget planning on a long term basis. We are aware that many of the current policing challenges faced by the Police Service of Northern Ireland inevitably remove officers from front line duties. We await completion of the Local Policing Review of community policing before commenting further on the adequacy of the services provided to local neighbourhoods and will seek an update from the Police Service of Northern Ireland and the NI Policing Board to monitor progress.

Implementation Status: Action underway. Follow up required.

A6: In setting the strategic objectives of Policing and Community Safety Partnerships, the Department of Justice and Policing Board should ensure that the partnerships focus on building community confidence in the rule of law and embedding a culture of lawfulness.

Commitment: In setting new strategic objectives for the Policing and Community Safety Partnerships, the Department of Justice and the Policing Board will implement this recommendation. The Department for Communities will ask local Government to ensure that, in aspects of local Community Plans that address community safety issues or where Policing and Community Safety Partnerships act as a delivery agency, Community Planning Partnerships also focus on building community confidence in the rule of law and embedding a culture of lawfulness.

Lead Responsibility: Department of Justice, Northern Ireland Policing Board and Department for Communities.

²⁹ cain.ulst.ac.uk/issues/police/patten/patten99.pdf

Progress to date: Policing and Community Safety Partnerships' Action Plans for 2018/19 have been approved. Discussions on the work to embed lawfulness have been held with Policing and Community Safety Partnership Chairs and Vice Chairs. Interventions are underway in some areas and are being developed in other areas. Policing and Community Safety Partnerships are liaising with Community Planning Partnership counterparts³⁰ to deliver workshops linking the task of embedding a culture of lawfulness to the wider community planning process. They are also supporting a theatrical play, "Banjaxed", based on a paramilitary style attack and performed in each Council area, with follow up panel discussions on the issues involved.

IRC Comment: Whilst welcoming the initiatives taken forward to date, we would encourage a more strategic approach to building community confidence in the rule of law and embedding a culture of lawfulness. We note the collaborative approach between Policing and Community Safety Partnerships and the Community Planning Partnerships and expect to see tangible outcomes from the workshop discussions. We will request updates from the Department of Justice and the Department for Communities, who lead on Community Planning, in due course.

Implementation Status: Action underway. Follow up required.

A7: The designated organisations should also ensure that their representatives are sufficiently senior and committed to building effective partnerships.

Commitment: The designated organisations will ensure their representation at Policing and Community Safety Partnerships is of a sufficiently senior level to facilitate effective partnerships.

Lead Responsibility: Department of Justice and Policing and Community Safety Partnerships

Progress to date: A letter was issued to all Policing and Community Safety Partnerships in June 2016 to promote this recommendation.

³⁰ <https://www.communities-ni.gov.uk/articles/community-planning>

IRC Comment: Although a letter was issued to designated organisations, it is unclear if any steps have been taken to assess its impact and whether any follow up is required. It is also unclear if any steps have been taken to measure the commitment “to building effective partnerships”.

This Action should be kept under regular review to ensure the recommendation has been fully embraced and that designated members are completely engaged with the tackling paramilitarism programme.

Implementation Status: Action planned. Follow up required.

A8: The Executive and the Police Service of Northern Ireland, in conjunction with the Northern Ireland Policing Board, should review their protocols for engaging with representatives of paramilitary groups. This change in approach should also apply to other public community bodies and public representatives.

Commitment: The Executive will propose to the Chief Constable and the Chair of the Policing Board that we commission an agreed independent expert – of suitable expertise and standing – to review current practice and legal requirements, as well as lessons from other contexts, and provide them with draft protocols for consideration.

Lead responsibility: The Tackling Paramilitarism Programme Team, The Executive Office, Northern Ireland Policing Board, Police Service of Northern Ireland, the Department for Communities

Progress to date: A draft specification was developed for an individual or individuals to take forward the review and was submitted to the Tackling Paramilitarism Programme Board for consideration in December 2016. This work was put on hold as a result of the political situation. With the continuing absence of an Executive, stakeholders met to explore the issues again in June 2018, noting the potential for limitations on decisions that could be considered a sensitive policy issue. The complexities of the recommendation were discussed and a number of “next steps” are being taken forward, including continued engagement on this issue across

Departments and statutory bodies and working through the issues using real life examples.

IRC Comment: We have discussed this Action in detail with the Tackling Paramilitarism Programme Board and accept the complex nature of the proposal. However, we consider this an important aspect of the Executive Action Plan which should be progressed as soon as possible.

Implementation Status: Action planned.

A9: Put in place a dedicated fund for restorative justice initiatives to provide enhanced levels of resource over longer periods of time to deliver positive outcomes for individuals and communities. This should include resourcing the proposals for a centre of restorative excellence.

Commitment: The Executive will put in place a dedicated fund for restorative justice initiatives to provide enhanced levels of resource over longer periods of time to deliver positive outcomes for individuals and communities. The Department of Justice will carry out a feasibility study to identify best options for a new centre of restorative excellence.

Lead responsibility: Department of Justice and The Executive Office

Progress to date: Following consultation on this recommendation, a feasibility study has been shared with the NI Housing Executive, the Police Service of Northern Ireland and the Department of Education on a centre of excellence, and discussions have taken place with the main community based restorative justice groups in Northern Ireland. The Tackling Paramilitarism Programme Board has agreed funding to develop community based restorative justice capacity together with funding approval for a dedicated resource to lead on implementation

IRC Comment: Progress on this Action has been too slow. The position in relation to the dedicated fund is far from clear and there is no indication of when the centre of excellence will be established. Clarity on these issues is required in order to support the positive work which is undertaken by restorative practitioners who face the challenges of paramilitary activity in local communities. We expect to see significant

progress in relation to this Action and will be seeking regular updates from the Tackling Paramilitarism Programme Board.

Implementation Status: Action underway. Follow up required.

A10: The Department of Justice should bring forward draft legislation to further reform committal proceedings to remove the need for oral evidence before trial.

Commitment: Committal proceedings will be further reformed. The Department of Justice will bring forward draft legislation in relation to this recommendation.

Lead Responsibility: Department of Justice

Progress to date: A draft Committal Reform Bill is almost complete and could be introduced fairly quickly when the political institutions are restored, as it is dependent on a Justice Minister and a functioning Legislative Assembly being in place. Work continues on the IT development that will be required across criminal justice agencies to deliver committal reform.

IRC Comment: Increasing the pace at which the justice system works is a key element of building public confidence and support. Successfully implementing committal reform, along with other proposed steps to improve the criminal justice response³¹, will have a significant impact, particularly in communities which may have become disengaged from criminal justice organisations.

We agree with the Tackling Paramilitarism Programme Board's approach to linking these Actions to Programme for Government Indicator 38, which requires guideline time limits to be set for the criminal justice system. We are aware that this work is underway.

We are also aware that a data set has been developed to enable performance to be monitored and measured across the criminal justice system, from the date an incident is reported to the police to the date the case is disposed of in the Crown, Magistrates' and Youth Courts. This will assist in scrutinising performance and assessing the impact of speeding up justice measures.

³¹ See Actions A11 to A16

Through our engagement with Department of Justice officials and other members of the criminal justice system, it is clear that a strategic approach to law reform is being adopted. We have seen evidence of the commitment, drive and determination from those involved, but also note that these Actions cannot be completed without a functioning Assembly.

Implementation Status: Action underway.

A11: The Department of Justice should also use the measures already available to it to abolish committal proceedings in respect of those offences most frequently linked to paramilitary groups, including terrorist offences and offences which tend to be committed by organised crime groups.

Commitment: Committal proceedings in respect of those offences most frequently linked to paramilitary groups will be abolished. The Department of Justice will work closely with justice organisations to identify suitable offences to be added to the list of offences which can be directly transferred to the Crown Court.

Lead Responsibility: Department of Justice

Progress to date: A multi-agency group has agreed the offence types to be added to the list of specified offences which allows cases involving those offences to bypass traditional committal proceedings. The additional offences will be added in various stages following implementation of the Committal Reform Bill³².

IRC Comment: We note the work that has been done to identify the offences to be added to the specified offence list and that this Action cannot be completed in the absence of a functioning Assembly.

Implementation Status: Action underway.

A12: The Department of Justice, the Courts Service and the Public Prosecution Service should implement the case management improvements piloted in the Ards area throughout Northern Ireland, particularly in respect of those offences linked to terrorism or serious organised crime groups.

³² See Action A10 above

Commitment: The Department of Justice and criminal justice partners will assess how best to implement the case management improvements in the Ards Indictable Cases Pilot (ICP) and will also explore other offence types which may be suitable for ICP type processing.

Lead Responsibility: Department of Justice

Progress to date: The Indictable Cases Pilot principles were rolled out across all regions and Districts in May 2017. The application of these principles relate to four particular offence types accounting for approximately 25% of Crown Court business: certain assault cases; indictable drugs cases; cases involving conveying certain articles into or out of prison; and attempted murder cases.

The number of cases referred in the first year was lower than expected. Steps have been taken to enhance the profile and maximise awareness of the Indictable Cases Pilot across the criminal justice system. Interim evaluation has been deferred until there is a sufficient number of concluded cases to enable meaningful analysis. A formal update on progress will be provided to the Criminal Justice Programme Delivery Group in Autumn 2018.

IRC Comment: We are aware that the Lord Chief Justice and the Director of Public Prosecutions endorse the Indictable Cases Pilot principles. The Lord Chief Justice has commented that its sustainability requires a commitment to appropriate training for those using the system.

We urge the Department of Justice to take the views of the Lord Chief Justice on board to ensure the future success of this Action. We welcome the application of the Indictable Cases Pilot principles to the four chosen offence types and note the steps taken by the Department of Justice to raise awareness and garner support for the process. We recommend keeping the number of cases under review and taking whatever steps are considered necessary to embed the Indictable Cases Pilot across the criminal justice system. We encourage the extension of the Indictable Cases Pilot principles to other offences, subject to evaluation of the process.

Implementation Status: Action underway.

A13: Law enforcement agencies and others involved in the process of bringing prosecution cases to court should ensure that they have appropriate systems and procedures in place to enable cases to progress as expeditiously as possible.

Commitment: The Police Service of Northern Ireland is seeking to appoint an experienced Detective Superintendent to work with partners in developing more effective criminal justice processes to manage prosecutions in respect to paramilitary activity and organised criminality.

The overall strategy for speeding up justice includes all of the measures described in the preceding recommendations, as well as other measures contained in the Justice Act (Northern Ireland) 2015³³ including measures concerning Early Guilty Pleas, the reform of the Summons process, and the introduction of Statutory Case Management.

Lead Responsibility: Police Service of Northern Ireland and Department of Justice

Progress to date: A Detective Superintendent was appointed to the Better Criminal Justice Outcomes project and retains oversight of the Police Service of Northern Ireland's involvement in the work which is being taken forward. The day-to-day police representative is a Detective Inspector. The purpose of the project is to identify and implement the actions required to secure the best possible outcomes in terrorism cases in Northern Ireland, focusing particularly on eliminating delay and tackling specific problems which arise around four specific areas, one of which is bail.

The Department of Justice has secured the services of a temporary lawyer to take forward the development of Statutory Case Management Regulations. A consultation exercise is planned for late 2018. Introduction of the Regulations may be impacted by the absence of a functioning Assembly.

The introduction of Proportionate Forensic Reporting using staged reports is a key feature of the Indictable Cases Pilot. A suite of standardised reports was developed

³³ <http://www.legislation.gov.uk/nia/2015/9/contents>

and a phased roll out across all forensic disciplines was completed in August 2017. A number of pilot schemes were subsequently launched in May 2018.

