

**The *Fresh Start* Panel  
Report on the Disbandment of  
Paramilitary Groups in  
Northern Ireland**

**May 2016**

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## THE PANEL

Paragraph 4.1 of *A Fresh Start*<sup>1</sup> provided that:

“A three person panel will be appointed by the Executive by the end of December with the task of bringing back to the Executive for agreement and action a report before the end of May 2016 with recommendations for a strategy to disband paramilitary groups”.

In December 2015, the First and Deputy First Ministers appointed a three-person panel consisting of Lord Alderdice, John McBurney and Professor Monica McWilliams.

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<sup>1</sup> *A Fresh Start - The Stormont Agreement and Implementation Plan*, accessed via <https://www.northernireland.gov.uk/publications/fresh-start-stormont-agreement-and-implementation-plan-0>

## INTRODUCTION

- 1.2 In December 2015 we, the members of the Panel, were appointed by the Northern Ireland Executive to produce a report by the end of May 2016 with “recommendations for a strategy to disband paramilitary groups”. This task flowed from the *Fresh Start* agreement which included commitments to help bring about an end to “paramilitary activity”.
- 1.3 Following the murders of two men in Belfast during the summer of 2015, the UK Government published an assessment of the current activities of paramilitary groups. In line with the conclusions of the Independent Monitoring Commission (IMC), the assessment concluded that none of the paramilitary groups which have long been on ceasefire were involved in planning or conducting terrorist attacks. However, individual members, or former members, of paramilitary groups continue to engage in criminal activity.<sup>2</sup>
- 1.4 We have not been asked to carry out an assessment of the paramilitary groups. We have been tasked with making recommendations for a new strategic approach to the discontinuation of residual paramilitary activity, including identifying actions that can be implemented by the Executive and others.
- 1.5 It is important to recognise that, as with the decommissioning of weapons, no-one is in a position to compel groups to disband. None of the groups we have met was prepared to use the word “disband”, even in a situation where their structures and activities had been transformed or withered away. We have therefore interpreted our brief as aiming to create conditions in which groups would transform, wither away, completely change and lose their significance.
- 1.6 It is also important to consider how or when society is prepared, legally, socially and politically, to stop treating the remaining groups as paramilitary organisations and, instead, treat them as organised crime gangs.
- 1.7 Our approach to developing recommendations for a strategy has been to examine the ongoing impact of members of paramilitary groups on communities in Northern Ireland, to identify the barriers preventing further progress and to propose changes in approach and specific steps that can be taken by the Executive and others, including the UK and Irish Governments, aimed at bringing an end to paramilitary activity.
- 1.8 Consultation has been a central part of our work. Those who live and work in our communities have the greatest insight into the challenges that remain. We have met with the leaderships of paramilitary groups, including those in prison who are not on ceasefire. A range of community and business representatives, academics, church leaders, women’s

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<sup>2</sup> *Paramilitary Groups in Northern Ireland: An assessment commissioned by the Secretary of State for Northern Ireland on the structure, role and purpose of paramilitary groups focusing on those which declared ceasefires in order to support and facilitate the political process*, 19 October 2015. Accessed via <https://www.gov.uk/government/publications/assessment-on-paramilitary-groups-in-northern-ireland>

groups and those working in the voluntary and community sector were included in the consultation. We have also met with Government Departments, political parties, law enforcement agencies, the Probation Board for Northern Ireland, the Equality Commission, Human Rights Commission, the Children's and Victims' Commissioners and other statutory authorities in Northern Ireland and other parts of the UK and Ireland. We are grateful to all those whom we have met for the time they have taken to help us to better understand the challenges that need to be addressed. Our time has, however, been limited and we regret that there were many others with whom we would like to have consulted if that had been possible.

- 1.9 We have been heartened by the commitment of so many people to building a peaceful and lawful society. A huge amount of time and energy has gone into sustaining the peace process in Northern Ireland. That investment needs to continue as we move to a more normal society. We believe that there is now an opportunity for the Executive and others to take further steps to support this endeavour.
- 1.10 With that in mind, we have set out a range of recommendations in this report for the Executive and others to consider. Although a matter for the Executive, it is our view that the report should be published.
- 1.11 Finally, we owe a debt of gratitude and deep appreciation to our panel secretary and two administrators who demonstrated enormous commitment, perceptiveness, focus and professionalism throughout what was an intense and complex six month task. They have our thanks.

## CONTEXT

- 2.1 Much has changed since the landmark ceasefires of 1994. Significant steps have been taken by paramilitary groups on ceasefire to transition further. However, over 20 years after the ceasefires, paramilitary groups continue to exist and the activities of some of their members continue to impact adversely upon everyday life for many individuals, businesses, public services and communities in Northern Ireland.
- 2.2 It is important to recognise that no two groups, or individuals within these groups, are the same. There are some significant differences in the nature and evolution of the various groups, for example between those on ceasefire and militant groups who continue with their violent campaigns. This section deals primarily with the groups on ceasefire, among whom there are also many differences, indicating both positive progress and regressive elements.

### Progress to date

- 2.3 In respect of the groups on ceasefire there have been major changes since the 1990s. The scale and nature of paramilitary activity has altered significantly. The numbers of shootings, bombings and assaults have greatly reduced,<sup>3</sup> resulting in far fewer deaths,<sup>4</sup> injuries and destruction of property. Some 470 people were killed in 1972 as a result of the conflict, contrasted with 2015, when two people were killed. Although there have been fluctuations, after 2006, the annual total numbers of shootings, bombings and paramilitary assaults markedly reduced.
- 2.4 The nature of attacks by paramilitary groups has also changed. Far fewer attacks are sectarian and there are no longer the regular retaliatory cycles of sectarian attacks that occurred during the conflict. In fact, the majority of attacks now appear to be conducted against members of their own community.
- 2.5 In our discussions with groups on ceasefire, we have met credible individuals who we judge to be committed to peaceful and democratic means. The degree of support for progress among some key figures in both Republican and Loyalist groups is notable.
- 2.6 We have encountered no desire among these groups to return to military campaigns but rather a clear understanding that any community concerns need to be resolved politically and criminality must be addressed. Former members of the Provisional IRA have been directed to become involved in political activity. Similarly, members of the UDA, UVF and RHC have also been directed towards community engagement and conflict resolution initiatives.

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<sup>3</sup> Statistics on deaths, bombings, shootings and paramilitary attacks (shootings and assaults) can be obtained via <https://www.psni.police.uk/inside-psni/Statistics/security-situation-statistics/>. Note that figures relate only to incidents recorded by the PSNI and that occurred within Northern Ireland.

<sup>4</sup> For example, Malcolm Sutton's database of 3,532 Troubles-related deaths between 1969 and 2001 attributed responsibility for 1,027 deaths to loyalist paramilitaries and for 2,058 deaths to republican paramilitaries. Information obtained via [http://cain.ulst.ac.uk/sutton/tables/Organisation\\_Summary.html](http://cain.ulst.ac.uk/sutton/tables/Organisation_Summary.html)

## Continued paramilitary activity

### *Dissident Republicans*

2.7 Notwithstanding the progress outlined above, paramilitary activity continues in Northern Ireland. Almost twenty years after the Belfast/Good Friday Agreement, the greatest threat to security is the armed campaigns of what have come to be known as Dissident Republican (DR) groups.<sup>5</sup> Hoax and real security alerts caused by these groups continue to force people out of their homes and disrupt traffic,<sup>6</sup> business and other aspects of daily life. Attacks by DRs have also led to 12 deaths in the 6 years up to 2015. Recent analysis found that DRs were linked to bombing and shootings against 175 people in the period 2007-2015; 77% of the victims were Catholic civilians.<sup>7</sup>

2.8 The terrorist threat remains severe in Northern Ireland, as reported by the Independent Reviewer of the Justice and Security Act<sup>8</sup> and the Independent Reviewer of Terrorism Legislation.<sup>9</sup> The threat to Great Britain from Northern Ireland related terrorism has recently been elevated from moderate to substantial, meaning that an attack is now a strong possibility.<sup>10</sup>

### *Other groups*

2.9 Some members of the groups on ceasefire, or those who claim to be members, are engaged in violence, intimidation and other criminal activities for personal gain. In doing so, they have a destructive influence in their communities. Their influence is based on the fact that they hold, or have previously held, leadership roles in a paramilitary group and continue to use the group's name to exert their authority. While the impact on communities varies depending on the locality and group, these issues are encountered in both Loyalist and Republican communities, sometimes in a major way.

