

## **Ideas for how ICRIR could approach investigations linked to advanced stage inquests**

### **1. Introduction**

1.1 This paper sets out some early ideas on issues that could arise in cases that are referred to the Independent Commission for Reconciliation and Information Recovery (**the Commission**) which were the subject of a coroners' inquest that has been closed by section 16A(3) of the Coroners Act (Northern Ireland) 1959. These cases will need to be handled very carefully to try and ensure that work which has been already carried out is not lost, and to consider the needs and feelings of victims, survivors, families and other individuals who were involved in earlier processes – so that where possible, they do not have to repeat stages and can instead continue progress towards completion.

1.2 In October, an initial paper was published (*[Ideas for how the Commission could approach its work to provide information recovery for families](#)*) which explored whether, in some specific circumstances, investigatory work to gather evidence by the Commission's investigative teams could be followed by an enhanced inquisitorial process (paragraph 4.25). In particular, this could be an effective way to carry forward the work of coroners' inquests which were at an advanced stage, so that the work already undertaken would be put to good use and there would be no unnecessary delay for families. Where a request is made to the Commission about a case where a coroners' inquest has not reached an advanced stage, the case would be better handled through the Commission's full processes, making use of its information gathering powers. This paper expands on that suggestion to explore detail how this could be approached. It does not represent the policy of the Commission and has not been ratified by the Commissioners. Commentary, feedback and questions relating to the ideas contained in this paper can be sent to - [info@icrir.independent-inquiry.com](mailto:info@icrir.independent-inquiry.com) and the Commissioners will want to undertake discussions with a range of interested parties to help refine, update or change the ideas.

1.3 Unless otherwise stated, all references to 'sections' are in relation to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (**the Act**).

### **2. General**

- 2.1 The Commission will have several functions, one of which is to carry out investigations of deaths and other harmful conduct forming part of the Troubles<sup>1</sup>. These investigations will usually be conducted in response to a request made by victims, family members or certain holders of public office<sup>2</sup> - including coroners who were responsible for an inquest which has been closed.
- 2.2 Many inquests took place during the Troubles which determined how the deceased died but did not consider any wider circumstances of the death. The provisions of the Act will allow bereaved families to make requests and seek to recover information about the circumstances in which their family member came by their death – information which may have been previously unavailable to them.
- 2.3 As a result of the Act, no new inquest, coronial investigation or inquiry (in Scotland) can be opened which touches upon a Troubles-related death. Inquests which have already opened will be required to close, unless the hearing of all evidence has finished and the only matter still to come is the delivery of the inquest's findings<sup>3</sup>. Inquests which are not concluded exert a tremendous toll on bereaved families, on those who are designated Properly Interested Persons and on the wider communities where the deaths took place.
- 2.4 As a transitional measure, for inquests that have reached an advanced stage, where a request is received by the Commission, it could use the existing work undertaken in preparation for the inquest and in order to conclude the investigation apply an approach that discharges the core elements that would feature in an inquest, in so far as is relevant and appropriate to the specific case.
- 2.5 The involvement of bereaved families is an essential element of these considerations. It is important that processes give the individuals most closely affected by these investigations answers to their questions about how their loved ones came by their deaths. There may be other individuals or organisations who are also affected by the Commission's investigation, either because their conduct may be said to have been causative in the death, or because they have some other sufficient interest, and they will also have an opportunity to make representations at appropriate points during the process.

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<sup>1</sup> Section 2(5) (a) and (b)

<sup>2</sup> Section 9(1) to (6)