IRC Comment: We welcome the development of Statutory Case Management Regulations, which are also in abeyance until a functioning Legislative Assembly is in place. That said, we would expect to see that all steps short of the legislative process, including consultation, are taken as soon as possible.

We commend those involved in the Proportionate Forensic Reporting pilots and will request updates in due course.

Implementation Status: Action underway.

A14: The Department of Justice, working with the judiciary and with counterparts in the UK and Irish Governments, should review the position regarding bail in respect of serious offences to determine the facts about its availability and, if required, bring forward measures to improve the situation.

Commitment: The Department of Justice will lead work, drawing on assistance from colleagues in UK and Ireland, initially to establish facts about bail decisions. Should that review and the analysis of its findings demonstrate any gaps in the law, phase two of this work will consider whether further measures are needed.

Lead Responsibility: Department of Justice

Progress to date: A number of operational/administrative changes are being considered or are already underway to enhance existing arrangements. These include the development by the Police Service of Northern Ireland of a more consistent approach to managing persons on bail; steps outlined elsewhere in the Executive Action Plan to speed up justice and reduce the length of time a suspect has spent on remand; and consideration of a Practice Direction on bail variations in non-compassionate cases.

An analysis is being carried out by the Department of Justice to examine the extent of re-engagement in criminal activity of those on bail for serious offences. The UK Government has contributed to this analysis. Advice will be prepared for an incoming Justice Minister.

IRC Comment: This Action needs to be considered in the context of the broader suite of measures which are underway to speed up the criminal justice system given that delay within the justice system is a significant factor in the availability of bail. Progress on this Action has been slow and whilst legislative reform to speed up justice is the ideal outcome, we encourage the Department of Justice, in the interim, to consider further practical, operational and/or administrative measures that could enhance existing arrangements. We note that progress on the Action to extend the case management improvements, piloted in the Ards area, throughout Northern Ireland should also have a positive impact in this regard.

Implementation Status: Action underway.

A15: The Department of Justice should ensure that an appropriate mechanism is in place to enable the Director of Public Prosecutions to refer sentences he believes to be unduly lenient, particularly to include offences linked to terrorism and organised crime groups.

Commitment: The Department of Justice will consider this recommendation within the scope of the recently announced Sentencing Policy Review. The Department will prioritise this element of the Review and seek to bring proposals for consultation as soon as possible, including the possibility, in the shorter term, of adding further “linked” offences to the statutory list by secondary legislation.

Lead Responsibility: Department of Justice and the Lord Chief Justice

Progress to date: A list of hybrid offences linked to terrorism, paramilitary activity and organised crime has been compiled by the Department of Justice for inclusion in the statutory list of offences that can be referred by the Director of Public Prosecutions on the grounds of undue leniency.

As the suggested list would bring within its scope a high proportion of cases tried and convicted in the Crown Court, the Department of Justice is considering whether, and within the broader remit of sentencing policy, a more fundamental change is appropriate to make all sentences passed in the Crown Court amenable for referral on the grounds of undue leniency. Such a change would, however, require an Assembly Bill. As a result the Department is proposing a two-stage approach

beginning with a consultation on the addition of paramilitary related offences to be added by statutory rule. The consultation, which was published on 7 August 2018, has closed. The next steps are to prepare the statutory order for consideration by an incoming Minister. Proposals for further change may be issued at a later stage.

IRC Comment: We appreciate that a wider approach to unduly lenient sentences which would see all sentences being capable of referral would require an Assembly Bill and therefore cannot be advanced at present. We welcome the publication of the consultation paper.

Implementation Status: Action underway.

A16: The Judiciary may also wish to review the use of sentences and other punitive measures, including confiscation powers, to establish whether they are deployed to best effect in respect of terrorism and organised crime offences, including environmental crime.

Commitment: Taking into account the Department of Justice's review of sentencing policy, the Lord Chief Justice's Sentencing Group will consider the guidance available to the judiciary in respect of relevant offences.

The Department of Justice will work with justice organisations to develop proposals on other sentencing measures, such as confiscation orders.

Lead Responsibility: Department of Justice and the Lord Chief Justice

Progress to date: The Lord Chief Justice's Sentencing Group considered a paper on sentencing guidance provided in relation to terrorist offences in March 2017. It considered that existing guidance available to the judiciary is sufficient, but raised policy issues for consideration by the Department of Justice in relation to the effect of media reporting on public confidence in sentencing. This is being considered by the Department of Justice as part of a review of sentencing policy.

The Department of Justice is working with justice organisations to consider the development of proposals on other sentencing measures, such as confiscation orders, enhancing the use of civil recovery arrangements and barriers to assets

recovery. The Criminal Finances Act 2017,³⁴ which provides new powers to tackle criminal finances, including Unexplained Wealth Orders, extends to Northern Ireland. The absence of a Legislative Assembly, however, means that it has not been possible to secure legislative consent to commence the provisions in Northern Ireland.

The Department of Justice will take forward the necessary arrangements to secure NI Assembly consent to the devolved provisions using the Legislative Consent Motion upon restoration of the Assembly.

IRC Comment: The additional powers set out in the Criminal Finance Act 2017, if implemented in Northern Ireland, would significantly enhance the law enforcement effort against criminal assets. Given that these powers cannot be commenced in Northern Ireland at present, we encourage law enforcement to fully utilise the statutory powers currently available to them such as confiscation orders and serious crime prevention orders, as well as those available as applications to the Civil Courts.

Implementation Status: Action underway.

B1: The Executive should urgently adopt recommendations by the Review Panel that (a) the Fair Employment and Treatment Order 1998 should be amended; (b) the employers' guidance should be implemented in respect of public sector recruitment and vetting; and (c) that there should be greater transparency over all these issues. Oversight of the implementation of these specific measures should be included within the remit of the Independent Reporting Commission.

Commitment: The Executive will urgently adopt recommendations by the Review Panel that (a) the Fair Employment and Treatment Order 1998 should be amended; (b) the employers' guidance should be implemented in respect of public sector recruitment and vetting; and (c) that there should be greater transparency over all these issues.

³⁴ <http://www.legislation.gov.uk/ukpga/2017/22/contents/enacted>

Lead responsibility: The Executive Office and Department of Finance

Progress to date: There has been engagement between The Executive Office and the Department for Communities on how to assist ex-prisoners, with conflict related convictions, who are seeking to get back into employment. Executive Office officials are drafting policy instructions to amend the legislation.

The Northern Ireland Civil Service has implemented the Employers' Guidance and recruitment policies have been amended to reflect the change. Work is ongoing to promote the Employers' Guidance beyond the Northern Ireland Civil Service to the wider public sector. A website has been set up providing information, support and advice for ex political prisoners, their family members and prospective employers³⁵.

Executive Office officials met with the Office of the Commission for Public Appointments in June 2018 to promote the work of the Review Panel, and the Employers' Guidance. The Commissioner for Public Appointments for Northern Ireland has also shared the Employers' Guidance with Departmental Independent Assessors.

These issues are discussed regularly by the Review Panel, and action is identified where necessary to facilitate progress. The Ex-Prisoner Working Group, chaired by the Head of the Civil Service, is updated on the progress.

IRC Comment: We welcome the work of the Review Panel and the establishment of the dedicated website to provide relevant information. We also note the progress that has been made on the Employers' Guidance. The Ex-Prisoner Working Group has an important role in ensuring such work is promoted.

We accept that, in the absence of a functioning Legislative Assembly, it has not been possible to make the necessary legislative changes required under this Action. We note that the preparatory work in progressing the legislation is complete and ready to be placed before a functioning Assembly.

Implementation Status: Action underway.

³⁵ www.reviewpanel.org

B2: The Review Panel's work should continue to consider what steps can be taken to improve access to financial services (including lending and insurance), adoption, and travel advice.

Commitment: The Executive will engage with the Review Panel (appointed by the Ex-Prisoner Working Group) to address the issues identified relating to access to financial services (including lending and insurance), adoption and travel.

Lead responsibility: The Executive Office

Progress to date: An updated list of insurers was circulated to Ex-Prisoner Groups in September 2017.

The Department of Health is bringing forward proposals in relation to adoption legislation. The Adoption and Children Bill contains a specific regulation making power to make regulations which may provide that an adoption agency, in determining the suitability of an individual to adopt, must not take into account offences of a prescribed description.

IRC Comment: Whilst we appreciate that progress on the adoption legislation cannot be advanced in the absence of a functioning Assembly, we note that the preparatory work in relation to the draft regulations and list of prescribed offences is complete and can be progressed quickly when a functioning Legislative Assembly is in place.

We note that an outreach event is planned for 19 November 2018. All interested parties, including ex-prisoner groups, should promote and support such events. We encourage individual ex-prisoners or representative groups who have experienced difficulties with accessing financial services or insurance to bring these to the attention of the Review Panel.

Implementation Status: Action underway.

B3: The Executive should make representations to the US Secretary of State to seek an expedited procedure for visa applications from ex-prisoners affiliated with groups on ceasefire.

Commitment: The Executive will make representations to the US Secretary of State to seek an expedited procedure for visa applications from ex-prisoners affiliated with groups on ceasefire.

Lead responsibility: The Executive Office

Progress to date: Executive Office officials met with the US Consulate in November 2017 and have engaged with colleagues in the NI Bureau in Washington with a view to advancing this issue with the State Department. The matter has also been raised at a meeting with the Department of Foreign Affairs. Executive Office officials have also met with officials from the Department of Foreign Affairs in Ireland and the Northern Ireland Office to discuss travel to the United States and Mexico.

IRC Comment: We welcome the ongoing work on this Action and urge those involved to continue with their efforts, particularly given the inter-generational impact of such travel bans.

Implementation Status: Action underway.

B4: The Executive should establish a fund to support ambitious initiatives aimed at building capacity in communities in transition, including through developing partnerships across civil society and across community divisions.

Commitment: The Executive will establish a fund to support ambitious initiatives aimed at building capacity in communities in transition, including through developing partnerships across civil society and across community divisions. The Executive Office and the Department for Communities will take forward this recommendation on behalf of the Executive. This will be designed in collaboration with stakeholders with relevant experience and expertise, such as the Northern Ireland Housing Executive, the Community Relations Council, The International Fund for Ireland, local Government, and community representatives.

Lead responsibility: The Executive Office. The Department for Communities and the NI Housing Executive also have responsibility for taking forward related strands of work.

Progress to date: The Tackling Paramilitarism Programme Board agreed that, in the first instance, particular focus should be given to those communities which were particularly vulnerable to paramilitary activity and control. Funding of up to £12 million has been identified to implement this Action. The Tackling Paramilitarism Programme Board commissioned research to identify the relevant geographical areas and The Executive Office subsequently appointed a Consortium, led by Co-Operation Ireland, to work with communities to develop transition plans based on the needs identified in each of the areas and to support transition away from paramilitary influence. The eight areas are:

- New Lodge and Greater Ardoyne
- Lower Falls, Twinbrook, Poleglass, Upper Springfield, Turf Lodge and Ballymurphy
- Shankill, upper and lower, including Woodvale
- Brandywell and Creggan
- Larne area, including Antiville and Kilwaughter and Carrickfergus area including Northland and Castlemara
- Parts of the Mount and Ballymacarrett in East Belfast
- Drumgask in Craigavon and Kilwilkie in Lurgan
- Parts of Clondeboye and Conlig, including Kilcooley

The transition plans were submitted to The Executive Office in March 2018 and were revised in April 2018. They set out the key issues which had been identified as a result of an intensive period of stakeholder engagement across all eight areas. Alongside the articulation of need in each area, the plans outlined the changes required along with a range of proposals on the types of interventions that should be explored further in response to the needs identified. The plans were subsequently considered by the Tackling Paramilitarism Programme Board in June 2018.

