The Enforcement of Statutory Duties Conference

Thursday 23 January 2025

Equality Coalition

CAJ Committee on the Administration of Justice
Promoting Justice / Protecting Rights

UNISON

Ulster University

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Introduction

This transcript is from 'The Enforcement of Statutory Duties' conference, co-hosted by the Equality Coalition and CAJ, and held on Thursday, 23rd January 2025 at Ulster University, Belfast campus in collaboration with Ulster University's Transitional Justice Institute (TJI). The event brought together campaigners, legal practitioners, academics and community leaders to reflect on the effectiveness of equality and related statutory duties in Northern Ireland. The discussions focused on Section 75 enforcement, other statutory duties such as rural needs, Irish-medium education, anti-poverty and environmental protections, as well as comparative lessons from outside Northern Ireland. What follows is a record of the speakers, panels and audience discussion.

Questions posed by the audience are anonymised and, in many cases, summarised, as the purpose of the event was to focus on emerging issues and themes.

Chair & Speaker Bios

Patricia McKeown (Chair): Regional Secretary, UNISON Northern Ireland
Patricia is a trade union leader with decades of experience advocating for workers' rights and equality in the public sector. She also co-convenes the Equality Coalition. She has been a prominent voice in defending and advancing the equality commitments of the Good Friday Agreement.

Rory O'Connell (Chair): Professor of Human Rights & Constitutional Law, Ulster University
Rory researches and teaches human rights and constitutional law at Ulster University; he has been director of the Transitional Justice Institute and Research Director for Law at Ulster. He is Vice Chair of CAJ.

Daniel Holder: Director, Committee on the Administration of Justice (CAJ)
Daniel is Director of CAJ and Co-Convenor of the Equality Coalition. He specialises in equality, human rights and immigration law, with a particular focus on Section 75, policing and accountability. Daniel has extensive experience in legal advocacy and strategic litigation support, including coordinating interventions and judicial reviews to enforce statutory duties.

Dr Robbie McVeigh: Independent Equality & Human Rights Researcher
Robbie is a sociologist and researcher specialising in equality proofing, anti-racism and the intersection of equality law with peacebuilding. He has contributed extensively to academic and policy debates on the role of 'good relations' in Northern Ireland's equality framework.

Eliza Browning: Senior Policy Officer, CAJ
Eliza works on equality law, policing oversight and human rights compliance. She holds a Juris Doctor from the United States and has prior experience as a family law litigator and children's rights advocate. She has been centrally involved in CAJ's 'Equality Duty Enforcement Project', conducting research, casework and advocacy to strengthen enforcement of Section 75.

Kate Clifford: Director, Rural Community Network (RCN)
Kate leads RCN, an organisation representing rural communities across Northern Ireland. She has worked extensively on rural development, equality of access to services and rural proofing in public policy. She is a recognised advocate for rural voices in policymaking, ensuring that the needs of dispersed and marginalised communities are reflected in government decisions.

Conchúr Ó Muadaigh: Advocacy Manager, Conradh na Gaeilge
Conchúr is an Irish language rights campaigner focused on education, signage and legislative recognition. His work addresses structural barriers to Irish-medium education and public service provision. He plays a leading role in shaping policy debates on Irish language rights and works closely with communities and political stakeholders to advance legislative reform.

Laura Neal: Friends of the Earth Northern Ireland (FOE NI)
Laura is a solicitor specialising in environmental and public interest law. She supports communities and campaigners in challenges to major developments, including the Dalradian Gold Mine inquiry. At FOE, she leads legal work on environmental justice, accountability and governance, working to hold public authorities and corporations to account for environmental failures.

Fergal McFerran: Policy & Public Affairs Manager, Children's Law Centre
Fergal is responsible for the Children's Law Centre's policy analysis and public affairs activity, working to ensure the breadth of CLC's experience and expertise is used to engage, inform and influence decision makers to promote, extend and defend the rights of children and young people.

Angela Hodkinson: Social Change Initiative (SCI)
Angela is an Associate with SCI, focusing on social justice, human rights and long-term policy planning. She has worked on comparative models such as the *Well-being of Future Generations (Wales) Act* to explore their relevance to Northern Ireland. Her work bridges international best practice and local reform, supporting civil society to embed long-term thinking in public policy.

Welcome

Rory O'Connell welcomed the participants to the event on behalf of Ulster University's Transitional Justice Institute (TJI) and noting that Ulster University had just been named University of the Year and the campus building had been named Building of the Year in Northern Ireland. Having outlined housekeeping matters, he invited Daniel Holder to give some opening remarks.

Opening Remarks – Daniel Holder

It is important to recall what Section 75 replaced following the Good Friday Agreement (GFA). Prior to its introduction, equality policy within the civil service was guided by a voluntary code Policy Appraisal and Fair Treatment (PAFT)– a softer framework that lacked enforceability. Section 75 aimed to change that: to introduce a duty on public authorities to promote equality, backed by legislative teeth, which superseded the voluntary code.

At the same time, further to the GFA, we saw the Standing Advisory Commission on Human Rights replaced by a dedicated Human Rights Commission, established with stronger independence and statutory powers around the Paris Principles, including the ability to take court cases and conduct investigations. These reforms were meant to embed a rights-based culture into public life.

In some areas, we have seen success—particularly where provisions are legally binding. For example:

- The Human Rights Act 1998 has proven effective because individuals can directly enforce its provisions in court.

- Rights under the GFA have gained further protection through Article 2 of the Protocol/ Windsor Framework—shielding us from two major extreme legislative threats in recent years:
    - the Legacy Act, designed to limit accountability for the past, and
    - the Illegal Migration Act, which risked institutionalising arbitrary detention.

These examples show that binding legal safeguards can and do work.

The Intention Behind Section 75

The original aim of Section 75 was not just procedural box-ticking. The intention was to create a mechanism through which public policy could actively promote equality. In addition, if a policy risked contributing to discrimination, the law required that its adverse impact be documented and seriously reconsidered.

The point was not just to make civil servants produce more paperwork—it was to shift the culture of decision-making toward equality. There was also a built-in enforcement pathway: individuals or organisations could lodge a complaint with the Equality Commission for breach of the equality scheme and enforcement could extend, in some cases, to judicial review.

Sadly, what we have seen is a gap between intention and implementation. Public authorities may comply on paper—but not in practice. In our 2018 report, *Equal to the Task?* we found a broad consensus that the duty is widely flouted and frequently ignored.

Today, we are asking: "How well has the enforcement aspect worked?" It is an opportunity to take stock. We will have to come back for a part-two to consider the Children's Law Centre's challenge regarding the 2023–24 Northern Ireland Budget (Northern Ireland Budget (No. 2) Act 2023).

Enforcement of Section 75 has been limited and several public authorities appear more enthusiastic about conducting 'good relations impact assessments'—a concept not rooted in legislation—than engaging substantively with equality screenings.

Other Statutory Duties Under Scrutiny

Beyond Section 75, the event today explores several other duties, all based around the principle of 'due regard':

- Rural Needs Duty under the Rural Needs Act, which requires authorities to consider the economic needs of rural communities. Kate Clifford will explore how transparent and enforceable that duty has been.

- Later, we will delve into Irish language rights. Though some statutory duties—like those for Irish medium schools—have existed for decades, others remain pending. For example, the Irish Language Commissioner will eventually have power to issue standards, but the current framing under the Languages Act is much weaker than the corresponding Welsh legislation.

- There are also new functions—under the Identity and Language Act, relating to the Ulster Scots Commissioner and National and Cultural Identity Principles.

- Irish-Medium Education Duty, which has existed for over 25 years. Recent amendments, like the Alliance private member's bill, have given more shape to the integrated education duty—but enforcement still varies widely across departments.

- Anti-Poverty Strategy, where CAJ has now launched the fourth judicial review seeking meaningful implementation of a St Andrews Agreement statutory duty (further to a previous JR on the anti-poverty strategy and two others relating to the Irish language strategy, all of which have been successful). Despite requirements in the legislation, the Executive has failed to produce to date anti-poverty or Irish language strategies.

