



ICRIR update to the Council of Europe September 2023

Welcome and introductions

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Agenda

ICRIR overview – Legislation / independence / structure / people / timeline

Who we are and how we're building the Commission

Key challenges

ICRIR overview

The statutory framework

UK Government introduced legislation to set up a new Commission and give it powers and duties:

- Principal objective to promote reconciliation;
- Duty not to prejudice national security, cause threat to life or prejudice criminal proceedings
- Duty to look into all the circumstances of a case once request criteria are met
- Duty to have regard to general interests of potential users
- Power to require information from state and individuals
- Power to refer case to prosecutors

New, separate legal entity to carry out functions independently

If passed, the Act of Parliament will establish a new, independent legal entity

- Corporate body with Board of Commissioners
- All public authority obligations apply
- Human Rights Act, incorporating ECHR; equality duties
- Transparency and accountability rules around use of tax-payer money apply – external audit and reporting to Parliament
- Independent oversight of exercise of police powers
- Wide statutory remit, with much detail to fill in

THE ICRIR GOVERNANCE STRUCTURE

THE ICRIR BOARD

Members

Chief Commissioner

Commissioner for
Investigations

CEO Commissioner

Lead Non-Exec
Commissioner (ARC
Chair)

Non-Exec
Commissioner

Non-Exec
Commissioner

Non-Exec
Commissioner

Attendees

Chief Operating Officer

Strategy &
Performance Director[^]

General Counsel

[^]May require additional finance attendee if Chief
Operating Officer is not a qualified accountant
^{*}Independent of ICRIR Board to provide expert advice
and challenge

SUPPORTING COMMITTEES/BODIES

Operational & Policy Delivery

Executive
Management
Committee

Immunity Panel

Investigative Oversight
Board

Oversight/Challenge

Audit & Risk
Committee

Remuneration &
Nomination
Committee

External Assurance

Investigation Assurance
Group^{*}

Appointments

Chief Commissioner

- Sir Declan Morgan was identified in May 2023 as the Chief Commissioner-designate
- Criteria for the role was set out publicly and provided to the judiciary
- Lord Chief Justices provided recommendation to Secretary of State

Commissioner for Investigations

- The appointment process is in the final stages: an announcement is expected this month

Appointments

Process for appointing Commissioners follows good HR practices and is led by Sir Declan. This includes:

- Public advertisement and use of specialist recruitment agents for broad outreach
- Recommendation of candidate to Secretary of State
- Independent panel to conduct selection process, formed by Sir Declan. A recent panel comprised:
 - **Robert Beckley, QPM** – a former Deputy Chief Constable
 - **Wendy Williams, CBE** – author of the independent Lessons Learned Review into the Windrush scandal
 - **David Porter** – Archbishop of Canterbury's Chief of Staff from 2016 to 2022

Appointments

Lead Non-Executive Commissioner: A competition is under way and closes on Wednesday 6 September. The lead Non-Executive Commissioner will chair the Audit and Risk Committee and so will need to hold a relevant qualification / experience. Aiming to have completed the process in October.

Other Non-Executive Commissioners: A further competition in parallel to the Lead Non-Executive Commissioner is under way, also closing on Wednesday 6 September. Up to three Commissioners will be appointed. Aiming to have completed the process in October.

Process regulated by the Commissioner for Public Appointments against the Governance Code on Public Appointments:

- Sir Declan chairing the panel
- Other panel members recommended to Secretary of State by Sir Declan
- No departmental official on panel
- Panel will provide recommendations to Secretary of State on who should be appointed

Formal appointment as Commissioners will follow upon the legal establishment of the ICRIR.

Chief Executive: ICRIR's own Committee of Commissioners will lead process and provide recommendation to Secretary of State

Core elements

Budget

- Dedicated budget for the Commission to come from the Treasury. We will set out what the Commission requires in an Annual Workplan.
- Decisions about how the funding should be spent sit with the Commission

Communications

- The Commission is establishing its own communications function that will be free to publicise the views of the Commissioners and reflect the work of the Commission in a transparent, open and independent fashion

Engagement / Openness

- The Commission is committed to being 'victim led'. It will use engagement mechanisms to gather wide input into the design of how it works.
- Website already in place: www.icrir.independent-inquiry.uk

Core functions

Policy development

- The Commission has the freedom to use the legislation in place to implement a service that works for the people of Northern Ireland and Great Britain, support individuals and families on their journey and deliver information, justice and reconciliation that enables communities to move forward
- The Commission will develop policies that enable this to happen
- These will be developed with input from the community and experts – draft proposals and options published for debate and feedback

