

# Response to Belfast City Council's Consultation on City Centre Bye-Laws



## Introduction

1. NIPSA is the largest Trade Union in Northern Ireland representing over 43,000 members, employed across the whole of the public service, in organisations such as the Northern Ireland Civil Service and its Agencies, Local Government, Education, Health and Social Care, the Northern Ireland Housing Executive as well as a host of Non-Departmental Public Bodies (NDBPs). NIPSA also represents a significant number of members in the community and voluntary sector.

## The necessary protection of healthcare

2. Before commenting on the specifics of this consultation,<sup>1</sup> we wish to state that separate to these proposed bye-laws, there are protections we *would* support in relation to “protest” buffer zones<sup>2</sup> that act as a prevention of harassment and the facilitation of “safe access” to healthcare. More broadly, we also note the view of the Committee on the Administration of Justice in relation to how graphic displays should be interpreted in law.<sup>3</sup>

## A failure to address solidarity activity

3. The Equality screening<sup>4</sup> accompanying this consultation states “The bye-laws may impact on voluntary, community groups or trade unions who may have previously used amplification devices or imagery for what they perceive to be public interest causes.” While official picketing *is* an exemption under these proposals the consultation fails to elaborate how it is proposed these bye-laws would interact with the broader, standard solidaristic activities around industrial action/protest. In addition, there is no clarity in relation to how it is proposed that these bye-laws have been informed by the exemptions in the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.<sup>5</sup> In Schedule 1a of this legislation, for example, on the “free

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<sup>1</sup> <https://yoursay.belfastcity.gov.uk/consultation-on-city-centre-byelaws>

<sup>2</sup> [Abortion protest buffer zones take effect in NI - BBC News](#)

<sup>3</sup> See The Committee on the Administration of Justice 2024: <https://caj.org.uk/wp-content/uploads/2024/02/CAJ-response-to-Belfast-City-Council-byelaws-on-permits-Feb-24-1.pdf> p.4.

<sup>4</sup> <https://www.belfastcity.gov.uk/Documents/City-Centre-Bye-Laws-Equality-Screening>

<sup>5</sup> <https://www.legislation.gov.uk/nia/2011/23/section/21/2012-01-18>

distribution of printed matter” and the “designated Offence of unauthorised distribution” it is stated that this **does not apply** “where the distribution is for political purposes or for the purposes of a religion or belief” (see Point 12 below re “political opinion”).

4. In the follow up to the Consultation, therefore, Belfast City Council needs to make explicit how, in future, it will ensure that its bye-laws do not in any way hinder Trade Union work as regards industrial action and the solidarity/campaigning work of affiliated groups, Trades Councils, and other activist groups (political parties, pressure/solidarity groups) who might want to support Trade Union sponsored protest/campaigns in and around the city centre area.
5. Similarly, the Council should also make clear how the bye-laws’ “time-limits” would not adversely affect such supportive activity given it is currently proposed that without a permit “a person may not erect, place, maintain or otherwise be responsible for a stand, stall, or vehicle with promotional literature or information (whether connected to a business, charity, political or any other non-commercial purpose) in a public place in the Primary Retail Core”. This could have a serious adverse impact on the right to campaign and organise around a campaign given that “political purpose” is specifically, listed.
6. The time limit **even with a permit** “in a specific location” is: for “a maximum of two hours” that includes “setting up and packing up” time and specifies the “types of instruments or amplification” that is prohibited. Furthermore, after this period the person must re-locate to a different place not within 100 metres of his/her previous location and may not return within 100 metres of any previous location until the following day”. Again, this would have a serious effect on protest(s) and rallies that might be the pattern on a day of industrial/civil society action.
7. In short, Belfast City Council needs to **assess and publicise how it will explicitly exempt** such solidarity work – particularly given the scale of the area defined as “City Centre” - in relation to the “general provisions” of the proposed bye-laws wherein a valid permit is required for “a person [to]...conduct or take part in any amplified performance (whether vocal or instrumental) ...in a public place in the City Centre (including the Primary Retail Core).”