## Continuing impact on society

### *Paramilitary Style Attacks*

2.10 Some members and former members of paramilitary groups on ceasefire continue to engage in violent activity to intimidate and exercise control in communities where they operate. In some cases this activity is directed by local leadership but it can also be conducted without sanction. The scale of the problem has vastly reduced since the height of 'the Troubles' but brutal physical attacks continue. Such attacks are usually carried out by Loyalist or

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<sup>5</sup> There are a number of these groups, which are fissiparous in nature, though the current main groups are the 'New' IRA, Óglaigh na hÉireann and the Continuity IRA.

<sup>6</sup> For example, PSNI data shows that there were 193 road closures between 2013-15; Translink data shows there were 176 security alerts on railway lines between 2006-2015. Accessed via <http://data.nicva.org/dataset/effects-paramilitarism%20>

<sup>7</sup> Horgan, J. & Morrison J.F. (2016). *Terrorism and Political Violence*.

<sup>8</sup> *Report of the Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007: Eighth Report: 1 August 2014 – 31 July 2015*. Accessed via <https://www.gov.uk/government/publications/8th-annual-report-of-the-independent-reviewer-of-justice-security>

<sup>9</sup> *The Terrorism Acts in 2014 (September 2015)*. Accessed via <https://terrorismlegislationreviewer.independent.gov.uk/terrorism-acts-report-published-today/>

<sup>10</sup> <https://www.gov.uk/government/news/change-to-threat-level-from-northern-ireland-related-terrorism-to-great-britain>; <https://www.mi5.gov.uk/threat-levels>

Republican groups on members of their own community to exert coercive control. The attack can take the form of a physical assault, which typically involves a group of assailants attacking an individual with iron bars or baseball bats, resulting in physical injury. Alternatively, the attack may involve shooting the person in the knees, elbows, feet, ankles or thighs. Multiple injuries can result from a single incident and, indeed, some victims have died.

- 2.11 There have been almost 4,000<sup>11</sup> recorded casualties resulting from such attacks since the start of ‘the Troubles’. The number of recorded attacks has generally reduced in recent years, with 88 casualties recorded by the PSNI in 2015.<sup>12</sup> The figures do not include attacks that are not reported to the PSNI<sup>13</sup> and so undoubtedly underestimate the scale of the problem. Many of the victims are children and young people.<sup>14</sup>

### *Intimidation*

- 2.12 Approximately 1,000 people were driven out of their homes between 2012/13 and 2014/15 due to paramilitary intimidation from within their own community.<sup>15</sup> Over the same period, the NIHE accepted 99 cases linked to sectarian intimidation and 77 to racial intimidation, many of which are likely to be connected to members of paramilitary groups. In addition, the NIHE spends an estimated average of £0.8m p.a. on its Special Purchase of Evacuated Dwellings (SPED) programme,<sup>16</sup> through which the NIHE purchases the houses of those forced to leave as a result of a threat or intimidation and where the PSNI confirms that they are at risk of death or serious injury.
- 2.13 The NIHE provides funding to NIACRO for its Base 2 programme, which supports individuals and families at risk from paramilitary violence. Base 2 receives around 1,200 referrals per year and approximately 28% of these referrals can be attributed to paramilitary intimidation.<sup>17</sup> Others are also involved in this work and it should also be noted that these figures do not include those who have had to leave Northern Ireland as a result of intimidation.

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<sup>11</sup> Statistics on deaths, bombings, shootings and paramilitary attacks (shootings and assaults) can be obtained via <https://www.psnipolice.uk/inside-psni/Statistics/security-situation-statistics/>. Note that figures relate only to incidents recorded by the PSNI and that occurred within Northern Ireland.

<sup>12</sup> Loyalist groups were responsible for 6 casualties resulting from shootings and 49 from assaults; republican groups were responsible for 20 casualties resulting from shootings and 13 from assaults. The statistics do not separate out dissident and non-dissident groups but we assume that attacks are most likely to have been carried out by the dissident groups. However, it should be noted that these figures relate to casualties only and do not include attacks that resulted in deaths.

<sup>13</sup> Statistics on the number of attacks carried out each year can be obtained via <https://www.psnipolice.uk/inside-psni/Statistics/security-situation-statistics/>. Note that figures relate only to incidents recorded by the PSNI and that occurred within Northern Ireland.

<sup>14</sup> An analysis of data provided by PSNI reported in: *They Shoot Children, Don't They?: An Analysis of the age, gender and ethno-religious background of victims of loyalist and republican paramilitary attacks in Northern Ireland 1990-2013*

<sup>15</sup> The NIHE accepted 1,223 cases in which people were presenting as homeless as a result of intimidation over the 2012/13-2014/15 period; around three-quarters (897) of these cases were as a result of paramilitary intimidation. Statistics provided by NIHE.

<sup>16</sup> Data provided by NIHE to University of Ulster Economic Policy Centre (2016). *Cost of Division: A benchmark of performance and expenditure*. Report available via <https://www.dfpni.gov.uk/publications/independent-audit-cost-division>

<sup>17</sup> Data provided by NIACRO. Some referrals to Base 2 come from the NIHE; Base 2 also receives referrals from other agencies. There is some overlap, which cannot be easily quantified, in the numbers presenting to the NIHE and Base 2.

### *Criminality*

- 2.14 Some individuals with links to paramilitary groups are also involved in other serious criminal activity which harms communities and damages the financial prosperity and reputation of Northern Ireland. Such criminality can include large-scale smuggling, fuel laundering, drug dealing and extortion of local businesses.
- 2.15 There is little data available on the number of organised crime groups active in Northern Ireland and it is clear that the groups are fluid in nature. We have not been able to establish what numbers of current or former members of paramilitary groups are involved in these groups.

### *Coercive control*

- 2.16 Some current or former members of paramilitary groups continue to exert coercive control in communities based on their paramilitary status. These individuals are often regarded as gatekeepers because their influence in communities enables them to deliver outcomes. This even affects the police who engage with the individuals concerned to ensure peaceful outcomes to parading disputes and other issues, including flags and anti-social behaviour even though they are members of proscribed organisations.
- 2.17 Groups also assert their presence through certain memorials, graffiti and flags displaying paramilitary emblems. We note the progress that has been made under initiatives such as Reimaging Communities in turning paramilitary murals into more inclusive features that celebrate Northern Ireland in a more positive way. We are also aware that, under the *Fresh Start Agreement*, a Commission on Flags, Identity, Culture and Tradition is being established to consider these issues.

### *Recruitment*

- 2.18 The Panel is conscious of the influence members of paramilitary groups have over young people. Young people face distinct challenges growing up in our society, particularly those living in the most disadvantaged areas, which also tend to be where paramilitary groups have a strong presence. They may be encouraged to engage in illegal protests or other activities that put their future education and employment prospects at risk if they are convicted of a criminal offence. Some may even be recruited in prison.
- 2.19 There are numerous factors that lead some young people to consider joining paramilitary groups. These include problems at home, educational underachievement and unemployment. However, these factors alone do not directly lead to young people becoming involved with paramilitary groups; other, more complex, factors are also at play, such as a quest for identity, resentment generated by stigmatisation and exclusion from decision-making, and frustration with the lack of opportunities for productive engagement. There is a need for capacity building programmes for hard to reach youth, as well as programmes to tackle addictive behaviours or bullying and intimidation and to reduce the risk that such young people become drawn into paramilitary groups.

- 2.20 Once they are involved, it can then be difficult for a young person to leave the group, even if they no longer wish to remain. They may feel they have no way out of the situation, particularly as it would appear that some paramilitary groups insist on a substantial sum of money as an exit fee. Such sums are likely to be beyond the means of most young people.