<sup>3</sup> Section 16(A)(1) Coroners Act 1959

**Comparison of core elements of an inquest and examination by the Commission**

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
Independence of the investigation.	<p>The central feature of an inquest is that a coroner must '<i>ensure that the relevant facts are fully, fairly and fearlessly investigated ... he fails in his duty if his investigation is superficial, slipshod or perfunctory</i>'<sup>4</sup>.</p>	<p>This independence, impartiality and fairness is also at the core of the Commission and the outcomes it will strive to produce. It is established as a statutory corporation, with statutory powers. The <a href="#">published governance structure</a> shows how the different responsibilities will be distributed and how oversight of investigations will be undertaken.</p>
Discretion as to the nature of the investigation required	<p>The coroner has a broad power to 'make such inquiries and take all such steps as may be required' in order to decide whether or not an inquest is necessary – The Coroners (Practice and Procedure) Rules (Northern Ireland) 1963, rule 3.</p>	<p>S.13 of the Act requires the Commissioner for Investigations to ensure that each review looks into all the circumstances of the relevant death which relate to, or are otherwise connected to that death, and have regard to specified factors when determining the steps to be taken in any review.</p>

<sup>4</sup> Lord Bingham MR, in *R v North Humberside Coroner, ex parte Jamieson* [1995] 1 QB at p 26.



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Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
Requiring disclosure of material to the investigation	<p>A coroner has the power to require evidence to be given or produced - s.17A of the Coroners Act.</p> <p>A coroner may impose a fine not exceeding £1000 on a person who fails without reasonable excuse to do anything required by a notice under ss.17A(1) or 17A(2).</p>	<p>S.5 (1) provides that a relevant authority must make available to the ICRIR such—</p> <ul style="list-style-type: none"><li>(a) information,</li><li>(b) documents, and</li><li>(c) other material,</li></ul> <p>as the Commissioner for Investigations may reasonably require for the purposes of, or in connection with, the investigation.</p> <p>S.14 (2)a allows the Commissioner for Investigations to require a person to attend at a time and place to provide information; produce any documents or any other thing for inspection, examination or testing.</p> <p>S.14 (3) allows the Commissioner for Investigations to request that individuals provide evidence in the form of a written statement, produce documents and other things for inspection.</p> <p>The Commission may require a person to pay a penalty of up to £5000 if the Commission is satisfied that the person does not have a reasonable excuse. Sched 4 part 3 offences too?</p>



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<b>Element</b>	<b>How a coronial inquest meets this element</b>	<b>How the Commission's information recovery examination meets this element</b>
Reviewing material provided	Upon receiving disclosure material, the coroner will proceed to determine its potential relevance.	The Commission will review the material it has requested in unredacted form and determine what is relevant to the investigation.
Disclosure of information provided to other persons	<p>The Legacy Inquest Protocol provides that following a determination by the coroner of potentially relevant material, and whether any redactions may need to be applied, the potentially relevant provisionally redacted material shall be prepared by the Disclosure Provider and disseminated to the Properly Interested Persons.</p> <p>Under Rule 38 of the Coroners Rules, a coroner may, on application and without charge, permit a properly interested person to inspect any report of a post-mortem examination, or any notes of evidence, or any document put in evidence at an inquest.</p>	S. 30 and Schedule 6 provide the Commission with a power to disclose information to any other person, subject to specified exceptions including where information must not be shared unless a specific process has been followed.
Determining the scope of the investigation	The coroner may proceed to determine the provisional scope of the inquest. Oral or written submissions on scope may be taken from Properly Interested Persons at	A person making a request for a review may include in the request particular questions about the death, or

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
	<p>the coroner's discretion. Any determination of scope by the coroner shall remain provisional until the conclusion of the inquest proceedings.</p>	<p>other harmful conduct, to which the review will relate<sup>5</sup>. If particular questions were included in the request for a review, the final report must include—</p> <ul style="list-style-type: none"> <li>(a)the ICRIR's response to those questions, if and to the extent that it has been practicable to respond to them in carrying out the review in accordance with section 13;</li> <li>(b)for each question to which it has not been practicable to respond, a statement of that outcome<sup>6</sup>.</li> </ul> <p>The Commissioner for Investigations will prepare a Terms of Reference for each investigation, which will include its scope. In some circumstances it will consult individuals or organisations that are wider than the requestor or next of kin.</p>
Attendance of witnesses	<p>A coroner has the power to summons any person to attend a hearing to give evidence under s.17A of the Coroners Act.</p>	<p>The Commissioner for Investigations can require a person to attend at a time and a place to provide information under s.14 (2) of the Act.</p>