Feedback from the Consortium identified that further work is required with communities and with statutory and voluntary and community sector partners to develop and refine the plans. The Tackling Paramilitarism Programme Board therefore agreed to a proposal from The Executive Office and the Consortium for funding for a Participatory Design Phase to more fully develop and test interventions in each area; they also proposed some intermediary measures in each area to

continue to build momentum and readiness, as part of the Participatory Design Phase. This work is due to be taken forward during 2018/19.

The commitment to extend the NI Housing Executive Re-Imaging Programme also sits within the scope of this Action. The Programme is centred on the Housing Executive's ongoing commitment to tackling paramilitary activity, criminality and organised crime within Housing Executive estates. Additional investment from the Tackling Paramilitarism Programme Board will enable the reimaging of 20 paramilitary murals by 31st March 2020 aiming to contribute to normalisation and helping to make communities more welcoming.

IRC Comment: We do not underestimate the importance of ensuring that communities are supported to transition from paramilitary activity and structures and note the innovative approach which The Executive Office has taken to deliver this Action. Ensuring that paramilitarism has no place in communities, and creating environments where people feel safe, are part of that transition. In line with the twin-track approach of Fresh Start, action is also required to ensure that communities are fully involved in the process and are supported to work with statutory agencies to jointly address underlying societal issues. The steps taken to deliver this Action have a central role to play in delivering this goal.

We note the linkages between this Action and a significant number of Actions set out elsewhere in the Executive Action Plan³⁶. It is essential that delivery is co-ordinated, not only across measures resulting from this Action, but across the entire spectrum of actions being delivered by local Councils, the voluntary and community sector and government Departments to ensure additionality and avoid duplication.

We have met regularly with The Executive Office and the Co-operation Ireland Consortium in relation to this Action. We note that the implementation of this Action was slow to commence. The Consortium was not appointed until October 2017. The fieldwork was carried out between November 2017 and March 2018. There is a risk that momentum could be lost as this Action moves into the next stage. This could have a negative effect on the communities involved as it could impact

³⁶ See also Actions A3, A4, A5, A6, A8, A9, B1, B5, B12, B13 and D1 in this Section

adversely on the relationships established between the researchers appointed by the Consortium and those with whom they engaged.

There is also the need to ensure careful and robust governance around funding under this Action so that the funding, either directly or indirectly, does not reach the hands of those involved in paramilitary activity and criminality. Furthermore, the governance arrangements in relation to the funding should be robust enough to ensure that funding is kept under review for all projects and that arrangements are in place to withdraw the funding should evidence of association or involvement in paramilitary activity come to light.

It is also important that care is taken to ensure that the planned programmes that are rolled out in the eight designated areas are effective, meet the needs which have been identified and are designed to deliver tangible outcomes. Again there is a balance between expediting delivery to maintain community confidence and ensuring the plans are fit for purpose.

It is essential that there is an appropriate impact assessment framework in place to measure the outcomes and impact of initiatives taken forward under this Action. We understand that these are still in development. We would expect these to be in place before initiatives under this Action are implemented.

We will continue to review this Action as it develops in the year ahead.

Implementation Status: Action underway. Follow up required.

B5: The Executive's programme for women in community development should be designed not only to enable women's organisations to continue to carry out transformative community development work in our communities but also to ensure that women are equipped to take on more leadership roles in public decision-making.

Commitment: The Department for Communities will organise a series of co-design workshops to determine the shape and content of the programme. These will include The Executive Office and Department of Justice participation and other Executive

Departments where appropriate, alongside experts in the community and women's organisations who will be taking forward the delivery of the programme.

Lead responsibility: Department for Communities and Probation Board for Northern Ireland

Progress to date: The Voluntary and Community Division of the Department for Communities implemented a co-design process, involving key stakeholders of the women's sector and voluntary sector in Northern Ireland, to develop plans for a programme to support women involved in community transformation.

A "Women's Early Intervention Programme" was delivered during 2016/17 and a "Women in Community Transformation Programme" commenced in October 2017. Phase One of the "Women in Community Transformation Programme" was completed in 24 out of the 26 selected areas; a total of 503 women across Northern Ireland completed it. Phase Two commenced in April 2018 and will embed the participant's classroom learning about community transformation into their everyday lives via a range of service and training opportunities. Currently 200 women have signed up to progress to Phase Two of the programme.

Running parallel to this is the 'Engage' programme led by the Probation Board for Northern Ireland. It specifically focuses on women currently within the justice system, both within the Northern Ireland Prison Service and in the community.

IRC Comment: We have met with the delivery partners for the "Women in Community Transformation" project and note the progress that has been made in respect of this Action. In the coming year we plan to meet with some of the participants of the programme to learn more about the outcomes of the training.

We commend the continued work being carried out under the Engage Programme.

Implementation Status: Action underway.

B6: The Executive, in implementing rigorous enforcement of funding rules, should ensure that funding will be available for supporting creative and ambitious initiatives.

Commitment: The Executive is providing additional funding to support the delivery of this Action Plan and is committed to working with local communities, as well as relevant criminal justice and statutory agencies, in developing creative and ambitious initiatives that will support communities in transition. Executive Departments and other bodies allocating funds made available by the Executive will continue to rigorously enforce funding rules (Managing Public Money, the Guide on Grant and Procurement and the Government Funders' Database) in a proportionate manner, commensurate with risk. The Department for Communities is also giving consideration to what further work can be done in this area.

Lead responsibility: Department for Communities

Progress to date: The Department for Communities continues to seek feedback on funding (and related governance issues) that are of concern to the Voluntary and Community Sector.

The Department for Communities' Guide on Grant and Procurement is reviewed as required. Recent changes involve the introduction of a new contract format that allows the Department access to sub-delivery agent's records to prevent/investigate fraud. It continues to use both Discretionary Grants and Public Procurement Competitions, based upon Central Procurement Department guidance.

Continuing education and support for the sector is provided through the wider Regional Infrastructure Support Programme.

IRC Comment: Public money must not reach the hands of those involved in any form of criminality and good governance is therefore essential in the allocation of public funds. In line with the twin-track approach outlined in this Report, it is important that creative and ambitious initiatives continue to be funded commensurate with risk so that disadvantaged and marginalised communities do not suffer as a consequence.

Implementation Status: Action underway.

B7: A dedicated unit should be established to carry out a programme of work, including research, to enable Government to better understand relevant issues in communities and the options for influencing change; to ensure that all

Executive Departments are fully engaged in the strategy; to develop further targeted interventions; and to ensure that wider Government policy and messaging contribute to delivering positive outcomes in respect of paramilitaries and communities in transition. For that reason, this unit should not sit within any one Department but instead report to the Executive.

Commitment: The Executive will establish a dedicated unit to ensure a joined up approach to delivering this programme. The Department of Justice will lead this, working in partnership with other Executive Departments, statutory bodies and community and voluntary sector organisations where appropriate.

Lead responsibility: The Tackling Paramilitarism Programme Team

Progress to date: A dedicated unit was established in the first quarter of 2016, based in the Department of Justice. Its remit is to lead work on the co-ordination and implementation of the Executive Action Plan.

IRC Comment: We welcome the establishment of the Tackling Paramilitarism Programme Team and its strategic role in the implementation of the Action Plan. We also welcome the Review³⁷ and the proactive approach adopted by the senior official who chairs the Tackling Paramilitarism Programme Board in commissioning the Review to ensure effective implementation arrangements are in place. As identified in the Review, one of the challenges is that further work is required across the Northern Ireland Civil Service to develop a coherent approach and effective joint delivery.

It is important that the make-up of the Tackling Paramilitarism Programme Board is fully reflective of the breadth of the Executive Action Plan. We note the inclusion of representatives at a senior level from the Department for Communities, Department of Health and Department of Education. We are aware that a political reference group, involving representatives of the five largest parties, has been set up and is briefed on the programme by members of the Tackling Paramilitarism Programme Board and the Tackling Paramilitarism Programme Team. Consideration should now be given to the creation of an advisory group comprising political representatives (see our recommendation in Section D of this Report).

³⁷ See paragraph 3.4 above

We note that the Review also recommended the development of costed Programme Delivery Plans. These have recently been submitted to us. We share the concerns expressed in the Review about the lack of urgency from some stakeholders to drive this programme of work forward quickly. We accept that some of the Actions require a significant amount of preparatory work before they are ready for implementation, but urge all of those involved to adopt a whole of government approach with the Tackling Paramilitarism Programme Team continuing its critical role in leading and co-ordinating this effort.

Implementation Status: Action underway.

B8: The Department of Justice should revisit the framework related to the separated regime and arrange for an independent review to be undertaken examining the operation of the separated regime, evidencing the need for any changes and providing useful information for stakeholders to take forward.

Commitment: The Northern Ireland Prison Service remains committed to finding ways to address the challenging issues associated with the operation of the separated regime. The Department of Justice will engage with stakeholders, develop terms of reference, and identify individuals to lead an independent review. The review will deliver a report and make recommendations required in respect of the framework for separation.

Lead Responsibility: Northern Ireland Prison Service

Progress to date: The NI Prison Service has noted its concerns about embarking on a review of the operation of the separated prison regime without Ministerial approval. Preparatory work for a review has been advanced and will help to expedite progress when a Justice Minister is in place. The Northern Ireland Prison Service is moving forward with a review of constructive activity in the separated regime (see Action B9 below) as a 'pathfinder' for this review and has drafted a timeline for delivery from the commencement of the project, subject to Ministerial approval.

IRC Comment: Further progress on this action is not possible in the absence of a Justice Minister.

Implementation Status: Action planned.

B9: Whilst ensuring that all prisoners are treated fairly, the Department of Justice should ensure that appropriate education and training opportunities are provided to prisoners in the separated regime.

Commitment: Recognising that there are operational challenges involved in managing the separated regimes, the current provision of constructive activity in separation is commonly identified as an issue of concern by prisoners being held there. The Northern Ireland Prison Service's aspiration is to deliver well matched interventions to everyone in custody.

The Department of Justice will commission a consultative evaluation of constructive activity in separated prison accommodation leading to the development and delivery of a new model of constructive activity for separated prisoners focused upon positive educational and wellbeing outcomes.

Lead Responsibility: Department of Justice and Northern Ireland Prison Service

Progress to date: Three independent researchers have been engaged by the Northern Ireland Prison Service to undertake the consultative evaluation of educational provision in separated accommodation. There has been engagement with a number of prisoners.

IRC Comment: We understand that the researchers were appointed in 2018, much later than anticipated. We expect to see significant progress on this Action in the coming months and will seek further updates from the Northern Ireland Prison Service on the outcome of the review and any pilots undertaken as a result.

Implementation Status: Action underway. Follow up required.

B10: The Department of Justice and the Probation Board should work together with others to urgently develop and implement specific interventions to prepare offenders with links to paramilitary groups for return to society and to assist with reintegration.

Commitment: The Department of Justice will commission research to inform the design of relevant interventions that will develop a tailored desistance pathway for offenders with links to paramilitary groups to assist them as they prepare to return to their communities and to support their successful reintegration. This will be taken forward in conjunction with the Probation Board and other relevant individuals and organisations. This work will include community views on reintegration.