#### *Costs of paramilitary activity*

- 2.21 Individuals, businesses and voluntary and community groups incur loss of revenue as a result of criminal activities carried out by members of paramilitary organisations, including fraud, extortion, racketeering, counterfeiting, smuggling and duty evasion on fuel,<sup>18</sup> cigarettes and alcohol. There are also opportunity costs when paramilitary intimidation prevents the economic development and regeneration of communities and, of course, government money that could otherwise be directed towards health, education etc. is instead directed to dealing with crime.
- 2.22 Public services in Northern Ireland, ranging from health<sup>19</sup> to public transport,<sup>20</sup> bear financial costs in dealing with the consequences of paramilitary activity. The PSNI estimated that 27% of its budget (approx. £297m) was spent on 'policing the security situation'.<sup>21</sup>

#### **Summary**

- 2.23 The scale of paramilitary activity has greatly reduced over the course of the peace process. The main paramilitary organisations remain on ceasefire and express their commitment to peaceful political and community activity. However, some members and former members of paramilitary groups continue to engage in violence, intimidation and other criminal activities. Their activities impact on the economic and social development of Northern Ireland and the wellbeing of individuals and communities. It is this harmful impact on society that the Executive's strategy will need to address.

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<sup>18</sup> The most recent estimate of the Tax Gap in the UK for the financial year 2013/14, *Measuring tax gaps 2015 edition: Tax gap estimates for 2013-14*, put the central estimate market share for fraudulent diesel in Northern Ireland at 8%, with a tax gap of £50 million in 2013-14, compared to less than 1% in GB. This represented a declining trend from 19% in 2005/06. HMRC estimated the market share for fraudulent petrol in Northern Ireland to be negligible in 2013-14. However, it is also noted that, in both cases, the figures are an estimate only and cannot determine the split between illicit fuel and that purchased legitimately in the Republic of Ireland. Report available via [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/470540/HMRC-measuring-tax-gaps-2015-1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/470540/HMRC-measuring-tax-gaps-2015-1.pdf)

<sup>19</sup> Research carried out by O'Neill et al (2002) put the average inpatient cost of treating victims of paramilitary assaults in one hospital unit between January 199 and May 2000 at £2,010. *Inpatient costs and paramilitary punishment beatings in Northern Ireland*. The European Journal of Public Health, 12(1): 69-71. Accessed via [https://www.researchgate.net/publication/11398841\\_inpatient\\_costs\\_and\\_paramilitary\\_punishment\\_beatings\\_in\\_Northern\\_Ireland?enrichId=rgreq-ae11142-5ab9-4c9e-8bb2-e0fae96f0d8e&enrichSource=Y2922ZXJQYWdIOzExMzk4ODQxO0FTOjk4NTQ5NjgxMzYwOTAwQDE0MDA1MDC0ODMzMzMDM%3D&el=1\\_x\\_2](https://www.researchgate.net/publication/11398841_inpatient_costs_and_paramilitary_punishment_beatings_in_Northern_Ireland?enrichId=rgreq-ae11142-5ab9-4c9e-8bb2-e0fae96f0d8e&enrichSource=Y2922ZXJQYWdIOzExMzk4ODQxO0FTOjk4NTQ5NjgxMzYwOTAwQDE0MDA1MDC0ODMzMzMDM%3D&el=1_x_2)

<sup>20</sup> Translink incurs additional costs of an average of £566k p.a. to repair damage caused to vehicles during riots and to deal with the consequences of security alerts on railways, including delays and providing bus substitutions. Information provided by Translink and reported in University of Ulster Economic Policy Centre (January 2016). *Cost of Division: A benchmark of performance and expenditure*. Report available via <https://www.dfpni.gov.uk/publications/independent-audit-cost-division>

<sup>21</sup> Ibid. Data provided by PSNI.

## **BARRIERS TO PROGRESS**

3.1 Although the significant progress that has been made since the ceasefires of the 1990s should not be overlooked, further progress is required to bring continuing paramilitary activity to an end. In this section, we aim to set out the progress that would need to be made before that goal could be said to have been reached. We also set out the barriers to progress that have been identified in the course of our work. In the next section, we will then set out our proposals for addressing these barriers.

### **Understanding of Disbandment**

3.2 While there may be some dispute over the term ‘disbandment’, there is a path for groups, and individuals within the groups, to effectively bring paramilitary activity to an end if they wish to do so. In our view, the process involves a number of clear steps:

- 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; and
- Successor organisations must not benefit from or be associated with criminal activity of any kind.

3.3 Although groups may describe the conclusion of their activities in different ways, if a group has credibly taken the steps outlined above, it would seem reasonable to conclude that it has effectively transformed or disbanded its paramilitary structures. Groups may then be in a position to apply via an intermediary to be removed from Schedule 2 of the Terrorism Act, which lists proscribed organisations. This would not preclude some or all members continuing to associate in new organisations for exclusively peaceful and democratic purposes.

### **Barriers identified in consultation meetings**

3.4 Our consultation has identified a range of potential barriers. We have focused on those barriers which, if addressed, might go some way toward creating the conditions in which groups would abandon their paramilitary structures and peacefully support the rule of law.

#### *Ongoing support for violence or criminality*

3.5 Some groups (such as militant ‘Dissident Republicans’) or individuals within groups remain committed to violent activity and/or criminality. Their motivations range from political objectives to personal gain or power. Such individuals are unlikely to be easily persuaded to take a different course and will need to continue to be pursued through law enforcement measures.

- 3.6 The threat of militant groups is occasionally cited as a rationale for the continuing presence of other groups, particularly in the Loyalist community. We have seen little evidence that this represents a significant driver.

*Group capacity*

- 3.7 It has been put to us that groups vary in their capacity to bring about change. While many in leadership positions in the various groups espouse commitment to completing the transition, they can face challenges in leading all their members to a successful conclusion. Leadership plays a key role in any process of change management. Inevitably, there will be members whose identity and self-worth is intrinsically linked to the roles they have historically played in the group. Leaders will have to undertake intensive work to carry through this process of change.
- 3.8 Successful transition involves significant change processes including consultation to achieve collective support for a new direction. Not all groups have demonstrated the capacity to deliver such wholesale change at significant pace. They may see their continued role in maintaining unity or discipline as essential (perhaps even a 'necessary evil') but may not be able to use their positions to effect change. However, leaders have to demonstrate a successful transition away from paramilitary activity even if, in the end, this means leaving some members behind or themselves departing the scene.
- 3.9 It is, of course, possible that the leaderships of some groups may be in no hurry to transition, as evidenced by, for example, ongoing recruitment. Leaders may be reluctant to give up power and influence within the community. If they perceive threats from other groups, they may wish to hold on until they can have confidence that another group would not 'take over' their members or 'territory'. In this context, it may be necessary for rival groups within a given community to work towards 'disbandment' together and we have heard claims that the Loyalist Community Council might be an example of a process that could facilitate Loyalist groups to go away.

*Inclusion*

- 3.10 We have heard that many current and former members of paramilitary groups want to put their past behind them and make a positive contribution to their community and the economy. A number of individuals have successfully made this transition. Others have encountered obstacles in a number of areas, including employment, education, training, and the impact of past convictions. There is also evidence that these obstacles are faced by some relatives of ex-prisoners.
- 3.11 One of the key concerns that has been raised with us is that the impact of Troubles-related convictions remains long after the sentence has been served. As background checks are an increasing requirement in many areas of daily life, individuals face a permanent barrier to moving on, including in attempting to secure employment, applying to foster or adopt a child, applying for a taxi licence, gaining access to financial services such as insurance (for

home, business or a car), and travelling abroad. It is not just the individual who is excluded as a result of their convictions. If a family member, such as a child or grandchild, is required to undergo an extensive background check for employment or other purposes, the background of the parent or grandparent can be taken into account. We have found instances where both children and grandchildren were excluded.

