



**FREE FROM FEAR OF  
FLAGS**

**SDLP POLICY DOCUMENT**

**UPDATED TO JULY 2006**

## **Introduction**

National, sectarian or paramilitary displays are often used to stake out territory and send a message to those from the other community that they are not welcome. They are often offensive in appearance and the cause of fear in practice in whatever form they take – be it bunting, flags, murals or symbols. If we are serious about building a society that is shared, not segregated, then much stronger action is required to remove them.

To date, there has been little done on this problem. Too often, statutory bodies simply deny that they have any role in tackling such displays. In this document, the SDLP sets out its proposals for overcoming these nuisances.

We believe that our proposals can help end the fear that flags and the like can cause and promote better community relations.

We also believe that they are consistent with the Good Friday Agreement which sets new standards for the conduct of relationships in our society by guaranteeing “*just and equal treatment for the identity, ethos and aspirations of both communities.*”

## **Summary**

The SDLP believes that a number of responses to managing such displays are required:

1. Public authorities to take real steps to enforce the current protocol on flags agreed by the PSNI, DRD and other public bodies in April 2004.
2. PSNI to prosecute under current criminal damage, public order and anti-terror legislation particularly in interface areas, mixed communities, areas with schools, shops, businesses etc. Above all, there must also be zero tolerance for paramilitary flags.
3. A new dedicated crime of the showing from public property of sectarian or national displays (including flags, murals, bunting or symbols). Separately, we believe that the Government should lead by example by agreeing to repeal the current legislation requiring the display of the Union Flag over government buildings and encourage the political parties to arrive at an agreed outcome on

the use of flags for official purposes which would be exempted from this proposed dedicated crime.

4. Intervention by police at the time of first display to frustrate sectarian practice and agreeing in each police district the areas for priority prosecution and enforcement.
5. Further work at a local and community level to reduce number and nature of displays including agreement on no displays in interface/business/mixed community areas/etc.
6. Dedicated budgets within public authorities for the appointment of contractors to remove displays, backed up with police support if necessary.

### **Public Authorities must act**

The SDLP acknowledges that the authorities responsible for public property may be faced with a dilemma in relation to national, paramilitary or sectarian displays. Removal can present risks to civilian workers and may be costly. Further, in the absence of coordination between authorities, the prospects of any one authority making progress are limited.

We welcomed the protocol on flags agreed by the PSNI with other public authorities like DRD when it was devised in 2004. But we were clear that it did not go far enough.

Further, its enforcement has been very poor in many areas. For example, in the two years from April 2004 to April 2006 no flags were taken down in West Belfast, one flag was taken down in Armagh, 2 flags were taken down in Omagh, 3 in Ards and 4 in North Belfast. This compares to 552 taken down in Craigavon.

The SDLP proposes:

- Real enforcement of the protocol agreed by public authorities on flags.
- A dedicated budget to fund the removal of flags.
- Where necessary, use of private contractors to remove displays. In difficult cases, the police themselves should remove flags.

## **Enforcing the Law**

At present, it is a crime to fly paramilitary flags in public places under the Terrorism Act, 2000.

The main law on the display of non-paramilitary flags and emblems is set down in Article 19 of the Public Order (N.I.) Order 1987. It provides that:

*"a person who in any public place or at or in relation to any public meeting or public procession ... displays anything ... with intent to provoke a breach of the peace or by which a breach of the peace or public disorder is likely to be occasioned"*

is guilty of an offence.

The SDLP believes that this clearly provides a basis for a more vigorous policy of bringing prosecutions than is currently the case.

For example, the erection of paramilitary flags in mixed areas or outside churches and schools can often lead to a breach of the peace – as occurred at Holy Cross School in 2001. Such matters should be the subject of criminal investigation.

## **Bringing forward new laws**

While Article 19 of the Public Order (NI) Order provides a basis for more prosecutions, the SDLP is clear that it does not go far enough. That is because prosecutions can only be brought where it can be proved that there is an intention to cause a breach of the peace, or a breach of the peace is likely. Clearly, it will not be possible to prove this in all cases. In any event, the SDLP believes that it should be a crime to show national or sectarian displays from public property, whether or not there is an intent to cause a breach of the peace and whether or not a breach of the peace is likely.

We propose, in addition to Article 19 of the Public Order (NI) Order:

- A new dedicated crime of the showing from public property of paramilitary, sectarian or national displays (including flags, murals, bunting or symbols).

- Sectarian displays would be defined as displays made with the intention of threatening, intimidating or making unwelcome members of the other community, or which could reasonably be interpreted by members of the other community as threatening, intimidating or making them unwelcome.
- In addition, specific sectarian displays could be designated following consultation with the Community Relations Council and the Equality Commission.
- Separately, as discussed below, we believe that the Government should lead by example by agreeing to repeal the current legislation requiring the display of the Union Flag over government buildings and encourage the political parties to arrive at an agreed outcome on the use of flags for official purposes which would be exempted from this proposed dedicated crime. Similarly, where cross-community agreement on the display of flags was reached at local level, this could be exempted from the proposed crime.

### **Flags over Government Departments**

If the British Government is serious about taking down displays, it should lead by example. The SDLP has already outlined in other policy papers forwarded to Government our opposition to the Flags (NI) Order, 2000, and associated Regulations, which oblige the flying of the Union Flag over departments on designated days. We believe that this is inconsistent with the Good Friday Agreement.

Equally, we are opposed to the current provisions of the Criminal Justice (NI) Act, 2000, which oblige the flying of the Union Flag over courthouses.

We believe that Government should be creating incentives for agreement between nationalists and unionists on these issues. We therefore call on the British Government to indicate its intention to repeal this legislation and to initiate discussions between the parties with a view to finding an agreed outcome on the use of flags for official purposes that is consistent with the guarantees of just and equal treatment for the identity, ethos and aspirations of both communities. Any agreement reached on what, where and when flags or emblems could be displayed would have to be legally protected from the new criminal legislation that we have proposed above.

## Community Response

The SDLP notes the work undertaken by community groups and others to reduce the number and nature of displays.

Pending the new legislation that we are calling for, there is a continued need for local discussions to further reduce the number and nature of displays, given that the police and public authorities may not have all the necessary resources and powers to pursue a full removal/ prosecution policy.

Even when new legislation is passed, there will be a need for the police to manage enforcement sensibly. That means vigorous action to ensure the removal of displays in –

- mixed areas
- areas used by both communities such as town centres and shops
- arterial roads
- interface areas
- outside churches, public houses or other sensitive areas.

Regarding segregated areas, we believe that the best initial approach is for the police and public bodies to engage sensitively with communities with a view to negotiating the voluntary removal of displays. We welcome the initiative already being undertaken by government to help communities in this regard. However, we believe that this is no substitute for new legislation and a new commitment to enforcement. Nor can paramilitary flags be tolerated in any circumstances.

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