Reporting

- The Commission report progress through Commissioners meeting with the public; an annual report (also to Parliament); an annual work plan

Delivery timeline

Key milestones

- November 2023: Identify the Commissioners
- Autumn/Winter 2023: Create the Commission as independent, statutory body
- Winter 2023/Spring 2024: Commissioners set out draft proposals for methodologies for how will carry out their functions for input and feedback:
- Spring 2024: Commission to hire investigative staff and conclude ICT and premises installation
- Summer 2024: Commission confirms its methodologies and ready to receive cases

Who we are and how we are building the Commission

Who we are

Sir Declan Morgan – Chief Commissioner-designate

- Begun preparatory work to engage with communities across Northern Ireland to ask for their views about how the Commission should work
- Leading processes for the independent selection of other Commissioners
- Can only be formally appointed and take decisions following Royal Assent

The ICRIR Programme Secretariat

- Responsible for supporting Sir Declan in his work
- Team of civil servants, required by law to act with impartiality, objectivity, honesty and integrity, reporting to Sir Declan, via a director
- Full delegated authority and dedicated budget, not reporting to Ministers.

Sir Declan's three key principles

The Chief Commissioner-designate has identified three key principles

This Commission must design itself to:

- be compatible with the 1998 Belfast Good Friday Agreement
- be compatible with the European Convention on Human Rights
- have the capability to effectively deal with the past for the people of Northern Ireland and Great Britain

How we're building the Commission

Learning from the past

- What has come before in Northern Ireland: HET, Legacy Inquests, Operation Kenova
- Past conflict resolution, reconciliation and truth-seeking initiatives in Northern Ireland and globally including examples from South Africa and the Balkans

Recruitment

- The Secretariat is carrying out open recruitment for staff roles in the Commission, committed recruiting professionals with the highest standards of integrity, expertise and skills in order to deliver the best outcomes for participants
- The Commission is drawing on those with experience in the justice system, from previous inquiries and experts in their field across a multitude of disciplines, such as Operation Kenova

Key challenges

Future challenges

Retraumatisation

- Victims and survivors must be central to the Commission's work and have input to how their cases are handled
- We know and have heard directly from community groups that this Commission may lead to retraumatisation for individuals and communities. The Commission has to identify the right balance between supporting those that require it and getting to the information required to identify the truth
- We understand this won't be easy and are bringing in experts to help us identify a best-in-class approach to trauma throughout the Commission

Future challenges

What is a 'review'?

There is little detail in the legislation:

- The Commission must look into all the circumstances
- The Commission must decide if to include a criminal investigation
- The Commission must meet Human Rights Act and ECHR requirements

Different victims / survivors / families want different outcomes

- Age of cases can affect ability to collect first-hand material
- Prosecution is a potential outcome in some situations, so requires adherence to evidence gathering standards

Future challenges

How to prioritise?

- The Commission will only review a case once a formal request has been made
- We will work with individuals before they make an official request so that we have the best chance of managing expectations around review timelines
- Once requests start being made, the Commission will need to balance resources so that it can respond to all requests fairly and in a reasonable timeframe – however, difficult decisions will need to be made about prioritisation
- A public survey is currently live, asking for views and opinions about what is important to people and how they feel we should consider prioritisation

Future challenges

How immunity will operate

- Challenging to many
- Likely legal challenge to the Act (for Government to set out its case)
- Commission required to develop scheme within primary legislation in way that it considers is ECHR compatible

Practicalities

- Does fact of application imply guilt;
- Impact on case being looked at for family
- True to the best of a person's knowledge and belief test

Future challenges

Reconciliation

- Reconciliation is a key part of this Commission
- Many efforts have been made towards reconciliation across Northern Ireland over the last 25 years
- This Commission will support reconciliation efforts by providing victims and families with information about the past and truth / justice where possible to do so
- Over time, the Commission needs to consider how (in addition to the above) it can best contribute to reconciliation efforts in the longer term

Next steps

Next steps

The Commission has a great deal of work to do!

Over the coming months, our focus will be in the following areas:

- Appointing the remaining Commissioners
- Developing methodologies and schemes
- Engaging with wider populations to understand opinions and perspectives
- Obtaining expert opinion and input – legal, victim care, investigations
- Establishing relationships and agreements with organisations that hold information
- Recruiting talented, experienced and skilled staff
- Procuring the services we'll require to operate effectively
- Setting up the Commission's offices.