<sup>5</sup> Section 11(1)

<sup>6</sup> Section 15(3)

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
	<p>Where a witness does not attend or refuses to testify, the coroner has the power under s.20 of the Coroners Act to issue a fine not exceeding £1000.</p> <p>A person suspected of causing a death, or likely to be charged with an offence relating to a death, cannot be compelled to give evidence at an inquest – rule 9 of the Coroners Rules</p>	<p>The Commissioner for Investigations can require a person to provide evidence in the form of a witness statement under s.14 (3) of the Act.</p> <p>Under paragraph 8 of Part 2 of Schedule 4 a person may be guilty of an offence if they do anything which is intended to have the effect of distorting or preventing any evidence to be produced which is requested under Section 14 or under paragraph 9 of Part 2 of Schedule 4 suppresses or conceals or intentionally destroys relevant documentation. Such proceedings may be brought with the consent of the relevant Director of Public Prosecutions and punishable by summary conviction to a Level 3 fine or a term of imprisonment not exceeding the relevant maximum or both.</p>
Oral evidence	<p>Under rule 7(1) of the Coroners Rules, any properly interested person is entitled to examine any witness at an inquest either in person or by counsel or</p>	<p>The Chief Commissioner may share written evidence and permit other persons, including the requester or their representatives to ask the Commission to put questions to the person who supplied the evidence.</p>

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
	<p>solicitor, provided that the coroner shall disallow any question which in his opinion is not relevant or is otherwise not a proper question.</p> <p>Under rule 20 of the Coroners Rules, no person shall be allowed to address the coroner or the jury as to the facts unless the coroner permits them.</p>	<p>The Commission is also exploring other possible options in relation individuals providing information orally and how requesters and others affected by the investigation may have some further involvement in the testing of that evidence. This is set out further at paragraph 7.8 below.</p>
Consequences of false evidence being provided	<p>It is an offence under s17C of the Coroners Act for a person to distort / prevent / suppress / alter or destroy evidence.</p>	<p>It is an offence under paragraph 8 of Schedule 4 of the Act for a person to distort or alter any evidence, document or other thing requested under a s. 14 notice or to prevent the requested disclosure. It is also an offence to intentionally suppress, conceal or destroy a relevant document. These offences are punishable by summary conviction to a Level 3 fine or a term of imprisonment not exceeding the relevant maximum or both.</p>
Notification of those impacted by findings or determinations	<p>Under Rule 10 of the Coroners Rules, the coroner must give notice of the Inquest</p>	<p>Under s.16 of the Act requirements exist in respect of notifying individuals or organisations who may receive</p>



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<b>Element</b>	<b>How a coronial inquest meets this element</b>	<b>How the Commission's information recovery examination meets this element</b>
	hearing to any person whose conduct may be called into question.	criticism in a report and allowing them to make representations.

### **3. Inquests at an advanced stage**

3.1 Legacy related inquests in Northern Ireland that are at an advanced stage will have been subject to the Case Management Protocol.<sup>7</sup> When a request is made to the Commission relating to an inquest that was at an advanced stage, the case material would be obtained in its entirety from the Legacy Inquest Unit and reviewed by the Commissioner for Investigations. Further requests for disclosure and obtaining information could then be undertaken in the manner set out further below.

### **4. Disclosure**

4.1 The process of disclosure, as with inquests, will be a two-stage process:

- the first stage of disclosure is to the Commission alone, for the purpose of deciding the scope of the review and the persons to be required to provide information; and
- the second stage is when the Commission decides whether there can and should be onward disclosure to interested persons (including whether any application should be made to the Secretary of State for permission to share sensitive information).

#### ***Disclosure to the Commission***

4.2 The Act provides that state authorities throughout the UK will be under an obligation to provide full disclosure to the Commission<sup>8</sup>. Designated Commission officers will have the powers and privileges of constables<sup>9</sup> and the Commission has statutory powers to require the provision of material which are similar to those of a Coroner. The Commission can mandate a relevant authority makes available such information, documents, and other material as the Commissioner for Investigations reasonably requires for the purposes of, or in connection with, the exercise of the review function.