- The duty to cooperate on children's services—which the Children's Law Centre will speak about—is a prime example of how well-intentioned legislation can falter without follow-through. In addition to this, Laura Neal will explore environmental enforcement.

- Finally, we will hear about models like the *Well-Being of Future Generations Act in Wales.* It is an instructive example for Northern Ireland, showing what is possible.

From left to right: Dr Robbie McVeigh, Prof Rory O'Connell, Eliza Browning

Panel 1: Enforcement Lessons

Rory O'Connell (chair)

The event sets the stage for a renewed commitment to enforcement, transparency and legal innovation in equality and social justice policy. Attendees will hear reflections, legal analyses and forward-looking proposals aimed at strengthening the architecture of rights across Northern Ireland.

Robbie McVeigh: Local Government and Section 75

It is great to be back—especially as a graduate of 'the Poly' [Ulster Polytechnic, now Ulster University]. While the new building is wonderful, there is a small sense of loss for me in terms of history. The Ulster Poly bar had its own character; our heart was at home in auld Ireland and the bar even had its own song. I carry that history with me.

Another part of my personal history is having been a young person when the Good Friday Agreement was being negotiated. I played a small part in discussions around Section 75 and returning to that question today feels particularly poignant.

Let me begin by saying this: while I will be critical in my comments, the concept of equality proofing—screening for inequality before it happens—is a brilliant one. It is noble, and it is something we should all subscribe to. If the system has fallen short, that does not undermine the principle itself. It remains a powerful idea.

A Personal Anecdote on Implementation

Recently, my mother—who lives in Omagh and has dementia—was trying to get her bin collected because she could no longer manage it herself. The process was surprisingly complex. It required her to fill out Section 75 categories—including discussions about sexuality and marital status—while we negotiated eligibility.

It was surreal but also revealing. On the one hand, it shows that Section 75 has embedded a level of procedural consideration that would not have existed 30 or 40 years ago. But on the other hand, she still has not had her bin collected. So, the procedural side worked, but the outcome did not. That sums up much of the problem.

Driving through Omagh at the time, I passed Michael Street (the shortest street in Ireland)—also called Sráid Naoimh Mhichíl. It reminded me of Omagh District Council's bilingual policy back in the 1920s. A century ago, bilingual signage was possible—yet today, we are still struggling to implement it in Belfast. It underscores how long we have been at this.

From Mainstream to Margins

The commitment to promote equality was one of three pillars of the Good Friday Agreement. Mary Robinson described it as bringing rights from the margins to the mainstream. But what I see today is rights drifting back toward the margins—and that is the political and rights challenge we face.

Councils are central to this conversation. Historically, they were epicentres of discrimination—Derry being the most obvious example. Up until the 1960s, there was not a single Catholic employed at the Guildhall. That feels unimaginable now, which also points to the scale of change.

The Mechanics & Data

At council level, Section 75 compliance is primarily driven through screening and impact assessment, guided by Equality Commission (ECNI) methodology. There is also the use of the 'cog mechanism', introduced for minority rights protection. One key question is around the relationship between these two mechanisms. Screening determines whether a policy requires mitigation or a full Equality Impact Assessment (EQIA).

Employment Data as a Lens for Sectarian & Gender Review

- In 2022, for the first time, the share of the monitored workforce from the Catholic community exceeded that of the Protestant community. This is a seismic shift. It challenges the old framing of Northern Ireland as a place where a Catholic minority is discriminated against—because if discrimination now exists, it is increasingly against the majority.

- This data shows that some councils—like Derry & Strabane or Newry & Mourne—have overwhelming Catholic majorities, while others—like Ards & North Down or Mid & East Antrim—have strong Protestant majorities. Half of the councils are still failing to meet even a basic benchmark of fair employment—falling well below the 30% threshold for balanced sectarian representation.

- Gender data is equally alarming. Belfast City Council has only 38% female employees—well below the expected 52%. This data was accessed through the Equality Coalition. Even though the data is collected, it is not published. Why is there not a debate about this? Why is such obvious inequality not front and centre?

Councils are active under Section 75, but screenings rarely result in change. Major policies, like budgets—the most influential levers they have—are routinely unscreened. It is not that I dislike the methods—it is just hard to see if there are any.

Systemic Challenges

There are three broader issues undermining equality:

1. The exclusion of class and poverty. You cannot truly tackle inequality without addressing socio-economic disadvantage. The Good Friday Agreement included a commitment to an anti-poverty strategy—which still has not been delivered.

2. The scope of Section 75 is now so extensive that it is hard to meaningfully address all the permutations. It has become a complex matrix that strains resources and conceptual clarity.

3. Good relations are sometimes used to undermine equality. When resources are limited, there is a tendency to prioritise good relations over substantive equality screening. That should not happen. Equality should always trump good relations when there are not enough resources.

Who Should Drive the Equality Strategy?

So, who leads at council level? Is it the council itself, the Equality Commission, someone specially briefed and empowered, or NGOs?

Based on recent work, even skilled NGOs find it almost impossible to intervene when councils get things wrong—an example of this is around flawed decisions regarding housing or greenways. We need to politically rethink how strategic equality leadership is resourced and delivered at council level.

Eliza Browning, CAJ Senior Policy Officer

Eliza Browning: Issues with Section 75 Enforcement

My name is Eliza Browning and I am the Senior Policy Officer at CAJ. When I was first hired, my job title was quite a mouthful, Equality Duty Enforcement Project Coordinator. I rarely got it right. I led a project focused on improving public authority compliance with Section 75, as well as the Equality Commission's complaint assessment and investigation procedures.

For today's purposes, I want to share what our research and practical experience have revealed about Section 75 enforcement—and where we see challenges and opportunities for improvement. I will be focusing exclusively on the role of the Equality Commission as an enforcement body—not on the courts or judicial review, which currently remains an option only under very limited circumstances.

Overview of the Complaints Process

In short:

Public authorities must develop and implement their policies through the equality assessment process laid out in their equality scheme to meet the 'due regard' requirement of Section 75.

- This begins with an equality screening—a pre-adoption data analysis of any proposed policy.
- If adverse impacts are identified, mitigation or alternative policies must be considered.
- Where impacts are considered major, a full Equality Impact Assessment (EQIA) is required.

As Robbie has indicated, most policies are screened out with no mitigation.

If an authority fails to comply, an affected individual or NGO can submit a complaint – first to the public authority, then to the Equality Commission if unresolved. Complaints may be escalated to the Statutory Duty Investigations Committee (SDIC), which decides whether an investigation will be authorised. They will decide if a public authority has breached its obligations. It usually also develops recommendations for further action.

Background of the Equality Duty Enforcement Project

This work built on *Equal to the Task?*, a report which exposed widespread non-compliance with Section 75 and near-total avoidance of formal enforcement powers set out in paragraphs 10 and 11 of investigations by ECNI. Most of civil society was discouraged by this. Very few engaged in complaints processes.

Key findings included:

- Ongoing issues with avoidable delay
- A pattern of valid complaints not being investigated
- An emphasis on advice over enforcement

Between 2014 and early 2021, we identified:

- 21 complaints deemed procedurally valid
- Just five investigations—with three of those occurring during our project's timeframe
- Two of those three directly involved CAJ support

This clearly shows the project's role in prompting long-overdue scrutiny. The full report is available on their website.

Case Studies

1. TransLink & Cross-Border Immigration Checks

The case involved an affected individual with CAJ's support. TransLink publicly confirmed its policy of allowing immigration enforcement to board buses (a policy that still exists). TransLink publicly stated this was a policy decision. CAJ requested the equality screening conducted on this policy, but it was denied. TransLink argued the practice did not count as a 'policy' and, therefore, did not require screening. This is a recurring loophole for public authorities.

The Commission first received our complaint in October 2019. Nine months later, it declined to investigate, citing confidential legal advice that found TransLink was not performing a function under Section 75. They claimed actions were part of a 'transient contractual relationship' and therefore did not qualify as policy.