Lead responsibility: Department of Justice

Progress to date: This project will commence with a piece of research and will include an analysis of published research, as well as any lessons learned or themes emerging from implementation of other Actions of the Action Plan³⁸.

IRC Comment: This Action has not yet commenced and there is no apparent explanation for the delay. The lack of progress is disappointing and we expect to see evidence of significant progress in the coming months. We welcome the proposal to engage with the NI Probation Board and local communities to ensure that future interventions are based on all available information.

Implementation Status: Action planned. Follow up required.

B11: The Department of Justice should also work with law enforcement agencies and the Probation Board to improve the monitoring arrangements for paramilitary offenders when on license.

Commitment: The Department of Justice will develop and implement a plan for improving monitoring arrangements.

Lead Responsibility: Department of Justice

Progress to date: Work to consider options to develop a risk assessment tool to improve monitoring arrangements has been in progress, however the ability to progress this Action has been impacted by the specific threat by dissident republicans against the Probation Board for Northern Ireland since September 2017. Work to date has been limited to preparatory work including the identification of alternative risk assessment tools, benchmarking with other jurisdictions, legal

³⁸ See Actions B4, B9 and B12

analysis of current legislative requirements, and engagement with stakeholders to inform and develop draft interim guidance. Contact has been made with an expert in this area to discuss procuring the development of a risk assessment tool, which has agreement in principle. There has been extensive engagement between the Department of Justice, NI Prison Service, Police Service of Northern Ireland and the Probation Board for Northern Ireland on this issue to reach a position that balances the need to protect the public and also Probation Board staff. This work is ongoing to reach a satisfactory solution.

IRC Comment: Given the seriousness of the issues we had expected a continued urgent, strategic and joined up response and continued prioritisation of this matter. We urge those involved to continue to prioritise this Action.

Implementation Status: Action planned. Follow up required.

B12: The Executive, in conjunction with the Probation Board, should develop, fund and implement an initiative (based on the INSPIRE model) focused on young men who are at risk of becoming involved, or further involved, in paramilitary activity. This initiative should be a collaboration between Government Departments and restorative justice partners to combine restorative practices and peer monitoring with targeted support in respect of employment, training, housing, health and social services.

Commitment: The Probation Board for Northern Ireland will lead on a model aimed at systematically addressing the age related specific risks, experiences and needs of young men who have offended and are at risk of being drawn into crime and paramilitarism. The model will be co-designed between Government Departments and restorative justice partners to combine restorative practices and peer mentoring with targeted support in respect of employment, training, housing, health and social services.

Lead responsibility: Probation Board for Northern Ireland

Progress to date: The Aspire project is working with marginalised young men (aged 16-30) who are most at risk, aiming to reduce their risk of becoming involved or further involved in paramilitarism and criminal activity. The Aspire project supports

these young men to resist negative influences and provides intensive interventions with a focus on personal development, health and wellbeing, which enables them to access alternative social pathways including employment or training and stable housing.

IRC Comment: We met with the Probation Board for Northern Ireland and those providing the Aspire mentoring services. We also met with a small number of young men on the programme who outlined the many challenges they face. We endorse the programme and commend those who are delivering it. We welcome the wider involvement of organisations in the provision of mentoring services, including those involved in restorative justice and the targeted approach towards those most at risk.

Implementation Status: Action underway.

B13: As part of the cross-Departmental programme, the Executive Departments with responsibility for Education, the Economy, Health, Communities, Infrastructure and Justice, together with the Executive Office, should all identify the opportunities available to them to both prevent at-risk individuals becoming involved in paramilitary activity and measurably address the underlying issues that put some young people at a higher risk of becoming involved.

Commitment: A cross-Departmental programme to prevent vulnerable young people being drawn into paramilitary activity will be developed to sit within the Early Intervention Transformation Programme (EITP). The EITP Board will develop a draft programme for consideration and approval by the Executive. The programme will be designed in conjunction with representatives from wider civic society.

Lead responsibility: Department of Health and the Early Intervention Transformation Programme

Progress to date: Work has commenced on two strands of work. Initially, the Early Intervention Transformation Programme, led by the Department of Health, held responsibility for delivering this Action. However the cross-Departmental nature of the work involved and the importance of linking other parts of the Action Plan with a programme of work under this Action led the Tackling Paramilitarism Programme

Board to decide that responsibility for the Action should rest with the Tackling Paramilitarism Programme Board. The programme development strand focused on a range of issues including the vulnerabilities and risk factors that lead a young person to become involved in paramilitary activity and the associated resilience factors, and pathways into and out of paramilitary activity and involvement. The second strand, the Early Intervention Transformation Programme's "Edges Project", works with young people on the edge of care, the edge of educational exclusion, or the edge of the criminal justice system, who have a range of issues including substance misuse, violent behaviours, truanting from school, and mental health issues.

IRC Comment: The need for a cross-Departmental approach to this challenging but very important work is essential. As outlined in the Review³⁹, the need to develop a coherent approach and joint-working delivery is also necessary. In that context progress in delivering this Action needs to be taken forward more rapidly.

Implementation Status: Action underway. Follow up required.

C1: The strategies and activity of the Police Service of Northern Ireland and other law enforcement agencies should be updated to reflect a shift in focus from 'paramilitary activity' to criminality.

Commitment: Strategies and activity in this area will be updated by the Police Service of Northern Ireland as appropriate to reflect the situation as informed by regular operational and strategic assessments.

Lead responsibility: Police Service of Northern Ireland

Progress to date: The Paramilitary Crime Task Force was established in September 2017 and became fully operational in November 2017⁴⁰. An Investigative Team has been established and criminal investigations and operations against those involved are underway.

³⁹ See paragraph 3.4 above

⁴⁰ See Action C4 below

IRC Comment: We are aware of the work being taken forward by the Department of Justice (see Action C2 below) to review legislation relating to serious and organised crime in Northern Ireland and hope that it will provide law enforcement with a broader range of powers in due course. We encourage law enforcement to fully utilise the enforcement tools at its disposal and to use, where appropriate, powers under the Police and Criminal Evidence (Northern Ireland) Order 1989 and the Serious Crime Act 2015 to clearly brand the activity as criminal rather than paramilitary related.

Implementation Status: Action underway.

C2: The Department of Justice should urgently review the legislation relating to serious and organised crime in Northern Ireland to make sure that it is as effective as possible.

Commitment: The Department of Justice will commence a review of relevant legislation in July 2016. The review findings will then go out for consultation with a view to introducing draft legislation to the Assembly in the current mandate.

Lead responsibility: Department of Justice

Progress to date: The Department of Justice is unable to finalise or consult on legislative proposals relating to serious and organised crime in the absence of a Justice Minister. Instead, the Department of Justice is taking forward policy development with operational colleagues. The work on the most relevant model for Northern Ireland is being informed by engagement with the Scottish Government and other jurisdictions to learn lessons arising from similar legislation there. In addition, legal support has been allocated by the Departmental Solicitors' Office and policy proposals have been drawn up.

IRC Comment: We note the work which has been done to progress this Action and acknowledge that legislative proposals cannot be fully completed in the absence of a functioning Assembly. We would, however, have expected the review of organised crime legislation to have been completed by now and for policy proposals to be at an advanced stage, awaiting consultation as soon as possible after a Minister of Justice is appointed.

We welcome the Department of Justice's proposals to extend the Unduly Lenient Sentences scheme to include offences linked to terrorism, organised crime and paramilitarism⁴¹ which, if taken forward, will also enhance effectiveness of the powers to tackle serious and organised crime in Northern Ireland.

Implementation Status: Action underway. Follow up required.

C4: The PSNI should prioritise investment in its investigative capacity for tackling criminality linked to paramilitary groups and work with the NCA and other agencies to tackle all organised crime linked to paramilitary groups in Northern Ireland.

Commitment: To establish an additional dedicated investigative capacity to tackle criminality linked to paramilitary groups. The objective is to tackle the insidious influence of paramilitary groups and reinforce efforts to tackle more intensely organised crime and criminality. Key to maximising the disruption (and ultimate disbandment) of these groups will be the niche capabilities provided by relevant law enforcement agencies.

Lead responsibility: Police Service of Northern Ireland

Progress to date: The Paramilitary Crime Task Force was established in September 2017 and became fully operational in November 2017. It combines officers from the Police Service of Northern Ireland, National Crime Agency and HM Revenue and Customs. The officers are currently co-located in one team which enables them to focus on criminality linked to paramilitarism including drugs, violence, extortion, intimidation, and money laundering.

IRC Comment: We welcome this initiative and endorse the concept of a co-located law enforcement taskforce with a focused remit to target paramilitary crime.

We also welcome the National Crime Agency's move to lower the monetary threshold for the adoption of civil recovery cases in Northern Ireland so that more cases can be pursued here. We encourage greater use of these powers to reinforce the message that crime does not pay. We will follow the work of the Paramilitary

⁴¹ See Action A15 above

Crime Task Force closely to gauge its impact on paramilitary activity and on the communities targeted by paramilitaries. The Task Force has made an encouraging start⁴². In our 2019 report, we would like to be in a position to show evidence of greater disruption of paramilitary activity alongside the criminal justice outcomes.

We also welcome the ongoing work of the Cross Border Joint Agency Task Force⁴³ and the Organised Crime Task Force⁴⁴ to tackle criminality. The strategic assessments of the Paramilitary Crime Task Force, the Cross Border Joint Agency Task Force and the Organised Crime Task Force should be reviewed regularly and monitored to ensure their work is complementary to the overall law enforcement effort against criminality and makes best use of the resources available.

Implementation Status: Action underway.

C6: The Northern Ireland Environment Agency, and the Environmental Protection Agency in Ireland, should be included in the cross-border Fresh Start Joint Agency Task Force, including the Operations Co-ordination Group.

Commitment: The Joint Agency Task Force will undertake a new strategic assessment in October 2016, and will again consider if it would benefit these agencies either joining the Task Force or participating during specific operations.

Lead: Police Service of Northern Ireland

Progress to date: An invitation was extended to the Northern Ireland Environment Agency to attend the Cross Border Tactical Meeting relating to Rural Crime. As membership of the Cross Border Joint Agency Task Force is based on identified operational priorities the Environment Agency is not currently a member. The

⁴² Between September 2017 and 30 September 2018 the PCTF conducted 376 searches and made 161 arrests, resulting in 124 people being charged and reported to the Public Prosecution Service. The Task Force recovered significant quantities of criminal property and proceeds of crime including cash, property, vehicles, illicit drugs and contraband cigarettes. This prevented the loss of over £1.3million of revenue, took over 150 firearms and weapons off the streets, seized or restrained just under £800,000 of cash and prevented drugs with a street value of around £300,000 from reaching the streets. In September 2018 a PCTF investigation resulted in the conviction of an individual for membership of a proscribed organisation and possession of a typed document used to “swear in” new members to the organisation. He received a three year sentence.

⁴³ See Action C8 below

⁴⁴ <http://www.octf.gov.uk/>

Agency is a member of the Organised Crime Taskforce and the Police Service of Northern Ireland remains in regular contact with the Northern Ireland Environment Agency.

IRC Comment: We note that membership of the Cross Border Joint Agency Task Force is limited to those directly responsible for tackling the identified operational priorities. We encourage the Cross Border Joint Agency Task Force to keep its membership under review to ensure it aligns with any changes in operational priorities.

