



Strasbourg

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Welcome and introductions

Sir Declan Morgan – Chief Commissioner

Tristan Pedelty – Commission CEO

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Agenda

- **Context**
- **Outline of the Commissions approach**
- **Article 2 requirements**
- **Discussion/questions**

Context

The statutory framework

- The Commission is an independent statutory body led by a Board of commissioners (see Annex A)
- A majority of commissioners are non-executive and have been recruited to provide challenge and scrutiny
- The Chief Commissioner, Sir Declan Morgan is a former Lord Chief Justice of Northern Ireland. He is a Judicial Commissioner at the Investigatory Powers Commission and a Supplementary Panel member of the UK Supreme Court.
- The Commissioner for Investigations is Peter Sheridan. Peter served for 15 years as the CEO of Cooperation Ireland. From 2003 to 2008, Peter served as Assistant Chief Constable with the PSNI.
- The Commission has an External Assurance Group made up of experts, to provide advice, scrutiny and challenge to the Commission
- Police regulator oversight of serious complaints about use of police powers

The statutory framework (2)

The new Commission has the following powers and duties:

- Principal objective to promote reconciliation;
- Requirement to comply with the Human Rights Act 1998 / Northern Ireland Act 1998
- 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;
- Duty to consider requests for conditional immunity, and power to undertake full investigation to assist determination of application;
- Duty not to cause threat to life or prejudice national security or criminal proceedings;
- Power to require information from state and individuals (Duty on State Agencies to supply / allow access to all information the Commission considers it requires, subject to reasonableness, without any redaction) with fines for individuals refusing to comply); and
- Power to refer cases to prosecutors.

Three principles adopted by the Commission

The Commission has now been formed and at its very first meeting it agreed three essential principles to the Commission's approach:

1. Compliance with the European Convention on Human Rights;
2. Respect for the principles of the 1998 Belfast Good Friday Agreement; and
3. Focus on providing useful information to those affected by the Troubles.

Outline of the Commission's approach

Trauma informed approach

The Commission has resolved to embed a trauma-informed approach – across our people, processes, external engagement and places (virtual and physical).

We are defining what a trauma-informed approach means for the Commission and considering the following elements to help provide structure and steer:

- **Safety:** Prioritise physical, psychological, and emotional safety through clear communication and safeguarding measures.
- **Trustworthiness:** Build trust through transparent policies, consistent actions, and clear expectations.
- **Choice:** Support shared decision-making, acknowledging trauma survivors' potential difficulties developing trusting relationships.
- **Collaboration:** Recognise the value of staff and service user experiences, actively involving them in service delivery.
- **Empowerment:** Share power, validate feelings, and support individuals in decision-making to counter feelings of powerlessness.
- **Cultural Consideration:** Move beyond stereotypes by offering gender-responsive services, leveraging cultural connections, and incorporating responsive policies.

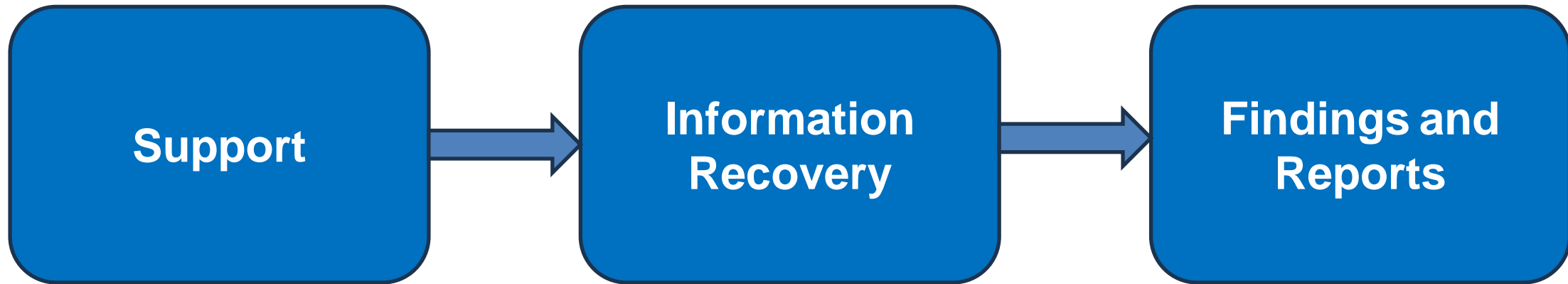
The Commission will publish more detailed information regarding its trauma informed approach this month.

Key elements of ECHR 2 compliant investigations

The Commission will include six elements in all its investigations:

1. The Commission will investigate each case referred to it independently, thoroughly and fairly;
2. The Commission will undertake investigations promptly and proportionately;
3. The Commission will ensure those making a request are appropriately involved in the investigative process in order to protect their legitimate interests;
4. The Commission will make such factual determinations as are supported by the available material;
5. Findings expressed will always be at least to the civil standard of proof; and
6. The Commission will compile and produce a report of its findings in relation to each investigation it carries out.