Through FOI requests, we later discovered earlier legal advice from the Commission's own counsel recommending an investigation. "The Commission has sought legal advice on this complaint. The advice is that the matters alleged constitute practices for TransLink and therefore should be considered by TransLink to be a policy or policies. The investigation is recommended…"

The SDIC ultimately rejected the complaint based on the second opinion. This example raises real concerns. The primary issue being that confidential legal advice can substitute for a transparent Commission investigation into a valid complaint – particularly when the legal advice centres on the exact issue that an investigation should scrutinise, whether or not something is a policy. It is also concerning that, when presented with legal advice recommending an investigation, the Commission sought different advice recommending the opposite.

Had an investigation taken place, the legal arguments could have been considered and placed in a published investigation report. Instead, the Commission's position was to rely on advice that could not be subject to any scrutiny.

2. Ulster University & Bilingual Signage

CAJ and Conradh na Gaeilge, challenged a decision to conduct an EQIA on bilingual signage at Ulster University—based on good relations impacts, rather than equality impacts. This stemmed from perceptions of discrimination against Irish language use. We were particularly concerned that the university's decision was not based on adverse impacts on equality of opportunity, but rather adverse impacts on good relations. These impacts were based on a perception of discrimination that students would feel from looking at bilingual English-Irish signs.

We were very concerned that perceptions of discrimination based on an intolerance of the Irish language triggered a comprehensive and lengthy EQIA. We were also significantly concerned that the process was primarily a tactic to indefinitely delay the implementation of policy.

We made this concern clear to the commission in our complaint. We also raised that concern with the university prior, and we were reassured that was not going to be the case and that the policy would not be indefinitely delayed.

Regarding the assessment, the Commission decided not to investigate.
The assessment states:

> *Ulster University has stated that the decision to EQIA did not equate to a rejection of the policy, but a recognition that the process itself would provide opportunity to explore the issues and address them. This process is ongoing, and Ulster University should further consider the evidence and information that the complainants allege that Ulster University did not consider appropriately at the screening stage.*

The EQIA progressed and, right before it was set to go out for public consultation in May 2021, the senior leadership at the university decided to halt the process pending the appointment and recommendations of an Irish Language Commissioner.

We filed another complaint with the commission in 2022, arguing that the university breached its equality scheme by suspending the EQIA process, which amounted to a de facto decision to not implement bilingual signage.

The Commission declined to investigate, finding that:

> *There is no requirement to continue or conclude an equality assessment if the process of the development of the policy subject to such assessment has come to a halt for whatever reason.*

This process revealed a few different concerns.

Firstly, it highlights our long concern over the use of good relations impact assessment to infringe upon policies that promote equality. But it also illustrates that the Commission appears to endorse the finding of adverse impact based on perceptions of discrimination rooted in prejudice and intolerance.

And ultimately, I think it reveals a weakness whereby the Commission has interpreted its powers very narrowly, prioritising an investigation into public authority decision making while progressive policies are halted or reversed.

3. PSNI & Data Sharing with the Home Office

In July 2022, CAJ and the Migrant Centre requested a paragraph ten investigation into a complaint that the PSNI had not adequately equality screened their policy of sharing victim and witness data with the Home Office. That was their policy. They did in fact equality screen it and we argued this screening did not comply with the requirements of the scheme. That is a common complaint. Our argument was that the equality screening did not adequately explore alternative policies, mitigations and options for a firewall between the PSNI and the Home Office.

The PSNI argued that legal constraints prevented them from mitigating the policy. We disagreed, contending that no such constraints applied. Our complaint sought an investigation into whether the PSNI should have considered mitigation options.

In November 2022, the Commission assessed the complaint but declined to investigate. It concluded that examining whether the PSNI had failed to comply with its equality scheme—by not conducting an EQIA of the policy—would not directly affect the current policy aim. In other words, such an investigation would focus only on procedural compliance, not on the actual effects of the policy itself.

The Commission also stated in their reasoning that the PSNI had provided information. It would appear there are inevitable constraints on their consideration of mitigation and alternative policies.

Finally, the Commission stated that there is little the PSNI might learn as a result of the Commission investigating whether the PSNI should have undertaken a full EQIA on this matter.

There are several things concerning about this logic.

Firstly, the assessment determined that our complaint was about the content of the policy rather than the breach of the equality scheme. We still are not sure why the Commission came to this conclusion.

Secondly, the Commission argued that an investigation would not alter the content of the policy. Yet the Commission itself makes clear that its role is not to make or change policy for public authorities. Given that, we did not understand why our complaint was rejected on the basis that the investigation might not ultimately affect the policy.

Finally, the most frustrating rationale was the claim that PSNI were bound by unavoidable legal constraints—a position that simply echoed the PSNI's own argument. In its assessment, the Commission effectively decided in advance that the PSNI could not modify the policy, even though this was precisely the contested issue we had asked it to investigate.

After the Commission's decision, we met with the PSNI. At that point, they reversed their position, acknowledging that no legal barrier prevented them from modifying the policy, and they committed to doing so. Since then, there has been some back and forth, but we are now at a stage where the outcome could be highly significant: not only the best policy in the UK, but potentially one of the best in Europe.

We presented this evidence to the Commission in our review request to see if this was going to change the rationale for not investigating or indeed spark an investigation, because at that time, it was uncertain if the PSNI would follow through with their promises. However, the review request was also denied on the basis that no new relevant information was provided.

Key Takeaways

- Valid complaints often are not investigated
- Legal advice is sometimes used to close off scrutiny rather than open it
- Progressive policies can be reversed due to perceived good relations risks
- The Commission appears to prioritise providing advice over using enforcement powers

Final Reflection

We support the Equality Commission. We value its institutional role. But it must be stronger, braver and more transparent. Without judicial review as a reliable enforcement mechanism, this is all we have. That is why pressure from civil society is vital—not to tear down institutions, but to make them live up to their purpose.

We have seen real successes. But there is still work to do. Thank you.

Panel 1: Questions and Answers

Q.1 Section 75 & Judicial Review

My question relates to something you mentioned in your talk: that Section 75 is only subject to judicial review under exceptional circumstances. Could you say more about that?

Eliza's Response

It is very much in flux now. Part of what we were hoping to better understand was the outcome of the Children's Law Centre case, which may help clarify things. Recently, however, the courts have narrowed the scope even further. It remains an open question, subject to appeal, but narrowing, nonetheless.

There was a previous case—the Toner case [*Toner – Judicial Review [2017] NIQB 49*]—that allowed for judicial review of Lisburn City Council's decisions concerning kerb heights. In that case, the court found the Council had properly consulted and complied with its policy commitments. I still have not fully grasped why the judicial review proceeded in that instance, or what argument ultimately succeeded. I suspect it had to do with the complainant being procedural in nature and unable to avail of the standard submission process—leaving judicial review as the only recourse.

More recently, the courts have moved to restrict the availability of judicial review, increasingly directing complainants towards the Equality Commission as the appropriate alternative remedy. The landscape is therefore still shifting and remains in flux. Where a breach of an equality scheme is alleged, the courts now appear increasingly reluctant to intervene directly.

Eliza Browning, Dr Robbie McVeigh and Prof Rory O'Connell

Q.2 Section 75 & Civil Society

There seems to be a lack of public and civil society engagement when it comes to challenging the standards councils provide under Section 75. I am unclear about your recommendation—how could people be upskilled to take this on?

Robbie's Response

That is a great question. What I am suggesting is that we need a broader conversation about how to transform the current situation—because it is not good. In fact, it's pretty bad. The promise of Section 75 in the Good Friday Agreement was noble, especially considering the history of discrimination in the North, most notably sectarian discrimination.

But the idea behind Section 75, that inequalities could be screened out before they occur, is not functioning as intended. That is where my brief focused, using specific cases to illustrate the problem. For example, in the council employment data, I have noted differential representation not just along sectarian lines but also in terms of gender. Belfast City Council stands out as particularly concerning.

