

Submission by the Equality Coalition to the Committee for the Assembly and Executive Review Committee's inquiry into Assembly and Executive Reform

June 2025

About the Equality Coalition

1. The Equality Coalition is co-convened by the Committee on the Administration of Justice (CAJ) and UNISON. It is a network of over 100 non-governmental organisations and trade unions that cumulatively work across all nine equality categories within Section 75 of the Northern Ireland Act 1998 (as well as on other protected equality grounds). The Equality Coalition provides a forum for unity between multiple sectors when campaigning for equality and is the representative umbrella forum for the equality sector. The Equality Coalition has a long track record of campaigning for the full implementation of the rights-based commitments of the peace agreements and compliance with international treaty-based obligations.
2. This submission is in response to the call for evidence from the Assembly and Executive Review Committee (AERC) review into institutional reform of the Stormont institutions. Through the consultation AERC "is seeking views from stakeholders on what institutional reforms could be implemented to improve the functioning and stability of the Assembly and the Executive Committee".¹ The consultation ran until 30 June 2025.

Executive Summary

- The Belfast/ Good Friday Agreement (GFA) provided for rights-based safeguards over power-sharing, including the incorporation of the ECHR into Northern Ireland law.
- The GFA also provided that Executive and legislative power in Northern Ireland was to be constrained by an ECHR+ 'Bill of Rights for Northern Ireland'. However, the NI Bill of Rights has not yet been introduced.
- In the absence of the Bill of Rights other mechanisms, including a provision originally intended to protect minority rights, have instead ironically been deployed to thwart and block progress on the progression of rights-based issues.
- This includes the previous misuse of the Petition of Concern mechanism – which was originally intended to be tied to compliance with the Bill of Rights and ECHR.
- It also includes the 'St Andrews veto' – which can require certain 'significant' or 'controversial' decisions by individual Ministers to be considered by the full NI Executive, potentially with parallel unionist & nationalist support, which has regularly been used as a blocking mechanism over rights-based policies.
- In addition the 'Executive Agenda veto' – a provision in the Ministerial Code whereby both the First and deputy First Ministers must both agree items for the agenda of the Executive, has also been used as a blocking mechanism on rights-based issues.

¹ [Review into Assembly and Executive Reform](#)

- In essence the focus of our concerns is that the GFA-intended framework of rights-based safeguards over the exercise of Executive and Legislative power has instead been replaced by veto-type mechanisms, in particular by changes made to the functioning of the institutions at the time of the St Andrews Agreement.

Our key ask is for the AERC to advocate for the repeal of the St Andrews veto and its replacement with the NI Bill of Rights.

We would also urge further reform of the Petition of Concern to introduce the adjudicatory role of the Human Rights Commission, supported by a majority of parties in the New Decade New Approach agreement, along with a binding safeguard to prevent misuse of the Executive agenda veto.

The intended safeguards from the GFA

3. The GFA provided for core safeguards over the exercise of Executive and Legislative power in NI. The GFA requires the codified incorporation of the European Convention of Human Rights (ECHR) into Northern Ireland law, with ‘direct access to the courts’ and ‘remedies for breach(es)’.² This commitment was largely taken forward through the Human Rights Act 1998.
4. In addition, through legislation in the UK Parliament, there was to be a supplementary ECHR+ Bill of Rights for Northern Ireland,³ the content of which was last advised by the GFA-established NIHRC (The Northern Ireland Human Rights Commission) in 2008.⁴ The 2020 ‘New Decade New Approach’ (NDNA) deal, between the UK and Ireland and Northern Ireland parties, restored the Northern Ireland institutions after three years of suspension (2017-2020).⁵ The NDNA provided for a new process for progressing the Bill of Rights for Northern Ireland, with an Ad Hoc Committee of the Northern Ireland Assembly which comprised the five main political parties. The work of this Committee was impeded but it nevertheless produced a final report in February 2022.⁶ Four of the five parties in the NI Executive stated their support for the Bill of Rights in this process (the exception being the DUP).⁷ There is broad cross-community support for the Bill of Rights,⁸ however there has been no further progress on this issue.

² GFA 1998, Rights, Safeguards and Equality of Opportunity Section, paragraph 2: The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.

³ The GFA-commitment to the Bill of Rights for Northern Ireland is not to be confused with the abandoned UK ‘Bill of Rights Bill’ the purpose of which was to repeal the Human Rights Act 1998.

⁴ <https://nihrc.org/publication/detail/advice-to-the-secretary-of-state-for-northern-ireland>

⁵ https://assets.publishing.service.gov.uk/media/5e178b56ed915d3b06f2b795/2020-01-08_a_new_decade_a_new_approach.pdf

⁶ [NIA 156/17-22 Report of the Ad Hoc Committee on a Bill of Rights](#), 14 February 2022

⁷ [NIA 156/17-22 Report of the Ad Hoc Committee on a Bill of Rights](#), paragraph 13.

