



Ulster Human Rights Watch Advocacy Service Information Booklet



**Truth and Justice for
Victims and Survivors of Terrorism**

Foreword

From the Chairman of Ulster Human Rights Watch



In 2001 I contributed to the establishment of the Ulster Human Rights Watch (UHRW), having been convinced it had become essential to uphold and promote human rights and fundamental freedoms in Northern Ireland.

Initially the organisation addressed issues that were particularly relevant at that time to Northern Ireland society, such as the proposed Bill of Rights. It quickly became recognised as one of the major human rights organisations in the Province.

The work of the organisation expanded so as to justify the development of an Advocacy Service specifically dedicated to working with victims of terrorism. Indeed terrorism, often referred to under the euphemism 'Troubles', has been and remains a major issue in Northern Ireland. Dealing with a Past which has destroyed so many innocent lives is never an easy or a straightforward matter.

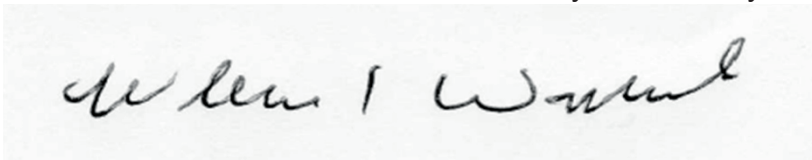
However, the needs of victims of terrorism as well as their quest for truth, justice and acknowledgement must continue to be addressed. For too long they have been

wilfully neglected for expediency's sake and we should not wait before it is too late for some victims.

I am well aware that the task of bringing some measure of resolution and comfort to those who have been primarily affected by acts of terrorism is a very difficult and complex one. It requires expertise, dedication and perseverance on the part of those who assist them and make representations on their behalf.

To that end, the Ulster Human Rights Watch's Advocacy Service has been set up and stands ready to professionally serve the interests of victims of terrorism from whatever background they may come from, in Northern Ireland and across the United Kingdom.

I endorse and recommend this Advocacy Service to you,

A handwritten signature in dark ink, appearing to read "William Wright", is centered within a light gray rectangular box.

Sir William Wright, CBE

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1. Introduction

Ulster Human Rights Watch specialist caseworkers are here to provide advocacy services to get you to the truth. For many victims, unanswered questions surrounding the murder of a loved one, or relating to a traumatic experience such as a physical injury, have had an adverse impact on their lives.

The reality is that for many, the drawn-out and convoluted process of legacy disclosure is daunting, and that is before the impacts of finding out the truth are considered. Victims may be put off by the complexity of the processes and the fear they may be moving in the wrong direction or that it may not achieve what they want.



**“We help Victims and Survivors of
Terrorism unlock the door to the truth”**

Victim - Centred Approach

It is our belief that the provision of advocacy support to families engaging with public bodies and processes is vital. Following on from this, we believe that an understanding of the truth surrounding events is key to the promotion of the health and wellbeing of victims and survivors.

As our client, we will communicate with you in plain English by telephone, in writing and on a face-to-face basis regarding actions required by cases.

We will give you regular updates on progress and ensure that you are fully aware of the likely outcomes, timescales and risks involved. We will deal with correspondence or reports received from other bodies and organisations, and help with preparation for meetings relevant to your case.

We will help you articulate the questions you want to ask and work with you to get comprehensive answers. We will also accompany you if necessary to any meetings to advocate on your behalf with staff and investigators involved in your case.

We will support you by providing you with unbiased information and realistic options regarding the possible pathways open to you. Cases can often be complex, and can involve sensitive legal issues. For these reasons the process can be lengthy and require wisdom and stamina.

We will manage your case and help you obtain as much information as possible as a means of challenging current narratives about your bereavement or injury. We will examine any available documentary evidence and ensure that the review or investigation that is conducted keeps you and the wishes of your family as its focus. We can support you onwards if other investigating opportunities are available. If desired, a narrative report detailing the case will be produced.

We also realise that other specialist support services such as counselling and therapies may be required. For this reason we provide established, regionally-distributed referral pathways to specialist providers.

Above all, we will use our skills and experience to apply whatever leverage we can to a given situation in order to achieve the best outcome possible for you.

Background

As a major human rights organisation in Northern Ireland, Ulster Human Rights Watch promotes human rights in Northern Ireland and the rest of the United Kingdom as well as in other European countries signatory to the European Convention on Human Rights, including the Republic of Ireland.

The Advocacy Service of the Ulster Human Rights Watch was established in 2013 to support families across Northern Ireland who have been bereaved or

have had members physically and/or mentally injured as a result of terrorism during the period known as 'The Troubles'.

Based in Brownlow House, Lurgan, we provide a service across Northern Ireland with a client base throughout the UK and internationally.

We do not charge for any of our services, which are currently funded by PEACE IV (SEUPB) and the Victims and Survivors Programme (VSS).

It is important to note that the services we provide are not legal services. Furthermore, the service provided is exclusively advocacy and we do not provide any other trauma-related support services. We do however support our clients through a guaranteed referral process to verified partners specialising in other services.

Vision: Truth and justice for victims and survivors of terrorism.

Mission: Advocacy which attains closure for victims and survivors of terrorism.

Aim: To resolve complex case issues to the satisfaction of victims and survivors of terrorism by applying a principle-based approach.

Values:

- Honesty towards victims and survivors of terrorism

- Empathy with victims and survivors of terrorism
- Service efficiency for victims and survivors of terrorism
- Fairness towards victims and survivors of terrorism
- No charge for victims and survivors of terrorism
- Equal support for victims and survivors of terrorism
- Confidentiality

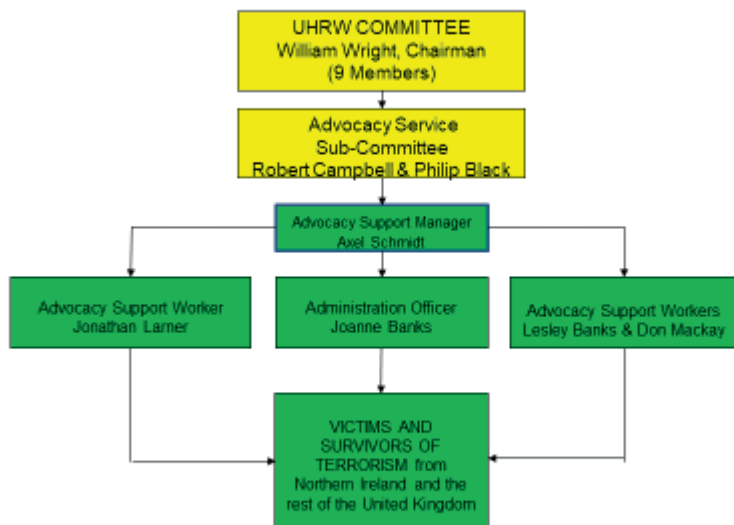
Principles

- Principle of justice for victims and survivors of terrorism
Duty of the State
- Principle of support for victims and survivors of terrorism
Adequate support for victims and survivors
- Principle of equality for victims and survivors of terrorism
All victims and survivors entitled to appropriate support
- Principle of remembrance for victims and survivors of terrorism
Remembrance by way of memorials and commemoration
- Principle of education and prevention by the testimonies of victims and survivors of terrorism
Useful role for the public at large and younger generations to prevent radicalisation and counter terrorism