8. Given the location also includes the City Hall itself – this exemption will also be necessary for the purposes of its own industrial relations framework – to make clear that a Trade Union protest outside it - in relation to a policy/facility managed by the Council would not be treated as a “nuisance” in the context of these bye-laws.
9. We note that it is proposed that without a Permit (issued by the Council) an “amplified performance” would prohibit a megaphone enhanced speech in the defined areas. As this would cover the locations of a considerable number of Government buildings/outlets – including the Northern Ireland Offices’ HQ (on which protests might be focused during any period of devolution being suspended or on “contested” non-devolved matters) again, a statement of Trade Union/solidarity **exemptions** is also clearly required.
10. Similarly, the proposed bye-laws currently lack detail on how they will protect any campaign/activist collection that might be vulnerable unless it is “a cash collection in a public place which has been authorised by PSNI pursuant to The Charities Act (NI) 2008”.
11. Overall, the general limitations these proposed bye-laws impose re-enforce the point made by the Committee on the Administration of Justice that:

...the bye-laws as presented would risk creating an unprecedented **de facto ‘authorisation’ regime** for any static protest in the designated city centre retail area using any amplification device, and constitute a *de facto* ban, on pain of a fine, on such spontaneous protests

Furthermore, the CAJ also share our concern about the bye-laws potentially extensive effect on protest whereby:

...An offence would be committed by organising a static protest in the City Centre retail area using a loudhailer without first applying for a permit from the Council. This would constitute a *de facto* ‘authorisation’ regime for such protests (there are no notification requirements for such protests under NI law, there are notification, but not authorisation, requirements for parades) ... It would not be possible to hold any spontaneous static protest in the city centre retail area in response to a local or international event or atrocity, as first protest organisers would have to submit and await for approval from the Council for a permit.<sup>6</sup>

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<sup>6</sup> CAJ (2024) Op. Cit. p.1.

## Incomplete definition of Political Opinion

12. As well as the content of the proposed bye-laws we have major concerns about their associated Equality Screening. For example, while claims to examine what is the likely impact “in relation to the S75 category of political opinion” it states that this is “not applicable”. This is a serious error as it fails to recognise Trade Unionism as a “political opinion” in the context of anti-discrimination law i.e. on the illegality of discriminating on the basis of “**religious or similar philosophical belief and political opinion**” and the fact that the latter “is not limited...to Northern Ireland constitutional politics.”<sup>7</sup>
13. As a consequence of this failure to reflect the appropriately *complete* definition of political opinion the equality screening refers to the bye-laws as having a positive impact - “the bye-laws will result in a reduction in overall noise levels being produced by a range of individuals or groups and as a result should have a neutral or positive impact on good relations in general.” This means that because of the incomplete/inaccurate interpretation of “political opinion” in this context, the bye-laws’ wider implications **have not been** properly screened. This needs to be rectified before the next steps in relation to them are fully considered. This is even more essential given that in terms of the Equality Screening’s relationship to policy, it is stated that “no decision has been taken on the outcome of the screening assessment. This will be completed following the consultation period.” In this way, the consultation is *not even informed* by an inappropriately limited screening document.

### “Advertising”/protecting exemption

14. The policy proposes that there would be public notices advertising the new bye-laws and that the notice to this effect will be on signs “placed in such positions as the Council may consider adequate to inform persons of their existence”. Given the geographic scale alluded to above, this raises the question of how extensive the council foresees signage to be and how specific this **needs to be** to make explicit the exemptions (trade union and otherwise) to these bye-laws that we have highlighted.

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<sup>7</sup> <https://www.nidirect.gov.uk/articles/religious-belief-and-political-opinion-discrimination#toc-0>

## Both excessive and limited application

15. The Equality screening states that “the bye-laws are not intended to prevent street preaching or the promotion of any public interest causes. Rather, they are intended to reduce the overall ambient noise and unacceptable nuisance which is caused by the cumulative impact of these various activities [buskers, preachers, and various groups] in the City Centre.” Contrary to such a *stated aim*, however, the actual powers within these bye-laws<sup>8</sup> run the risk of using a sledgehammer to crack a nut. They also beg the question of why existing noise pollution/laws relating to obstruction, hate speech etc., - already available to legally challenge the activities the bye-laws seek to target, are not being used. In short, how do (again as the CAJ have argued) these proposals properly balance the noise pollution “nuisance” versus wider, legal protections of freedom of expression? An over-curtailed of the latter, is clearly too high a price to pay to deal with “annoying” preachers/buskers.
16. Discussion of “disability” in the Equality Screening refers to “anecdotal evidence that increasing ambient noise levels in the city centre (including that from amplification devices) may have a negative impact on various disability groups”.<sup>9</sup> Rather than the specific action/reaction via these bye-laws, however, this should be grounds for a more profound examination of pollution (noise or otherwise) to enhance the resident/visitor’s general experience of Belfast City Centre. In this way, there is an obvious contrast with the protection of the citizen re pollution etc. in a non-pedestrianised city centre and the bye-laws prioritisation of protecting the “consumer experience”.
17. The Equality Screening states “the council when making bye-laws must first consult with the Department for Communities. The bye-laws shall be made under the common seal of the Council and shall not have effect until they are confirmed by the Department for Communities”. The question that arises is whether this is a rubber stamp at a Departmental level or a proper assessment of effect? If the latter, given this