⁸ [Polling shows public demand stronger rights protections following Covid-19](#)

5. Recently, the United Nations Committee on Economic, Social and Cultural Rights in their concluding observations from their 7th examination of the UK's compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR) urged the UK to "expedite the adoption of a bill of rights for Northern Ireland".⁹
6. Whilst the GFA provides that a Bill of Rights for Northern Ireland must be legislated for by the UK Parliament, the UK government has declined to put forward legislation until consensus is reached in Stormont, which is unlikely in view of the deep divisions¹⁰. This insistence on local political consensus has therefore now turned into a 'political veto' and has resulted in stagnation and political stalemate.
7. The lack of progress on this major issue is very unfortunate, as many of the issues that have destabilised power-sharing could have been addressed by a Bill of Rights. Furthermore, a Bill of Rights could have provided a more stable foundation for the power-sharing institutions by guiding the exercise of power and shaping the development of policy.¹¹ Additionally, a Bill of Rights would promote good governance by establishing a rights-based framework for accountability and place positive obligations on the state, serving as an important safeguard against the abuse of power¹².

We urge AERC to press the UK Government to implement the UN recommendation that the NI Bill of Rights is expedited.

The misuse of vetoes to block the progression of rights

8. In the absence of the NI Bill of Rights as the principle safeguard, we are concerned that other mechanisms have instead been deployed to thwart and block progress on rights commitments, making sustainable governance untenable and significantly contributing to Stormont dysfunctionality.
9. This section will comment on the Petition of Concern, 'St Andrew's veto' and Executive agenda veto.

The Petition of Concern

10. The Petition of Concern mechanism triggers a requirement for votes to require parallel unionist-nationalist consent. It was originally envisaged in the GFA as a safeguard to protect minority rights. The Petition of Concern was linked to conformity with 'equality requirements' and a Special Procedure Committee (*'Ad Hoc Committee on Conformity with Equality Requirements'*), to scrutinise the compliance of Assembly legislation or other measures with, in particular, the ECHR and the NI Bill of Rights.

⁹ [E/C.12/GBR/CO/7_C\(7\)\(c\)](#)

¹⁰ <https://www.coe.int/en/web/commissioner/-/united-kingdom-commissioner-warns-against-regression-on-human-rights-calls-for-concrete-steps-to-protect-children-s-rights-and-to-tackle-human-rights-issues-in-northern-ireland>

¹¹ Smith, A, <https://www.equalitycoalition.net/wp-content/uploads/2024/05/Report-Stormont.pdf>

¹² Smith, A, <https://www.equalitycoalition.net/wp-content/uploads/2024/05/Report-Stormont.pdf>

11. In practice, however, these provisions were not properly put into place and use of the Petition of Concern (particularly by the DUP) to block equality and rights initiatives, and for party political purposes, brought the mechanism into disrepute.
12. The NDNA deal consequently provided for some reform to the Petition of Concern mechanism,¹³ to ‘return it to its intended purpose’.¹⁴ However, NDNA records that “Most parties supported wider reform of the Petition of Concern.”¹⁵ This would have been in the form of the NHRI being granted a power of adjudication on the validity of a Petition of Concern as regards equality and human rights standards. This was not taken forward.
13. The tainted nature of the mechanism is illustrated by no Petitions of Concern being tabled in during 2020 or 2021 following the restoration of the institutions. The DUP did table one Petition of Concern in 2022 to seek to block the Integrated Education Bill. This however failed due to insufficient numbers of MLAs supporting the Petition.¹⁶ Whilst the Petition has become dormant, it has still not operated under its envisaged purpose as a rights-based safeguard.

We would also urge further reform of the Petition of Concern to introduce the adjudicatory role of the Human Rights Commission, supported by a majority of parties in NDNA.

‘St Andrews Veto’ at the NI Executive

14. The St Andrews Agreement 2006 made changes to the GFA including the introduction of a new veto over the exercise of powers by individual NI Ministers.
15. The ‘St Andrews Veto’ augmented the role of the NI Executive to require most ministerial decisions outside the terms of a Programme for Government to instead require a decision by the full Northern Ireland Executive if they were ‘controversial’ or ‘significant’ or ‘cross cutting’. Three ministers could also require an Executive vote to be taken on a ‘cross community’ basis (in which ‘Other’ Ministers have no vote)¹⁷. The criteria of ‘significant’, ‘controversial’ or ‘cross cutting’ do not relate to rights-based thresholds.
12. In the year following NDNA (when the adoption of a Programme for Government had been prevented and the Petition of Concern fell into disuse) this veto was invoked six times by DUP ministers to veto ministerial decisions. On three occasions it was used to block provision for early medical abortion services (relating to a UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) ruling); and twice to block public health measures to deal with the coronavirus pandemic. In previous mandates DUP ministers used the veto to block a consultation on same sex equal

¹³ [Reforms were implemented by the Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022](#)

¹⁴ NDNA, part II paragraph 9.