Governance

Ulster Human Rights Watch has a Memorandum and Articles of Association and is governed by a nine-member Board of Directors chaired by Sir William Wright, CBE. The organisation is regulated by the Charity Commission for Northern Ireland and the Information Commissioner.

The organisational structure of Ulster Human Rights Watch is as follows:



2. Advocacy Staff

Ulster Human Rights Watch Advocacy Service consists of five members of staff: an Advocacy Support Manager, three Advocacy Support Workers and an Administration Officer.



*Rear (l-r): Axel Schmidt, Philip Black, Bertie Campbell
Front (l-r): Don Mackay, Lesley Banks, Jonathan Larner*

Axel Schmidt - Advocacy Support Manager

Axel was a training consultant for French companies, an assistant lecturer at Paris University and professor at the Institut Supérieur du Commerce de Paris. In 2001 he created Schmidt Consulting in Northern Ireland, delivering advice in the field of human rights and providing assistance in legal proceedings, facilitation

and training. He was the Legal Consultant for Project MONNET (Mobilising Opposition Networks to Nationalistic European Terrorism) funded by the European Commission Directorate Justice, Freedom and Security.

Jonathan Larner - Advocacy Support Worker

Jonathan has extensive direct and indirect experience working with victims and survivors of terrorism since 2000. He brings capacity to the team in a development context and is keen to see progress made in the pursuit of truth and justice.

Lesley Banks- Advocacy Support Worker

Lesley joined UHRW Advocacy Service in June 2017. She has over 20 years experience supporting and advocating for families in the field of Health and Social Care. Lesley has the skills, ability and drive to support victims and survivors of terrorism who wish to seek the truth in their outstanding issues related to the past.

Don Mackay - Advocacy Support Worker

Don is a former part-time member of the UDR and served nine years with the regiment during the 1970s, when he lost many colleagues murdered by the IRA. Don is also a former senior officer in the Northern Ireland Fire Service, where he served for 31 years.

Joanne Banks – Administration Officer

Joanne joined Ulster Human Rights Watch in March 2018. She has over 30 years experience in finance administration in Northern Ireland and Scotland working in investment banks and charities.

3. How We Can Support You

Through the management of your case our Advocacy Service can support you in accessing the following public bodies and agencies:

The Legacy Investigation Branch (LIB)

The LIB is directly answerable to the Chief Constable. It is responsible for reviewing cases between 1 January 1969 and 1 March 2004, where credible evidence exists to further their investigation. The LIB engages with families and cooperates with other statutory bodies.

The Police Ombudsman for Northern Ireland: History Directorate (PONI)

The Directorate considers issues in which RUC members may have been responsible for deaths or serious criminality between 1968 and 1998. It also receives complaints of a grave and exceptional nature from members of the public about police conduct during this period, including conspiracy and incitement to murder.

The Attorney General for Northern Ireland (AGNI)

The Attorney General for Northern Ireland has the power to direct new inquests into deaths which occurred during the terrorist campaign. On the basis of information is submitted to him he may consider new inquests advisable.

The Public Record Office of Northern Ireland (PRONI)

PRONI holds most of the inquest records of people who died during the terrorist campaign as well as court files and Public Prosecution Service (PPS) files that may be requested by relatives.

The Secretary of State for Northern Ireland

The Secretary of State for Northern Ireland has the power to establish new processes to ensure that the truth is revealed concerning historical cases, such as independent reviews by legal experts.

National Archives

Documentation relating to historic cases can be held by the National Archives and the National Archives of Ireland (NAI). Recovery of information can help to provide answers to questions and open up new avenues for research.

The Public Prosecution Service (PPS) and the Court Service

Whenever a case is being referred by the PSNI to the Public Prosecution Service (PPS) and may result in criminal proceedings before a court of law, victims have the right to be informed and assisted.

4. 'Addressing the Legacy of Northern Ireland's Past': The Proposal and an Alternative

Does it 'FIT THE BILL' for Victims and Survivors of Terrorism in Northern Ireland?

If not

What is the Alternative?

Issues of concern about the proposed bodies and an alternative

The purpose of this document is to highlight the key issues of concern about the four proposed new bodies and their weaknesses and to suggest an alternative. An analysis of the NIO proposals reveals that the proposed new bodies will be complex and burdensome and may result in undesirable and disappointing outcomes for victims of terrorism. This is why an alternative for addressing the legacy of the past, based on fundamental principles and dealing with the key issues is necessary, in order to produce a positive result for victims of terrorism and society at large.

I. Key issues of Concern about the Proposed New Bodies and their Weaknesses

The key issues of concern and weaknesses of each one of the four bodies will be stated for the Historical Investigations Unit (HIU), the Independent Commission on Information Retrieval (ICIR), the Oral History Archive (OHA) and the Implementation and Reconciliation Group (IRG).

1. Key Issues of Concern about the Proposed HIU

- The HIU will be contrary to British justice because it deals not only with criminal investigations, but also with: firstly, reports which will identify perpetrators even where a prosecution cannot be brought, secondly criticism involving identification of police officers and others in connection with any death and finally investigations into alleged 'non-criminal police misconduct', again identifying the officers concerned even if they are long since retired.
- It is contrary to principles of British justice for anyone to be identified in any report with a verdict of guilt unless the guilt is proven in court beyond reasonable doubt.
- The focus is likely to be on the police rather than the terrorists because HIU will have access to all police and other security force records enabling it to deliver criticism of police and security forces while there will be a complete absence of terrorist records
- All the misconduct investigations will focus on the police. There will be no investigation of any other

professional body involved in dealing with the Troubles.