- 3.12 There are other barriers to readjusting to normal life. Individuals may lack skills, formal qualifications or experience needed to secure employment. In addition, they may have difficult family situations or suffer from mental health issues, such as post-traumatic stress disorder or drug and alcohol addictions.
- 3.13 The majority of ex-prisoners who have convictions for conflict-related offences will encounter considerable difficulties in obtaining visas to enter the United States<sup>22</sup> and some other countries, due to the bars to admissibility for criminal and/or security-related grounds. The bars to admissibility can result in a range of issues, including the inability of ex-prisoners to visit family or friends, conduct business or trade, work, or simply travel with other family members on holiday.
- 3.14 There is a sense among many ex-prisoners that, when it comes to security screening, no distinction is made between groups on ceasefire and other paramilitary groups. They have expressed frustration to us at the lengthy bureaucratic delays and the lack of assistance for members of groups on ceasefire to gain access to the US, even for business purposes.
- 3.15 Many current and former members of paramilitary groups seek support to become 'normal citizens'. There was an expectation that the ending of their military campaign, with the associated decommissioning, would then be followed up with a process of reintegration into society. Such an approach would broadly align with the concept of DDR (Disarmament, Demobilisation and Reintegration) which is seen as the international best practice approach to bringing conflicts to an end.
- 3.16 There are differences between the nature of the conflict in Northern Ireland and those in other parts of the world which mean that DDR (Disarmament, Demobilisation and Reintegration), as implemented in other places, is not a direct fit in Northern Ireland. However, the difficulties faced by ex-prisoners reintegrating into society can have negative impacts, resulting in individuals and those around them feeling stigmatised or

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22 In relation to the USA, a waiver of inadmissibility for non-immigrants (temporary visitors or workers) is available under Section 212(d)(3)(A) of the Immigration and Nationality Act (INA). The waiver application is made to the U.S. Department of State's consulate or Embassy with jurisdiction over the place of residence (e.g. in Belfast, Dublin or London). A consular officer will review the waiver application, which may include letters of recommendation as to good character and reputation in the community, as well as evidence of reform and rehabilitation. The consular officer will then make a recommendation to the Admissibility Review Office within the U.S. Department of Homeland Security. It should be noted that the only Irish groups on the Department of State's list of Foreign Terrorist Organizations designated as such by the Secretary of State in accordance with Section 219 of the Immigration and Nationality Act are the Real Irish Republican Army (RIRA), added on the 16th May 2001, and the Continuity Irish Republican Army (CIRA), added on the 13th July 2004. Representatives and members of these groups are inadmissible to and, in certain circumstances, removable from the United States.

disenfranchised and remaining economically inactive. There appears to be a strong public interest argument for addressing those issues, both to secure continuing support for progress and to minimise the costs to society.

- 3.17 The steps outlined above would have to be taken in a context where the needs of all victims and survivors of the conflict are also being met.

#### *Women*

- 3.18 There is also a gender dynamic to the issue of disbanding paramilitary groups. The ex-prisoner groups and former paramilitaries we met were almost all men. The 'masculinity' issue, attached to the status of being a paramilitary, and the fear of being emasculated through a process of disbandment needs to be understood.

- 3.19 Gender is also key to issues of exclusion and marginalisation of women within these communities, as well as the transformation of relationships in the wake of conflict. Where women are living in high-risk areas where police officers are delayed, or prevented, from responding to calls due to concerns for their own safety, violence against women is likely to increase.

- 3.20 The particular experiences of women in Northern Ireland in relation to paramilitarism are shaped and defined not merely by their role as victims, but also by their leadership roles within local communities. At the policy level, this is formally recognised by UN Security Council Resolution 1325 on Women, Peace and Security, which affirms the particular and important role of women in peace building and in post-conflict reconstruction. It stresses the importance of the equal participation and full involvement of women in all efforts for the maintenance and promotion of peace and security. However, there is a real gap between policy and practice and, despite their role in community development and public decision-making, concerns were expressed to us that due to the influence of some paramilitary groups this is now being undermined.

#### *Lack of confidence in the rule of law*

- 3.21 Although not necessarily reflective of society as a whole, we have been struck by the lack of confidence in the criminal justice system in some communities who regard it as being ineffective in tackling criminality linked to members of groups and in responding to local concerns, such as anti-social behaviour. We have heard particular concerns about the perceived erosion of community policing. While great progress had been made in developing community policing and building relations between the local community and the police, there is a perception that this has recently fallen back somewhat, at least in communities most at risk of criminal control. Views vary from place to place but there are perceptions that local concerns are not always being addressed effectively or that decisions are being taken remotely. Representatives of communities have repeatedly expressed concern that the pace of turnover of officers means they are forced to keep building new relationships with the police.

- 3.22 There is also frustration that the police do not appear to act on, or give feedback about, information provided by the community. Our consultation would appear to indicate that the situation is variable, depending on the locality and how experienced the police officers and interlocutors are. On the other hand, we have heard encouraging examples of local policing teams proactively communicating and building relationships with communities, not least by addressing more minor problems and building cooperation on the more substantial issues.
- 3.23 It is understandable that immediate or specific feedback cannot always be provided as the investigative process is worked through and a case is built. However, it can appear to the lay observer that the justice system moves slowly and delays can result in a perception that offenders are not pursued. The impression in the community that some people are not pursued or are 'untouchable' leads some to conclude, rightly or wrongly, that they are informers. Our expectations of the police and the wider criminal justice system need to be reasonable but any lack of confidence in the justice system is a significant barrier to progress that needs to be addressed.
- 3.24 Fear of reprisal against witnesses also deters individuals from coming forward as witnesses if there is insufficient support and protection for them to take this step.
- 3.25 Disillusionment with the slow pace of the justice system or seemingly lenient sentences can mean that people are less likely to cooperate with the justice system, with some people still turning to paramilitaries for more immediate redress. Furthermore, the perception that some of those involved in organised crime can evade justice or receive only lenient sentences further erodes respect for the justice system. We note the ongoing reforms aimed at speeding up justice and the planned further reform in this area, including better support for witnesses who come forward. As we note below, there is scope for more to be done in this area.
- 3.26 We are also aware that some matters can be dealt with in a more appropriate and speedy manner without the need for a formal, and expensive, court trial. We have seen the progress made by the accredited restorative justice schemes. The premise for restorative justice is the recognition that 'justice' ought not to be equated only with retributive or punitive justice, or with justice exclusively delivered by the criminal justice system. These schemes help to develop constructive relationships between the police and the community, encourage community support for the rule of law, support effective rehabilitation of offenders and, importantly, address the needs of victims. However, the accredited schemes are still limited in scope, have difficulty securing sustainable funding to deliver and expand their services and could usefully be extended to become a more mainstream part of the justice system.

#### *Culture*

- 3.27 In the representations made to us there was recognition of a need for a cultural change in our society with regard to the fear and stigma associated with being labelled a 'tout'. Although there is much anecdotal evidence about the extent of racketeering and extortion, these criminal activities are insufficiently reported to the police. Even more serious crimes

often go unreported. Without information and evidence, the police and the wider justice system are not able to deliver successful outcomes or build a safer community. Respect for the rule of law implies an individual responsibility to report criminality and to support the justice system to tackle it. It will take time to change that prevailing culture but strong political and community leadership can begin this process by promoting a culture of lawfulness.

#### *Legislative weakness*

- 3.28 We have not been able in the short time period available to us to conduct a thorough analysis of criminal justice legislation or the powers available to the police and other relevant agencies in dealing with all forms of criminality. However, we note that there is specific legislation related to organised crime in other parts of these islands which is not in place here. We have particularly noted that in Scotland the Criminal Justice and Licensing (Scotland) Act 2010 includes specific organised crime offences and corresponding sentences which appear to have potential for introduction in Northern Ireland.

#### *Scope for further law enforcement pressure*

- 3.29 There are perceptions that some individuals are 'untouchable'. They are widely perceived to be engaged in criminality but seem not to be pursued by the authorities. We have met various law enforcement agencies in the course of our consultation who have assured us that tackling criminality in Northern Ireland is a key priority for them. However, it may be possible for more pressure to be brought to bear on those responsible for criminal activity. In a context of limited resources, agencies have to prioritise their activities but there would appear to be scope for further law enforcement pressure to be focused on criminal gangs in Northern Ireland through more focused prioritisation and additional resources.