Implementation Status: Action underway.

C7: The Executive, the UK Government and the Irish Government should consider whether there is merit in allowing some of the assets recovered from criminal activity to be used for the benefit of victims, communities and the environment.

Commitment: The Department of Justice will take forward a review of the Assets Recovery Community Scheme to consider whether current arrangements can be improved upon for further benefit to victims, communities and the environment.

Lead Responsibility: Department of Justice

Progress to date: The Department of Justice completed a second review of the Assets Recovery Community Scheme in April 2018 and made five recommendations including that funding should be allocated to statutory and community sector projects in order to maximise the overall reach and benefit of the funding. The recommendations were approved for the 2018/19 scheme on an interim basis by the Department's Strategic Resource Committee. Operation of the scheme will be subject to continued evaluation with Ministerial approval needed, to endorse the mechanisms of the scheme.

IRC Comment: We welcome the steps taken by the Department of Justice in August 2018 to promote the scheme and invite bids for funding from public sector and voluntary and community organisations. We note the proactive approach taken by the Department to raise awareness of the Assets Recovery Community Scheme and of the projects it funds.

We urge the Department of Finance to consider a more flexible approach to enable unspent monies recovered under the Assets Recovery Community Scheme to be carried over to the next financial year. It is essential that monies recovered from criminal activity are reinvested in communities, particularly in those worst effected by paramilitary activity, to garner support for further law enforcement action against those involved and to make a contribution to addressing the harms caused by criminality.

We encourage the Department of Justice to continue their engagement with the Home Office to secure agreement that 100% of the civil recovery receipts which are recovered in Northern Ireland can be directed for distribution for appropriate purposes in Northern Ireland.

Implementation Status: Action underway.

C8: The UK Government, the Executive and law enforcement agencies, working with their partners in Ireland, should ensure that tackling organised criminal activity is an integral part of their efforts to deal with Northern Ireland related terrorism.

Commitment: The Executive supports this recommendation and affirms its commitment to continue and build upon existing efforts in this area. The Secretary of State, Justice Minister and Chief Constable meet regularly to discuss the threat and our combined strategic response. Within the Executive, the Justice Minister chairs the Organised Crime Task Force (OCTF) bringing together law enforcement agencies to provide a multi-agency partnership that also includes civil society and the business community.

Under the *Fresh Start* agreement a Cross Jurisdictional Joint Agency Task Force was established in December 2015 to enhance efforts to tackle cross-jurisdictional organised crime and paramilitary activity. On a North/South basis, the Minister of Justice and the Minister of Justice and Equality meet at least twice a year under the auspices of the Intergovernmental Agreement on co-operation on criminal justice matters.

The Government of Ireland has also restated its commitment to tackling paramilitarism, criminality and organised crime, and its full support for the work of the Cross-Border Joint Agency Task Force established under the Fresh Start Agreement.

Lead Responsibility: UK Government, NI Executive, Government of Ireland and law enforcement agencies in both jurisdictions

Progress to date: A Cross Border Joint Agency Task Force, one of the measures set out in the Fresh Start Agreement as part of a concerted and enhanced effort to tackle cross-jurisdictional organised crime, was established in December 2015. It consists of a Strategic Oversight Group and an Operations Co-ordination Group and is led by senior officers from the Police Service of Northern Ireland, An Garda Síochána, the Revenue Commissioners and HM Revenue and Customs. A number of other organisations including the National Crime Agency and the Criminal Assets Bureau are also involved in operational activity.

The first report of the Task Force's Strategic Oversight Group stated that the 'Cross Border Policing Strategy' will act as the over-arching delivery strategy for the work of the Task Force. A Cross Border Strategic Assessment, prepared and developed by the Strategic Oversight Group, agreed six priority areas for targeted law enforcement action. They were: Rural Crime; Child Sexual Exploitation; Financial Crime; Illicit Trade; Excise Fraud and Human Trafficking. These were to be kept under review.

The Northern Ireland Office has confirmed that it has responsibility for providing a strategic response to the terrorist threat in Northern Ireland. It continues to liaise closely with the Tackling Paramilitarism Programme Team and is also a member of the Tackling Paramilitarism Programme Board.

IRC Comment: We welcome the ongoing work of the Cross Border Joint Agency Task Force and will continue to seek further assurances that there is a concerted effort by law enforcement, the NI Executive and the UK Government, with their counterparts in Ireland to ensure that tackling organised crime is an integral part of efforts to deal with Northern Ireland related terrorism. We note and also welcome the joined up approach between the Northern Ireland Office, the Tackling Paramilitary Programme Team and the Tackling Paramilitarism Programme Board,

and the regular contact between the Secretary of State for Northern Ireland and the Chief Constable.

The Cross Border Joint Agency Task Force, the Paramilitary Crime Task Force and the Organised Crime Task Force are all central in this regard and we look forward to reporting on progress in our next Report. We are aware that the work of these groups is co-ordinated, in the Police Service of Northern Ireland, through the Head of Criminal Investigation Branch to ensure a cohesive approach is taken. We encourage other members of the various Task Forces to ensure that their work is also fed into strategic plans across their respective organisations. We also encourage greater use of assets recovery powers to stifle funding for NI Related Terrorism.

Implementation Status: Action underway.

D1: The Executive should prioritise steps to significantly and measurably improve the educational and employment prospects of children and young people in deprived communities, focusing particularly on those who are at greatest risk of educational under- attainment.

Commitment: In line with the Programme for Government commitment to a more equal society and in the context of its Programme for Government Delivery Plan the Department of Education will work with other Departments to review and refresh actions. The Department of Education will also continue to promote pupil attendance at school. In support of this, the Education and Training Inspectorate will publish a good practice guide for schools on the promotion of pupil attendance.

The Department for the Economy, through the “Social Inclusion” project *Further Education Means Success* will identify the barriers that inhibit groups of learners from participating in further education provision, and explore ways to overcome those barriers.

The Department for Infrastructure will, in line with the rest of the public sector, ensure social clauses are included in contracts for major infrastructure schemes, such as the Belfast Transport Hub project. This will include targeting of long-term unemployed, apprenticeships and engagement with the local community.

Lead responsibility: Department of Education, Department for the Economy, Department for Infrastructure, the Strategic Investment Board

Progress to date: A range of work is underway including, by the Department of Education, the provision of tailored support for pupils whose circumstances may impact adversely on their school attendance and attainment and the launch of a parental engagement campaign. The Department for the Economy is taking forward research into the barriers that inhibit different groups of learners/potential learners from engaging and participating in education, training and employment, and research into the barriers for those who are at risk of becoming involved with paramilitary groups. Links are also being made with the Peace IV Youth Programme, being led in Northern Ireland by the Department for the Economy. In addition, a “Buy Social” approach has been adopted in the implementation of the Executive Action Plan. This should maximise the benefits from public procurement in terms of personal well-being, social cohesion and inclusion, equal opportunities and sustainable development, and has a particular focus on securing employment opportunities in areas with high levels of disadvantage. A programme of work has been agreed with the “Buy Social” team, working with relevant projects to consider potential opportunities for participants, including initiatives with specified disadvantaged communities, the women’s programme, the Aspire programme, programmes for young people and opportunities for those with an offending background.

IRC Comment: We regard this Action as pivotal to tackling the systemic issues affecting communities where paramilitaries operate. Access to education and the sustained ability to participate in education are key drivers of the journey to transformation. A critical part of this is the linking of education services, skills and qualifications to training and employment opportunities to enhance the life choices and prospects of the children and young people who live in communities most impacted by paramilitaries. While we welcome the fact that a range of key NI Departments are seeking to address issues falling within their areas of responsibility, there needs to be a stronger cross-Departmental approach. One of the key recommendations of this Report is therefore for the Head of the Civil Service, with advice from the senior responsible officer and the Tackling Paramilitarism Programme Board, to consider a more structured collaboration between the key

agencies involved⁴⁵. We note the work which is underway to address a number of issues including school attendance and attainment, parental engagement and the barriers to participating in education. We will seek updates from the Department of Education and the Department for the Economy on the impact this work is having.

Implementation Status: Action underway. Follow up required.

D2: The Executive should accelerate and build on its existing good relations strategy to measurably reduce segregation in education and housing and set ambitious targets and milestones to achieve measurable progress as quickly as possible.

Commitment: The Executive is committed to continuing to build on existing strategies and will give ongoing consideration to this going forward.

Lead responsibility: The Executive Office

Progress to date: Work undertaken under this Action relates to the existing programme Together: Building United Communities on shared education and shared housing/neighbourhoods. Projects funded by this programme include Shared Neighbourhoods, Urban Villages, Shared Education Campuses and the Removal of Interface Barriers.

IRC Comment: We have discussed this work on a number of occasions with The Executive Office. It is important that the implementation of the Action Plan and the work undertaken by the Together: Building United Communities programme complement each other and are consistent in their approach to the key elements and desired outcomes.

We note that despite The Executive Office receiving funding under Fresh Start for the Together: Building United Communities Programme, no new strategies have been put in place under this Action. We encourage The Executive Office to consider other innovative measures which could be undertaken to ensure additionality, given the significant funding it is receiving under Fresh Start.

⁴⁵ See recommendation 1 in Section D

Implementation Status: Action underway. Follow up required.

D4: The Executive should put in place strong programme management arrangements for developing and delivering the strategy, incorporating all those organisations which we have highlighted as having a direct role in implementing the recommendations in this report. More broadly, the Executive should adopt a partnership approach to involve, where possible, representatives of the public and private sectors and the voluntary and community sectors in the design, delivery and evaluation of the measures in its strategy.

Commitment: The Cross-Departmental Programme Board will extend the opportunity to apply for *Fresh Start* funding to voluntary and community sector organisations and to statutory bodies working in partnership with voluntary and community sector organisations to develop new programmes and actions in support of this Action Plan. The Executive will also put in place appropriate mechanisms to engage strategically with the range of partners involved in delivering this Action Plan. The Executive will extend membership of the Cross-Departmental Programme Board to include representatives of other Executive Departments. The Board will report on progress, through the Chair, to the Executive in line with the *Fresh Start* reporting arrangements.

Lead responsibility: Tackling Paramilitarism Programme Board

Progress to date: Programme management arrangements have been put in place. These include a Tackling Paramilitarism Programme Board, with membership drawn from across relevant NI Departments and other statutory agencies, and a Tackling Paramilitarism Programme Team. In addition, arrangements have been made by each Department to deliver the Actions for which they have lead responsibility.

IRC Comment: We welcome the expansion of the Tackling Paramilitarism Programme Board to include representatives of the Department for Communities, the Department of Education, the Department of Health and the Department of Finance. We also welcome the inclusion of voluntary and community sector partners in sub groups set up under the programme delivery structures, and as delivery

partners. While we commend the effort that has been invested in driving this programme of work forward, we repeat our recommendation⁴⁶ that the Head of the Civil Service, with advice from the senior responsible officer and the Tackling Paramilitarism Programme Board, considers a more structured collaboration between the key agencies to enhance the partnership approach.

Implementation Status: Action underway.

PART II: OTHER MEASURES

3.14 Five of the 43 recommendations which were set out in the Panel Report and subsequently included in the NI Executive Action Plan are for the UK and/or Irish Governments to implement. In this part, we report on their progress. The lettering and numbering below relates to the lettering and numbering used in the Panel Report and in the Executive Action Plan, the “commitment” set out for each Action reflects what the UK and/or Irish Governments said they would do. Their commitments were included in the Executive Action Plan when it was published in July 2016.