¹⁵ NDNA, part II paragraph 11.

¹⁶ <https://www.bbc.co.uk/news/uk-northern-ireland-60682540>

¹⁷ For further information see: <https://caj.org.uk/2020/11/18/stormonts-vetoes-in-the-context-of-a-pandemic-an-equality-coalition-briefing-note/> Members of the Northern Ireland Assembly are to designate on assuming office as ‘nationalist’, ‘unionist’ or ‘other’.

marriage, but also policy proposals on Irish language legislation and Irish and Ulster Scots strategies.¹⁸

13. The actual exercise of the St Andrews Veto is only the visible portion of a broader concern. The subsequent outcome is that Ministers are likely not to take a decision if they know they would be legally required to refer it to the full Executive and that it would be blocked in this way. The veto meant such decisions could not be taken at all during periods of 'caretaker ministers' (as was the case following the election in 2022) as no Executive exists to take the decision. During this time one MLA argued that even a Stormont Department launching a consultation (in this case relating to the minimum age of criminal responsibility) should have required Executive consultation.¹⁹
14. Matters included on the Programme for Government are exempt from the St Andrew's veto. The current Programme for Government is the first adopted in over a decade, but it is notable that its content is very limited.²⁰
15. There was some reform in the Executive Committee (Functions) Act (Northern Ireland) 2020 that excluded planning decisions from the scope of the veto, but aside from this, the veto is still very much intact and is the constant subject of contested litigation.
16. The St Andrews Veto has therefore had broad subjective application as a political veto. We would urge this veto is repealed. The NI Bill of Rights, along with the ECHR, would provide a more effective and objective safeguard against the contention individual Ministers could engage in 'solo runs' that infringe the rights of others.

We would urge the Committee to recommend that the St Andrews veto is repealed.

Executive Agenda veto

17. Another veto at the level of the NI Executive is a provision whereby the inclusion of ministerial proposals on the agenda for the NI Executive must be agreed by both the First and deputy First Minister.²¹ In practice, this means either the First or deputy First Minister can block an item being discussed at the Executive meeting, so that no decision at all can be taken on it.
18. An example of the misuse of this veto is highlighted in a judicial review taken by Conradh na Gaeilge. In August 2022 the High Court in Belfast ruled that the Executive had acted unlawfully in not adopting the Irish language strategy. Among the factors in reaching this decision, the court ruling records that the then Communities Minister had sought to include on the agenda paper a timetable for the strategy. The judgment states that:

¹⁸ For further detail see [CAJ Written Evidence to the UK Parliament Public Bill Committee: Northern Ireland \(Ministers, Elections and Petitions of Concern\) Bill](#)

¹⁹ AQW 3991/22-27 Mr Jim Allister (former TUV MLA now TUV MP).

²⁰ For our perspective see [Equality-Coalition-draft-Programme-for-Government-consultation-response.pdf](#)

²¹ 3 See paragraph 2.11 of the NI Ministerial Code
<https://www.northernireland.gov.uk/topics/yourexecutive/ministerial-code>

The evidence suggests that the Minister and/or the Department sought to have the issue progressed within the Executive Committee at over 30 of its meetings between December 2020 and June 2021.²²

19. The court observes that notwithstanding this ‘the paper on the Irish language strategy was never included on the Executive Committee agenda’ ruling that: *“It is difficult to avoid any conclusion other than that the issue was being blocked from substantive consideration at the Executive Committee, notwithstanding the DfC Minister’s concerted efforts to progress the paper and the work which it was to underpin.”*²³ An Irish language Strategy has still not been adopted, and Conradh na Gaeilge have initiated new legal proceedings against the Executive for the third time in a decade on this issue.
20. Reforms in a Fresh Start to prevent the repeated blocking of items from inclusion on the Executive’s agenda were taken forward in a non-binding manner and are not reflected in the binding Ministerial Code.²⁴ Notwithstanding the general role of the First and deputy First Ministers in shaping an Executive agenda it is clear there has been abuse of this mechanism to prevent discussion and thwart progress on a range of issues, including matters which constitute legal obligations.²⁵

We would therefore urge the Committee to consider a binding safeguard to prevent repeated blockage of items from the Executive’s agenda in this way.

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²² Conradh na Gaeilge’s Application (no 2) [2022] NIQB 56 paragraph 15

<https://www.judiciaryni.uk/judicialdecisions/2022-niqb-56>

²³ ²³ Conradh na Gaeilge’s Application (no 2) [2022] NIQB 56 paragraph 15

<https://www.judiciaryni.uk/judicialdecisions/2022-niqb-56>

²⁴ A Fresh Start, paragraph 62. <https://www.gov.uk/government/news/a-fresh-start-for-northern-ireland>

²⁵ For examples see CAJ Written Evidence Northern Ireland (Ministers, Elections and Petitions of Concern) Bill Committee, paragraph 20 <https://bills.parliament.uk/bills/2858/publications>