- It is confusing because not all investigations will be transferred by the PSNI (LIB) and PONI to the HIU.
- There is also confusion because serious injury cases will not be dealt with by the HIU but by PSNI and PONI.
- HIU will not investigate all cases. Those where an HET Report has been issued will not be investigated, save in exceptional cases, at the discretion of HIU.
- All families whose loved one(s) died between 11 April 1998 and 31 March 2004 should have the option to have their cases investigated by the HIU or not.
- The proposed HIU will generate false expectations as to the possibility of reaching a better outcome since the rules that will regulate the HIU will be substantially the same as those that currently apply to the PSNI and PONI.
- It is unlikely that many cases can be brought to court for successful prosecution.
- The HIU will be unfair and degrading for police officers who may be investigated twice by the same body (criminal and misconduct investigations) while terrorists will only be investigated once for criminal activity(ies).
- Police officers who have long since retired may be hauled into investigations by HIU causing great stress and trauma.
- The HIU will have no impact whatsoever on the Coroners Service, which will continue to operate independently.
- The HIU will not provide any support for police officers whose actions are investigated, nor for their families.

- The disclosure mechanism is complex and may be used to undermine the State and security forces.
- Annual reports will be produced by the HIU over which victims of terrorism would have no control. These reports are likely to focus on the police and security forces because of HIU's access to their records, while terrorists will escape such scrutiny.
- After five years a report on patterns and themes will be sent directly by the HIU to the IRG and not made available to the public.
- The cost of setting up this new body will be prohibitive.
- It is likely to take several years before the HIU can become fully operational and yet the Government proposes that its work should be completed within five years. All this will discourage victims.

2. Key Issues of Concern About the Proposed ICIR

- It will be a purely voluntary process for terrorists to confess to their crimes – it is unlikely that many will confess.
- The ICIR will control all confessions and other information divulged to it – victims will not be entitled to direct access to any of the information.
- Information will be released only at the discretion of the ICIR and could never be certified to the same standard of evidence that would be expected in the criminal justice system.
- There will be no possibility for the families to check the veracity of the information received, as was the case with the Independent Commission for the Location of Victims Remains (ICLVR).

- Information released to the families will be limited and not in any event admissible in court.
- The names of those responsible for murder or any other crime will not be disclosed.
- Information may be withheld by the Secretary of State if releasing it would prejudice national security interests.
- It is likely that the limited and unsatisfactory amount of information released by ICIR to families will leave them disappointed and frustrated.
- Families will be barred from access to the courts to seek remedy against the ICIR. There will be no legal remedies available in relation to the information released, such as judicial review proceedings or legal actions on the basis of the GDPR or FOI legislation.
- Annual reports will be produced by the ICIR over which victims of terrorism would have no control.
- After five years a report on patterns and themes will be sent directly by the ICIR to the IRG and not made available to the public.

3. Key Issues of Concern about the Proposed OHA

- The Northern Ireland Department will not be able to give any directions to the Deputy Keeper in relation to the OHA.
- The Steering Group with members appointed by the Deputy Keeper (PRONI) will provide advice on the organising of the archive.
- It is likely that terrorists and their sympathisers will flood the OHA with account glorifying their exploits, vilifying the police and security forces and causing harm and distress to victims of terrorism including

names of people and accounts of incidents that may not be true or accurate.

- There will be no legal action in defamation possible against the Deputy Keeper (PRONI) in relation to the OHA.
- Families will not be able to check the veracity of the information received.
- Annual reports will be produced by the OHA over which victims of terrorism would have no control.
- After five years a report on patterns and themes will be sent directly by the OHA to the IRG and not made available to the public.

4. Key Issues of Concern about the Proposed IRG

- The members of the IRG will be appointed by politicians, including one of them appointed by the Government of Ireland.
- Over a period of five years there will be around 20 annual reports produced by HIU, ICIR, OHA and the Coroners Service and sent directly to the IRG, which will be used to progressively develop patterns and themes.
- At the end of each year the IRG will produce an annual report that will be released to the UK and ROI Governments and the First Minister and deputy First Minister but not made public.
- At the end of five years HIU, ICIR, OHA and the Coroners Service will each produce a report on patterns and themes that will not be made available to the public.
- The IRG will commission an academic group to produce a final report but the academics will be limited

to considering these reports and certain specified supplementary material. The academics will be barred from considering any material or evidence relating to the whole scope of the troubles.

- Unless the academics are genuinely independent the final report may well be an attempt to justify terrorism and to re-write the history of Northern Ireland.

II. The Alternative for Addressing the Legacy of the Past

The alternative is based on fundamental principles that will be implemented by a simplified Historical Investigations Unit (HIU) dealing with criminal investigations only and the Police Ombudsman for Northern Ireland (PONI) dealing with investigations related to police conduct that will be supported by ancillary justice services such as the Intelligence Retrieval Commission (IRC), the Legacy of the Past Record (LPR) and the Committee for Peace and Freedom (CPF).

1. Fundamental Principles

The fundamental principles on which the alternative should be based are as follows:

1. Principles of British justice.
2. Principle of adequate support for victims and survivors.
3. Principle of the right to life for everyone (Art. 2 ECHR).
4. Principle of the right for an independent and impartial investigation when deprivation of life has occurred (Art. 2 ECHR).

5. Principle of the right to a fair trial by an independent and impartial tribunal (Art. 6 ECHR).
6. Principle of the right to an effective remedy (Art. 13 ECHR).
7. Principle of the right to private and family life (Art. 8 ECHR).
8. Principle of the prohibition of abuse of rights (Art. 17 ECHR).
9. Principle of the prohibition of discrimination against victims of crime (Art. 14 ECHR).
10. Principle of the acknowledgement of the sufferings of victims and survivors.
11. Principle of education and prevention by the testimonies of victims of terrorism.

2. HIU to Deal with Criminal Investigations Only

- The HIU will take over the entirety of the caseload that is presently with the Legacy Investigation Branch (LIB), while PONI and the Coroners Service will be kept separated.
- The HIU should have the power to investigate any historical case (between 1966 and 1998) where there appears to be new evidence of any crime or new lines of inquiry appearing in relation to any crime.
- The HIU should also deal with the review and investigation of injury cases.
- Families whose loved ones died between 11 April 1998 and 31 March 2004 should also have the option to have their cases investigated by the HIU or not.