B14: The UK and Irish Governments should consider a mechanism being put in place for a limited period to deal with any future decommissioning of residual weapons or material.

Commitment: If there is a need identified for a decommissioning mechanism, both the Government of Ireland and the Government of the UK have advised that they will consult to consider this recommendation.

Lead Responsibility: The UK and Irish Governments

Progress to date: Both Governments advise that they will continue to keep this under review in accordance with the wider Tackling Paramilitaries Programme aim of transitioning groups away from violence.

⁴⁶ See Action D1 above, and recommendation 1 in Section D

IRC Comment: We note the intention of both Governments to keep this Action under review.

Implementation Status: Action underway.

C3: The UK and Irish Governments should review the legislation relating to paramilitary groups (e.g the Terrorism Act 2000) to ensure that it remains in step with the transitioning status of groups in NI.

Commitment: The Government of the UK and the Government of Ireland have advised that they continue to keep relevant legislation under review to ensure its effectiveness.

Lead Responsibility: UK and Irish Governments

Progress reported by the UK and Irish Governments: Both Governments will keep this Action under review.

IRC Comment: We note the intention of both Governments to keep this Action under review.

Implementation Status: Action underway.

C5: The UK Government should resource the National Crime Agency and HM Revenue and Customs to appropriately prioritise intensive work to tackle all organised crime linked to paramilitary groups in Northern Ireland.

Commitment: The UK Government supports efforts to tackle paramilitarism and organised crime in Northern Ireland by providing £25 million funding through the Fresh Start Agreement to help ensure that the relevant agencies are appropriately resourced to fulfil that commitment.

Lead Responsibility: UK Government

Progress to date: The UK Government has committed £25 million to the Tackling Paramilitarism Programme⁴⁷.

The Paramilitary Crime Taskforce is co-located and made up of the Police Service of Northern Ireland, National Crime Agency and HM Revenue and Customs as noted above.

IRC Comment: We welcome the establishment of the Paramilitary Crime Task Force⁴⁸ and recommend that options for the longer term sustainability of the measures being implemented under the Executive Action Plan, including the Paramilitary Crime Task Force, are given serious consideration. Given that the National Crime Agency and HM Revenue and Customs are UK Government funded law enforcement agencies, we encourage the UK Government to consider the longer term funding arrangements to enable them to continue their role in the Task Force beyond 2021, subject to a satisfactory assessment of the Task Force's effectiveness.

Implementation Status: Action underway.

D3: Agreement on a way forward for dealing with the past should be reached as soon as possible and the agreed mechanisms should be completed in a time-limited period.

Commitment: There remains a need to resolve the outstanding issues relating to the past. The Executive, the UK Government and the Irish Government are reflecting on how to achieve this.

Lead Responsibility: UK Government and Irish Government

Progress to date: Following engagement with political parties and the Irish Government, the UK Secretary of State for Northern Ireland launched a public consultation on legacy proposals in May 2018. Its deadline of September 10 was extended to October 5.

IRC Comment: We note and welcome the public consultation and will keep progress on this Action under regular review.

⁴⁷ See paragraph 8.2 of Section d of the Fresh Start Agreement, replicated in Appendix A of this Report

⁴⁸ See Action C4 above

Implementation Status: Action underway.

D5: It is important that the IRC is put in place as soon as possible and is vigorous in holding to account all those responsible for delivering actions as part of the strategy.

Commitment: The UK and Irish Governments are working together to establish the Independent Reporting Commission.

Lead Responsibility: The UK and Irish Governments

Progress reported by the UK and Irish Governments: This Action was completed with the passing of legislation in both UK and Ireland to give effect to the International Treaty establishing the Independent Reporting Commission.

IRC Comment: Not required.

Implementation Status: Action Complete.

SECTION D: RECOMMENDATIONS

4.1 Our mandate to report annually to the UK and Irish Governments and the NI Executive, on progress towards ending paramilitary activity and on implementation of the measures to tackle it, allows us to make recommendations to the Executive to inform future Programme for Government priorities and commitments through to 2021.

4.2 While at the time of writing, the Executive has not yet been restored, we wish to take the opportunity of our First Report to make a number of recommendations for future action by the relevant authorities based on our findings since our inception. We set these out below.

4.3 As a broad comment, and reiterating the reality that the task of ending paramilitarism “once and for all”, as charted by the Fresh Start Agreement, is a complex and challenging one, we believe that an important start has been made to addressing that task, based on the comprehensive, twin-track approach set out in the Fresh Start Agreement. A large range of new activities, and structures to implement them, have been, or are in the process of being designed and work in delivering those activities is underway. We commend that good work. At the same time, there continues to be a number of areas where not enough is being done, or not being done quickly enough. We continue to stress the need to deepen the commitment to joined-up working and to ensure that the necessary resources and capacity are put in place to deliver sustainable outcomes for the Fresh Start test of transformation to be met. Against that background, we make the following recommendations.

Recommendations

1. Additional approach to enhance delivery of Executive Action Plan

We recommend that the Head of the Civil Service, with advice from the senior responsible officer and the Tackling Paramilitarism Programme Board, considers an additional approach to enhance collaboration, provide impetus and galvanise efforts towards successful delivery of the Executive Action

Plan. Building on the current arrangements this could include the establishment of a cross-Departmental hub of officials working jointly, in a dedicated and co-located team, to implement the wide range of measures. Whilst welcoming the progress that has been made by NI Departments to implement the various measures set out in the Action Plan, we believe that a more structured partnership between the key agencies involved would be a valuable next step. The added value of this approach would be more joined-up working and an exclusive working on the Fresh Start projects as distinct from the current model whereby some of the personnel involved in the relevant Departments and Agencies may have other responsibilities.

2. Advisory Board to the Tackling Paramilitarism Programme Board

We recommend that the Tackling Paramilitarism Programme Board establish an advisory group of political representatives. Whilst the Board is ably leading on the co-ordination and strategic direction for delivery of the Action Plan across all NI Departments, including the use of a Reference Group comprising political representatives, an Advisory Group that meets on a more regular basis could provide more useful input to the Programme Board.

3. Whole of Society approach /Shared Responsibility

We recommend that steps be taken to ensure a wide public debate on all of the issues involved so that there is public buy-in and public confidence in the measures needed to ensure sustainable success. We have outlined the twin-track, comprehensive approach for this to be achieved with criminal justice measures being tackled alongside the systemic issues in communities. The engagement of the whole of society in helping to end paramilitarism and transforming communities in which they operate is essential if sustainable success is to be achieved.

4. Neighbourhood Policing

We recommend, as part of its current review, that the Police Service of Northern Ireland and the Northern Ireland Policing Board have regard to the feedback we have received that visible neighbourhood policing has a key role to play in tackling paramilitary activity. This is based on our engagement with civic society where the overwhelming view put to us is that, notwithstanding public confidence in the Police Service of Northern Ireland more broadly, there are not enough dedicated and visible neighbourhood police officers serving those communities most adversely impacted by paramilitary activity. We acknowledge the pressures, including budget cuts, faced by the Police Service of Northern Ireland and accept that resources need to be carefully prioritised. We welcome the Police Service of Northern Ireland and the Northern Ireland Policing Board's joint public consultation as part of the Local Policing Review 2018 to explore how police can best meet public need and deliver the most effective local policing across Northern Ireland.

5. Sustainability of measures

We recommend that the Tackling Paramilitarism Programme Board, under the leadership of the Head of the Civil Service, considers options for longer term sustainability beyond the period for which Fresh Start funding is available, of those Actions which are assessed to be effective in tackling paramilitarism. Exit strategies should also be designed for those Actions which are not effectively tackling the issue, using impact assessments developed across the NI Departments, to ensure effective communication with service providers and participants.

6. Possible role of Local Councils in the Delivery of Fresh Start

We recommend that serious consideration be given to the role local Councils could play in implementing these measures more broadly, beyond the contribution they are making already in specific Actions. We have placed strong emphasis on the need for sustainable delivery of the measures

involved. While there is an important role for Non-Governmental Organisations and other community bodies, alongside the main government Departments and Agencies, we believe that local Councils have an important role in delivering many of the programmes, with their infrastructure being key to long-term, sustainable delivery.

7. Governance of funding arrangements

We recommend that funding for the measures being implemented is carefully managed in line with best practice and accountability arrangements to ensure propriety and public confidence in the process. The funding framework should also take into account that tackling paramilitary activity through the twin-track approach of criminal justice and systemic societal issues requires an innovative response.

8. Enhanced use of Assets Recovery powers

We recommend that law enforcement agencies utilise fully the range of civil and criminal recovery powers currently available to them. Removing ill-gotten gains stifles the reinvestment of illegal profit into further criminality, but also reinforces the message that crime does not pay. Additionally, it redirects recovered assets back into communities most affected and makes a contribution to addressing the harms caused. We urge the Department of Finance to consider a more flexible approach to enable unspent monies recovered under the Assets Recovery Community Scheme to be carried over into the next financial year.

9. Speeding up Justice

We recommend that the Department of Justice ensures the preparatory work, including any reviews and consultations that are required, is taken forward so that a future Justice Minister can progress these without further delay.

APPENDIX A

FRESH START AGREEMENT 17 NOVEMBER 2015

Section A: Ending Paramilitarism and Tackling Organised Crime

Monitoring and Implementation

5.1 A four member international body including persons of international standing will be established by the UK and Irish Governments. The UK Government and the Irish Government will nominate one member each and the Executive shall nominate two members. The body will:

- report annually on progress towards ending continuing paramilitary activity connected with NI (or on such further occasions as required);
- report on the implementation of the relevant measures of the three administrations; and
- consult the UK Government and relevant law enforcement agencies, the Irish Government and relevant law enforcement agencies and, in Northern Ireland, the Executive, PSNI, statutory agencies, local councils, communities and civic society organisations.

5.2 The reports of the body will inform future Executive Programme for Government priorities and commitments through to 2021.

Statement of Principles

2.1 There has been huge progress in recent years in helping transform society in Northern Ireland. However it is clear that there is work that still remains to be done in completing this transition.

2.5 All the parties to this Agreement remain fully dedicated to each and all of these principles and further commit to:

- work collectively to achieve a society free of paramilitarism;
- support the rule of law unequivocally in word and deed and support all efforts to uphold it;
- challenge all paramilitary activity and associated criminality;
- call for, and work together to achieve, the disbandment of all paramilitary organisations and their structures;
- challenge paramilitary attempts to control communities;
- support those who are determined to make the transition away from paramilitarism; and
- accept no authority, direction or control on our political activities other than our democratic mandate alongside our own personal and party judgment.

Section D: UK Government Financial Support

Tackling Continued Paramilitary Activity

8.2 The UK Government will provide an additional £25 million over five years to tackle continuing paramilitary activity. The UK Government funding will only be released after the Executive has agreed a strategy to address continuing paramilitary activity.

