



# Independent Commission for Reconciliation and Information Recovery

**Enhanced Inquisitorial Proceedings**  
**A brief explanation**

**25 April 2024**

## **The background**

From 1 May 2024, the ICRIR, known as ‘the Commission’, takes on the remit to investigate cases of serious harm or death related to the Troubles/Conflict.

From this date, bereaved families, victims and survivors, and certain public authorities, may request that the Commission carries out an investigation.

Inquests still being carried out on 1 May 2024 are brought to an end, unless the only part still to take place is the **final verdict or findings**. These inquests will be concluded by the coroner.

As part of its investigations, the Commission may apply a mechanism to test evidence called Enhanced Inquisitorial Proceedings, referred to as EIP.

This document explains what EIP are, how they work and the reason they may be used. It sets out how EIP would apply to inquests that were at an advanced stage on 1 May and a request for an investigation is made. In these cases, the Commission will work to avoid unnecessary delays to concluding what the inquest started.

### **What does ‘enhanced inquisitorial proceedings’ mean?**

During an investigation by the Commission into a Troubles/Conflict-related death, it may become clear that some evidence requires further testing. This testing is known as ‘enhanced inquisitorial proceedings’.

### **Will EIP be applied to all cases that relate to deaths?**

No, EIP will not be used in all these cases, but only where particular criteria are met.

### **What are the criteria? Who will decide whether to use EIP, and how will the proceedings be conducted?**

The Chief Commissioner will decide whether EIP should be applied to a case, according to certain criteria, including:

- There is significant evidence that is contradictory, incomplete, or contested, and there is a need to question those who have given information so the Chief Commissioner can determine findings on the balance of probabilities.
- There is a need to question those who have given information to assess their credibility. This is likely to arise if other witnesses have given contradictory oral evidence about the same event.

The Commission will decide what information needs to be tested through EIP, and whether any witnesses should be required to attend and give oral information and be questioned to help determine the truth.



The Commission has legal powers to require people and organisations to provide written and oral information, and to impose penalties if they do not comply.

Following the same approach as for inquiries conducted under the Inquiries Act 2005, some EIP hearings may not be open to the public, if they involve very sensitive information. This will be decided by the Commission.

### **How do I know if EIP are likely to be applied to my case?**

On 1 May 2024, cases concerning Troubles/Conflict-related deaths will be at different stages. They may be:

#### **(1) Advanced stage inquests**

An inquest is defined as being at an advanced stage if, on 1 May 2024:

- It was assigned to a coroner.
- The coroner had determined the scope of the inquest.
- The coroner had identified the Properly Interested Persons.
- Disclosure to Properly Interested Persons by the coroner was underway.
- The coroner had heard oral evidence.

Where an inquest is at an advanced stage, if the bereaved family members want to request that the Commission investigates the death of their loved one, suggest a particular line of inquiry, or request that specific questions be asked in the investigation, the Commission will explain how they can do this and offer to support them throughout the process.

*The Commission proposes that the EIP should automatically be applied to investigations that arise from advanced stage inquests, as a transitional measure for the next 12 months from 1 May 2024.*

#### **(2) Ongoing inquests in the Legacy Plan**

There is a group of inquests, which involve some of the most sensitive, complex and high-profile deaths related to the Troubles/Conflict, known as Legacy Inquests. They have been handled under the Presiding Coroner's Legacy Plan.

On 1 May 2024, these will be at different stages. Even if they are not at an advanced stage, bereaved family members can still request that the Commission investigates them.

These requests will follow the process set out in the Commission's Operational Design Framework.

*If the Commission does investigate the case, it may apply the EIP after significant investigation has taken place, if the case meets the criteria.*

- (3) Inquests completed by 1 May 2024, that were in the Legacy Plan and the bereaved relatives still have questions.

A request for further investigation can still be made to the Commission and the Commission will consider it in line with its general approach. The Commission is under a duty not to duplicate any aspect of a previous investigation unless it considers it necessary. However, depending on the questions and the specific case, it may be that the Commission's investigations can still provide more information. It is unlikely that the criteria for the EIP will be met, but it is possible if the Chief Commissioner considered it necessary.

- (4) Inquests completed by 1 May 2024, that were not in the Legacy Plan and the bereaved relatives still have questions.

Many inquests into Troubles/Conflict-related deaths determined how the deceased died but did not consider any wider circumstances and they were not defined as Legacy Inquests. In these cases, families will be able to request that the Commission recovers information about the circumstances in which their loved one died. In these cases, it is unlikely that the criteria for the EIP would be met, but it is possible if the Chief Commissioner considered it necessary.

- (5) Other cases

There may be other cases involving deaths or other harmful conduct that the Chief Commissioner considers meet the criteria for the EIP.

These requests will follow the process set out in the Commission's Operational Design Framework.

### **How are findings reached in EIP?**

The Chief Commissioner will take the same approach as the coroner does in inquests. This means they will reach findings on the balance of probabilities, that is, whether it is more likely than not that an event has occurred. This might cover serious misconduct by an individual. If this is not possible, they may say that an event has possibly occurred.

## **Do bereaved families need to take any action if EIP are applied to their case?**

The Commission can investigate a case if it has received a request from a victim, survivor or close family member of the deceased, or a request from a public authority. Once it has accepted the request, then it will conduct an investigation. As part of that, if the Chief Commissioner decides that EIP are necessary in an investigation, the Commission will inform families and other people who will be affected by this.

As a transitional measure until 1 May 2025, if a request is accepted by the Commission that relates to a case which was previously subject to a coroner's inquest and was at an advanced stage, then the Commission proposes that it should move directly into the EIP.

They can take part in the EIP in a number of ways, including:

- Making suggestions on the scope of the proceedings.
- Suggesting who, from the proposed list, may be required to attend to provide information.
- Suggesting lines of questioning to be taken by the Commission.

## **Will the EIP process cause further delay for bereaved families?**

The Commission is committed to a trauma and resiliency informed approach and involving victims, survivors and families in its work. We recognise that the inquest process takes a tremendous toll on bereaved relatives and communities, and the impact that the Legacy Act has had on adding to concerns.

Respecting the current legal position as determined by the High Court, the Commission is determined to ensure that work already carried out on these cases is not lost, and as far as possible, stages will not have to be repeated. It wants to offer a mechanism to families where their inquest is currently at an advanced stage to avoid unnecessary delay. Therefore, the Commission would apply the EIP immediately on acceptance of any request to investigate in those cases.

## **What support and advice is available if I want to request an investigation and/or if EIP are applied?**

Our Case Support Team offers support to victims, survivors and bereaved family members affected by serious harm or death related to the Troubles/Conflict. It takes a neutral role in guiding people throughout their contact with the Commission, and can also suggest where they may find further, external support.



Case support workers are trained in a trauma and resiliency-informed approach. This means they are sensitive to the ways that trauma can affect people and will work to ensure individuals feel safe, listened to and understood.

Case Support Workers can help draft family members' requests and any questions they may want to ask and explain the steps that will follow.

A dedicated Case Support Worker will stay with the requesting relatives throughout the progression of their case (as far as possible), acting as a bridge between them and the Commission. They will keep in regular contact with requesting relatives, monitoring their needs, and holding other parts of the Commission to account for meeting those needs.

The Commission aims to be straightforward in its operation so it can be used easily by people who don't have legal knowledge or legal representation. You can choose to involve a legal representative if you wish, however, please note that it is not within the Commission's remit to directly provide legal aid or funding for representation.