- The rules, procedures and processes of the HIU must be reviewed and improved, taking into consideration the fundamental principles.
- The HIU should be accessible to victims and survivors, and efficient in carrying out reviews and investigations.
- The HIU will be able to refer cases to PONI where possible conduct issues on behalf of the police have occurred.
- The HIU rules and procedures will ensure that appropriate support is provided to any former member of the army or police whose actions may be investigated.
- The procedure for disclosure of security information will be simplified while ensuring that national security is protected at all times.
- Funding should be provided for the HIU to be operational as quickly as possible.
- The cost of setting up such a body should not be prohibitive.
- An annual report on the work carried out by the HIU should be released to the public.

3. PONI to Deal with Investigations Related to Police Conduct

- The police should be entitled to have their conduct investigated by PONI which was established to investigate the actions of the police.
- PONI will continue to deal with death and injury cases.
- PONI rules, procedures and processes will have to be thoroughly reviewed, taking into consideration judgements rendered by the courts in Belfast as a result of judicial review proceedings.

- PONI rules and procedures must ensure that appropriate support is provided to any former member of the police whose actions are under investigation.
- The procedure for disclosure of security information must be simplified while ensuring that national security is protected at all times.
- Funding should be provided for PONI, which could be immediately operational and undertake the investigation of important cases that have been delayed for many years.
- The cost for adjusting PONI rules and procedures will be relatively limited.
- Reports on investigations will continue to be published by PONI.

4. Intelligence Retrieval Commission (IRC)

- Data protection applies to living people only.
- Names of terrorist perpetrators of serious incidents (murder and/or injury) who were subsequently killed or died of natural causes, should be revealed.
- The actions of dead terrorists involved in murder and/or serious injury cases should be revealed to members of families who were seriously injured or lost loved ones.
- The IRC will receive requests for information in relation to incidents that have affected victims and/or survivors to find out if dead terrorists were involved in the murder of their loved ones or the serious injuries they caused to them even though they were never charged or convicted.
- The IRC will have the power to access security information so as to establish whether or not there is

sufficiently reliable intelligence to confirm that a named terrorist was involved in the incident and to what degree.

- Information will be released confidentially to the family of the victim.

5. Legacy of the Past Record (LPR)

- True personal stories and experiences about what happened during the Troubles should be allowed to be told and entrusted to PRONI.
- It is currently possible to deliver and entrust the keeping of such documents at PRONI.
- PRONI could create a repository, dedicated to receiving stories and experiences about the Troubles, that will be managed according to rules and guidelines developed for that purpose under the Public Record Act (NI) 1923.
- Stories and experiences could be received by PRONI from organisations serving victims or by victims and survivors themselves.
- No specific legislation should be introduced to protect the Deputy Keeper from legal action.

6. Committee for Peace and Freedom (CPF)

- The lessons from the past should be learned in order to prevent terrorism and radicalisation.
- Policies and educational programmes to combat terrorism and radicalisation and promote peace and freedom should be developed and implemented.
- Policies should be implemented at every level of government to prevent terrorism and radicalisation.

5. Security Force Advocacy

In the Ulster Human Rights Watch we value the contribution made by the Security Forces in the fight against terrorism over the past decades.

We also recognise that alongside the many brave men and women who made the supreme sacrifice in defence of freedom for all, there are many who, having survived the ordeal, still suffer acutely from a continued legacy of physical, mental and emotional suffering, often with high levels of Post-Traumatic Stress Disorder (PTSD).



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This continuing trauma is likely to be further compounded should there be a tidal wave of allegations (spurious or otherwise) being made against former members of the Security Forces (both in Northern Ireland and in Great Britain) arising from the setting up of a Historical Investigations Unit (HIU) as proposed.

It is expected that this proposed unit, a body with full police powers to conduct criminal investigations into Troubles' fatalities, will be legislated for by the Westminster Government and may be operational within two years.

The Advocacy Service of the Ulster Human Right Watch is preparing to support any former members of the Security Forces personnel and families who may become involved in these HIU investigations, by providing the guidance and advice necessary to ensure adequate and professional representation in such circumstances.

We welcome inquiries **NOW** from former Security Forces members who may feel they may require such support in advance of any such potential investigations.

6. UHRW Definition of a Victim of Terrorism

In view of the current statutory **interpretation** of a victim and survivor, Ulster Human Rights Watch have produced a **definition** of a victim of terrorism which will frame the activity of our service.

It will enable the Advocacy Service to address the particular issues that affect victims and survivors of terrorism.

The UHRW definition of victim of terrorism is as follows:

1. A natural person who was killed as the direct result of a terrorist act and was never engaged in any form of terrorist activity and the close relative or a dependent of such a person;
2. A natural person who has suffered physically and/or psychologically as the direct result of a terrorist act and was never engaged in any form of terrorist activity and the close relative or a dependent of such a person;
3. A natural person who was killed or has suffered physically or psychologically as a result of finding him/herself in proximity to a terrorist act being committed or who has been wrongly associated with the perpetration of such an act;

4. A natural person who has suffered physically and psychologically as a result of bringing assistance to a victim of a terrorist act.

This definition of victim of terrorism falls within the Interpretation of victim and survivor provided in the Victims and Survivors (Northern Ireland) Order 2006 and complies with it.

Illustration of compliance of UHRW definition of victims of Terrorism with interpretation provided by Victims and Survivors (Northern Ireland) Order 2006 is as follows:

- The **Interpretation** of “victim and survivor” provided by the Victims and Survivors (Northern Ireland) Order 2006

Victims of terrorism:
Civilians and Members of Security Forces

Perpetrators or terrorist acts:
Republicans and Loyalists

- The **definition** of “victim of terrorism” falls within the Interpretation of “victim and survivor” provided in the Order 2006

Definition of victim of terrorism is within the Interpretation provided by the Order 2006

7. UHRW Bill of Rights for Victims of Terrorism

The Ulster Human Rights Watch,

Considering its objects are to promote human rights and the Judeo-Christian interpretation of such rights in Northern Ireland, the whole of the United Kingdom and other countries on the basis of their constitution and international conventions;

Considering that terrorism is an attack on fundamental human rights and a major threat to the survival of democracy;

Acknowledging that victims of terrorism, as a result of acts of terrorism causing death or serious physical or psychological injury, are victims of violations of human rights;

Declares that victims of terrorism in Northern Ireland and the rest of the United Kingdom are entitled to the following rights:

I. Right of Recognition

1. Victims of an act of terrorism have the right to be recognised as victims of terrorism and as a result given respectful treatment by investigating authorities, the justice system and society at large;

