



European Network of
National Human Rights Institutions

Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play

The situation in United
Kingdom - Northern Ireland



United Kingdom – Northern Ireland Country Report

Overview

Name of NHRI and mandate:

- Northern Ireland Human Rights Commission (NIHRC)
- Multi-mandate NHRI and NMM

Sources:

- NHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, Northern Ireland Country Report](#)
- Sub-Committee on Accreditation (SCA): [SCA Report October 2022](#); [SCA Report March 2023](#)
- CoE Independent Bodies: [CoE Commissioner for Human Rights Visit to United Kingdom \(2022\)](#)

Good practices and improvements:

- **CM Principle 1-2: NHRI legal basis:** The NIHRC is an A-Status NHRI established on the basis of the Belfast (Good Friday) agreement, giving it a unique legal basis and exceptional strong standing.
- **CM Principle 3: human rights mandate:** The NIHRC is provided with a strong legal mandate to protect and promote human rights, including by facilitating access to justice, issuing recommendations on legislation and broadly monitoring the situation of human rights in Northern Ireland. Still, in line with the SCA recommendation (2022) and the reporting of the NHRI, the mandate should be strengthened to provide the NIHRC with the power to undertake unannounced visits to places of deprivations of liberty.

- **CM Principle 12: fostering awareness of the NHRI:** The NIHRC reports that national authorities have a good awareness of the role, mandate and independence of the institution.

Key areas where improvement is needed:

- **CM Principle 6: adequate funding to fulfill mandate:** As reported by the NHRI, the SCA (2022) and the Council of Europe Commissioner for Human Rights (2022), the currently reduced budget, and risk of further budget cuts until 2025 place at risk the minimum needed to carry out its core functions and may impact on its international accreditation in compliance with the Paris Principles. Accordingly, in line with the findings of the SCA (2023), national authorities should provide the NIHRC with sufficient funding to ensure that the NHRI can continue to function independently and to fulfill the breadth of its human rights mandate. While the NIO indicated that it would support the NIHRC to seek funding, no substantial progresses have been made to comply with the SCA(2023) recommendations.
- **CM Principle 4: pluralism:** In line with the findings of the SCA (2023), and acknowledging the positive steps to improve representation of persons with disabilities in its staff, the legislative basis and composition of the NIHRC should be amended to strengthen the requirement for pluralism, including minority representation, in the composition of the Commission.
- **CM Principle 9: obligation to follow-up NHRI recommendations:** While recognizing the new obligation for relevant authorities to respond to the NHRI recommendations in the context of protecting certain human rights and equality standards from diminution after Brexit, no other legal obligation for authorities exists to respond in a timely and reasoned manner to the NHRI's recommendation.

Specific findings per Principle

The tables below include data on the assessment of the implementation of each Principle (i.e. the individual parts) within the Recommendation from three sources: the National Human Rights Institutions, the Sub-Committee on Accreditation of GANHRI and the Council of Europe independent bodies. Overall, the findings are considered in four overall groups: the establishment of NHRIs; the strengthening of NHRIs; a safe and enabling environment for NHRIs; and cooperation with and support for NHRIs.

I. Establishment of NHRIs

Principle 1	<p>Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles</p>
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<p><i>SCA Report March 2023, p. 33</i></p> <p>The SCA decides that further consideration of the re-accreditation application of the NIHRC will be deferred to its second session of 2023.</p>
Principle 2	<p>Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their interpretation developed by GANHRI's Sub-Committee on Accreditation.</p>

Assessment of implementation by the NHRI	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The NIHRC is established under statute, the Northern Ireland Act 1998.</p> <p>The EHRC and SHRC have no vires to operate in Northern Ireland. The EHRC does have a domestic equality remit in Scotland.</p>
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II. Strengthening of NHRIs

<p>Principle 3.1</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor and analyse the human rights situation in the country, publish reports on these findings and address recommendations to public authorities at national, regional and local levels and, when applicable, to private entities, and present an annual report to the relevant authorities, including before parliament, for its consideration.
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>Council of Europe Commissioner of Human Rights 2022 visit to United Kingdom, p. 41 (Para.142)</i></p> <p>The Commissioner is also concerned that the views of the NIHRC are not consistently sought, or sufficiently taken into account, by the political actors in the UK and in Northern Ireland that the NIHRC is specifically mandated to advise. She also notes that human rights issues unfortunately continue to be seen by some as representing sectarian interests. In this context, the independent expertise of the NIHRC on human rights is particularly crucial. All relevant actors should therefore take full advantage of this expertise in shaping their decision-making.</p>