The Investigation stages



Stage one - Support

Awareness



Before the start of an individual's journey with the Commission there needs to be sufficient information and awareness via a number of routes.

Approach



People can approach the Commission confidentially through a range of channels. A first meeting will be arranged at a location of choice or at the Commission. This first stage has been informed by trauma informed practice and advice. Requesting individuals will be at the heart of the process and be empowered to make informed decisions about the next steps they may or may not wish to take.

Understanding



Support staff will listen to what people want from the process and help individuals and families better understand how the Commission may be able help them (and what it will not be able to do). They will introduce the potential information recovery team.

Considering



The Support team will respond to questions and provide people with the space, time and information to make decisions that are right for them and the information recovery outcomes they seek. Initial scoping work from information provided will help provide a more detailed understanding of the likely options available

Requesting



The Commission will ensure it has got enough information and helped understand the questions being posed to validate the request. The Support team will provide a single point of contact and consistent, objective support for the requesting individual and family throughout their time with the Commission.

Stage two - Information recovery

Investigative teams will follow defined terms of reference for each investigation:

- Each case will start with a scoping exercise, based on the approach for review of cold cases for homicide. Initial information from the state will be gathered to inform this approach.
- The review will inform the Commissioner for Investigation's decision on which of three investigative routes will be most appropriate for the case. The criteria against which this decision will be taken by the Commissioner will be public.
- Following allocation to a route, a decision about resource prioritisation, against public criteria, will be required. A member of the Findings Unit will be allocated to track the case and challenge evidence gathering.
- A team of skilled investigators will gather information and evidence and seek to answer the questions of the requesting individual and family. Regular updates will be provided on progress and involvement at decision making stages, facilitated by the Case Support team.
- Investigators will be able to use statutory powers as well as police powers when appropriate. Duty on public authorities to provide information requested. Statutory notice process, including fines for non-compliance.

Stage two - investigation routes

Not all investigations undertaken by the Commission will be the same. The majority of the work the Commission will undertake will be to fulfil the purpose of recovering information for families.

- **Family Request** - These investigations will be focused on their request and will provide answers on the balance of probabilities. They may want to know some further details about the last moments of the life of their loved one, or to know what happened to a particular item of clothing, or jewellery, or to recover some other specific piece of information about the surrounding circumstances of an incident.
- **Liability-focused** - These investigations would aim to establish all the circumstances of the death and collect evidence to a standard that could support a criminal prosecution, as well as aiming to answer any specific questions raised by requesting individuals and families.
- **Culpability-focused** - These would be proactive investigations following a request, which 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.

Stage three – Findings and Reports

The Chief Commissioner is responsible for the production of reports at the conclusion of investigations.

An officer from the Findings and Reports unit will be assigned to each investigation from an early stage and will independently challenge the direction of investigative work.

As the investigation progresses, the Commissioner for Investigations and team will present their evidence to the Chief Commissioner who will assess and evaluate it to determine findings.

Further investigative work may be requested at this stage.

Reports will be produced to record the findings that have been made and to seek to address the requesting individual or family's questions. Determinations will be on the balance of probabilities.

The Commission is considering how it can sensitively and respectfully publish reports and is committed to keeping the requesting individual at the centre of this decision point in the process.

Conditional immunity

- Legislation places a duty on the Commission to grant conditional immunity to applicants who give an account that is “true to the best of the applicant’s knowledge and belief”. It sets a limited test but leaves scope as to how this duty is discharged and the Commission is developing this process.
- There is a power to initiate an investigation where an application for conditional immunity is made – likely Commission would always do this unless exceptional circumstances.
- The Commission will enforce the criteria robustly, including ensuring that the investigative work gives the Immunity Requests Panel the range of information required to make a thorough assessment.
- The process is also being developed to ensure that as much information as possible is recovered. Looking at ‘Assisting Offenders’ and ‘Attorney General Undertakings’ processes.

Recruitment: now building our Operational Teams

General Counsel's Directorate

A small team of legal advisors providing counsel across the organisation

Case Support Team

A team of trained case support officers, as well as experts to provide advice on trauma and safeguarding matters

Information Recovery Team

A multi-disciplinary team of investigators working on a range of cases each supervised by a Senior Investigative Officer

Findings and Reports Unit

A team of qualified and experienced officers making findings and preparing reports under the overall direction of the Chief Commissioner

Skills and experience

- Operational roles either currently being advertised or soon to be across each team
- We are not a traditional law enforcement body and are able to follow different practices where these will better support victims, survivors and families.
- Seeking talented, empathetic and committed individuals who have relevant experience, and are looking for the opportunity to do things differently.
- Candidates will come from a variety of professional backgrounds, not just policing.
- Roles advertised openly with objective criteria and panel of mixed skills and external representation for senior roles.
- All roles assessed against Code of Conduct values

Values, ethics and standards

A Code of Conduct adopted five key values underpinning all that we do.