2. Victims of terrorism are recognised as victims of violations of fundamental human rights. ¹

II. Right to be Protected by the State

3. Victims of terrorism have the right to be protected by the State whose duty is to:
 - a Take required measures to prevent the commission of acts of terrorism as well as pre-emptive measures when informed of the likelihood of acts of terrorism being committed; ²
 - b Classify acts of terrorism as criminal offences and implement the law and criminal procedure in order to enable investigating authorities to identify those responsible, prosecute and try them before an independent and impartial court of law; ³
 - c Ensure that investigating authorities are assisted in the lawful investigation and prosecution of terrorist suspects by other States who can provide intelligence, evidence and legal assistance; ⁴

III. Right to be Supported

4. Victims of terrorism and their families have the right to be provided with specialist victim support by way of advocacy support during investigations and

court proceedings and health and wellbeing support;

IV. Right to an Investigation

5. Victims of terrorism have the right to expect the investigating authorities to conduct an effective investigation into the commission of acts of terrorism which caused people to be killed or physically or psychologically injured; ⁵
6. To this end victims of terrorism have the right to expect the investigating authorities to:
 - a. Fulfil their duty to initiate the investigation of acts of terrorism without waiting for victims to lodge a complaint; ⁶
 - b. Start the investigation of acts of terrorism promptly and for the investigation to be carried out without undue delay; ⁷
 - c. Keep the victims and their family members informed of progress with the investigation of their case and give them the means to participate in the criminal proceedings; ⁸
 - d. Carry out the investigation of acts of terrorism impartially; ⁹
 - e. Investigate acts of terrorism so as to enable the identification and accountability of those,

including public officials, whose acts or omissions have caused or contributed to the death or serious injury of individuals;

- f. Ensure that the investigation of acts of terrorism involves an element of public scrutiny; ¹⁰
 - g. Take all reasonable steps to secure the relevant evidence; ¹¹
 - h. Base the outcome of the investigation of acts of terrorism on a thorough, objective and impartial analysis of all relevant elements as well as the examination of the authorities' own actions; ¹²
- 7. Whenever the responsibility of State authorities is at stake, victims of terrorism have the right for the investigation to be carried out by independent investigating authorities; ¹³
 - 8. Victims of terrorism have the right for criminal and civil court proceedings in relation to acts of terrorism to take place within a reasonable time; ¹⁴

V. Right to be Involved in Criminal Proceedings

- 9. During criminal proceedings victims of terrorism have the following rights to:

- a. Be made aware of their rights so as to be able to take part in criminal proceedings;
- b. Be assisted so as to participate effectively in judicial proceedings;
- c. Access legal aid;
- d. Be informed of the reason for the decision to end an investigation, not to prosecute and for the final judgment;
- e. Have the decision of the Public Prosecution Service not to prosecute reviewed by a court of law;¹⁵

VI. Right not to Suffer Repeat Victimisation

- 10. Victims of terrorism have the right not to suffer repeat victimisation, intimidation or retaliation during criminal investigations and court proceedings;¹⁶

VII. Right to Privacy and Respect for Family Life

- 11. The right of victims of terrorism to privacy and respect for their family life should be protected against unwarranted intrusion from the media;¹⁷

VIII. Right to Membership of Victims' Organisations

12. Victims of terrorism have the right to join or to create organisations to represent them;¹⁸

IX. Right to Reparation and Non-Repetition

13. Victims of terrorism have the right to have access to reparation including, as appropriate, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;¹⁹

X. Right to Protection from Perpetrators

14. Victims of terrorism have the right to be protected from contact with alleged perpetrators of acts of terrorism;
15. When victims of terrorism decide to engage in restorative justice processes with perpetrators of acts of terrorism they have the right to benefit from measures designed to protect them.²⁰

Footnotes

1. United Nations Human Rights Council (UNHRC), Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, Framework principles for securing the human rights of victims of terrorism (A/HRC/20/14), 4 June 2012, pages 4, 12 and 13; Law No. 29/2011 of Spain on the Recognition and Integral Protection of the Victims of Acts of Terrorism.

2. International Covenant on Civil and Political Rights (ICCPR), Article 6; UNHRC, Report of Ben Emmerson (A/HRC/20/14), 4 June 2012, pages 6 and 18; State's positive obligation: Case law from ECtHR, *Osman v. UK*, no. 87/1997/871/1083 and *LC B v. UK* 9 June 1998, para. 36; Council of Europe Guidelines on human rights and the fight against terrorism, preamble, para. f; no disproportionate burden imposed on State: ECtHR, *Branko Tomasic and Others v. Croatia*, para. 50; *Giulani and Gaggio v. Italy*, 24 March 2011, para. 245; ECtHR, *Finogenov and Others v. Russian Federation* nos. 18299/03 and 27311/03, paras. 213 and 243-262; ECtHR, *Isayeva v. Russia* no. 57950/00, para. 191; *McCann v. UK* no. 18984/91, paras. 150 and 205.
3. UNHRC, Report of Ben Emmerson (A/HRC/20/14), 4 June 2012, pages 7 and 19; ECtHR: *Osman v. UK*, paras. 115116; *A v. UK*, no. 100/199/884/1096; *X and Y v. The Netherlands*, no. 8978/80.
4. Council of Europe Convention on the Prevention of Terrorism, 16 May 2005, Article 15; United Nations Office on Drugs and Crime (UNODC) Manual on International Cooperation in Criminal Matters related to Terrorism (New York 2009); exclusion to cooperation: ECtHR *Othman (Abu Qatada) v. UK*, no. 8139/09.
5. UNODC, A/HRC/16/51, practice 3, para. 1; Human Rights Committee general comment No. 6 (1982), para. 3; CCPR/CO/73/UK; CCPR/CO/73/UKOT, para. 8.
6. ECtHR, *Ilhan v. Turkey*, no. 22277/93, para. 63.
7. ECtHR, *Yasa v. Turkey*, no. 22495/93, paras. 102-104; *Benuyeva and Others v. Russia*, no. 8347/05, para. 112.
8. ECtHR, *McCann v. UK*, no. 18984/91, para. 162; UNODC, *The Criminal Justice Response to Support Victims of Acts of Terrorism* (New York, 2011), paras. 130-145.
9. Manfred Nowak, UN Covenant on Civil and Political Rights (CCPR) Commentary 2005, pages 320-321.
10. ECtHR, *Gulec v. Turkey*, no. 21593/93, para. 82.
11. Compulsory steps: ECtHR, *Gül v. Turkey*, no. 22676/93, paras. 89-90; ECtHR, *Tanrikulu v. Turkey*, no. 23763/94, para. 109; ECtHR, *Salman v. Turkey*, no. 21986/93, para. 106; ECtHR, *Nachova and Others v. Bulgaria*, nos. 43577/98 and