4.3 In all cases in which a request is made to the Commission, the Commissioner for Investigations will identify other work previously undertaken relating to the events the Commission is looking at and the information and documentation that has already been generated. The Commissioner for Investigations will then make requests of

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<sup>7</sup> [The Presiding Coroner for Northern Ireland, Legacy Inquests, Case Management Protocol](#)

<sup>8</sup> Section 5(1) and (2)

<sup>9</sup> Section 6(2)

individuals and organisations for the provision of material and information considered to be relevant.

4.4 The Commissioner for Investigations will conduct a detailed forensic examination of material, even where it is classified or of extreme sensitivity. Where a request is made, state authorities will need to provide the material requested in full, rather than redacted documents, sanitised gists or summaries, and the Commissioner for Investigations will scrutinise closely the accuracy, reliability and interpretation of such material.

#### ***Disclosure by the Commission***

4.5 The statutory framework provides that the Commission may disclose information to any person unless:

- The Commissioner for Investigations has identified it as sensitive information unless permission is given by the Secretary of State<sup>10</sup>
- A relevant authority has notified the Commissioner for Investigations that it is sensitive information unless permission is given by the Secretary of State<sup>11</sup>
- The Secretary of State has notified the Commissioner for Investigations that it is protected international information unless permission is given by the Secretary of State<sup>12</sup>
- Disclosure would breach section 4(1)<sup>13</sup>
- Disclosure would breach data protection legislation<sup>14</sup>
- Disclosure would breach certain parts of the Investigatory Powers Act 2016<sup>15</sup>

4.6 It is an offence under Schedule 7 of the Act to disclose information in breach of the prohibitions set out above. Any prohibition on disclosure in a final report by the Secretary of State can be appealed by the processes set out in Schedule 6 of the Act.

4.7 These restrictions are very similar in effect as those that apply to coroners. Under section 17B(3) of the Coroners Act (Northern Ireland) 1959 (the Coroners Act), the rules relating to public interest immunity apply to an inquest. The Secretary of State can specify, in advance, what areas cannot be addressed at an inquest hearing. This is subject to the decision of the coroner, who must balance the public interest in preventing injury to national security and the public interest in open justice.

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<sup>10</sup> Section 30(4)

<sup>11</sup> Section 30(5)

<sup>12</sup> Section 30(6)

<sup>13</sup> Section 30(7)

<sup>14</sup> Section 30(8)

<sup>15</sup> Section 30(9)

4.8 In cases that were the subject of inquests that have been required to close, some of the disclosure will already have been provided to properly interested persons. Subject to the statutory restrictions on the Commission (which would also have applied to the coroner) it is proposed that during the course of the investigation the Commission could provide relevant information to requesters and to persons required to attend for the purpose of providing information or a witness statement.

## **5. Determination of Scope**

5.1 Each case that is referred to the Commission will need to be determined on its own facts. Even in cases where the scope of an inquest had been previously determined by a coroner, the Commissioner for Investigations will need to form his own view as to what will be considered to be within the scope of his review. This is because the Commission is an independent body. In addition, the requester will have the right to identify specific questions that must be addressed in the report<sup>16</sup>.

5.2 In determining the issue of scope, the Commissioner for Investigations may consider seeking representations on scope from others in addition to the person(s) that have made the particular request. The Commission has a principal objective to promote reconciliation and whilst the requests of the bereaved families will be vitally important, there may be other individuals and organisations to consider when making a decision on the depth and breadth of the scope of an examination. They could be contacted directly and invited to submit representations as to scope.

## **6. Oral hearings and examination of those providing information**

6.1 How findings are made following an investigation is a matter for the Chief Commissioner's discretion. As part of this enhanced process, the Commission will seek to design its approach so that it reflects the core elements that the inquest process has. There are some key decisions to be made on how that could operate within the framework of the legislation.

6.2 There will be some cases where, once the investigative work has been undertaken, the Chief Commissioner will take the view that a further inquisitorial process is required to test and examine some of those from whom information or statements have been taken before arriving at findings.