<p>Principle 3.2</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - freely address public opinion, raise public awareness on human rights and carry out education and training programmes;
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The NIHRC has a statutory mandate to promote understanding and awareness of the importance of human rights in Northern Ireland.</p>
<p>Principle 3.3</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - fully address all alleged human rights violations by all administrative authorities, other relevant State entities and, when applicable, private entities
<p><i>No information</i></p>	

<p>Principle 3.4</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - have unfettered access to all relevant premises, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by their mandate and to all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests and with due respect for the confidentiality of information obtained;
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>In accordance with Section 69(C)(1) of the Northern Ireland Act for the purposes of an investigation, a person authorized in writing by the NIHRC may enter a specified place of detention in Northern Ireland on one or more occasions during a specified period</p> <p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>The NIHRC further recommends that it is granted powers to carry out ‘unannounced’ visits to places of detention as this limits opportunities for detaining authorities to hide or obscure human rights violations and facilitates greater scrutiny.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2023, p. 35</i></p> <p>The NIHRC informed that their legal framework does not specify a provision on unannounced visits to places of detention. However, in practice there are practical arrangements with public bodies that allow the NIHRC to carry out announced, and potentially unannounced visits.</p>

	<p>The SCA recommends that the NIHRC continues to access all places of deprivation of liberty, including without prior notice. It further recommends the NIHRC to effectively monitor, investigate, and report on the human rights situation in a timely manner, and to undertake systematic follow-up activities and advocate for the consideration and implementation of its findings and recommendations in order to ensure the protection of those deprived of their liberty.</p>
<p>Principle 3.5</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor existing and draft policies and legislation with human rights implications before, during and after their adoption in order to advise the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by making relevant and concrete recommendations.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The NIHRC advises the Northern Ireland Assembly whether a Bill is compatible with human rights and may also conduct investigations as it considers necessary or expedient.</p> <p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>The NIHRC is provided with copies of all legislation introduced into the NI Assembly by the Speakers Office. Individual elected representatives also often seek advice in respect of private members Bills. The NIHRC is required to provide advice to the Secretary of State for NI and the NI Assembly upon request.</p>

<p>Assessment of implementation by CoE independent bodies</p>	<p><i>Council of Europe Commissioner on Human Rights 2022 visit to United Kingdom, p.37 (Para.126)</i></p> <p>The NIHRC had not been asked for its advice ahead of the Bill’s publication.</p>
<p>Principle 3.6</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - contribute to an effective justice system for all, through awareness-raising measures and facilitating access to rights and remedies and, as applicable, by providing legal assistance, being a party before the courts or, when applicable, receiving individual complaints;
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p.3</i></p> <p>The institution has the mandate to contribute to access to justice for individuals, including through strategic litigation before courts, providing legal assistance to individuals as well as awareness-raising.</p>
<p>Principle 3.7</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - encourage the signature, ratification of and accession to international human rights treaties and contribute to the effective implementation of such treaties, as well as related judgments, decisions and recommendations as well as to monitor States’ compliance with them.

<i>No information</i>	
Principle 4	<p>The process of selection and appointment of the leadership of a NHRI should be competence based, transparent and participatory, in order to guarantee the independence and pluralist representation of these institutions. It should also be based on clear, predetermined, objective and publicly accessible criteria.</p> <p>The duration of the appointment should be clearly set out in the founding legislation, so that the leadership posts of the NHRI do not stay vacant for any significant period of time.</p>
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<p><i>SCA Report March 2023, p. 35</i></p> <p>The SCA notes that the NIHRC is taking steps towards improving the representation of persons with disabilities in its staff.</p> <p>The SCA recommends that the NIHRC continue taking steps to ensure a pluralistic staff and advocating for pluralism, including minority representation, in its composition.</p>
Principle 5	<p>To ensure independence, the enabling legislation of a NHRI should contain an objective dismissal process for the NHRI leadership, with clearly defined terms in a constitutional or legislative text. The dismissal process should be fair and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate.</p>