- 43579/98, para. 113; conclusion based on evidence: ECtHR, *Finogenov and Others v. The Russian Federation* nos. 18299/03 and 27311/03, paras. 272-274.
12. UNHRC, Report of Ben Emmerson (A/HRC/20/14), 4 June 2012, page 11, para. 34; ECtHR, *Branko Tomasic and Others v. Croatia*, no. 46598/06, para. 62.
 13. ECtHR, *Gulec v. Turkey*, no. 21593/93, paras. 81-82; ECtHR, *Ogur v. Turkey*, no. 21594/93, paras. 91-92; ECtHR, *Bati and Others v. Turkey*, no. 33097/96 and 57834/00, para. 135; ECtHR, *Davydov and Others v. Ukraine*, nos. 17674/02 and 39081/02, para. 277.
 14. European Convention on Human Rights (ECHR), Article 6; ICCPR, Article 14.
 15. UNHRC, Report of Ben Emmerson (A/HRC/20/14), 4 June 2012: page 12; ECtHR, *McCann v. The United Kingdom*, no. 18984/91, para. 162; page 13: UNODC, *The Criminal Justice Response to Support Victims of Acts of Terrorism* (New York, 2011), paras. 130-145; Legal aid: European Union, Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA), Article 4, paras. 1 and 2 (a)-(c), and Article 6; Reasons for not prosecuting: Divisional Court of England and Wales, *R v. DPP ex parte Manning and Melbourne* [2000] 3 WLR 463; Review of decision not to prosecute, assisting victims of terrorism: Towards a European Standard of Justice, 2010, Rianne Letschert, Ines Staiger and Anthony Pemberton, Tilburg Declaration, recommendation V.3.
 16. UNHRC, Report of Ben Emmerson (A/HRC/20/14), 4 June 2012, page 13, para. 42; ECtHR, *Doorson v. The Netherlands*, no. 20524/92; Court of Appeal of England and Wales, *A and Others v. Lord Saville of Newdigate* [2002] 1 WLR 2135; ECtHR, *Van Mechelen v. The Netherlands*, nos. 21363/93, 21364/93, 21427/93, 22056/93, paras. 56-65.
 17. UNHRC, Report of Ben Emmerson (A/HRC/20/14), page 14, para. 45; ECtHR, *Z v. Finland*, no. 22009/93; ECtHR, *Craxi (No. 2) v. Italy*, no. 25337/94.
 18. ICCPR, Articles 19 and 22 give rights to freedom of association; ECtHR, *Plattform "Ärzte für das Leben" v. Austria*, no. 10126/82, para. 32.

19. The United Nations Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147, annex, paras. 18-23; UNHRC, Report of Ben Emmerson (A/HRC/20/14), para. 53; Council of Europe, Committee of Ministers Guidelines on the Protection of Victims of Terrorist Acts and European Convention on the Compensation of Victims of Violent Crimes (1983), Article 3; UNODC, The Criminal Justice Response, para. 293; UNHRC, Report of Ben Emmerson Report (A/HRC/20/14), page 18, para. 62.
20. A Charter for Victims of Crime, Department of Justice (DoJ) 2015, paras. 99, 103, 123 and 128.

8. Code of Conduct

Advocacy Support Manager and Workers for Ulster Human Rights Watch are committed to contributing to the delivery of high quality advocacy services to victims and survivors of terrorism related incidents in Northern Ireland. They endeavour to provide a safe and compassionate advocacy service of a high standard.

This Code tells clients of the service exactly what they should expect from Advocacy Support Manager and Workers from Ulster Human Rights Watch.

Advocacy Support Manager and Workers for the Ulster Human Rights Watch must:

- Be clear about the purpose of advocacy.
- Be accountable by making sure they can answer for their actions or omissions.
- Maintain a victim centred approach.
- Empower victims to ensure they are at the heart of decision-making.
- Promote equal opportunities.
- Work in collaboration with their colleagues to ensure the delivery of high quality, advocacy.
- Communicate in an open and effective way to promote effective delivery of the Advocacy Service.
- Respect beneficiary rights to confidentiality.
- Strive to improve the quality of advocacy service through continuing professional development.

Following is the detail of the UHRW code of conduct:

1. Clarity

- Advocacy Support Manager and Workers are clear about the nature and extent of their role. They understand the boundaries of their advocacy role and non-advocacy roles such as mediation and advice giving.
- They never act outside of these boundaries. Advocates should seek permission (where the client has the capacity to consent or refuse) to refer beneficiaries on to other agencies where appropriate.
- Are responsible for providing clients with a clear explanation of their role at the start of any new relationship, which should include providing easy to read materials where this is required.
- Provide written information about their organisation and a copy of this Code of Practice to beneficiaries, or other professionals if requested.

2. Accountability

- Advocacy Support Manager and Workers operate within the law at all times, and ensure adherence to the Ulster Human Rights Watch employment and funding contracts.
- They ensure awareness of duties and responsibilities under employment law.

- Are aware of statutory duties with regards to human rights legislation and safeguards.
- Maintain accurate and up to date written records of actions taken and progress made with their work. Clients should be kept informed of and involved in all aspects of the advocacy process.
- Comply with the Ulster Human Rights Watch data collection policy and the General Data Protection Regulation (GDPR) and ensure client-monitoring information is routinely collected and fed back to the organisation.
- Are honest with themselves and others about what they can do, recognise their abilities and the limitations of their competence and only carry out or delegate those tasks agreed in their job description and for which they are competent.
- Always behave and present themselves in a way that does not call into question their suitability to work in an advocacy environment.
- Are able to justify and be accountable for their actions or omissions – what they fail to do.
- Always ask for guidance if they do not feel able or adequately prepared to carry out any aspect of their work, or if they are unsure how to effectively deliver a task.

- Tell their Ulster Human Rights Watch Line Manager about any issues that might affect their ability to do their job competently and safely. If they do not feel competent to carry out an activity, they must report this.
- Establish and maintain clear and appropriate professional boundaries in their relationships with people who use the Advocacy Service at all times.
- Never accept any offers of loans, gifts, benefits or hospitality from anyone they are advocacy service to or anyone close to them which may be seen to compromise their position.
- Report any actions or omissions by themselves or colleagues that they feel may compromise the safety or interests of clients who use the Advocacy Service and, if necessary use whistle blowing procedures to report any suspected wrongdoing.
- Do not accept gifts other than one-off, inexpensive items, which should be declared to the line manager. Further gifts should be declined, and an explanation given to the client.
- Do not make promises to clients, which may not be possible to fulfil.