6.3 The Commissioner for Investigations may by notice require a person to attend at a time and place stated in the notice to provide information and to provide evidence in

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<sup>16</sup> Section 11(1)

the form of a written statement<sup>17</sup>. This power could be used to facilitate the attendance of witnesses for the purposes of giving oral evidence which is subject to testing as to the veracity and accuracy through questioning.

6.4 There is a question as to how much of this information recovery is done either in the presence of individuals who are not officers of the Commission, or in public more widely. No inquiries have all aspects conducted entirely in public. The police investigate a death and refer it to a prosecuting authority or to a coroner, but the investigation is not in public. Ombudsmen in general do not hold public investigations. What is required is that there must be a sufficient element of public scrutiny of the investigations or the results to secure accountability in practice.

6.5 The factors that the Commissioner for Investigations may have in mind when considering whether to exercise the powers of taking oral information in the presence of individuals who are not officers of the Commission or in public could include:

- The Commission must discharge its duties under section 4 of the Act, which includes not doing anything that would risk putting, or would put, the life or safety of any person at risk. If information was given orally in public, the Commission would need to take careful steps to ensure that no line of questioning, or the identification of individuals, at a hearing could put the life or safety of the witness in danger. Where hearings are held in public certain witnesses may need to be protected by measures to conceal their identity or whereabouts to ensure that there is no risk to their lives or safety.
- If there was a risk of sensitive information being disclosed during questioning, this may mean that it would not be appropriate for the information to be given in public. This could be managed, as it is in adversarial proceedings and in coronial proceedings, through the careful handling of lines of questioning agreed in advance.
- Under section 30 of the Act the ICRIR cannot disclose information subject to various prohibitions, including the contravention of applicable data protection legislation.
- The Commission cannot take information under oath. However, under Schedule 4 of the Act it is an offence punishable with imprisonment to distort or otherwise alter any evidence, document or other thing that is produced or provided to the Commissioner for Investigations in accordance with a notice under section 14. Therefore in practice, the consequences of lying in

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<sup>17</sup> Section 14(2) and (3)

response to questions would be materially the same. Those providing information can still be asked to confirm the veracity of it and be reminded of the potentially consequences if this is not correct.

- Witnesses may be more candid when providing their information and evidence in private. Requiring them to give information in public may in some circumstances undermine the effectiveness of the investigation and determination.
- Unlike an adversarial court or coronial proceedings, the Commission has no statutory power to order reporting restrictions. This means that if a hearing was open to the public at large, there would be no mechanism for preventing reporting of what was said in the press and on social media.
- The protections afforded to persons giving oral evidence at an inquest or in adversarial proceedings may not be available for persons undergoing public questioning at a review by the Commission. For example, under rule 9 of the Northern Ireland Coroners Rules, no person shall be obliged to answer any question which might incriminate them, and a person suspected of causing a death, or likely to be charged with an offence relating to a death, cannot be compelled to give evidence at an inquest.
- It may be that the Commission can mitigate some of these risks by holding hearings which are not entirely public, but which are confined to identified parties or their representatives. Hearings could be convened to allow a person to give information in public where that person agreed to do so, or for submissions to be made from legal representatives to whom evidence had been disclosed.

6.6 The Commission will make relevant information received (subject to the restrictions in section 4 and in section 30) available to the requester and to those attending under section 14, whether in private or in public. As with inquests, it will be for the Chief Commissioner to decide what oral information to receive and whether he wishes to hear oral submissions. There is a further question as to who is permitted to ask questions of those providing information to the Commission.

6.7 The underlying obligation of the Commission is to act fairly. The requester or their representatives, and any other parties affected by the investigation into the death, will be entitled to make appropriate submissions, including what lines of inquiry should be adopted, what questions should be asked and by whom.

6.8 Under section 3 of the Act, the Commission has the power to either employ or second persons to be its officers. The Commission is giving consideration to how to use this power to ensure an appropriate degree of involvement of the next of kin and of other parties affected by the investigation into the death. Counsel to the coroner in current Legacy Inquests could be seconded to act as officers of the Commission if those cases become the subject of a review under the Act.