#### *Prisons*

- 3.30 We are aware of concerns regarding the separated regime for paramilitary prisoners. We are also mindful of the complexities and challenges in managing the separated regime, the recent murders of two prison officers and the very real security threat prison officers currently face from dissident republicans. We have consulted with a range of individuals who have put time and energy into trying to find a way through the problems that exist and we hope further progress can be made, particularly with the independent assessment team agreeing to remain in place until November 2016.
- 3.31 It is also important to note that the separated regime can serve to cement leadership positions and links between members of paramilitary groups and to draw individuals further into the activities of the group. We have also heard that education and training provision appears to have reduced.

#### *Social deprivation*

- 3.32 Many consultees have highlighted the link between social deprivation and continued paramilitary activity. Educational under-attainment and difficulties accessing employment have been cited as significant obstacles for communities. These issues hold individuals and

communities back and they contribute to the conditions which can be used to justify continued recruitment of young people into paramilitary groups. Despite significant investment in some neighbourhoods, the levels of deprivation are still high. Long-term change will require further focused government intervention.

- 3.33 It is important to recognise that as the prospects of sustained peace and security grow, communities' needs, expectations and priorities frequently evolve. In some particularly disadvantaged communities, the 'peace dividend' has not been perceived to yield the expected benefits and a situation of continuing insecurity and poverty has generated frustrations and resentment. In post-conflict societies, preventing a reoccurrence of violence is sometimes described as 'negative peace', whereas an approach that addresses issues of prosperity and social and economic stability enables a more sustainable 'positive peace'. A comprehensive cross-departmental approach to communities in transition is needed to tackle both these aspects of peace building.

#### *Legacy*

- 3.34 It is clear that some groups are unhappy about the arrangements outlined in the Stormont House Agreement for dealing with the legacy of the past. We have heard that some of those associated with paramilitary groups feel they had no part in shaping the arrangements and that ex-combatants believe they have been unfairly singled out for their actions during 'the Troubles', when others also played a part in concealing, condoning or encouraging their actions. There are concerns about how the legacy process will work, what is expected of the groups and what the intended goal is in terms of promoting reconciliation. There are also fears of prosecution and of 'friends' and 'comrades' turning 'supergrass' – and the potential consequences for such individuals.
- 3.35 It has been suggested to us that paramilitary groups would need to remain in existence to liaise as 'bodies corporate' with the proposed legacy institutions. Such arrangements are outside our remit but we have not been persuaded that groups' structures need to continue to exist for this reason.

## RECOMMENDATIONS FOR THE EXECUTIVE'S STRATEGY

- 4.1 We note that *A Fresh Start* already outlines a number of commitments to tackle “paramilitarism, criminality and organised crime”, ranging from a Joint Agency Task Force to improvements to the criminal justice system, community engagement and support for transition. We agree that there is merit in carrying out those actions. In addition, our assessment of the current situation and the barriers to further progress points to the need for a broader range of complementary strategic interventions.
- 4.2 On the basis of our work, including wide-ranging consultation of interested parties, we have concluded that a strategy is required, championed and led by the Executive, to achieve the following broad objectives:
- A. Promoting lawfulness
  - B. Support for transition
  - C. Tackling criminal activity
  - D. Addressing systemic issues
- 4.3 Our approach to the issue of disbandment of paramilitary groups is to recommend a range of measures to assist with this process that we believe are customised and responsive to the context. On the one hand, there is a need for a criminal justice response. On the other hand, it is important to address the sense of exclusion of some who wish to move on from a paramilitary past. The recommendations are aimed at securing an adherence to the values of a civil society and the rule of law, as well as encouraging transformation from paramilitarism.

### **A: Promoting lawfulness**

- 4.4 *A Fresh Start* points to the need to build a more lawful, peaceful society where paramilitary groups are no longer a part of everyday life and communities have confidence in the criminal justice system. This will require political leaders, the criminal justice system and all citizens to play a part in promoting and building a culture of lawfulness. This will involve actively promoting lawfulness across all sectors of society and increasing public confidence in the rule of law.

#### *Promoting public support for the rule of law*

- 4.5 As a society we can take steps to prevent paramilitary style attacks, confront intimidation and tackle organised crime such as extortion, racketeering and smuggling. Doing so will require a new culture of reporting information about these activities to the police.
- 4.6 The more people actively participate in a culture of lawfulness by reporting criminal or suspicious activity to the police, the more chance there is of averting crime, prosecuting those responsible for criminality and making our communities safer. For this reason, we

recommend that **the Executive should make promoting lawfulness a key priority in the current mandate (Recommendation A1).**

- 4.7 It is important that lawfulness is a value that is supported throughout society as a whole. In order that citizens are clear about the part they can play in tackling criminality, **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 (Recommendation A2).**
- 4.8 Promoting lawfulness has the greatest chance of being successful if it is something which is happening across all sectors of society, led by key figures in government, the business community, the voluntary and community sector, the arts, sport, the media and the entertainment industry. It will need to be a whole-of-society endeavour if it is to be successful. We recommend that **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 cooperation with the authorities as part of a culture of lawfulness (Recommendation A3).**
- 4.9 Intensive work should be undertaken to promote lawfulness and active citizenship among children, young people and at-risk communities, and combat a culture that discourages individuals from bringing information about criminal activity to the authorities. We recommend, **as part of its “cross-departmental programme to prevent vulnerable young people being drawn into paramilitary activity”, that the Executive should commission appropriate initiatives aimed at promoting lawfulness to be delivered in schools and through youth work in communities (Recommendation A4).**
- 4.10 We believe these programmes would be most effective if they involved visits by those previously involved in ‘the Troubles’ who can most credibly make the case for choosing lawfulness over either getting involved in criminality or simply doing nothing about it. The ‘Prison to Peace’ project is an excellent example of an initiative which had a measurably positive impact on the attitudes and behaviour of young people. The project promoted better understanding of the conflict and involved dialogue with those involved, such as ex-prisoners as well as victims of the conflict. We believe there are lessons to be learned from that initiative which could have wider application.

#### *Community confidence in policing*

- 4.11 People need to have confidence that the statutory law enforcement agencies, such as the PSNI, are able and willing to tackle all unlawful behaviour. Northern Ireland is not yet a ‘normal’ policing environment and, while there have been significant improvements (we note that overall confidence in policing is now reporting as being at 80%),<sup>23</sup> there is still work

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<sup>23</sup> The overall confidence in policing rating was reported as 80.9% in the Perceptions of Policing, Justice and Anti-Social Behaviour: Quarterly Update to December 2015 (May 2016). Available via <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/perceptions-of-policing-justice-asb-quarterly-update-december-2015.pdf>

to be done in some communities to build broader trust in the police and the justice system, not only among nationalists and republicans.

- 4.12 In certain communities, because of their experience of paramilitary groups and crime, there need to be more effective relationships between communities and the police that can build confidence, challenge false perceptions and help resolve crises. The Executive, the Policing Board and the PSNI all play an important role in addressing this. There also need to be strong law enforcement responses to criminal activity in order for communities to feel safer.
- 4.13 We recognise that, in the context of financial constraints, difficult choices have to be made about the prioritisation of resources. However, all communities need to feel comfortable providing information to the police about criminal activity in all its forms. Otherwise, some information about criminal and anti-social activity will continue not to be reported and the coercive control of individuals or certain groups will continue or intensify. If further steps are not taken by the Executive, the Policing Board and the police to enhance engagement with people in those communities, it is unlikely that significant progress can be made towards a culture of lawfulness. We recommend that **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 (Recommendation A5).**
- 4.14 The Policing and Community Safety Partnerships (PCSPs) also have the potential to play a central role in building good relationships between communities and the PSNI. However, the assessment of the effectiveness of PCSPs is mixed. Some function effectively and result in increased community confidence. Others are regarded as much less effective. It is crucial that all PCSPs are as effective as possible and we recommend that, **in setting the strategic objectives of PCSPs, the Department of Justice and the Policing Board should ensure that the partnerships focus on building community confidence in the rule of law and embedding a culture of lawfulness (Recommendation A6). The designated organisations<sup>24</sup> should also ensure that their representatives are sufficiently senior and committed to building effective partnerships (Recommendation A7).**
- 4.15 We believe that Government departments and the PSNI should plan for how their strategic approach to managing contentious issues in communities will evolve. We recognise that limited tactical dialogue with representatives of paramilitary groups has been an important and effective means of keeping the peace in some communities. We also recognise that this cannot change at once. However, in a lawful democratic society this engagement by the state with members of illegal organisations cannot become a permanent norm as, ultimately, it undermines the development of a culture of lawfulness. It is important that those who do business with Government and the PSNI should be consistent positive