8.3 The NI Executive will match the UK Government's additional funding to tackle continuing paramilitary activity.

APPENDIX B

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing the Independent Reporting Commission

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland:

Recalling the agreement reached in multi-party negotiations and annexed to the Agreement signed by both Governments on 10 April 1998 (the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Belfast on 10 April 1998);

Recalling subsequent agreements, including the St. Andrews Agreement, the Hillsborough Agreement devolving policing and justice powers, the Stormont House Agreement and the agreement reached on 17 November 2015, 'A Fresh Start, The Stormont Agreement and Implementation Plan';

Reiterating their commitment to work collectively to achieve a society free of paramilitarism, including within the context of the Northern Ireland Executive's Strategy to End Paramilitarism (hereafter referred to as "the Executive's Strategy"), by tackling all paramilitary activity and associated criminality and supporting the rule of law, the PSNI and the criminal justice system;

Having decided to establish an independent international commission to report on progress towards ending paramilitary activity connected with Northern Ireland and to report on and inform the implementation of the Executive's Strategy;

HAVE AGREED as follows:

Article 1

The Independent Reporting Commission (hereafter referred to as "the Commission") is hereby established by the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland (hereafter "the Government of Ireland and the Government of the United Kingdom") in accordance with this Agreement.

Article 2

(1) The Commission shall be independent in the performance of its functions.

(2) The Commission shall have the legal capacity of a body corporate.

Article 3

The objective of the Commission is to carry out the functions as described in Article 4 of this Agreement with a view to promoting progress towards ending paramilitary activity connected with Northern Ireland, and supporting long term peace and stability in society and stable and inclusive devolved Government in Northern Ireland.

Article 4

(1) In relation to the remaining threat of paramilitary activity, in particular from those paramilitary groups declared to be on ceasefire, the Commission shall:

- (a) report on progress towards ending continuing paramilitary activity connected with Northern Ireland; and
- (b) report on the implementation of the relevant measures of the Government of Ireland, the Government of the United Kingdom, and the Northern Ireland Executive, including the Executive's Strategy.

(2) The Commission shall report annually to the Government of Ireland, the Government of the United Kingdom and the Northern Ireland Executive. The Government of Ireland and the Government of the United Kingdom may also jointly request reports on such further occasions as required. The Government of Ireland and the Government of the United Kingdom shall publish the reports of the Commission.

(3) The Commission, in its reports, may make recommendations to the Northern Ireland Executive in order to inform future Programme for Government priorities and commitments through to 2021.

Article 5

In carrying out its functions as described in Article 4 of this Agreement the Commission shall consult:

- (a) the Government of Ireland and relevant law enforcement agencies;
- (b) the Government of the United Kingdom and relevant law enforcement agencies; and
- (c) in Northern Ireland, the Northern Ireland Executive, the Police Service of Northern Ireland, statutory agencies, local councils, communities and civic society organisations.

Article 6

The members of the Commission, who shall include in their number persons of international standing, shall be appointed and serve on terms and conditions decided by the Government of Ireland and the Government of the United Kingdom, as follows:

- (a) one member shall be nominated by the Government of Ireland;
- (b) one member shall be nominated by the Government of the United Kingdom;
- (c) two members shall be nominated by the Northern Ireland Executive.

Article 7

(1) The Commission, its members, staff, property and premises, and any agents of, or persons carrying out work for or giving advice to, the Commission shall have such privileges, immunities and inviolabilities as may be conferred or provided by the relevant legislation of Ireland and of the United Kingdom.

(2) That legislation shall, in particular, provide for immunity from suit and legal process, and the inviolability of the Commission archive, but may provide for the Commission to waive such immunities.

Article 8

Such moneys, premises, facilities and services as may be necessary for the proper functioning of the Commission shall be provided by the Government of Ireland and the Government of the United Kingdom on a basis to be determined by them.

Article 9

(1) No information shall be disclosed by, or on behalf of, the Commission in fulfilment of its functions under Article 4 except by decision of the Commission.

(2) Members of the Commission, staff of the Commission, persons carrying out work for or giving advice to the Commission and agents of the Commission shall, in accordance with the relevant legislation of Ireland and of the United Kingdom, be bound not to disclose any information obtained in the course of the performance of their functions under Article 4 as such members, persons or agents unless such disclosure is authorised by the Commission. Communication of such information to each other shall not be considered disclosure for the purposes of this Article.

(3) The Commission shall not do anything in carrying out its functions which might;

- (a) put at risk the safety or life of any person;
- (b) prejudice the national security interests of Ireland or of the United Kingdom;
- (c) have a prejudicial effect on any proceedings which have, or are likely to be, commenced in a court of law; or

- (d) have a prejudicial effect on the prevention, investigation, detection or prosecution of crime.

(4) Legislation in Ireland and in the United Kingdom may set out arrangements under which the Government of Ireland or the Government of the United Kingdom, respectively, may assist the Commission in meeting its obligations set out in Article 9(3).

Article 10

The Commission shall keep proper accounts and proper records of all moneys received or expended by it and shall, at the joint request of the Government of Ireland and the Government of the United Kingdom, appoint auditors who shall audit the accounts of the Commission. The reports of the auditors shall be submitted to both the Government of Ireland and the Government of the United Kingdom.

Article 11

This Agreement shall enter into force on the date on which the Government of Ireland and the Government of the United Kingdom exchange notifications of completion of any procedures required by their law for entry into force of the Agreement.

Article 12

This Agreement shall continue in force until terminated by mutual agreement of the Government of Ireland and the Government of the United Kingdom and thereafter shall cease to have effect save in so far as and to the extent necessary for meeting any liabilities or disposing in an orderly manner of any remaining assets of the Commission and for the destruction by the Commission of all information received by it in connection with the performance of its functions under Article 4 of this Agreement and any records it holds relating to such information.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Dublin in two originals on the 13 September 2016.

James Brokenshire

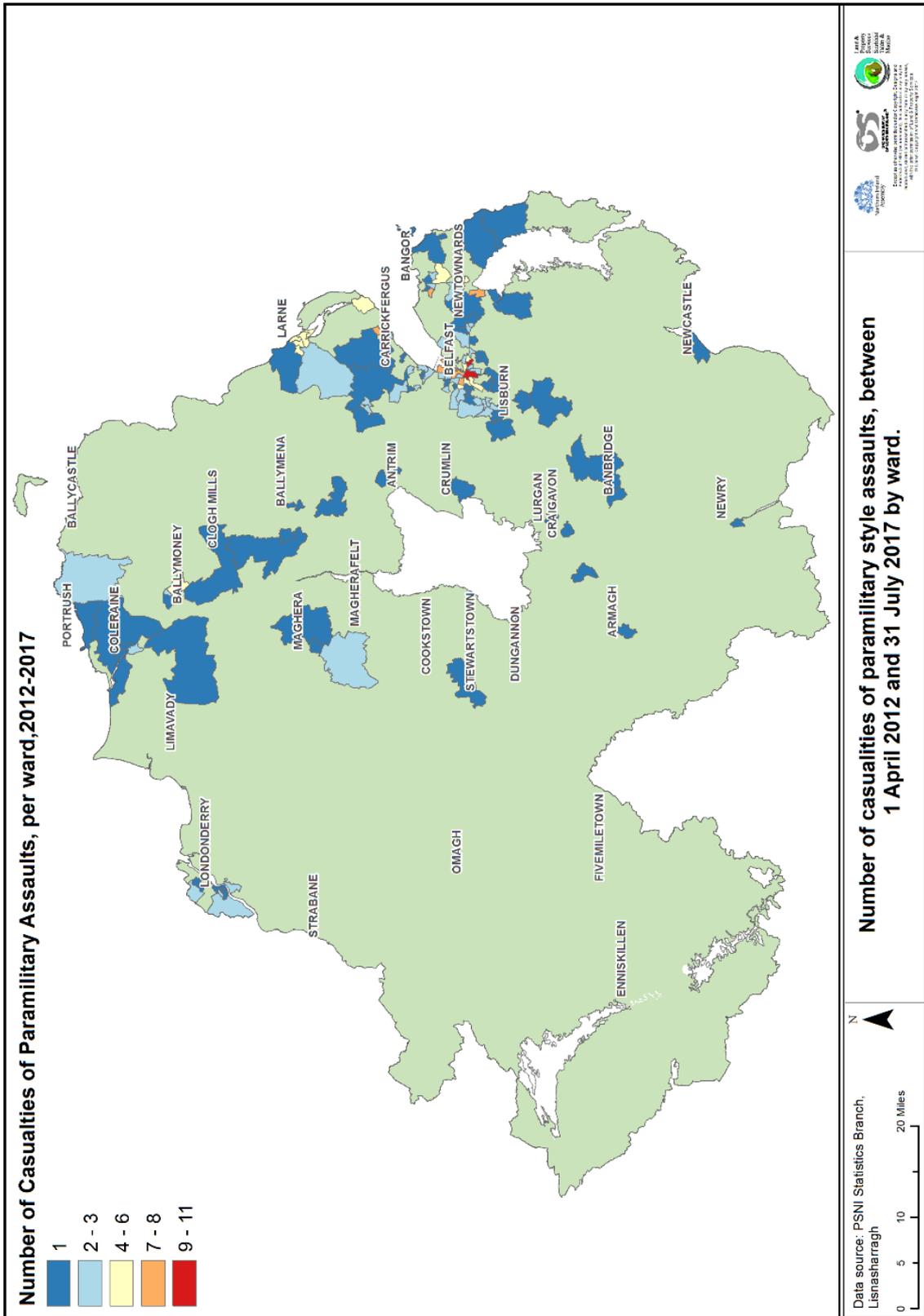
For the Government of the United Kingdom