<i>No information</i>	
Principle 6	Member States should provide NHRIs with adequate, sufficient and sustainable resources to allow them to carry out their mandate , including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.
Assessment of implementation by the NHRI	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The NIHRC has raised significant concerns with the SCA in respect of planned cuts to its core budget, which will impact on its ability to carry out core functions over the next three financial years.</p> <p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>The NIHRC recommends that the NI Office provides adequate and secure funding to enable it to fulfil its statutory functions, in line with its role as an A status institution under the UN Paris Principles.</p> <p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 11</i></p> <p>The impact of the proposed budget cuts to the NIHRC core budget is likely to have an impact on the continuing ability of the NIHRC to initiate litigation.</p>
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<p><i>SCA Report March 2023, p. 3, 4, 35</i></p> <p>The SCA reiterates its acknowledgement of the challenging financial situation in which the NIHRC operates, and the efforts made to continue working to fulfil the breadth of its mandate. The SCA notes that the NIHRC has been informed by the NIO that the Government will allocate funds for the NIHRC to discharge its functions in the short term. Furthermore, the NIHRC informed the SCA that it received information that the NIO will discuss with the Chief Secretary to the Treasury (CST) to</p>

	<p>arrange For a Comprehensive Budget Review of the NIHRC so that it can fulfil its mandate in the long-term.</p> <p>The SCA recommends that the NIHRC continues to advocate for the implementation of the recommendations made in the independent review in order to ensure an appropriate and adequate level of funding to effectively carry out the breadth of its mandate. The SCA recommends the open engagement between the NIHRC and the State to ensure all budgetary issues are resolved quickly, appropriately, and in a sustainable manner.</p> <p>The SCA reiterates its previous concern that the budget allocation to the NIHRC is subject to the United Kingdom Government expenditure priorities, and that this has the potential to impact the NIHRC's effectiveness and functional independence.</p> <p>The SCA further notes that the classification of an NHRI as an independent State agency has important implications for the regulation of certain practices, including reporting, recruitment, funding and accounting. Where a State has developed uniform rules or regulations to ensure State agencies are properly accountable for the use of public funds, the application of such rules or regulations on an NHRI is not considered inappropriate, provided they do not compromise the NHRI's ability to perform its role independently and effectively.</p> <p>The SCA therefore reiterates its previous recommendation that the NIHRC advocates for appropriate modifications to applicable administrative procedures to ensure that its functional independence and financial autonomy are guaranteed.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>Council of Europe Commissioner of Human Rights 2022 visit to United Kingdom, p.141 (Para.140)</i></p> <p>During her visit, the Commissioner was informed about problems in the appropriate resourcing of the NIHRC, and the Commissioner understands that the NIHRC is currently working with a skeleton staff. Funding has been allocated to the NIHRC to carry out its new functions in relation to the UK's</p>

	<p>withdrawal from the EU and the non-diminution of rights. However, its overall work on human rights monitoring, advice, litigation, and engaging with international bodies is under considerable strain.</p> <p><i>Council of Europe Commissioner on Human Rights 2022 visit to United Kingdom, p. 41 (Para.141)</i></p> <p>in view of an independent review of the NIHRC that was initiated by the Secretary of State for Northern Ireland. The Commissioner is concerned that, as of yet, no concrete measures have been taken that would lead to a quick resolution of the budget issues faced by NIHRC. The Commissioner is concerned that this is preventing the NIHRC from fulfilling its crucial role in the protection of human rights in Northern Ireland effectively and independently, and could lead to the revocation of the NIHRC's A-status under the Paris Principles.</p> <p><i>(Para.146)</i></p> <p>The Commissioner calls on the UK government to take urgent measures to ensure that the NIHRC can carry out its functions in full compliance with the Paris Principles, in particular by promptly providing the NIHRC with adequate resources to fulfil its mandate independently and effectively.</p>
<p>Principle 7</p>	<p>NHRIs should have the authority to determine their staffing profile and recruit their own staff, as well as sufficient resources available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>See above Principle 6 on adequate, sufficient and sustainable resources.</i></p>