Of vital importance is the declaration and management of outside interests, especially where these relate to previous roles that could be at least perceived to have a bearing on current investigations. Assessment of conflicts on being assigned to each case.

Additional training and screening process before can be designated with police powers.

The Commission will seek to embed practices which treat individuals fairly, with a focus on early resolution of issues and ongoing learning.

A graduated approach to feedback / continuous learning, complaints and serious misconduct:

- Complaints policy for managing administrative complaints already set out on line, so Code of Conduct breaches etc can be drawn to ICRIR's attention
- Further detail relating to rights of review of case decisions being developed.
- For the most serious complaints, relating to the use of designated policing powers, individuals policing oversight authority will have a role.

Code of Conduct

Integrity - Putting the obligations of public service above your own personal interests. Acting in line with other applicable professional obligations and standards.

Impartiality - Behaving in a fair and objective manner, treating all equally, remaining open minded and taking decisions based on evidence.

Openness - Being truthful and straightforward in your communications and your engagement while respecting confidences and keeping information safe.

Accountability - Operating within legal requirements, including the European Convention on Human Rights, the Equality Act 2010 and equivalent equality legislation in Northern Ireland, the requirements of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, and within the objectives and policies of the Commission. Being willing to justify decisions, actions and omissions.

Respect - Treating everyone with whom you interact with courtesy, irrespective of their background or beliefs. Recognising the importance of a trauma-informed approach. Engaging in constructive, respectful and professional dialogue even in the case of differing opinions.

Engaging with victims, survivors and the public (1)

Since its inception the Commission has sought to engage as widely as possible. Given the opposition to the Commission, we have had varying levels of success.

We want to hear the views and opinions of the public (in NI and GB) and senior stakeholders – these include those from victim and survivor groups, civil society, operational, religious and political representatives.

To broaden our engagement and involve as many people as possible we are taking an iterative and innovative approach to engagement.

Engaging with victims, survivors and the public (2)

Engagement during the design and build phase of the Commission

- **Public consultations:** we are currently developing consultations on 1. operational policy areas (support/investigations/findings & reports), 2. trauma informed approach, and 3. equality legislation provisions;
- **Commission for Victims and Survivors (CVS):** the Commission has built a strong working relationship with the CVS Office that includes monthly face-to-face engagement. The CVS has provided four advice papers on the Commissions emerging policies; and
- **Have Your Say Survey:** the Commission has received c.350 public responses to its policy development work
- **Publishing developing thinking:** the Commission has published all emerging policy considerations on its website and encouraged stakeholders to read and contribute ideas to developments

Engaging with victims, survivors and the public (3)

The Commission has also started establishing engagement projects designed to inform, engage and raise awareness of its existence and what it hopes to offer and achieve.

- **Under-represented groups:** we have a desire to engage with those under-represented groups in NI such as women and those with a disability. We wish to engage meaningfully with these groups and reflect their views into our work going forward;
- **Grassroots organisations in NI:** we are in the process of engaging with over 700 community-based organisations;
- **Regular updates** provided to a growing stakeholder list; and
- Continuation of **senior level engagement between Commissioners and stakeholder groups from all communities and organisations.** Over 40 engagements have currently been hosted between Commissioners and representative groups and organisations

Independent polling

The Commission has instructed two independent external polling agencies, Opinium and Lucid Talk, to conduct a series of Baseline polls in Northern Ireland and Great Britain.

The first Baseline poll was carried out in November 2023, the second is due to launch at the end of February.

In total **3,382** people aged 18+ took part. **1,382** people in NI responded and **2000** people in GB.

A majority, **87%** of all NI respondents, believe that reconciliation is still needed in Northern Ireland.

65% of respondents in NI felt that the most positive impact the Commission could have would be in retrieving information for families.

Two in three NI adults are aware of the Commission. **31%** of people have some understanding of what it aims to deliver, but **27%** lack a clear understanding.

**Discussion and
questions – areas of
concern for ECHR
compliance?**

Annex A

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

Head of Governance
and Security

SUPPORTING COMMITTEES/BODIES

*This is a statutory panel, established in the legislation and not operating under delegated authority from the Board.

Operational & Policy Delivery

Executive
Management
Committee

Immunity Request
Panel*

Investigative Oversight
Committee

Oversight/Challenge

Audit & Risk
Committee

Remuneration &
Nomination
Committee

*Independent of ICRIR Board to provide expert advice and challenge

External Assurance

External Assurance Group*