The failure to address these discrepancies needs to come first before we shift to discussing future reform. If the consensus is that Section 75 is not working, I do not believe the answer is to abandon it—we are not at that point. We must make it work. Instead, we need a reset, a fundamental reassessment of how it is working in practice.

Q.3 Section 75 & Employment Law

Councils, for instance, should be accountable for employment monitoring. There is very little effort being made to ensure balance. If you come across interactions between employment law and Section 75, you will find mismatches between intent and practice.

Robbie's Response

It will be caught, but it is no longer a live issue. In the lead-up to the Agreement, sectarian employment gaps dominated the headlines. Today, they have largely slipped from public view. What Mary Robinson once described as rights moving from the margins to the mainstream has, in effect, gone into reverse. The real defeat lies in how these protections are now being realised.

That is why we need to ask: what happened and what can be done now? You are absolutely right—people are not engaging with these issues the way they used to. As I mentioned, there's been a demographic shift. You can go through employment statistics and see a clear expectation: any organisation that does not reflect plurality likely indicates ongoing inequality or discrimination.

You can apply the same test to gender. We should be doing that routinely and councils should take genuine responsibility—rather than making only minimal efforts

Q.4 Advice Versus Enforcement

My question is for Eliza. In your talk, you focused on the provision of formal enforcement powers. I was wondering—through your engagement with the Commission or with other bodies—have you come across any explanation to why there seems to be a consistent tendency to lean towards advice rather than formal enforcement? Or is this simply a pattern you recognised across the project?

Eliza's Response

The Commission has never explicitly explained why it prioritises advice. However, on multiple occasions, it has told us that it views advice enforcement part of its overall enforcement strategy. We have pushed back on that quite strongly, arguing that advice provision is not the same as formal enforcement.

I think this reflects a broader cultural tendency, there is an underlying belief that if we ask nicely, things will change. To be fair to the Commission, much of its advice and guidance is genuinely useful, especially for civil society. It can also be helpful to public authorities.

When I was researching this, I looked at interdepartmental meetings across various government departments through FOI requests. What I found was that officials themselves were quite frustrated with the reliance on advice. They often said, "We hear about this advice all the time, but it is not reaching the right people—it is not getting into the hands of decision-makers."

That became a key focus of the report: highlighting that good intentions alone are not enough. If people do not have the authority or resources to implement the advice, it does not lead to change. Stick and carrot are required, enforcement powers are essential—especially in areas like public health, where authorities rely on them to shift institutional culture.

And there is a financial dimension to all of this. Effective implementation costs money. Public authorities likely need stronger incentives to allocate the necessary resources and time to make it happen.

Q.5 Commission on Advice Versus Judicial Review

Daniel's follow up on the issue:

Clarification on the Commission on Advice v Judicial Review. Let me just go back to basics. I mentioned in my introduction what Section 75 was supposed to achieve. Its predecessor was mostly voluntary in nature. Section 75 was introduced with the intention of giving equality duties some real teeth—legal and procedural weight.

But when we look at the level of enforcement we have actually seen, there is a serious question about whether that intention has been realised. There are consistent examples of the Equality Commission not fully utilising its enforcement powers, and while there have been useful investigations, we have also seen those powers treated more like policy guidance than tools for accountability.

That is not to dismiss the value of those investigations—they have prompted programme-level actions—but they have also exposed limitations, both in statutory authority and legal culture. There is a cautious approach to protecting institutional reputation, a reluctance to use enforcement powers frequently, and an ongoing need to make the case for stronger legislative backing.

Meanwhile, we do have judicial review as a potential recourse, and at one point it seemed to represent some progress. But even there, we have seen how residents—like those from Armagh—ultimately ran up against obstacles that frustrated the intent behind Section 75. I believe one of the cases concerned disability rights, perhaps age-related grounds too. The court distinguished between a technical breach and a substantive equality impact.

That case was compelling, particularly in exposing the risks to people with visual impairments—for example, kerb heights of more than two feet and the absence of tactile indicators. It underlined the continuing need for strong enforcement mechanisms. The equality duty should function as a safeguard, anticipating and removing barriers before they become discrimination. Yet if the only remedy is a recommendation—and statutory processes can be bypassed entirely, as happened with the Legacy Act—then we are far from where we need to be.

That brings me to the core question: does enforcement need teeth?

Eliza's Response

Absolutely. There is a role for both judicial and statutory remedies, but both need to function effectively. A point I wanted to make, and ran out of time to say earlier, is that having the Equality Commission is critically important. In Northern Ireland, unlike in England, Scotland or Wales, individuals can file a complaint under Section 75 free of charge and potentially hold public authorities to account and get a remedy.

But if valid complaints are refused and the courts decline to act as an alternative remedy—and refuse to review the Commission's decision-making—then we could arguably be in a worse position than if the Commission did not exist at all.

Q.6 Judiciary Training

Patricia, commenting on the need for targeted training:

I could go back into the mists of time when we worked with the public law project and we came to understand the judiciary and legal profession's approach to what was then a newly discovered thing called 'judicial review'. That was quite a while ago.

One of the things our coalition identified early on, as statutory duties were being shaped, was the need to include targeted training for the judiciary. So, it is very concerning that your research shows a continued reluctance—especially now that enforcement has evolved to include the courts. There is clearly an issue here: our judges need to be willing to make clear pronouncements rather than back away from them.

Do you have any more detailed insight into what is driving this reluctance? I think you have framed it well already—I just wanted to comment before returning to the panel.

Comments from Children's Law Centre

We were one of nine organisations that engaged with the Equality Commission regarding the introduction of ASBOs.

We participated in a strong investigation led by the Commission, though it took time. The problem was that the NIO—the department under scrutiny—did not implement the Commission's recommendations. Since then, we have continued to see departments produce consultation documents relying on the same flawed logic and interpretation of equality schemes that the Commission had already criticised.

So yes, there was a positive outcome in terms of the Equality Commission's engagement, but the remedy itself remained limited. Unfortunately, that pattern persists.

Eliza's Comments

Just to add briefly: I do believe there are members of the judiciary who are beginning to engage seriously with Section 75. But this has only happened quite recently, and we are still reviewing the latest court case, which has narrowed the scope for judicial enforcement. I hope to provide more detailed analysis of that case in due course. The rationale being used now is that the Equality Commission offers an 'available remedy'—particularly when the complaint involves a breach of procedural duty under Section 75. However, in practice, this can be problematic. We have observed a recurring pattern.

For example, following a strong investigation into the Department of Finance's budget formation process, we saw the exact same procedural failures repeated one or two years later in the Assembly context. When we asked the Equality Commission what follow-up had been done based on their prior findings, we were told it was not part of their remit and "not their job".

Robbie's Comments

One example of good practice is from the opinion of David Scoffield, QC for Derry City Council. Back in 2016, Derry City Council was one of the first to publish a judgment related to this issue. Since then, it is taken considerable effort to persuade Belfast City Council to do the same—even though Derry was able to act on this a decade ago.

The problem, particularly in our Belfast, involves questions around whether 'call-in' powers fall within the appropriate scope. It is an empirical issue—one that practising lawyers providing legal advice cannot definitively answer. These are precisely the kinds of matters that may benefit more from thorough equality screening than from reactive legal advice. When discussions do arise around call-in powers, a strong legal opinion has made it clear that such interventions can, and should, trigger equality screening. In that view, these issues ought to serve the quality of the Code.

Concluding Remarks

With that, I will bring this first session to a close. I believe we have covered the main ground and we will continue with the next phase shortly. But before we do, let's extend sincere thanks to Robbie and Eliza for their valuable contributions.

Left to right: Kate Clifford (Rural Community Network), Conchúr Ó Muadaigh (Conradh na Gaeilge), Patricia McKeown (UNISON), Laura Neal (Friends of the Earth), Angela Hodkinson (Social Change Initiative), Fergal McFerran (Children's Law Centre)

Panel 2: Exploring the Implementation and Challenges of Statutory Duties

Patricia McKeown (chair)

Patricia introduced the speakers, stating that each presentation will be approximately 10 mins, allowing time for questions and answers.