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<sup>24</sup> The designated organisations set out in The Policing and Community Safety Partnerships (Designated Organisations) Order (NI) 2013 are: the PSNI, NIHE, PBNI, Youth Justice Agency, Health and Social Care Trusts, Education Authority, and the NI Fire and Rescue Service.

examples to their communities. We recommend that **the Executive and the PSNI, in conjunction with the Policing Board, should review their protocols for engaging with representatives of paramilitary groups. This change in approach should also apply to other public and community bodies and public representatives. (Recommendation A8).**

- 4.16 Restorative justice initiatives are an important part of both building confidence in the justice system and delivering better outcomes for communities, including lower levels of recidivism.<sup>25</sup> This work should, in our view, be continued and, where possible, enhanced and the scope broadened. We consider some of these organisations to be delivering significant outcomes and note that some are highly regarded beyond Northern Ireland as carrying out exemplary work in the restorative justice field. While in Northern Ireland this work began among those close to paramilitary groups, restorative practices have wider application. We understand that proposals are being developed for a Centre of Restorative Excellence which, if resourced, would result in significant enhancements to the delivery of restorative justice schemes, including greater partnership between organisations and a broader range of restorative interventions. We recommend that **the Executive should 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 proposal for a centre of restorative excellence (Recommendation A9).**

#### *Successful justice outcomes*

- 4.17 Delivering successful justice outcomes is also crucial to public confidence in the rule of law. This is particularly important in a society where some alleged criminals are regarded by many as ‘untouchable’ and where organised crime by current or former paramilitaries is regarded as prolific. Where there is evidence against individuals, society also needs to have confidence in the legal system to take appropriate action that is consistent with the law and human rights. Achieving the best possible justice outcomes will require particular focus on law enforcement activity (see the ‘tackling criminal activity’ section below). It will also require the criminal justice system to be able to deliver successful prosecutions and effective sentences.
- 4.18 The pace of justice should be further increased. The Executive has committed in *A Fresh Start* to implement “further measures to speed up criminal justice and support victims to give evidence”. While it is crucial that criminal proceedings should follow due process and comply with human rights, justice delayed is justice denied. The time it takes for cases to come to court could be reduced, securing more convictions and building community confidence in the criminal justice system. To this end, we recommend that **the Department of Justice should bring forward draft legislation to further reform committal proceedings to remove the need for oral evidence before trial (Recommendation A10).** We believe this can be achieved in a way that respects the rights of both victims and the accused. **The**

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<sup>25</sup> For example, CJINI accreditation inspections comment on the support expressed for the work of the restorative justice schemes and the difference they were making in the lives of young people and the victims of crime.

Department 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 (Recommendation A11).

- 4.19 Cases can be managed more efficiently. A case management pilot project was undertaken in the Ards area which resulted in cases progressing more quickly to court. This approach should be rolled out across Northern Ireland. We recommend that **the Department of Justice, the Courts Service and the Public Prosecution Service should implement the case management improvements throughout Northern Ireland, particularly in respect of those offences linked to terrorism or organised crime groups (Recommendation A12)**. More broadly, **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 (Recommendation A13)**.
- 4.20 It has been drawn to our attention that bail may be more readily available to those charged with serious offences in Northern Ireland than in other parts of the UK and Ireland. If true, it is likely that this will need to be addressed in the interests of public safety. We recommend that **the Department of Justice, working with the judiciary and with counterparts in the UK and Irish Governments, should review the position to determine the facts and, if required, bring forward measures to improve the situation (Recommendation A14)**.
- 4.21 There are indications of dissatisfaction with the sentences awarded to those responsible for paramilitary attacks, terrorism offences or other criminality. We note that a recent review of the law on unduly lenient sentences resulted in a number of additional offences being included in the Unduly Lenient Sentences scheme. As a result the Director of Public Prosecutions is now able to refer sentences which he considers are unduly lenient in respect of those offences to the Court of Appeal. We believe there may be scope to go further. **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 (Recommendation A15)**.
- 4.22 In view of the potentially corrosive impact of public concerns about sentencing, **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 (Recommendation A16)**.

## **B: Support for Transition**

- 4.23 Those who have been or are members of paramilitary groups but who wish to transition should be encouraged to do so. This includes the need to make sure that as many ex-offenders as possible are able to reintegrate and live peacefully and productively in society. These objectives were identified in *A Fresh Start* which proposes new measures aimed at

supporting transition. This included “the reintegration of people previously involved in the Troubles” and “initiatives to help moves away from paramilitary structures and activity”.

#### *Reintegration of ex-prisoners*

- 4.24 Many ex-prisoners returned to society following the implementation of the early release scheme. Many of those individuals, who want to work and be full participants in our society, have identified obstacles to employment, financial services, adoption and travel among other things. These obstacles are also sometimes encountered by their relatives, which can add to the sense of disenfranchisement amongst the families of ex-prisoners.
- 4.25 We were able to review a draft of the 2nd Report of the Review Panel on the Employers’ Guidance on Recruiting People with Conflict Related Convictions (“the Review Panel”) which we understand will identify a number of recommendations for the Executive to consider. We understand that recommendations may include the proposal that the Fair Employment and Treatment Order 1998 (FETO) should be amended, or repealed, to reflect changed political circumstances such as the dramatic fall in paramilitary violence and commitments to re-integration made in both the Belfast Agreement and the St. Andrews Agreement and more recently within *A Fresh Start*. This could substantially address some of the issues identified by ex-prisoners and their families as a barrier to progress.
- 4.26 We also note that the Review Panel may call in its report for progress on implementing the employers’ guidance principles, particularly in respect of public sector recruitment and vetting procedures, including to the civil service. Implementing those measures, along with increased transparency and monitoring, would also represent significant progress. It is our assessment that **the Executive should urgently adopt recommendations by the Review Panel that (a) the Fair Employment and Treatment Order 1998 (FETO) legislation 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. We further recommend that oversight of the implementation of these specific measures should be included within the remit of the Independent Reporting Commission (Recommendation B1).**
- 4.27 Further progress is required on other elements of reintegration. It is our view that **the Review Panel’s work should continue in order to consider what steps can be taken to improve access to financial services (including lending and insurance), adoption and travel advice (Recommendation B2).** In addition, **the Executive should make representations to the US Secretary of State to seek an expedited procedure for visa applications from ex-prisoners affiliated to groups on ceasefire (Recommendation B3).**

#### *Communities in transition*

- 4.28 We recognise that focused support will be required for communities and groups in the course of transition. *A Fresh Start* recognised that there needed to be “initiatives to help moves away from paramilitary structures and activity” and we believe that appropriate

support should be available for a time-limited period. The focus of this work should be addressing the need to build capacity in communities which are undergoing transition. To be effective, we believe that capacity-building initiatives should be designed and delivered through partnerships between community groups and other civil society organisations. To that end, we recommend that **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 (Recommendation B4).**

#### *The role of women in transition*

- 4.29 Women have played a very important and positive part in peace-building in Northern Ireland. We welcome the fact that the Executive intends to develop a “programme to increase the participation and influence of women in community development”. We understand that this programme will be supported by dedicated funding. We recommend that **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 (Recommendation B5).**

#### *Funding for transitional work*

- 4.30 While Northern Ireland has benefited for some years from international financial support, including from the European Union, we are approaching the end of the period when Northern Ireland will be considered an exceptional case for investment. This is resulting in a decrease in the available funding for peace-building initiatives. This, in turn, will require more difficult choices about how resources will be deployed.
- 4.31 We note that some additional resources are being made available by the Executive and the UK Government to support measures aimed at ending paramilitary activity. We also note that, under the *Fresh Start Agreement*, the Executive intends to carry out “rigorous enforcement of rules that prevent funding from being misused”. While it is important that public money should be properly accounted for, government departments will need to have an increased focus on the outcomes that need to be delivered in communities. When it comes to supporting transition, there needs to be some appetite for risk among funders. We recommend that **the Executive, in implementing rigorous enforcement of funding rules, should ensure that funding will be available for supporting creative and ambitious initiatives (Recommendation B6).**

#### *Dedicated unit on paramilitaries and communities in transition*

- 4.32 It is important that the Executive and other partners continue to be responsive to developments in communities and to ensure that the Executive can continue to develop appropriate policies and interventions. We recommend that **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 (Recommendation B7).