3. Victim Centred Approach

- Advocacy Support Manager and Workers ensure advocacy support is appropriate to the client's needs and/or expressed wishes.
- Base their actions on mutually agreed plans and preferred outcomes, and work in partnership with clients to achieve this.
- Agree a plan of action and identify initial outcomes and timescales with clients without being prescriptive or inflexible.
- Ensure the client's fundamental human rights are respected and upheld at all times.

4. Victim Empowerment

- Advocacy Support Manager and Workers promote supportive decision-making to ensure clients are at the heart of decisions about their own case, care and support.
- Record the outcomes achieved by advocacy clients.
- Promote the clients' rights within decision-making meetings and highlight relevant guidance and legislation that underpins this.

- Ensure clients understand what their rights and options are with respect to the specific decision at hand. Where the advocate is unable to do this either due to a lack of knowledge, skills or specific expertise he should support clients to access the most appropriate representation, advice or information.
- Inform clients of their right to request a change of advocate (within the constraints of the organisation), or terminate contact with the advocate, at any time if clients are unhappy with the advocate's approach to a particular issue.
- Be open and transparent in their work with clients.
- Provide clients with information about making a complaint about the service or advocate.
- Provide clients with information about how they can give feedback to the advocacy provider about its work and how to get involved in the wider activities of the organisation if they wish, where this is an option.

5. Equal Opportunities

- Advocacy Support Manager and Workers ensure the capacity to meet the needs of clients and where this is compromised e.g. due to lack of resources, this is raised with relevant stakeholders and/or funders.

- Are fully conversant with the Ulster Human Rights Watch equal opportunities policy and are able to explain it to others in straightforward language. Policy should be adhered to at all times.
- Are aware of duties and responsibilities under relevant human rights and equality legislation including the Equality Act 2010, Human Rights Act 1998 and other relevant wider policies that promote victim centred advocacy and support.
- Challenge any evidence of unfair or unequal treatment and challenge discriminatory practice. Ensure there are systems in place that enable whistle blowing, complaining, making a safeguarding alert or access to legal advice where appropriate.
- Are respectful of clients' religious, cultural and spiritual needs and are proactive in ensuring these are met.

6. Cooperation

- Advocacy Support Manager and Workers understand and value their contribution and the vital part they play in providing advocacy services.
- Recognise and respect the roles and expertise of their colleagues in Ulster Human Rights Watch.

- Work openly and co-operatively with colleagues including those from other disciplines and agencies, and treat them with respect.
- Work openly and co-operatively with people who use the Advocacy Service and their families and treat them with respect.
- Honour their work commitments, agreements and arrangements and are reliable, dependable and trustworthy.
- Actively encourage the delivery of high quality advocacy services.

7. Communication

- Advocacy Support Manager and Workers communicate respectfully with people who use advocacy services and their families in an open, accurate, effective, straightforward and confidential way.
- Communicate effectively and consult with your Ulster Human Rights Watch colleagues as appropriate.
- Always explain and discuss the advocacy support they intend to carry out with the beneficiary and only continue if they give valid consent.

- Maintain clear and accurate records of the advocacy support they provide.
- Recognise both the extent and the limits of their role, knowledge and competence when communicating with people who use the Advocacy Service.

8. Confidentiality

- Advocacy Support Manager and Workers treat all information about clients who use the Advocacy Service and their families as confidential.
- Only discuss or disclose information about clients who use the Advocacy Service and their families in accordance with the legislation and Ulster Human Rights Watch policy.
- Always seek guidance regarding any information or issues that they are concerned about.
- Always discuss issues of disclosure with a line manager.

9. Continuing Professional Development

- Advocacy Support Manager and Workers ensure up to date compliance with all statutory and mandatory training, in agreement with minimum standards frameworks.

- Participate in continuing professional development to achieve the competence required for their role.
- Carry out competence-based training and education in line with their agreed ways of working.
- Improve the quality and safety of the Advocacy Service.
- Maintain an up-to-date record of training and development.
- Contribute to the learning and development of others as appropriate.

9. Complaint Procedure

Ulster Human Rights Watch aims to provide quality advocacy services to our beneficiaries. If we fail to do this we want to know about it, and this procedure sets out how a service user can make a complaint to Ulster Human Rights Watch and how we will respond to complaints.

A complaint is defined as an expression of dissatisfaction made by a beneficiary about Ulster Human Rights Watch services. Complaints are likely to be in one or more of the following areas:

- Procedures or activities;
- Discourtesy or unhelpfulness on the part of staff;
- Equal opportunities policy.

1. Policy

Ulster Human Rights Watch values complaints as opportunities to learn from mistakes and to improve the service we provide. The person affected can complain if we do something wrong or to a poor standard or treat someone unfairly.

Access to the complaints procedure is not available to beneficiaries who have already commenced legal proceedings against the organisation in relation to the matter in dispute or a related matter.

2. Aim of the Procedure

Ulster Human Rights Watch aims to provide a good quality service. We value complaints as an extremely useful form of feedback on the way we deliver our service, as well as a means of resolving individual service user grievances. Wherever possible staff are expected to deal with a concern at the point of it being reported before it escalates into a formal complaint.

When dealing with a complaint the aims of the organisation are to ensure that:

- Staff know how to respond effectively to a beneficiary dissatisfaction so that formal complaints are minimised;
- Staff know how to assist beneficiaries who wish to make a formal complaint;
- The complainant knows who is dealing with the problem, and what we are doing to resolve it;
- Wherever possible, the problem is resolved to the beneficiary's satisfaction, quickly and sensitively. This may not be possible, however, if resolving a problem to the beneficiary's satisfaction might in some way compromise or conflict with satisfaction of others;
- We learn from the experience and where necessary make changes to our policies and procedures.

3. Procedure

If a beneficiary is unhappy with the service they receive in the first instance the member of staff dealing with them tries to deal with the problem there and then.

Staff are encouraged to attempt to resolve any concerns that beneficiaries have before they reach the status of a formal complaint; encouraging a beneficiary to make a complaint is never a substitute for inaction.

Staff will record all grievances, or informal complaints, using the complaints forms together with the action they have taken to resolve the concerns expressed. The committee will review the logs at least every three months to ensure procedures are being followed.

The use of complaints forms allow the organisation to monitor all grievances, large and small. A beneficiary may wish to make a formal complaint without making an informal complaint or if they are not satisfied with the initial response they receive.