Kate Clifford: The Rural Needs Act

Unlike most of the previous speakers, I have no legal training whatsoever. My role and my reason for being involved is rooted in rural development, civic society organisations and supporting communities that are driving change because they are in deficit. Whether it is the absence of bus services, lack of transport systems or battles with councils over playgrounds or meeting spaces, these are real challenges faced by people across rural areas.

As an organisation, we campaigned extremely hard to have the Rural Needs Act enshrined in legislation. It was a major milestone. For years, we have talked about rural white papers and a rural champion role. Having this duty written into law helps to reshape government tables when we advocate on behalf of rural communities, who are disadvantaged purely because of geography. That was and still is a huge step forward.

The Act requires public bodies and authorities to have ‘due regard’ to rural needs. That wording matters. We spent six months challenging the Department of Agriculture to move away from “consider the needs of rural groups” to “due regard.” It was the furthest we could push at the time, and it marked a substantial legal and political shift. ‘Due regard’ carries greater weight: it implies that rural impacts must be genuinely accounted for in decision-making.

We believe policy design. Strategy formation and service delivery should include rural perspectives from the outset, not as an afterthought. As with equality and good relations, we ask that public bodies apply a rural lens, a geographic lens, from the beginning. The fact that we are now being invited to government tables is a positive change, even if it started as a tick-box requirement—rural, ethnic minorities, women, disability. Once we were at the table, we could articulate the real impact of geographic inequality.

A clear example was during the Covid emergency when we joined the Emergency Leadership Group. Being there allowed us to bring a rural flavour to planning and decision-making.

One major issue was digital exclusion. While everyone pivoted online, rural families were left scrambling. In my own house, with five people—including my husband teaching remotely and three children learning—I paid for two separate internet providers just to cover both ends of the house. Bandwidth was maxed out and we even drove to the local library for Wi-Fi so the children could do their schoolwork.

Many other families did not have devices, data, know-how, or basic connectivity. Covid made the digital divide painfully visible. Young people, elderly residents, many were isolated without access to essential online services. Raising these issues at the emergency leadership table mattered, even if it did not resolve them immediately. It was about being heard. The Rural Needs Act got us to the table.

Another example is shared housing through the 'Together: Building a United Community' (T:BUC) strategy. Initially, all projects were urban-centric—Belfast, Derry, Lisburn. But our participation led to a reshuffle: from 25 housing schemes entirely in cities, the next 23 included 12 in rural areas. That is the power of legislation.

Still, having a seat is not enough if real change does not follow. We have worked on several judicial review attempts but have not met the threshold. While the Act helps us get to the table, it has not yet reconfigured how policy is shaped.

There is a stealth erosion happening in rural health provision—services quietly downgraded or removed under the guise of budget constraints. Dementia care, home help, even basic access is dictated by distance. And Northern Ireland seems to be walking back the concept of the 'Golden Hour'—the critical time to receive emergency care—which remains standard in GB and the Republic of Ireland.

This is not just a hospital issue; it is about infrastructure. The A5 upgrade could bring improvements, but there is no current planning for how hospital access routes will adapt. And winter diversions over country roads with ambulances? Patient outcomes will suffer.

For us, the call is clear:

- Stronger enforcement mechanisms are needed—currently, there is no body with clear accountability.
- The rural needs assessment must be rigorous; not a tick-box afterthought. It should begin at policy design—not post-implementation.
- Civil society must be empowered to challenge failures in real time. We need judicial review to create case law.
- And crucially, the Act must evolve to include border proofing, especially as economic imbalances grow across the border. Migration for better wages in the South threatens the viability of Northern Ireland's rural regions.

We are under-resourced and overstretched. Only two organisations in Northern Ireland do rural policy work—and we are not even full-time policy officers. We cover every department and duty holder with limited expertise and support. Without our partnerships and legal allies, we would have no recourse. And citizens in rural areas would have no voice.

Our biggest fear now is the transformation of health services in Northern Ireland. Rural regions, especially the west, are being left behind. There is no motorway infrastructure, and communities like those near the South West Acute Hospital are now over an hour from emergency surgery. That is an inequality of service access, dictated by geography.

One of the starkest examples is the erosion of services at South West Acute Hospital, where the withdrawal of emergency general surgery has left residents in rural Fermanagh and Tyrone over an hour away from alternative care in Altnagelvin, Craigavon or Belfast. In practical terms, this can mean:

- Long ambulance journeys, often on challenging rural roads.
- Significant delays during emergencies, undermining outcomes for stroke, trauma and cardiac patients.
- Night-time and winter travel risks, exacerbating isolation and stress for patients and families.

Rural geography is increasingly dictating the quality and timeliness of healthcare—yet decision-makers often cite budgetary constraints without acknowledging the unequal consequences. Health reform efforts could proceed 'without anyone looking', unless the Rural Needs lens is strengthened across policy and planning frameworks.

Home care, dementia services, ambulance response – everything is affected by distance and resource distribution. The 'golden hour' for emergency care used to be the benchmark. Now some Trusts claim it is no longer relevant, despite its continued importance across the UK and the Republic of Ireland. Road upgrades like the A5 are critical, but there has been no integration with hospital service planning. What happens when that road closes for repairs? What happens on winter nights? The idea that the 'golden hour' is no longer relevant is a dangerous oversimplification and one that further illustrates how rural needs are being sidelined.

We are not asking for a hospital in every corner, but we are asking for safe, accessible care pathways for everyone, regardless of location.

In terms of strengthening the Rural Needs Act, we recommend several improvements:

- Stronger enforcement mechanisms: there is currently no body responsible for enforcement.
- Clear accountability: DAERA owns the legislation, but it does not have enforcement power.
- Civil society education: organisations need to understand how to use the act effectively.
- Case law through judicial review: we need at least one strong precedent to give the act teeth.
- More rigorous rural needs assessments: these must be timely, thorough and integrated from the start—not tagged on at the end. Right now, it is an afterthought.

Currently, two organisations in Northern Ireland cover every government department and duty holder – Northern Ireland Rural Women's Network (NIRWN) and the Rural Community Network (RCN). Neither has fully resourced policy officers or legal experts. We are under-resourced and our ability to challenge poor policy depends on collaboration and external support. Without that, many voices go unheard.

If it were not for the collaboration of CAJ, and Eliza and Daniel backing us up, we would have no recourse.

The final point is on policy integration. Some government departments 'do rural well'; thoughtfully and comprehensively. But others ignore it. Additionally, the border region must be treated as rural, too. 'Border-proofing' should be part of the act. With significant economic growth in the south, northern communities risk depopulation, as people migrate for better-paid jobs. That has deep implications for sustainability.

Conchúr Ó Muadaigh: Irish Medium Education

My involvement and expertise come through advocacy for the Irish language community and from lived experience as a product of Irish medium education. I have benefited enormously from that sector and now contribute to research and campaigns supporting language rights and protections.

For over a decade, we have campaigned alongside the Equality Coalition and statutory bodies to secure recognition and safeguards for the Irish language. These protections have long been under pressure, shaped by a broader context we cannot ignore. Following the Good Friday Agreement of 1998—a peace accord built after decades of conflict—there were clear commitments made to advance Irish medium education and language access. Language suppression under the Northern state had long included defunding Irish education, censoring textbooks and erasing cultural infrastructure. While the Agreement made formal commitments to the Irish language, true change must be measured by the lived experiences of those facing inequality.

Historically, the north saw funding for the Irish language disappear almost overnight. From textbook censorship to threats against school founders, the sector faced institutional discrimination. The Good Friday Agreement marked a turning point. The Agreement obligated the British Government to take 'resolute action' to remove restrictions against Irish language development. Section 2 of the Education Order (1998) declared a duty on the Department of Education to 'encourage and facilitate' Irish medium education. However, statutory recognition alone has not translated into structural support.

