

## What Next?

By 1994 the terrorist organisations (republican and loyalist) were comprehensively defeated and called ceasefires. Yes, they were still killing people and destroying property but these were the final acts of defiance from terrorists who had been abjectly routed. The Provisional IRA was to break their ceasefire in early 1996 in order to exert extra influence on future talks with the British government. Part of that pressure was exploding huge devices in London's Docklands and Manchester, and these bombs would have the ultimate desired effect. The Provisional IRA called another ceasefire on Saturday 19th July 1997 that was to lead to the signing of the Belfast Agreement on 10th April 1998.

It has now become apparent that despite repeated denials, the British government had been negotiating with The Provisional IRA throughout the Troubles, using what are known as 'back channels.' The first N.I Secretary of State, William Whitelaw, met a Provisional IRA delegation in Cheyne Walk, London, on 7th July 1972. The PIRA delegation consisted of Sean MacStiofain, the then so-called Provisional IRA chief of staff, Daniel O'Connell, Martin McGuinness, Gerry Adams, Seamus Twomey and Ivor Bell. Gerry Adams (who was never in the IRA) was considered so important that his release from internment was negotiated prior to this meeting. The meeting paved the way for 25 years of secret encounters between the terrorists and the British government, and directly led to the ceasefires of 94 and 97. The Government continued to deny these meetings were taking place, with the then Prime Minister, John Major, responding in the Commons on 1st November 1993, that, "The thought would turn my stomach. I will not talk to people who murder indiscriminately." Three weeks later, the N.I Secretary, Sir Patrick Mayhew, disclosed that since February '93 there had been 'contacts' with The Provisional IRA'; even this was a lie.

It is evident that everyone was 'weary', almost 30 years of terrorism had taken its toll; over 3,600 deaths, the destruction of Northern Ireland's infra-structure, and the effect on the population that still resonates today. The Government wanted a way out, and regardless of the long-term effect, they were prepared to give the Provisional movement anything they required. The Provo wish-list appears to have no end, they wanted a 'reward' for no longer murdering us, and their wish-list included the following : -

- The Army taken off the streets, and all military infra-structure removed.
- The RUC being disbanded and a new police service created.
- A review of the criminal justice system.
- The release of all their prisoners.
- Their members who were voluntarily 'on the run' to be allowed to return home without fear of prosecution. Those who were still 'wanted' for serious crimes should receive Royal Prerogatives of Mercy.
- The decommission of weapons should only take place on their terms; we now know that this only partially took place.
- They would not disband The Provisional IRA, and the structure would remain - it still does today.
- Arrangements would be put in place to investigate the past that would meet the needs of republicans - Stormont House.
- Their members would be equated as 'victims' comparable to those who they murdered and injured - The Victims' and Survivors (NI) Order 2006 - the definition of a victim.
- Their members should receive a pension - Victims' Payment Regulations 2020.

We could never have believed that this level of concession and reward could have been given to a terrorist organisation that has had such an effect on the law-abiding community. We were not communally responsible for what took place and we demand that the incessant placatory measures to them must stop; innocent victims/survivors of terrorism have nothing left to give.

**Ken**



# Advocacy for Innocent Victims Newsletter



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## Dear Member,

Since the last AfIV supplement, we have a new advocate - Bethany Ferris - who will ordinarily be based in the Bessbrook office. She is a local, from the village of Glenanne, and we have no doubt she will be successful in her post and an asset to the team.

Some level of COVID restrictions remain in place and we will continue to adhere to these Government regulations. As previously mentioned, all our offices are resourced, and all the Advocates are readily available. We resumed face-to-face meetings some time ago, both with our members and the statutory bodies.

There was a recent interesting development in the pension saga when in a Judicial Review of the refusal of Sinn Fein to agree to the designation of a department to implement the Victims' Pension, Justice McAlinden was prepared to challenge the Deputy First Minister, rather than obfuscate like most in the past. It is somewhat refreshing that someone in his position was prepared to make a statement of this nature rather than be hindered by the politics that pull us all down. The judge said that Ms O'Neill had attempted to "stymie the scheme for political reasons" and she is "ignoring the rule of law by her stance."

