



Unionist Voice Policy Studies - Let's Talk Loyalism

This open letter, on behalf of Unionist Voice Policy Studies and Let's Talk Loyalism, sets out our collective opposition to the efforts to compel elected unionist representatives to discharge politically controversial duties, in circumstances whereby the balance at the heart of our political settlement has been fatally undermined via the imposition of the constitutionally incompatible Northern Ireland Protocol.

We endorse the peaceful protest action organised by the Unionist and Loyalist Coalitions and other protest groups, and welcome the position adopted by the Loyalist Communities Council and other representative groups in relation to setting out the clear ongoing consequences for political and societal stability flowing from the imposition of the Protocol.

At present, with significant community support, DUP Ministers are refusing to engage (except on Health matters) on North-South arrangements. A 'Lets Talk Loyalism' survey published in August 2021 found that just over 80% of those surveyed across the unionist and loyalist community supported withdrawal from North-South arrangements.

However, the adoption of this strategy has led to Sinn Fein inspired court action against unionist Ministers being brought by republican activist Sean Napier, who has bestowed himself with the grand title of "*Guardian of the Good Friday Agreement*" (a nationalist reference to the Belfast Agreement). **It can not be the case that the Court merely relies upon the prevailing skewed pro nationalist interpretation of the Belfast Agreement, without considering the opposing views of our community.**

The Court process is, *in our view*, being manipulated by this Sinn Fein activist who is asking Scofield J to take the exceptional step of issuing an order of *mandamus* against DUP Ministers, forcing their attendance at North-South bodies.

It is, or should be, particularly clear to the Court that the position adopted by the DUP Ministers in relation to North-South bodies has significant support within the unionist and loyalist community. Whilst many feel these steps by the DUP do not go far enough, they are nevertheless an important first step.

Mr Napier's application seeks the assistance of the High Court in forcing unionism to implement North-South, whilst East-West is trashed. Such a judicial intervention in the political arena has the potential to (i) further inflame tensions within Northern Ireland and (ii) enhance the perception that the judiciary are only too willing to make political interventions to further nationalism's political objectives.

The forced discharge of the North-South duty imposed by the Northern Ireland Act ('1998 Act') and associated Ministerial Code is now in of itself, due to the political and societal instability caused by the Protocol demolishing East-West relationships, a matter of significant controversy.

The fact that the High Court is being asked by a Sinn Fein activist to compel unionist Ministers to discharge this function- against their political will- seems to illuminate that this political issue is one which is significant and controversial. In circumstances whereby it is a political policy across different Ministers (and given the fact Mr Napier has named a number of Ministers as respondents), it is also self-evidently cross cutting.

The significant controversy around the NI Protocol vis-à-vis the continued operation of the Belfast Agreement has been recently recognised by Scofield J who said:

*"Thus, protection of the Belfast Agreement is the aim of the Protocol (although it is a matter of considerable **political contention** whether and how this aim has been achieved)"*

Accordingly, it is our view that the in-built protections within section 28A (1) of the 1998 Act and paragraph 2.4 of the associated Ministerial Code, fall to be applied prior to the discharge of the North-South obligations. The discharge of such pernicious North-South obligations must be done in a manner consistent with other statutory duties, such as s28A of the 1998 Act.

As will be clear, in circumstances whereby a matter is significant or controversial and/or cross cutting and is unable to command Executive approval, then section 28A (10) deprives the Minister of authority to take the relevant decision.

The politicisation of our judicial processes by nationalism seeking to draw the Court into a matter of significant political controversy is the latest in their irresponsible agenda of seeking to polarise our society in Northern Ireland.

We copy this open letter to the respondents in the case and urge upon them to ensure, via their senior counsel, the Court is aware of the significant political angst being generated with the PUL community by the ongoing politically motivated litigation.