Shortly after the Agreement, and following decades of campaigning, the Department of Education approved funding (£2 million) for new Irish medium schools—the first-time public resources flowed directly into this sector. The GFA was a reset. Since 1971, when the first Irish medium school launched with nine pupils, the sector has grown rapidly. Coláiste Feirste is the largest urban Irish medium school in the north and Bunscoil Phobal Feirste is now the largest primary school in Ireland, with over 1,000 pupils.

While there have been positive developments since 1988, it would be naïve to suggest that the current strategy was the catalyst for this growth. The expansion of Irish medium education has come from communities, parents and educators – not from the state. Yet this progress exists despite systemic resistance, not because of strategic support. Today, the landscape is transformed: Irish medium education now serves over 8,000 pupils across 28 primary schools and two post-primary schools. Yet despite this progress, serious challenges remain.

A landmark example is the judicial review brought by pupils at Coláiste Feirste over school transport. The court's judgment affirmed the Department's duty to remove barriers and actively promote Irish-medium education. It stressed that transport provision is essential to realising parental choice and sustaining school viability.

Yet, despite this favourable ruling in the *Tracy case [Re Coláiste Feirste's Application (Tracy)],* little meaningful reform has followed. No comprehensive transport policy has emerged, and Irish-medium schools continue to face hurdles not imposed on other sectors. Even with a sympathetic minister, systemic barriers have persisted. As the judgment made clear, the Department of Education may be required to facilitate and encourage the Irish-medium post-primary sector in ways it need not for others—by taking positive steps and removing obstacles that undermine the statutory objective.

Despite court victories, no comprehensive transport policy emerged. And while litigation proved useful, the practical effectiveness of campaigns has remained limited. A quarter-century after the Good Friday Agreement, Irish-speaking children still face discrimination in accessing education.

This legal win was important, but it should not be the benchmark for progress. Campaigners should not have to bring judicial reviews simply to secure basic entitlements. We should be supported proactively by the state, not forced to drag it into compliance. A stronger Irish Medium Education Bill akin to the strengthened Integrated Education legislation has been proposed by practitioners. It is not a simple undertaking, but it is urgently needed if we are serious about the sector's future.

The Irish speaking community is confident, ambitious and resilient. Despite structural challenges, it continues to thrive. From a single school with nine pupils in 1971, to a sector now producing Oscar-nominated artists and community leaders, this growth speaks volumes. Legislative frameworks and statutory duties are important. But they are not the only foundation. What sustains our sector is community: resilient, confident and committed to carrying this legacy forward.

Fergal McFerran: The Children's Services Cooperation Act

The Children's Services Co-operation Act, which began as a private member's bill sponsored by a Green Party MLA, is relatively short – just six pages in length. Despite its brevity, it is not lacking in substance.

At the time of the Bill's passage through the Assembly, many people, particularly but not exclusively within the children's sector, were desperately hopeful about its potential. There was optimism that the legislation would not simply shift responsibility but foster meaningful, strategic cooperation among those delivering services to children and young people. That hope stemmed from a stark reality: the system at the time was in urgent need of reform and, arguably, things have worsened since then.

At its core, the Act aims to improve the well-being of children and young people by requiring cooperation among those with responsibility for delivering services. It creates a statutory duty on the Northern Ireland Executive to plan promoting such cooperation, and on designated authorities to cooperate with the Executive in doing so.

Importantly, the Act defines 'well-being' in expansive terms, encompassing:

- Physical and mental health
- Enjoyment and leisure
- Learning and achievement
- Safety and living conditions
- Economic and environmental well-being
- Positive contributions to society
- Respect for children's rights
- Promotion of equality of opportunity and good relations.

It also directs that regard should be paid to the UN Convention on the Rights of the Child when interpreting well-being.

The Act requires the Executive to adopt a Children and Young People's Strategy developed through consultation, including with children and young people themselves. Authorities subject to the duty to cooperate may also share resources and funding to facilitate this cooperation, though the language in the Act ('may') reflects permissive rather than mandatory intent—an area ripe for strengthening.

The Executive is also required to report to the Assembly on how the Act is being used, how cooperation is functioning and whether well-being has improved as a result. These reports are meant to inform the Programme for Government. Yet, to date, there is no evidence this has been meaningfully implemented.

Since the Act came into effect in December 2015, the Executive did eventually publish the Children and Young People's Strategy in January 2021, followed by the first report on the Act's operation during summer recess last year. Structures, such as the Children's Services Co-operation Group, exist, and there are committed individuals across the system doing important work. But the report itself fell short.

That first report, nearly thirty pages long, devoted around half of its content to simply listing the legislation. Notably, six designated authorities required to contribute to the report were absent from the submission, meaning their data, insights, or reflections were not included. These omissions are highly significant:

- Four local councils failed to report

- The largest Health and Social Care Trust
- A government department responsible for key services opted out

This level of non-compliance reveals troubling accountability gaps. If statutory bodies cannot fulfil the basic reporting requirement, it casts doubt on their broader engagement with the duty to cooperate mandated by the Act.

The report lacks:

- Outcome-focused metrics on improvements in child well-being
- Evidence of inter-agency collaboration driven by the Act
- Timelines for progress, making it difficult to track whether systemic change is occurring
- Evaluation of barriers or implementation failures
- It also fails to illustrate how findings were used to shape the Programme for Government, despite this being an explicit requirement under the Act

Ten years on, the systems and culture that the Act was meant to transform remain largely unchanged. Examples of good practice are sometimes presented as evidence of progress, but, in reality, they tend to be piecemeal or coincidental—rarely the direct result of statutory cooperation duties. True, meaningful cooperation remains the exception, not the rule. Changing the law has not changed the system nor culture in the way that is needed.

There has been a 'wholesale decline' in the well-being of children and young people since the Children's Services Co-operation Act came into effect in 2015. Despite statutory intent to drive collaborative reform, the real-world outcomes suggest regression, not progress.

This decline is not anecdotal. There has been a 'wholesale decline' evidenced across multiple domains:

- Mental health: waiting lists are growing, early intervention services are overstretched and young people report rising anxiety and depression without coordinated support.

- Education: achievement gaps persist, particularly for pupils with special educational needs, children in care, or those from disadvantaged backgrounds. Cooperation between health and education bodies to address these barriers remains weak.

- Poverty and social care: the Independent Review of Children's Social Care and other sectoral reports highlight rising child poverty and fragmented care responses—precisely the issues the Act was designed to tackle.

- Support systems: families continue to struggle with navigating services that fail to coordinate, effectively forcing them to act as case managers in systems meant to support them.

This matters deeply. Since the Act took effect, CLC's legal work and wider evidence confirm a significant decline in children and young people's well-being. Reports by the Children's Commissioner, Northern Ireland Audit Office, and independent reviews of children's social care all highlight the very barriers to cooperation the Act was designed to dismantle.

A recent child poverty report underscored that the Act remains an untapped resource. It pointed directly to the Department of Finance's power to lay regulations aligning resources and programming, yet this function remains dormant.

To truly fulfil the Act's potential, implementation needs leadership: political, departmental and institutional. It also needs accountability. The Assembly is not currently providing sufficient oversight. Without accountability, the spirit of the legislation – the intention of the Assembly when it introduced the Act – is not being realised.

Laura Neal: Environmental Duties

The local climate emergency and wider environmental responsibilities are not being upheld as robustly as they should be.

That concern was underscored last week by what I will call—excuse the pun—a 'golden nugget' of an example. It involved a major procedural failure around a specific duty: 'transboundary consultation - which is both incredibly important and regularly overlooked. This failure, specifically by the Department for Infrastructure, emerged during a public inquiry into the controversial gold mine in the Sperrin's, set to become the largest in Europe. Within two days of restarting, the inquiry had to be suspended.

The headlines from last week summed up the frustration from local councillors and even the Planning Appeals Commission Chair, who expressed deep disappointment in how the inquiry unravelled.