If resolution is not possible the member of staff should inform their Line Manager about the problem in writing to ensure that the beneficiary's dissatisfaction is known about within the organisation.

The member of staff will inform the beneficiary that they are passing this information on to their Line Manager. If the service user wants to make a formal complaint, there are normally three stages to the procedure:

- In the first instance the complaint is submitted for investigation.
- If the beneficiary is not satisfied with the response he/she receives, he/she can complain to the chairperson who personally investigates the matter;
- If the beneficiary is still unhappy, his/her complaint is considered by the committee as a whole.

10. Privacy and Data Protection

This section explains how we use any personal data we collect about you when we assist you with the investigation of your case.

It has been updated in accordance with the requirements of the General Data Protection Regulation (GDPR).

1. Data Controller and Data Protection Officer (DPO)

The Data Controller is the Ulster Human Rights Watch (UHRW) represented by the Committee of the UHRW acting through the Advocacy Service Sub-Committee.

The UHRW Data Protection Officer is Joanne Banks, Administration Officer of the UHRW Advocacy Service. Her contact details are as follows: The Victoria Suite, Brownlow House, Windsor Avenue, Lurgan, BT67 9BJ; tel.: 028 3834 4500; e-mail: info@uhrw.org.uk

If you have any queries about the UHRW Data Protection Policy and/or our privacy notice please contact the Data Protection Officer.

2. Personal Data

Personal Data means any information relating to an identifiable living individual, who is called 'data subject' in the GDPR and can be identified, directly or indirectly.

3. Legal Basis for Processing Personal Data

We collect personal data for the purpose of fulfilling our contract with you as a beneficiary of the Advocacy Service which is to assist you in the investigation of historical cases.

- We collect personal data from you when:
 - you register with the Ulster Human Rights Watch Advocacy Service;
 - we examine your case and assist you with it;
 - you take part in the evaluation and monitoring process of the Advocacy Service.
- We use personal data about you:
 - to be able to examine your case and advise on how your case could be progressed;
 - to assist you with the on-going investigation of your case by the public authorities;
 - to evaluate and monitor the quality of the services we are providing for you.
- Communication of personal data to other persons or private or public bodies will not occur unless this is done with your prior consent confirmed in writing.

The personal data we collect from you may also be used in reports produced by the Ulster Human Rights Watch for the purpose of the legitimate interests of improving the services provided for victims and survivors of terrorism by the Advocacy Service and for assisting in

research carried out to benefit victims and survivors of terrorism.

We will solely process your personal data for the purpose of the legitimate interests mentioned above, and only if these interests are not overridden by the interests of your fundamental rights and freedoms, which require protection of your personal data.

4. Security of Personal Data

All personal data collected about you is kept safely under the responsibility of the Committee of the Ulster Human Rights Watch according to the UHRW Data Protection Policy. The Data Protection Officer will regularly monitor compliance with the requirements of the GDPR.

5. Retention of Personal Data

All personal data collected about you is kept for the time required to deal with your case and in pursuance of the legitimate interests mentioned above in compliance with the UHRW Data Protection Policy.

6. Your Legal Rights

The rights you have in relation to your personal data are as follows:

a. Right to Request Access to your Personal Data

You have the right to request a copy of the personal data that we hold about you. If you wish to have a copy

of some or all of your personal data, please write to the Data Protection Officer.

You will not have to pay any fee. A reasonable fee may be charged if the request is excessive or repetitive. UHRW will endeavour to reply to your request within one month.

b. Right to Rectification of Personal Data

You have the right to obtain from UHRW without undue delay the rectification of inaccurate or incomplete personal data about you. You will not have to pay any fee.

c. Right to Object

You have the right to object at any time to UHRW processing your personal data, obtained for the purpose of the legitimate interests pursued by UHRW, if you consider that your interests or personal rights and freedoms override our legitimate interest mentioned above.

You will not have to pay any fee and UHRW will endeavour to reply to your request within one month.

d. Right to Lodge a Complaint with the Information Commissioner's Office

You have the right to lodge a complaint with the Information Commissioner's Office, whose details are provided hereafter:

Information Commissioner's Office's Office
3rd Floor
14 Cromac Place
Belfast
BT7 2JB
Tel: 028 9027 8757 or 0303 123 1114
Email: ni@ico.org.uk

Changes to our Beneficiary Privacy Policy

We keep our privacy notice under regular review and will inform you of any updates.

11. Partnerships and Referrals

The Advocacy Support Manager and the Advocacy Support Workers will decide whether to refer a beneficiary, with his/her consent, to an organisation providing health and wellbeing support.

UHRW has Memoranda of Understanding for client referral with:

Castle Hill Foundation:

Castle Street
Portadown
BT62 1BA
Tel: 028 3833 3840

Decorum NI:

26 Baloo Avenue
Bangor
BT19 7QT
Tel: 028 9145 7565

East Belfast Community Counselling:

The Network Centre
55 Templemore Avenue
Belfast BT5 4FP
Tel: 028 9046 0489

Ely Centre:

52 Forthill Street
Enniskillen
BT74 6AJ
Tel: 028 6632 0977

REACT:

2 Mallview Terrace
Armagh
BT61 9AN
Tel: 028 3752 6869

UDR Association Coleraine:

29E New Row
Coleraine
BT52 1AD
Tel: 028 7032 1657

12. Contact Details

The Ulster Human Rights Watch Advocacy Team can be contacted at the following address:

**The Victoria Suite
Brownlow House
Windsor Avenue
Lurgan
CRAIGAVON
BT67 9BJ**



Tel: **028 3834 4500**

Mob: **07779 939333**

Web: www.uhrw.org.uk

To arrange a confidential meeting to discuss a case please contact us or cut out and send in a completed response form (below) to our office in Brownlow House.

I/a friend would like to confidentially discuss my/their historical case with the Ulster Human Rights Watch Advocacy Service. My/Their contact details are as follows:

| | |
|-----------------|--|
| Name: | |
| Address: | |
| Tel: | |



Staff Email

Staff can be contacted directly at the following email addresses:

| | |
|------------------|--|
| Axel Schmidt: | axelschmidt@uhrw.org.uk |
| Jonathan Larnar: | jonathanlarnar@uhrw.org.uk |
| Lesley Banks: | lesleybanks@uhrw.org.uk |
| Don Mackay: | donmackay@uhrw.org.uk |
| Joanne Banks: | info@uhrw.org.uk |



Response Form

Please send to:

**Ulster Human Rights Watch
The Victoria Suite
Brownlow House
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BT67 9BJ**

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