#### *Prisons*

- 4.33 We recommend that **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 (Recommendation B8)**
- 4.34 Prison can provide an opportunity to learn and transition to a different way of life. Programmes that are delivered in prison should be designed around ‘future life’ possibilities by building on individual interests and strengths in new ways. The purpose of such activity is to provide alternatives for channelling creativity, self-discovery, relieving boredom and should encourage individuals towards appealing alternatives. There should be a multi-faceted approach which should also seek to foster family commitments and family inclusion. We therefore recommend that, **whilst ensuring that all prisoners are treated fairly, the Department of Justice should ensure that appropriate learning and training opportunities are provided to prisoners in the separated regime (Recommendation B9).**
- 4.35 Although the time is not yet right for an end to separation, as we move to a more normal and peaceful society the ultimate aim must be to secure the end of a separated regime for paramilitary prisoners, acknowledging that this may be a longer term goal.

#### *Reducing re-offending*

- 4.36 It is crucial that, as far as possible, those who are released from prison or the young offenders centre are not drawn further into illegal activity. We note that the Executive has committed to bringing forward interventions such as “additional programmes aimed at reducing re-offending” and a “cross-departmental programme to prevent vulnerable young people being drawn into paramilitary activity”. It is important that effective initiatives are implemented without delay.
- 4.37 Currently there are no measures which are specifically designed to work with ‘paramilitary’ offenders or ex-offenders to equip them for return to society and reduce the risk of them being drawn into criminality. This is a gap which needs to be filled. We recommend that **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 (Recommendation B10).** 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 (Recommendation B11).

- 4.38 Some young men are at particular risk of being drawn into criminal activity and a cross-departmental approach will be required to help achieve better outcomes. Building on the best practice model of INSPIRE, which works with women at risk of offending, we recommend that **the Executive, in conjunction with the Probation Board, should develop, fund and implement an initiative 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 mentoring with targeted support in respect of employment, training, housing, health and social services (Recommendation B12).**

#### *Early interventions*

- 4.39 Earlier interventions are also possible. We note that the Executive is putting in place a cross-departmental programme to prevent young people being drawn into paramilitary activity. It is our assessment that preventative measures such as these are vital. We recognise that the Department of Justice has been increasingly moving towards approaches which seek to achieve the best long-term outcomes for young people who get brought into the criminal justice system. Similarly, the Departments of Health and Education are engaged in early interventions, for example to tackle child poverty and disadvantage. Providing high quality early years support can play an immensely positive role in preventing children and young people from getting involved in anti-social behaviour.
- 4.40 However, a joined-up approach will be required if serious in-roads are to be made into preventing young people being drawn into paramilitary activity rather than pursuing education or employment. We recommend that, **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 (Recommendation B13).**

#### *Decommissioning of weapons*

- 4.41 It is possible that, as progress is made on ending paramilitary activity, there may be further requests for a mechanism to put weapons beyond use. It is our view that **the UK and Irish Governments should consider a mechanism being put in place for a limited time to deal with any requests for future decommissioning of residual weapons or materiel (Recommendation B14).**

### **C: Tackling criminal activity**

- 4.42 We note in *A Fresh Start* that the Executive and the UK and Irish Governments have committed to support the rule of law unequivocally and all efforts to uphold it. We also note that a key plank of the Executive's proposals for ending paramilitary activity and tackling organised crime is the introduction of "new measures to enhance law enforcement co-

operation". This includes the commitment to provide support for law enforcement agencies to enhance specialist capabilities.

- 4.43 We agree that effective law enforcement is a critical element to any strategy for phasing out residual paramilitary activity and making society safer. We have been encouraged by the support right across our community for introducing further measures to tackle criminality. Those measures include changing how paramilitary activity is viewed and described, updating the relevant legislation, and an increased focus on tackling organised crime.

#### *Shift in law enforcement focus*

- 4.44 There needs to be a strategic shift in approach to what is currently described as paramilitary activity. Most paramilitary groups in Northern Ireland are no longer engaged in planning or executing terrorist activities. To the extent that criminal activities are carried out by members of groups on ceasefire, their activities typically amount to organised crime, largely within their own communities. The labels of Loyalist or Republican paramilitary groups are often used as a 'badge of convenience' but the activities tend to be purely criminal and not linked to any broader political objective. Referring to 'paramilitary activity' gives the misleading impression that the criminal activity referred to is in some way part of a concerted militaristic campaign or in pursuit of political objectives. It also has the effect of aggrandising the capacity of those responsible for criminal acts. We believe, with the exception of any ongoing terrorist activity, the focus should now be on criminality. To that end, we recommend that **the strategies and activity of the PSNI and other law enforcement agencies should be updated to reflect this shift in focus from 'paramilitary activity' to criminality (Recommendation C1).**

#### *Updating legislation*

- 4.45 We have previously highlighted legislation for tackling serious and organised crime in other parts of the UK and Ireland, including offences and corresponding sentences which are not in force in Northern Ireland. We have been particularly impressed with the legislation in Scotland. We understand that the legislative framework in Northern Ireland has not been reviewed in some time and believe that the time is right to consider whether it could be strengthened. We recommend that **the Department of Justice should urgently review the legislation relating to organised crime in Northern Ireland to make sure that it is as effective as possible, with a view to introducing draft legislation to the Assembly in the current mandate (Recommendation C2).** In doing so, the Department should draw on best practice and lessons learned in Great Britain, Ireland, the United States, Canada and elsewhere, while making sure to meet the specific requirements in this jurisdiction.
- 4.46 More generally, the legislative framework should remain in step with how realities are evolving on the ground. Most of the paramilitary groups on ceasefire are not the organisations they once were. They are not planning or conducting terrorist attacks and many members have transitioned away from violence towards more peaceful activities. Some (former or current) members of the groups continue to exercise coercive control in

their own communities and/or to engage in criminality. These changing dynamics mean that it is important to keep the relevant legislation under review. We recommend that **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 Northern Ireland (Recommendation C3).**

*Focus on organised crime*

- 4.47 Law enforcement agencies need to be able to focus on tackling criminality, including organised crime. We recognise that law enforcement agencies face difficult strategic choices about how much of their finite resources they should devote to achieving different objectives. We have already highlighted the need to make sure that community policing is optimally effective as part of building community confidence in the justice system. It is also important that law enforcement agencies are as effective as possible at tackling organised crime, particularly in order to disrupt and dismantle the criminal activities of significant players who are often regarded as ‘untouchable’.
- 4.48 We note that the PSNI is already seeking additional resources to increase its investigative capacity to tackle criminality and organised crime linked to members of paramilitary groups. The PSNI should be appropriately resourced to carry out this investigative work. However, whether or not the bid can be met in full from resources linked to *A Fresh Start*, we recommend that **the PSNI should prioritise this investment and work with the NCA and other agencies to more successfully disrupt organised crime linked to members of paramilitary groups (Recommendation C4).**
- 4.49 The National Crime Agency (NCA) has a very important part to play in tackling organised crime, including through its powers to confiscate assets. Likewise HM Revenue and Customs (HMRC) investigations into tax fraud have significant potential to disrupt the activities of organised crime groups. It is important for public confidence in the rule of law in Northern Ireland that no criminals are thought to be above the law. We believe there is greater scope for agencies like the NCA and HMRC to help build public confidence through more intensive targeting of the criminal activities of members of paramilitary groups. We recommend that **the UK Government should resource the NCA and HMRC to appropriately prioritise intensive work to tackle all organised crime linked to paramilitary groups in Northern Ireland (Recommendation C5).**
- 4.50 We believe that some of the organised crime carried out by those with links to paramilitary groups may be environmental crime, such as the dumping of illegal waste. The Northern Ireland Environment Agency (NIEA) is the enforcement authority for environmental crime in this jurisdiction and cooperation between the NIEA and other law enforcement agencies is crucial. It follows that **the NIEA, 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 (Recommendation C6).**

- 4.51 In view of the impact of criminality on individuals, communities and the environment, **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 (Recommendation C7).**

*Ongoing terrorist threat*

- 4.52 A small number of groups (principally violent dissident republican groups) represent a threat to the peace in Northern Ireland. Many of our recommendations will apply to DRs as well as to those groups on ceasefire. The groups not on ceasefire are judged by the UK Government to represent a threat to national security though, in truth, organised criminal activity by paramilitary groups is also a threat to the well-being and security of the state. There is some overlap between issues regarded as national security and those which are not and this can pose operational challenges. **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 (Recommendation C8).** We would also encourage initiatives to persuade groups not on ceasefire to end their armed campaigns.