Some background:

The proposed gold mine, active since 2017, has triggered widespread concern. Then-Minister Nichola Mallon called for a public inquiry. After years of delay and one obstacle after another, the inquiry eventually began in January this year, only to collapse almost immediately due to procedural failings. And it is important to note: none of this is clearly documented. The hearing process is opaque, not livestreamed, and does not permit impartial evidence. Unless you were physically present at the commission on the day, you have likely heard only hearsay. I had to make several phone calls just to understand what unfolded.

The Planning Appeals Commission (PAC) operates as a quasi-legal body. It does not decide whether a gold mine should proceed; rather, it hears representations from developers, departments, and the public, before making a recommendation to the Minister. In this case, however, its duty to gather inclusive, evidence-based input was breached.

There were over 50,000 letters of objection, illustrating how deeply this proposal divides communities. Due to poor 'transboundary consultation' under the Environmental Impact Assessment (EIA) regulations, residents and officials from County Donegal had not been properly consulted. That became glaringly evident when representatives from Donegal turned up unexpectedly and declared that they had not received appropriate notice, nor had access to documents needed to make representations.

What the Department did, amounted to minimal compliance: a single consultation letter and a notice in the *Belfast Gazette*. For a development of this scale, involving thousands of documents, which was woefully inadequate. The materials were not accessible to the public in the South and were difficult to obtain in the North, with key information buried and hard to locate.

The duty to inform extended well beyond Donegal County Council. It should have encompassed other relevant environmental bodies within the Irish Government. Yet the Department stopped short.

The result? The inquiry was suspended. The department had failed to afford communities the chance to participate meaningfully. And even if they had received the materials, they would not have had enough time to respond within the inquiry's deadlines. The next hearing is scheduled for March, where we hope these errors will be corrected and public participation will be respected.

What is even more troubling is the department's attitude. Legal representatives referred to public participation as a 'spanner in the works'. One adviser suggested that engaging with councils in the south would 'hold things up for too long', as if meeting legal obligations is an inconvenience.

This was not just a technical error. It was a fundamental breach of democratic and environmental accountability. Public inquiry should offer a space where all affected parties can speak, whether they support or oppose the mine. Instead, the legislation has been treated as a tick-box exercise, with little regard for cross-border impacts or community rights. It highlights the concerns from the departments who have a duty to fulfil the legislation.

Activists and local organisations did the groundwork: sourcing experts, compiling objections, coordinating submissions and securing voices across both jurisdictions.

They physically delivered their representations to the Planning Appeals Commissioner when no other pathway was available—putting documents directly on the desk, because there was no formal mechanism that worked.

Groups had to look globally for environmental experts to speak on their behalf, investing significant time and money.

As for the costs, the hearing was fully set up. Legal teams were present. Expert witnesses – many flown in from around the world – were ready to speak. Local community groups had worked for months to secure these voices. The financial burden of preparing was enormous. And when these same groups asked about being reimbursed for the cancellation, they were told, "You could have passed on more costs." That is unacceptable.

If you are a developer, you will wait until the outcome and then potentially lodge a judicial review if needed. But for community groups, the opportunity for redress is more fragile. Had the Donegal representatives not turned up that day and physically placed their submissions on the commissioner's desk, these procedural failures might have been ignored altogether. Their appearance was pivotal.

And that is the bigger issue: it took community resolve and real-time intervention to uphold basic participatory rights. But their presence was merely 'tolerated', not actively welcomed.

We now wait to see what happens in March. Will the inquiry be fairly heard? Will the mistakes be corrected? That remains to be seen.

Patricia's Comments

It is extraordinary, really—more than 26 years into an EU-funded peace programme, involving cross-border cooperation—and we still face major oversights in processes meant to protect people, the planet and participation.

Angela Hodkinson: The Welsh Well-being of Future Generations Act

The Social Change Initiative (SCI) has been exploring the concept of 'well-being governance' for Northern Ireland, considering how we might adopt a different approach to tackling disadvantage – an approach that is more strategic, more sustainable and embedded in long-term policymaking and systems change.

A compelling reference point is the *Well-Being of Future Generations (Wales) Act*, widely regarded as one of the first legislative frameworks anywhere in the world to prioritise future generations within present-day decision-making. The Act sets out a unified well-being vision for Wales, expressed in seven well-being goals. These goals are indivisible – no single goal is ranked higher than the others. Together they define national well-being.

Public bodies in Wales are required to pursue these goals through their own well-being objectives, backed by specific steps and progress reporting. What is critical is that this is not meant to be an extra layer of work, it is a cultural and systemic shift. The public guidance makes clear that well-being should be integrated into how public bodies function.

The Well-Being Duty

Public bodies covered by the Act are legally required to:

- Set and publish well-being objectives aligned with the seven national goals (e.g. prosperity, resilience, health, equality, cohesive communities, vibrant culture and global responsibility).
- Take all reasonable steps to achieve those objectives.
- Regularly report on progress, creating transparency and political accountability.

This well-being framework is now a core principle for the Welsh Government, applying across all levels of public delivery—including national departments, local authorities, health boards and other designated public bodies. A defining feature of the Welsh Act is that it places a 'duty to act' on public services. Some newer bodies have been added since the Act's passage and each is accountable both individually and through Public Services Boards – like our Community Planning Programmes – which operate locally and resemble community planning partnerships.

The Sustainable Development Principle

A central component of the Act is the Sustainable Development Principle, which frames decision-making around meeting present needs without compromising future generations. It is defined through five statutory ways of working:

1. Long-term thinking: considering lasting impacts
2. Prevention: reducing future harm
3. Integration: aligning multiple goals and agendas
4. Collaboration: working across sectors and stakeholders
5. Involvement: engaging citizens meaningfully.

These principles compel public bodies not only to improve outcomes, but to transform how decisions are made. It sets out a significant change in culture and practice.

Scrutiny & Oversight

The Act also introduced new accountability mechanisms:

- A Future Generations Commissioner, whose role is to promote and advise on sustainable development while scrutinising implementation. Public bodies must take *all reasonable steps* to respond to the Commissioner's findings.

- The Auditor General for Wales also got a new role under the Act, who assesses whether public bodies are embedding the five ways of working in practice.

These structures provide both support and challenge, driving behaviour change across the public sector.

Ten Years On: Impact & Reflections

Nearly a decade on, it is still regarded as relatively new, because of the scale of the change. There is measurable progress:

- Leadership and genuine support to drive it forward
- More integrated, cross-sector approaches to policy
- Reductions in siloed working
- Greater attention to long-term outcomes and intergenerational equity
- Public and political awareness of well-being as a governance goal, which has been effective

However, several challenges persist:

- Enforcement remains weak: there are no defined consequences if bodies ignore the Commissioner's recommendations

- Limited legal recourse: the Act does not offer a clear route for challenging poor decisions through the courts

- Implementation inconsistencies: some reviews have shown gaps between ambition and delivery, and there is consensus that legislative strengthening may be required

A formal ten-year review is planned, which is expected to consider operational changes, including improved accountability and enforcement provisions.

In sum, the Welsh experience offers a valuable blueprint—a framework grounded in values and designed to reshape how governments think, act and collaborate. While not without its faults, the Well-being of Future Generations model illustrates how legislation can be used to centre people, purpose and planetary sustainability at the heart of decision-making.

Panel 2: Questions and Answers

The panel then moved on to a Q&A discussion with the audience. Below is a summary of what followed. For accessibility and clarity, individual speakers and questioners have been anonymised. The focus here is on the issues raised, the themes that emerged and the responses given.

Left to right: Kate Clifford (Rural Community Network), Conchúr Ó Muadaigh (Conradh na Gaeilge), Patricia McKeown (UNISON), Laura Neal (Friends of the Earth), Angela Hodkinson (Social Change Initiative), Fergal McFerran (Children's Law Centre)

Q.1 Access to Land & Mining

A question was raised about access rights to nature (as seen in Scotland) and whether opposition here is linked to the proposed Dalradian Gold Mine or cultural attitudes.

- **Responses:** The mine has been in development since 2017, with testing already impacting the community. People are split between hopes for jobs and fears over weak environmental enforcement. Campaigners face a 'David versus Goliath' battle against well-funded companies, with community members sacrificing time and resources to be heard. Support from civil society groups is critical, but the process leaves communities vulnerable and exhausted.