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<sup>8</sup> “Significant issues have been raised over the past number of years regarding the activities of buskers, preachers and various interest groups in the City Centre, mainly within the primary retail core. Officers recognise that busking can bring vibrancy to the area and should be facilitated. It is also recognised that street preaching and the ability to protest are important rights of expression in a democratic society and are protected under the European Convention of Human Rights. However, it is important to consider the context within which these activities are being considered, their cumulative impact and how this affects others.”

<sup>9</sup> For example, “an increase in ambient noise levels can present difficulties for the visually impaired when listening for traffic. Noise created by amplification devices may have a negative impact on those with auditory sensitivity.”

consultation preceded the restoration of devolution and the appointment of a new Minister, should these bye-laws not now be stalled for fuller consideration?

18. We also have a major concern given the breadth of provision within the bye-laws about what groups might and what groups would be unlikely to be prohibited by them. In short, will this be a question of whether “might will make right” in deciding to operate/ignore these bye-laws. For example, if there had been a longer running, *location-specific* campaign around Black Lives Matter focusing on imperial monuments, how would such protests have been treated in contrast to the “statue defenders” who turned up and were policed differently when the initial protests began at the City Hall? Similarly, how will the Council “permit” those protesting its own “flag policy”? How might it deal with anti- “Irish Sea border” protests at a City-Centre Government/European Union office? Similarly, it will be interesting to observe consistency or otherwise in how different groups/protests are treated (cost implications of confiscation etc.) under the Council’s proposed “power to remove equipment, stalls, stand, vehicles”.

#### **The practicalities of exemptions/permits for collective action**

19. The permit’s “application requirements” treat applications at an individual level rather than organisational level. This therefore begs the question of how this could be operated in the context of Trade Union/solidarity “activity”? It would appear logical that, because of the stated exemptions, permits should not be required for Trade Union/solidaristic expression as such actions could not be properly managed within the proposed “personalised permit” approach whereby the permit applies to the “the performer [sic] named on the permit, and shall not be used by, or transferred to, any other person”.
20. We note how the “behaviour and conduct of permit holders” is subject to “the standard conditions of Permit and any Code of Conduct issued by the Council.” The fact that this “may be amended and reissued throughout the period of the Permit” and also be subject to amendment in relation to “any additional special conditions attached to their Permit” appears too wide-ranging and arbitrary and again does not reflect the activities of organisations as opposed to individuals.

21. In terms of further “exemptions” – reference to these bye-laws not applying to “any procession which has been authorised by the Parades Commission” may need clarification in relation to, for example, a pre/post protests associated with a rally for which Parades Commission permission would already have been sought/granted.
22. On “revocation, refusals and appeals” the powers offered by the proposed provisions are extensive in that they empower the Council to “temporarily revoke a permit or restrict the area to which permits applies in order to facilitate the construction, development, maintenance or repair of a public place or part thereof or for other infrastructural work thereon or such work on adjoining private property or for other operational reasons.” This is remarkably wide-ranging and while the Council’s refusal to grant or revoke a permit can be appealed, to whom has yet to specified. In addition, those “permits granted subject to with special conditions can be challenged at the “Magistrates Court within 14 days of the granting of the permit”. These features exemplify the draconian consequences of a **de-facto authorisation regime**.

## Conclusion

23. NIPSA believes that Belfast City Council needs to seriously reflect on the issues raised by and full implications of the consultation on these proposed bye-laws. As we outlined above, while token references can be made to some protection of “political opinion” and “trade union activity”, the fact that the S75 Screening itself fails to properly define “political opinion” to include “trade unionism” is a serious error amidst a general failing to assess how wider collective and solidaristic activity is not hindered by these proposed bye-laws. We believe the relevant Council Officials should immediately pause development of these proposals until there has been full engagement with key stakeholders from the Trade Union Movement specifically and Civil Society more generally in relation to the implications of the proposed bye-laws’ operation.