Then on Friday last Judge McAlinden gave his verdict and held Michelle O'Neill to have acted "illegally" in failing to appoint an administrative department to enable the administering of the Scheme. In a scathing verdict, he described claims that it was permissible to delay allocation of the compensation programme for political reasons as "arrant nonsense". The judge declared: "What is in reality being done is that the Executive Office is deliberately stymieing the implementation of the scheme in order to pressure the Secretary of State to make a different scheme which will be substantially directly funded by Westminster and which will have very different entitlement rules."

We continue to work in the vacuum where the statutory bodies have a reluctance to deal with the past. The PSNI Chief Constable has clearly stated that he does not want his force to investigate legacy cases. That should not be a stance that is tolerated, the police service should and must investigate all crime and pursue the perpetrators, no matter where that takes them. The Chief Constable has also pointedly refused three requests to meet him in order to discuss legacy issues.

Yours, **Ken Funston (SEFF's Advocacy Services Manager)**



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## Legal Aid

Legal aid is, and continues to be, a contentious issue. Working and supporting victims and survivors of The Troubles in Great Britain, I am often asked by clients “will I be successful in my claim for legal aid?”. Unfortunately, the answer is usually “no”. We are seeing people being denied justice if they are unable to bear the costly financial burden of legal proceedings. However, we are hopeful that recent cases and continual lobbying will effect positive change.

### What is legal aid and who can apply?

Legal aid was established to support those who could not afford the legal fees and would otherwise be precluded from bringing a claim through the courts of England and Wales. The provision of legal aid sought to address that unfairness by contributing, either in full or in part, to legal fees. The money would be used to cover the cost of submitting a claim, legal advice and representation in court. The Legal Aid Agency (LAA) was formed in 2013. It is part of the Ministry of Justice and is government funded.



Historically, legal aid was available for a variety of cases, including some neighbor disputes and contractual issues.

However, over the last 10 years we have seen a continual erosion of legal aid. The means that it is now only available in a limited number of cases. If you are defending a criminal case or the case relates to a family matter such as child arrangements then your application will likely be approved. You will also be means tested and will need to evidence that you are on a low-income or in receipt of benefits.

For the majority of civil securing legal aid can be challenge. The applicant will need to demonstrate that the matter in question is serious and that they are unable to cover the legal costs. While these requirements do not seem unduly onerous they can be difficult to meet and this has resulted in many applications being refused.

### Legal aid for victims of The Troubles

Seeking to bring a claim for a troubles-related incident can be done through either the Criminal court or the Civil court. There are also many factors to consider when bringing a claim, such as the amount of time that has elapsed and the strength of the evidence that is being relied upon. Understandably, one of the first and most practical considerations is how to fund the case. While the case may be serious and the individual does not have the ability to cover the legal costs, this will not always result in a successful application.



### Members of the Hyde Park families outside the Royal Courts of Justice, London

This was evident in the recent case of *Young v Downey* [2019] that was heard in the High Court in London in December 2019. As I'm sure most of you will be aware, the case concerned the Hyde Park bombing of July 1982. The claimant was seeking damages for the unlawful killing of her father Corporal Jeffery Young. This was a momentous day for the claimant, as the Judge ruled in her favour and ordered that damages be paid. I have worked with the claimant and her family and SEFF continue to support them and other families impacted by the Hyde Park bombing.

This case highlights the difficulties involved in securing legal aid. The claimant made five applications to the LAA, all of which were denied. The matter was serious and the claimant was not in a financial position to cover the legal costs but that does not guarantee that the application will be approved. Thankfully, the sixth application was successful and the claimant was granted legal aid. But it was a long and challenging journey that many other people will face when trying to seek justice.



### The future of legal aid

The Hyde Park case highlights the difficulties involved in a successful legal aid application. Despite the seriousness of the case, the amount of evidence, or the individuals precarious financial situation the majority of applications will be refused.

SEFF are continuing to address the inequalities of the legal aid procedure, with particular focus on those bringing claims relating to The Troubles. We are having discussions with members of parliament about this issue and will continue to lobby for change. We hope that future cases will not have to go through the same struggle as the claimant did in the Hyde Park case and financial means will no longer be a barrier to securing justice.

**By Iona Gallagher**

**(GB Advocacy Support Worker)**