Q.2 Environmental Enforcement & Independent Oversight

Concerns were voiced about repeated failures in statutory duties during the mining inquiry, raising questions about wider patterns of non-compliance and the lack of consequences. Suggestions included an independent environmental protection agency and borrowing from the Well-being of Future Generations (Wales) model.

- **Responses:** An independent agency would make a significant difference, but only if it had strong enforcement powers and independence. Current failures show the need for robust accountability structures.

Q.3 Anti-Poverty Strategy

A question asked about the effect of not having a comprehensive anti-poverty strategy, given poverty underpins so many of the issues discussed.

- **Responses:** Poverty drives many of the challenges faced by vulnerable groups, cutting across health, education and well-being. A statutory anti-poverty strategy already exists but has not been implemented. A joined-up approach, supported by the Children's Services Co-operation Act, is urgently needed. Strategies often exist on paper but fail to survive political cycles or be implemented in spirit as well as in law. Poverty must be understood not only as material lack but also as lack of opportunity and access (e.g. to transport or higher education).

Q.4 Collaboration Between Public Bodies (Especially Education)

A question explored barriers to cooperation and collaboration across sectors.

- **Responses:** Poverty and education cannot be separated; deprivation strongly shapes outcomes. Research is beginning to show links between identity, belonging and exclusion. There are ongoing concerns about weak support for Irish-medium education, with statutory duties often ignored or downplayed. A new legislative framework is being discussed, but systemic resistance remains a challenge. Campaigning must combine legal levers with grassroots pressure.

Q.5 Oversight & Reviews

A question was asked about who is responsible for oversight and review processes, and whether independent bodies are in place.

- **Responses:** Audit and commissioner structures exist but tend to produce fragmented responses. Collaboration is needed. In environmental matters, the absence of an independent regulator leaves a gap. In social matters, the lack of an anti-poverty strategy undermines coordination across government.

Key Themes Emerging

- Communities vs. corporations: Grassroots campaigners often face structural and resource disadvantages, requiring huge personal sacrifice.
- Weak enforcement: Duties exist on paper, but enforcement mechanisms are often ineffective or absent.
- Environmental accountability: Strong demand for an independent environmental protection agency with real powers.
- Poverty as cross-cutting: Poverty underpins health, education and environmental inequalities – strategies must reflect that.
- Systemic resistance: Statutory duties (Irish-medium, anti-poverty, rural needs) face blockages in practice despite legal obligations.

Closing Remarks

Patricia McKeown

Let me begin by saying thank you.

As we come to the end of today's programme, I want to express sincere thanks to Rory and his team for facilitating such a rich and thoughtful conversation. Thank you to Daniel and his CAJ team for all the behind-the-scenes work on behalf of the coalition and for the excellent overview this morning.

A special thanks to both panels and their contributions.

I think many of us share daily frustrations about the systems we are trying to change. We aspire to equality of outcome and today's discussions have shown how far we still must go. But the clarity from campaigning organisations here today is powerful: we are not willing to accept anything less. We want rights secured, not just in theory, but in practice. And we want those rights secured on a collective basis.

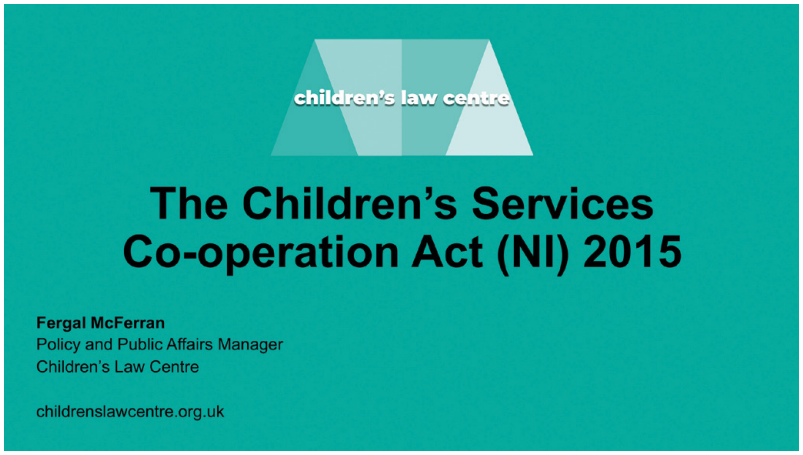
The real strength of our coalition lies in how we show up together. We rely on the support and solidarity of those with resources, and we stand with those without them. That shared commitment is a powerful message for society.

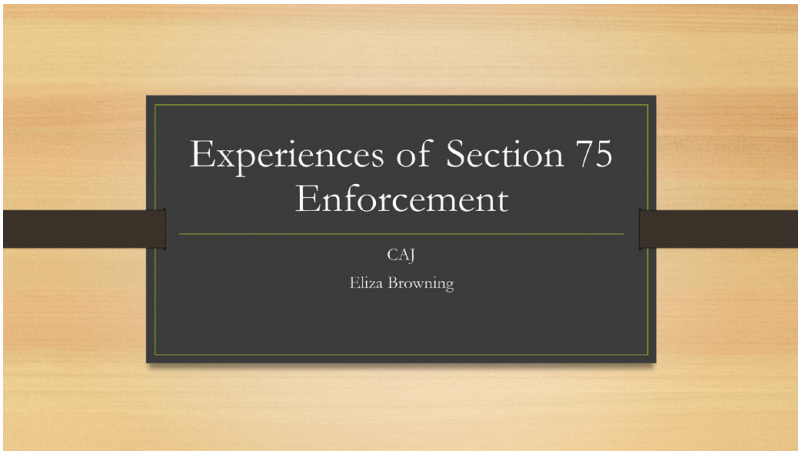
Yes, we have lived through twenty-six years of frustration—but we also have each other.

And over those same twenty-six years, we have grown from a handful of rights-based organisations to over 100, reaching across every part of society. That matters.

So, keep up the good work. Let's stick together. And thank you to everyone who contributed today, your participation means a great deal. There is more to come.

Photos & Presentations






children's law centre
The Children's Services Co-operation Act (NI) 2015
Ferran
Public Affairs Manager
Law Centre
wcentre.org.uk
School of Law
Undergraduate study
LLB Law
LLB Law with Accounting
LLB Law with Computing
LLB Law with Criminology
LLB Law with Irish
LLB Law with Marketing
LLB Law with Politics and International Studies
BSc Accounting and Law
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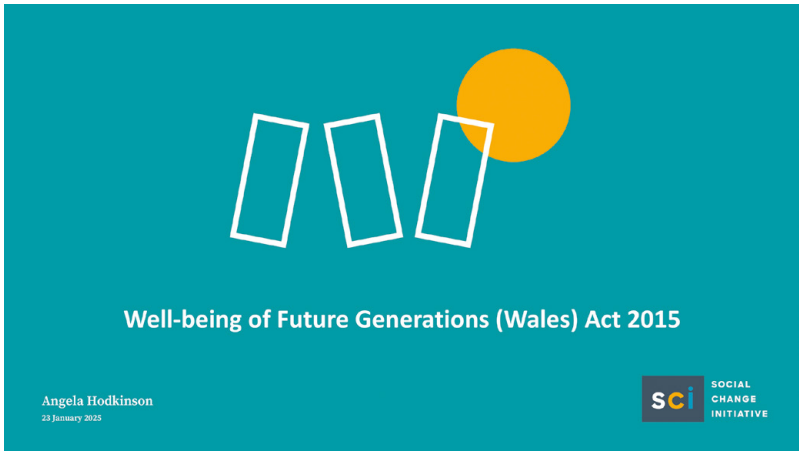
Well-being of Future Generations (Wales) Act 2015
Angela Hodkinson
23 January 2025
SCI
SOCIAL CHANGE INITIATIVE

If you have any comments or questions about this report,
please contact us on **equalitycoalition@caj.org.uk**

Thanks for reading!

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