<p>Principle 8</p>	<p>Member States should ensure that NHRIs enjoy adequate access to information and to policy makers and legislators, including timely consultations on the human rights implications of draft legislation and policy strategies.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>Moreover, the NIHRC has adequate access to information and to policy makers and is it involved in all stages of legislation and policy making with human rights implications.</p>
<p>Principle 9</p>	<p>Member States should implement the recommendations of NHRIs and are encouraged:</p> <ul style="list-style-type: none"> - to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame, - to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and - include information thereon in their relevant documents and reports.

<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>The NIHRC must report to the Secretary of State for Northern Ireland and the Executive Office in Northern Ireland, on the implementation of Article 2(1) of the Ireland/Northern Ireland Protocol, which protects certain human rights and equality standards from diminution after Brexit. Under section 78(3), such a report may require the Secretary of State, or the Executive Office, to reply in writing to any recommendations contained in the report, explaining what steps have been taken or are planned in response to the recommendations. There is no other formal requirement for a state authorities' response to the NIHRC's recommendations.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>Council of Europe Commissioner of Human Rights 2022 visit to United Kingdom, p. 42 (Para.143)</i></p> <p>The Commissioner calls on the UK government and the Northern Ireland Executive to fully uphold the UK's commitment to ensure that there is no diminution in the field of human rights and equality due to its withdrawal from the EU, and to promptly implement the recommendations of the NIHRC and the Equality Commission for Northern Ireland (ECNI) in this regard.</p>
<p>Principle 10</p>	<p>When member States grant NHRIs additional competences to perform functions foreseen by international conventions in the field of human rights, such as the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Convention on the Rights of Persons with Disabilities, the NHRI should have access to sufficient resources to develop the capacity to effectively discharge its functions, including having appropriately qualified and trained staff.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI State of the Rule of Law in Europe in 2022, p.5</i></p> <p>The NIHRC's mandate has developed substantially, most recently with the addition of the dedicated mechanism function under Article 2(1) of the Ireland/ Northern Ireland Protocol to the EU Withdrawal</p>

	<p>Agreement. The NIHRC is mandated in accordance with Article 2(1) of the Protocol on Ireland/Northern Ireland of the UK-EU Withdrawal Agreement to oversee the UK Government's commitment on rights and equality in NI after EU withdrawal. The NIHRC has additional powers to provide advice to Government and to monitor, supervise, enforce and report on the ongoing implementation of this commitment, including powers to provide advice and assistance to individuals to bring legal proceedings and to bring, or intervene in, legal challenges in respect of Protocol Article 2.</p>
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III. Safe and Enabling Environment

<p>Principle 11</p>	<p>Member States should ensure that NHRIs can operate independently, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of impartiality, integrity, transparency and fairness.</p>
<p><i>No information</i></p>	
<p>Principle 12</p>	<p>Member States should foster awareness and the co-operation of all relevant public authorities in relation to the mandate, independence and role of NHRIs, including through training and awareness-raising activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>The relevant state authorities have good awareness of the NHRI’s mandate, independence and its role.</p>
<p>Principle 13</p>	<p>Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation, including through ensuring functional immunity. Any cases of alleged reprisals or intimidation against NHRIs, their membership and staff, or against those who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.</p>

<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>There are no specific measures established in law in respect of the Northern Ireland NHRI, the heads of the institution and staff members. This would be covered by the existing criminal and civil legal framework. However, this has not arisen as an issue in the NI context to date.</p>
<p>Principle 14</p>	<p>Member States should ensure that confidential information collected by NHRIs in the context of their mandate is privileged and is not unduly made public.</p>
<p><i>No information</i></p>	

IV. Co-operation and Support

<p>Principle 15</p>	<p>Member States should take effective measures to enable NHRIs to communicate and co-operate with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI; b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment; c. other human rights structures, including regional, local and/or specialised institutions, notably Ombudsman institutions and equality bodies and their respective networks, where appropriate through jointly organised activities; d. international and regional organisations working in related or similar fields.
<p><i>No information</i></p>	