



Royal Courts of Justice
Belfast BT1 3JF

3rd March, 2021

Dear Sir Peter,

Independent Human Rights Act Review – call for evidence

Thank you for affording me an opportunity to respond on behalf of the Northern Ireland judiciary to the call for evidence for the purposes of the above review.

I have since had the benefit of discussing your review with my fellow heads of the judiciary within the United Kingdom and of reading Lord Burnett's earlier response on behalf of the judiciary in England & Wales and that of Lord Reed on behalf of the United Kingdom Supreme Court. I was also shown a draft of Lord Carloway's proposed response on behalf of the Scottish judiciary at an earlier stage.

Given the substantive response which you now have from Lord Reed and for broadly the same reasons offered by Lord Burnett I consider that it is unnecessary for me to add anything further by way of substantive response to the specific questions addressed by Lord Reed and I am largely content that what you have already received from the judicial perspective will give you and your panel adequate material for the purposes of its review of the operation of this constitutionally significant statute.

The only additional matter, specific to this jurisdiction, which I consider worthwhile drawing to the panel's attention is the particular place which the rights enshrined in the European Convention and incorporated in the HRA 1998 have within Northern Ireland's constitutional settlement. In particular, the Belfast Agreement 1998, under that part entitled 'Rights, Safeguards and Equality of Opportunity', contained a commitment from Her Majesty's Government that it would 'complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.' The enactment of the HRA 1998 followed partly from that commitment and the commitment was also implemented within the provisions of the Northern Ireland Act 1998 which incorporates the Convention rights into law here. Further, Article 2 of the Ireland-Northern Ireland Protocol to the recently concluded EU-UK Withdrawal Agreement includes the undertaking that the United

Kingdom 'shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms.'

While I wish to be careful to avoid commenting on matters of policy I think it is uncontroversial for me to observe that any review of the operation of the HRA should be especially alert to the specific inter-related arrangements and mechanisms for the protection of human rights which obtain in this jurisdiction and to the sensitivities which may be generated by any alteration in the duties imposed and access to rights for which those arrangements and mechanisms collectively provide.

I wish you and the panel well in your undertaking and I look forward to reading the outcome of your deliberations in due course.

Yours sincerely,



The Rt Hon Sir Peter Gross
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