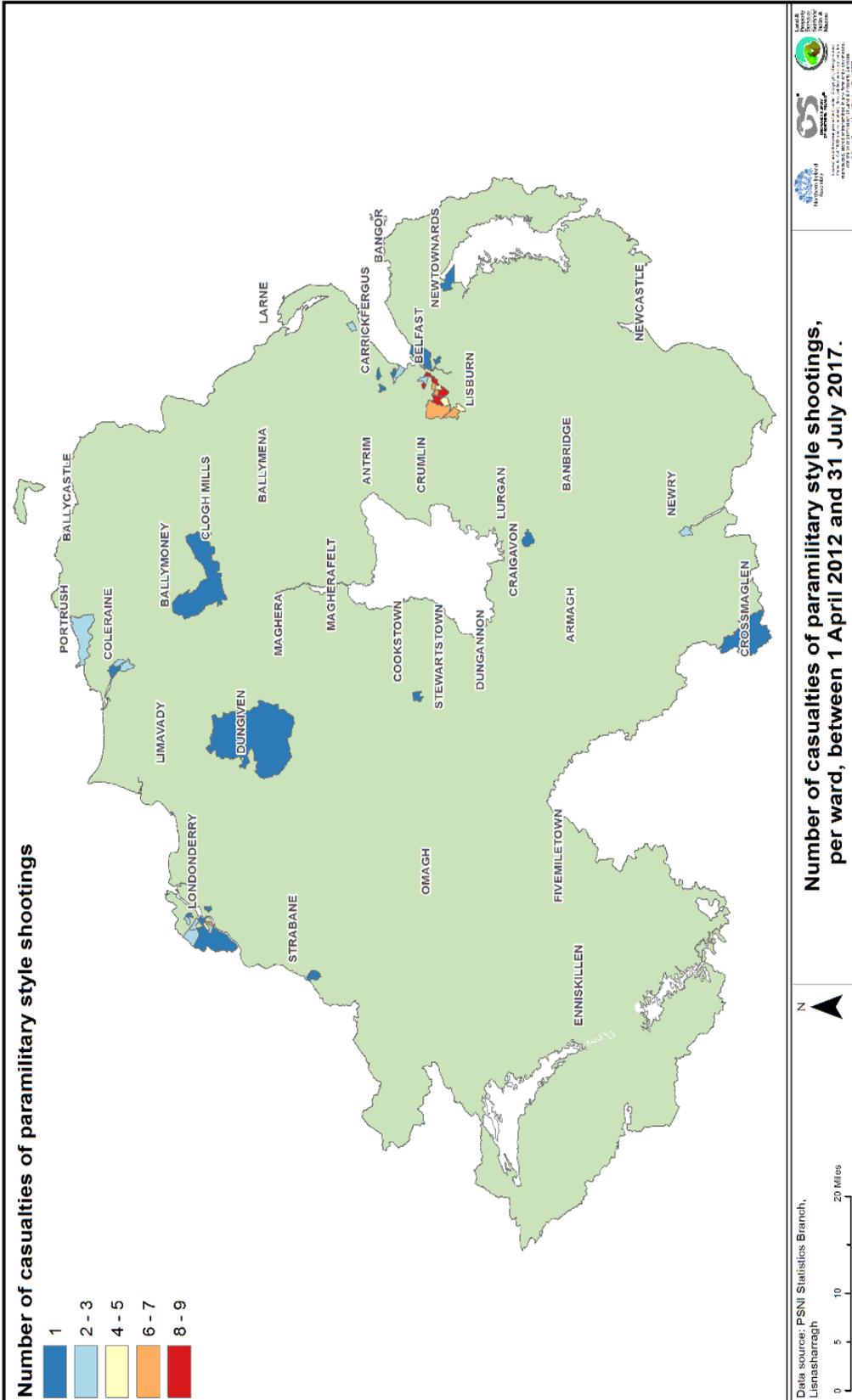
of Great Britain and Northern Ireland

Charles Flanagan

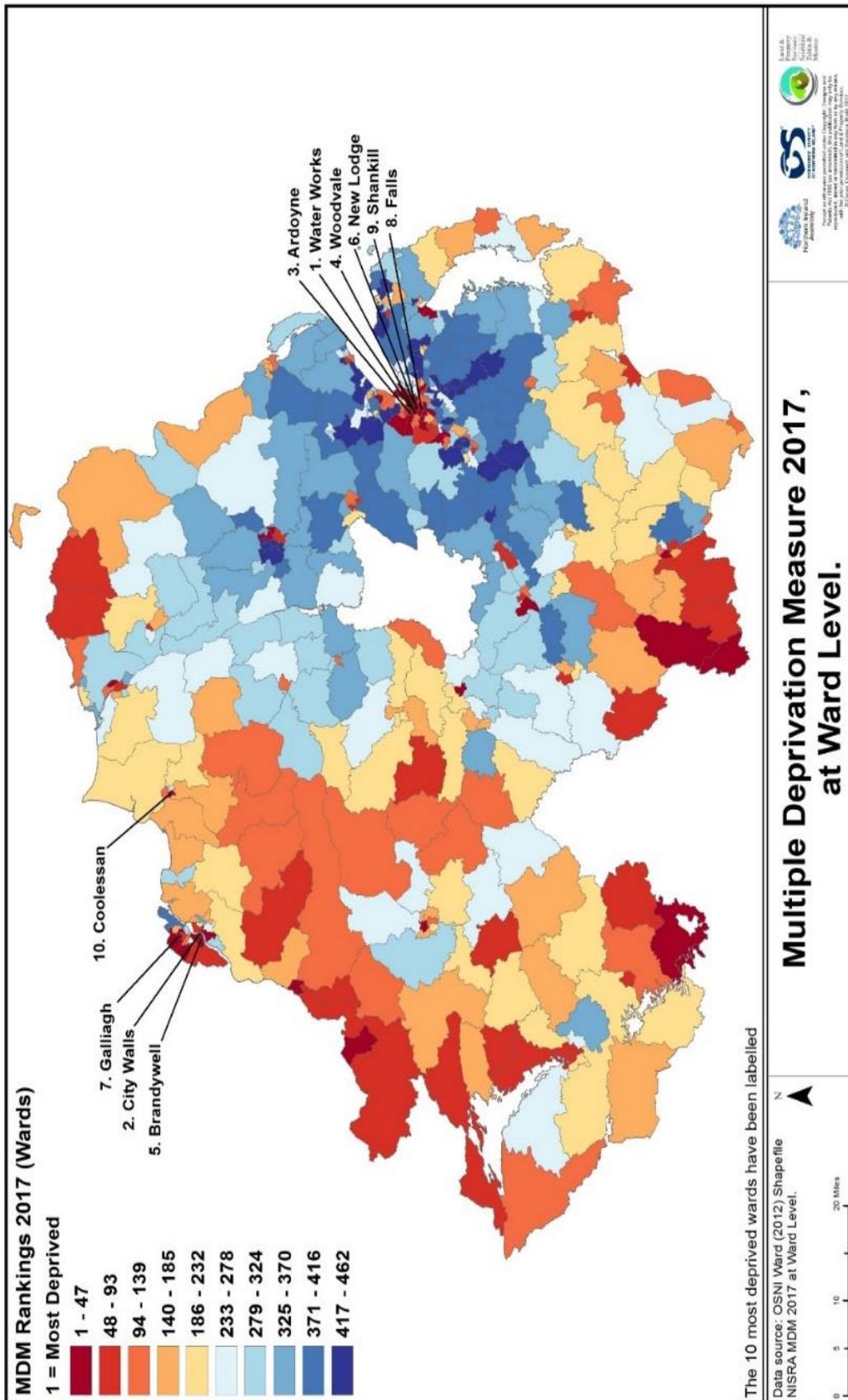
For the Government of Ireland

Indicators of Paramilitary Presence



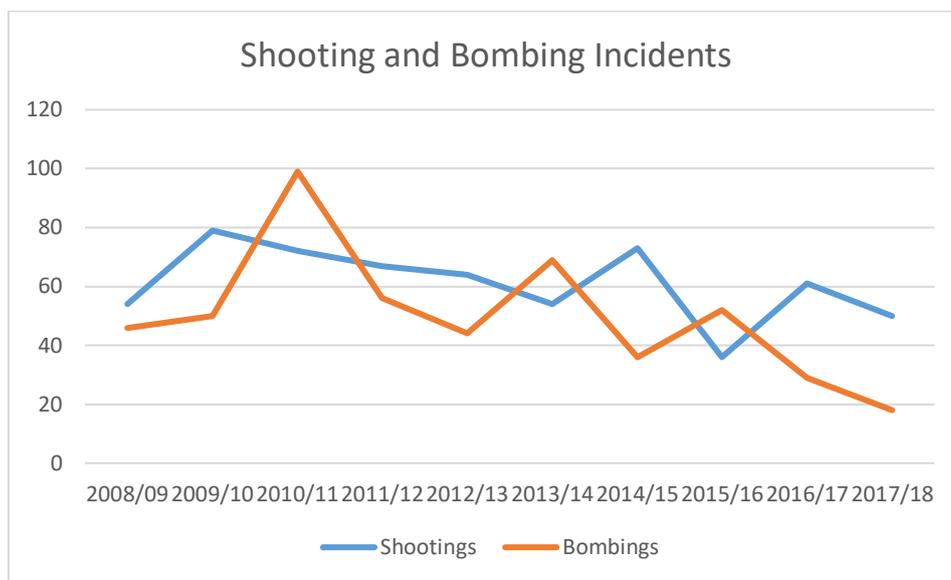


Multiple Deprivation Measures



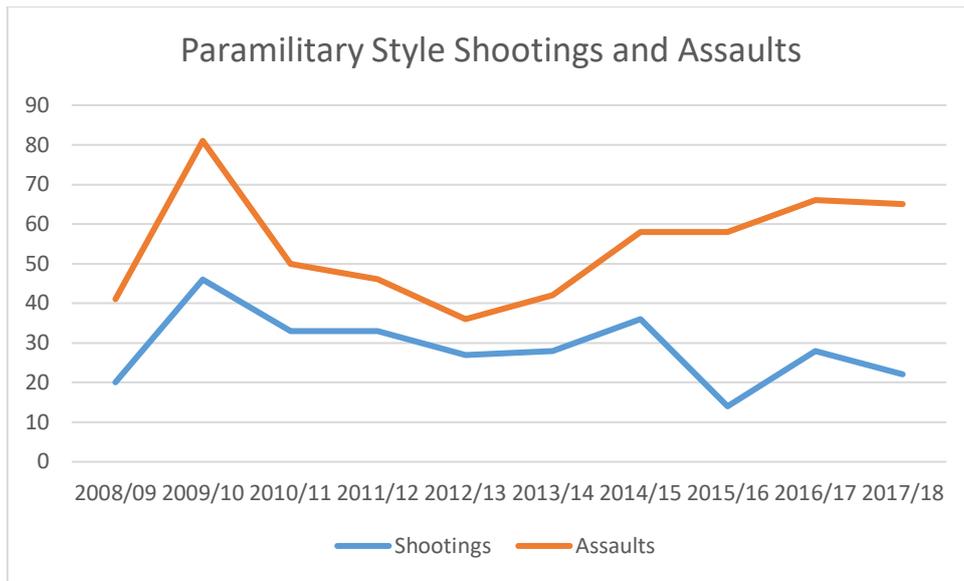
Security Situation Statistics

The clearest indicator of progress in tackling paramilitary activity is in the physical manifestation of violence by paramilitary organisations.



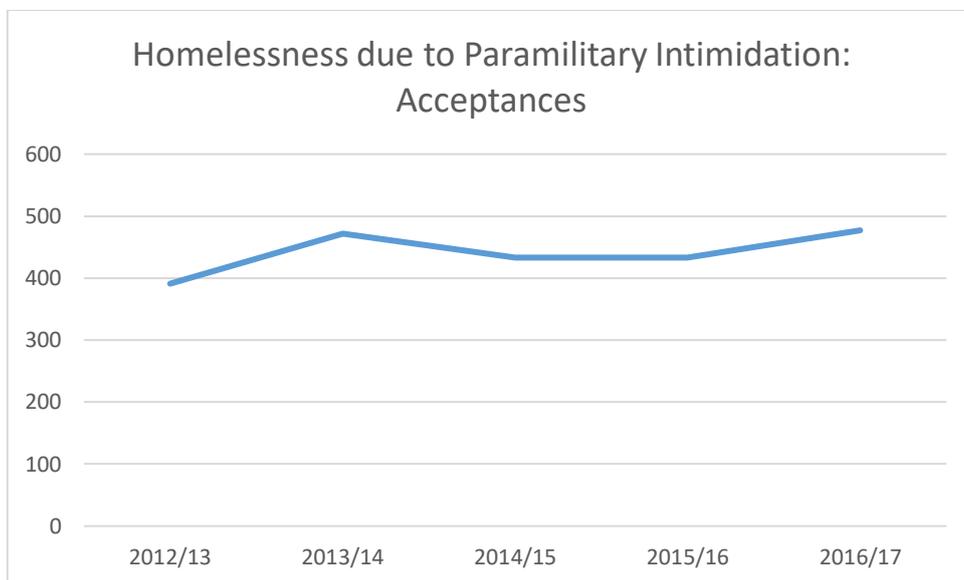
Source: PSNI security statistics

Security statistics show that, in general, the incidences of shootings and bombings is on a downwards trajectory over the last ten years, although figures between individual years can be erratic. All shootings and bombings are not necessarily by paramilitaries.



Source: PSNI security statistics

Paramilitary style shootings are significantly less prevalent than paramilitary style assaults. Again there has been a drop in paramilitary style shootings in 2017/18 compared to the previous 12 months.



Source: NI Housing Executive

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