6.9 Consideration is also being given to how bereaved families and other parties affected by the investigation into the death can be involved in and input to the testing of evidence. There are a number of ways in which this might be done, such as:

- meeting with officers of the Commission to provide views and proposals for lines of questioning,
- the appointment of specific officers of the Commission to carry out questioning on behalf of the bereaved family or other interested persons, or
- through temporary secondment to the Commission of representatives of bereaved families, and other parties affected by the death for the purposes of asking questions of witnesses attending to provide oral information, whether in public or private.

6.10 In all cases, this would be a measure by which questions could be put to an individual, not to cross examine, as the purpose of the investigation is to determine the truth and not to promote or advocate for a particular case. Questioning would, as in an inquest, be for the purposes of assisting in establishing the matters that the investigation is to determine. Permitting the requesters and other affected persons to ask their own questions, managed by the Commission, may in some specific circumstances be the most appropriate way of ensuring a full investigation with participation by all parties.

6.11 In order to maintain the independence of the Commission's work, it would be necessary for representatives of individuals or organisations to be seconded only for the purposes of putting questions to individuals giving oral information and they would not be permitted to play a wider role in the investigation itself. It would also be important to ensure that there was no professional conflict between the secondee's duties to the Commission and their duty to any client or organisation. Thought would need to be given to the terms on which such a temporary and specific secondment could be made so as to avoid conflict between professional duties of the legal representative seconded.

## **7. Findings and the Burden and standard of proof**

- 7.1 In inquest proceedings, it is not the function of a coroner or their jury to determine, or appear to determine, any question of criminal or civil liability, to apportion guilt or attribute blame<sup>18</sup>. Indeed, the coroner's court is not able to offer any 'remedy' to any interested party, and the coroner is expressly forbidden from reaching a conclusion that appears to determine any questions of criminal or civil liability. Decisions are made on the application of the civil standard of proof when arriving at conclusions, i.e., on the balance of probabilities.
- 7.2 Where a finding of fact is made the starting point will be for the Chief Commissioner to do so on the balance of probabilities (i.e. whether it is more likely than not that an event occurred). Where the Chief Commissioner is unable to reach a conclusion on the balance of probabilities, they may say that events have possibly occurred.
- 7.3 There may be a need to determine factual issues in scope which involve allegations of serious misconduct against identifiable individuals. Where the Chief Commissioner considers it appropriate, they will make clear that they are satisfied on the balance of probabilities that an individual was involved in such conduct, although the evidence is not sufficient to recommend a referral for prosecution.
- 7.4 The Commission has an underlying duty of fairness. Individuals or organisations who will be subject to criticism will be provided with relevant extracts from the proposed report and provided with the opportunity to provide comments in advance of its publication.

## **8. Further areas for development**

- 8.1 In all investigations, the Commission will need to have regard to the principal objective of promoting reconciliation and will design all investigations following principles drawn from ECHR requirements. A recently published [paper explores these issues](#).
- 8.2 As with all investigations undertaken by the Commission, the Chief Commissioner will be required to compile and produce a report of its findings. Proposals relating to the Commission's approach to reports generally will be set out in a separate publication. The Commission will need to consider whether and, if so, how this general approach might need to be adapted in respect of cases that were previously the subject of an inquest. The approach to reports in this category of cases will need to take into account the aims set out above to design processes that do not deprive the individuals most closely affected by these cases the clear answers to which they

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<sup>18</sup> R v North Humberside Coroner, Ex p Jamieson [1995] 1 QB.

are entitled and that the work of the Commission discharges, insofar as possible, all the functions of the original inquest.

8.3 Input and feedback would be welcomed in relation to any of the aspects considered above, and in particular (although not limited to):

- Whether these proposals give sufficient public confidence that the Commission will have the ability to establish the relevant facts.
- Whether this provides sufficient public scrutiny of the investigation or its outcome.
- Whether the bereaved families are sufficiently involved.
- Whether the factors that might influence a decision to hold a hearing in public are the right ones or whether any additional ones need to be taken in account.
- Whether the proposed arrangements for questioning individuals are likely to be effective in establishing the truth.