**D: Addressing systemic issues**

- 4.53 In addition to the recommendations we have made thus far, we believe that long-term progress will require a number of systemic issues to be addressed. These include not only attacking social and educational disadvantage, preventing segregation, finding an agreed way forward on dealing with the past and taking a joined-up approach to implementation, but also changes in cultural and societal attitudes to paramilitary activity and criminality.

*Education, employment and young people*

- 4.54 Education and employment are undoubtedly factors which have a significant impact on the prospects for successfully phasing out residual paramilitary activity over the medium- to long-term. Educational under-attainment, and the unemployment which follows it, needs to be tackled if we are to maximise the chances of our children and young people becoming full and productive participants in society. The Executive has had a number of strategies which focus on tackling social disadvantage. However deprivation has proved persistent in many areas and we recommend that **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 (Recommendation D1).**
- 4.55 It is important to recognise that young people have other needs beyond education and increasing employment and delivering an adequate Youth Service also need to be included in these steps.

### *Tackling segregation*

- 4.56 The Executive has a strategy for building a united community. Tackling segregation and promoting understanding of those from other backgrounds is an important part of building a society where paramilitary groups no longer exist. We recommend that **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 (Recommendation D2).**

### *The Past*

- 4.57 We would urge that the process established for the ‘Families of the Disappeared’ should be supported by members of all former and current paramilitary groups.
- 4.58 Delays in finding an acceptable way of dealing with the ‘past’ continue to have an adverse effect on phasing out residual paramilitary activity. There is much uncertainty in communities and among those linked to paramilitary groups about what the proposed mechanisms for dealing with the past will involve. There are concerns that the process could increase community tensions and have unintended consequences. It has also been suggested to us that paramilitary groups would need to continue in order to service the new legacy bodies.
- 4.59 We do not accept that the continuation of the groups is necessary for success of the legacy process but we do believe that ongoing uncertainty and a lack of agreement on the way forward holds back progress. For this reason, we recommend that **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 (Recommendation D3).**

### *Implementation*

- 4.60 We have identified a number of substantive recommendations which we believe should be part of the Executive’s strategy for bringing residual paramilitary activity to an end. Addressing the issues which we have set out in this report will require Executive-wide action. Within the Executive, the steps that can be taken by the Departments of Education, Communities and the Economy, among others, are just as integral to success as those which fall to the Department of Justice. Likewise, others beyond the Executive, for example the UK and Irish Governments as well as wider civil society, all have important parts to play. For this reason, we recommend that **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 sector in the design, delivery and evaluation of the measures in its strategy (Recommendation D4).**

### *Monitoring*

- 4.61 We note that arrangements are already being put in place to monitor progress on the *Fresh Start Agreement*, including the establishment of an Independent Reporting Commission (IRC). **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 (Recommendation D5).**

## SUMMARY OF RECOMMENDATIONS

	RECOMMENDATION	OWNER
<b>A</b>	<b>Promoting Lawfulness</b>	
A1	The Executive should make promoting lawfulness a key priority in the current mandate.	Executive
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.	Executive
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 cooperation with the authorities as part of a culture of lawfulness.	Executive
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.	Executive (DE)
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.	Executive (DoJ) Policing Board PSNI
A6	In setting the strategic objectives of PCSPs, 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.	DoJ Policing Board
A7	The designated organisations should also ensure that their representatives are sufficiently senior and committed to building effective partnerships.	Designated organisations
A8	The Executive and the PSNI, in conjunction with the Policing Board, should review their protocols for engaging with representatives of paramilitary groups. This change in approach should also apply to other public and community bodies and public representatives.	Executive Policing Board PSNI
A9	The Executive should 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 proposal for a centre of restorative excellence.	Executive (DoJ)
A10	The Department of Justice should bring forward draft legislation to further reform committal proceedings to remove the need for oral evidence before trial.	DoJ
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	DoJ

RECOMMENDATION	OWNER
linked to paramilitary groups, including terrorist offences and offences which tend to be committed by organised crime groups.	
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.	DoJ Courts NI PPS
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.	Law enforcement agencies, PPS etc.
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.	DoJ LCJ
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.	DoJ
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.	LCJ
<b>B Support for Transition</b>	
B1 The Executive should urgently adopt recommendations by the Review Panel that (a) the Fair Employment and Treatment Order 1998 (FETO) 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.	Executive (TEO, DoF, DfE)
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.	Executive (TEO)
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	Executive (TEO)
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.	Executive (DfC)

RECOMMENDATION	OWNER
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.	Executive (DfC)
B6 The Executive, in implementing rigorous enforcement of funding rules, should ensure that funding will be available for supporting creative and ambitious initiatives.	Executive (DfC)
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.	Executive
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.	DoJ
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.	DoJ
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.	DoJ PBNI
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.	DoJ PBNI
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 mentoring with targeted support in respect of employment, training, housing, health and social services.	Executive PBNI
B13 As part of the cross-departmental programme, the Executive Departments with	Executive

**RECOMMENDATION****OWNER**

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

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 materiel.	UK Government Irish Government
<b>C Tackling Criminal Activity</b>		
C1	The strategies and activity of the PSNI and other law enforcement agencies should be updated to reflect a shift in focus from 'paramilitary activity' to criminality.	Law enforcement agencies
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, with a view to introducing draft legislation to the Assembly in the current mandate.	DoJ
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 Northern Ireland.	UK Government Irish Government
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.	Law enforcement agencies
C5	The UK Government should resource the NCA and HMRC to appropriately prioritise intensive work to tackle all organised crime linked to paramilitary groups in Northern Ireland.	UK Government
C6	The NIEA, 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	Joint Agency Task Force
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.	Executive UK Government Irish Government
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.	UK Government Executive Irish Government Law enforcement agencies

RECOMMENDATION	OWNER
<b>D Addressing Systemic issues</b>	
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.	Executive
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.	Executive
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.	Executive UK Government Irish Government
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 sector in the design, delivery and evaluation of the measures in its strategy.	Executive
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.	Executive UK Government Irish Government

## ABBREVIATIONS

CIRA	Continuity Irish Republican Army
CJINI	Criminal Justice Inspection Northern Ireland
DfC	Department for Communities
DE	Department of Education
DfE	Department for the Economy
DoF	Department of Finance
DoJ	Department of Justice
DDR	Disarmament, Demobilisation and Reintegration
DR	Dissident Republican
HMRC	HM Revenue and Customs
IMC	Independent Monitoring Commission
INLA	Irish National Liberation Army
IRA	Irish Republican Army
NCA	National Crime Agency
NIEA	Northern Ireland Environment Agency
NIO	Northern Ireland Office
NIPS	Northern Ireland Prison Service
OCTF	Organised Crime Task Force
PBNI	Probation Board Northern Ireland
PCSP	Police and Community Safety Partnership
PIRA	Provisional Irish Republican Army
PSNI	Police Service of Northern Ireland
RHC	Red Hand Commando
UDA	Ulster Defence Association
UVF	Ulster Volunteer Force