## Glossary of Terms

This glossary of terms explains some of the terminology used in this publication.

**The Commission** – The Independent Commission for Reconciliation and Information Recovery (ICRIR) is being set up to provide information to families, victims and survivors of Troubles-related deaths and serious injury and to promote reconciliation.

**Chief Commissioner** – will have overall responsibility for leading and setting the strategic direction of the Commission to enable it to achieve its overarching aims and objectives. Sir Declan Morgan has been identified to be appointed as the first Chief Commissioner.

**Commissioner for Investigations** – will be an executive member of the Commission's Board. They will have operational control over the conduct of cases that the Commission is working on. They are designated with the full powers and privileges of a constable and be able to designate ICRIR officers with the same powers and privileges. They may delegate their responsibilities and will have a number of senior, experienced homicide investigators working for them. Peter Sheridan has been identified to be appointed as the first Commissioner for Investigations

**Close family member** – this is defined as a person who was, on the day of the death of the deceased, a spouse, civil partner, co-habitee, child or step-child, brother or sister (or half or step-brother or sister) parent or step-parent.

**Coroner's Inquest** – inquests are legal inquiries into the cause and circumstances of a death, and are limited, fact-finding inquiries; a Coroner will consider both oral and written evidence during the course of an inquest.

**Culpability-focused** investigations – these would aim to establish all the circumstances of the death or other harmful conduct as well as to answer any specific questions raised by the requester. This option would obtain records as well as additional evidence from witnesses and subjects of interest, act at pace and present findings based on the balance of probabilities.

**Family answer-focused** investigations – these would aim to address the questions that requesters have raised and put its primary effort into recovering information that answers or addresses them as far as is practicable.

**Historical record** – the record of deaths the Commission will develop that were caused by conduct forming part of the Troubles.

**Investigation** – the information recovery work that the Commission will undertake, which offers different types of approach to address different types of request. Proposals for the different types of investigation include family-focused, liability-focused and culpability-focused investigations.

**Legacy Act** – the [Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023](#) provides the enabling legislation for the Commission’s work.

**Legacy inquests** – there is no formal or legislative definition of a legacy inquest case, but a legacy case is generally one which involves or is related to deaths arising out of the Troubles.

**Liability-focused investigations** – these would aim to establish all the circumstances of the death and collect evidence to a standard that would support prosecution, as well as aiming to answer any specific questions raised by requesters. There may be some limited circumstances, (for example, where the Commission is asked to investigate cases related to inquests which were closed at an advanced stage), where a further inquisitorial process is needed in order to test the evidence further. This may include information gathered orally being tested through questioning.

**Personal Statement** – a statement by a family member about the way in which Troubles-related events have affected and continue to affect them and others.

**Phase** – the three parts of the journey which individuals may take through the Commission’s information recovery process: Engagement, Information Recovery and Findings & Futures. Within each phase, there will be a number of stages.

**Requesters** – this document has been developed with a focus on victims and families who will make requests for information from the Commission – ‘requesters’. Under the Act, there are other public offices which can make requests for information from the Commission and further consideration will be needed for any different approaches that might apply in such a case.

**Representations** – statements made to the Commission by individuals or organisations about material from a draft report which criticises them.

**Sensitive information** – information which has been supplied by a defined list of organisations (for example the security services). When the Commission is considering putting sensitive information in the public domain, it will follow a process to understand the

risks and merits of doing so, and will seek permission from the Secretary of State as required by the Act.

**Stage** – the elements which make up each phase of an information recovery investigation, in which different activities occur. Within each stage there will be a number of steps.

**Step** – the detailed processes for the Commission to follow and events which need to happen.

**Trauma-informed approach** – an approach in which an organisation seeks to understand how trauma has impacted people in different ways, then adapts its approach based on that understanding, with the aim of reducing the risk of causing people harm or re-traumatisation. A trauma-informed approach is based on principles of creating safety, empowerment, collaboration and choice.