

Independent Commission for Reconciliation and Information Recovery

Operational Policy

Enhanced Inquisitorial Proceedings

25 April 2024

Contents

Introduction	3
Entry into Enhanced Inquisitorial Proceedings	3
Provision of information to the Commission	4
Disclosure of material to impacted persons	9
Findings in Enhanced Inquisitorial Proceedings	10
Advanced Stage Inquests	11
Making a request to the Commission	13
Requests from public office holders	14
Article 2 of the European Convention on Human Rights.....	17
Case categorisation and sequencing	17
Version control	24
Approvals.....	24

Introduction

1. This Operational Policy sets out the details of how Enhanced Inquisitorial Proceedings will operate. The Commission's Operational Design Framework sets out that during the course of the later stages of the Information Recovery Stage and in consideration of the Findings Stage, there may, in certain circumstances where criteria are met, be the need for a further process whereby specific evidence is subject to further testing in order to support the Chief Commissioner in making findings. This element of the investigation is referred to as 'Enhanced Inquisitorial Proceedings'.
2. In addition to being a potential mechanism within the normal operational framework of the Commission's investigations, it is also proposed that for coroners' inquests that are currently at an Advanced Stage and part-heard, where a request is made to the Commission, as a transitional measure within the first year of the Commission's operation the case could immediately be handled through Enhanced Inquisitorial Proceedings. This would be instead of the case having to be considered via the Commission's standard three-stage investigation approach.
3. This document should be read in conjunction with the Commission's wider design framework (as set out in the Operational Design Framework) and operational guidance. In addition to setting out the specific elements of the process for Enhanced Inquisitorial Proceedings and how they will operate, this document also describes any transitional steps that are needed for cases moving directly into this process as a transitional measure.

Entry into Enhanced Inquisitorial Proceedings

4. There will be some complex cases in which the evidence that emerges during the investigation is contradictory to the extent that the Chief Commissioner may consider he would be unable to reach findings without that evidence being subjected to further testing. These cases will be progressed through Enhanced Inquisitorial Proceedings.

5. It will be for the Chief Commissioner to decide that such proceedings are necessary. The criterion to be applied to assess whether a case merits entry to the Enhanced Inquisitorial Proceedings is whether the Chief Commissioner would be unable to reach findings in respect of a central issue relating to the circumstances of the death or other harmful conduct without further testing of the evidence. The process itself remains part of the investigation, for which the Commissioner for Investigations is responsible.
6. The limited circumstances in which that criterion may be met may include investigations where:
 - There is significant evidence that is contradictory, incomplete, or contested and further questioning of those who have provided information or statements is the only effective and proportionate way of arriving at determinations on the balance of probabilities.
 - Assessments of the credibility of those who have provided information is only capable of being tested through further questioning. This is most likely to arise in circumstances where written evidence is contradicted by documentary evidence, or other witnesses have given contradictory oral evidence about the same event in other proceedings.

Provision of information to the Commission

7. It will be for the Chief Commissioner to decide what information needs to be tested by way of Enhanced Inquisitorial Proceedings and whether the Commission wishes to hear oral submissions on any issue as part of proceedings. This will be undertaken as the Chief Commissioner and the Findings Team begin to consider the material being presented by the Commissioner for Investigations and his team.
8. As part of the investigation, the Commissioner for Investigations will have requested that individuals provide information voluntarily or decide to use the statutory powers of the Commission. Those statutory powers include police powers exercised by designated officers of the Commission, the information provision requirements on relevant authorities, and statutory powers to

compel the supply of information. These latter two powers are explained further below. In preparation for Enhanced Inquisitorial Proceedings, the Commissioner for Investigations may make further requests if the Chief Commissioner considers them to be necessary in order to assist the process of making findings from the investigation.

9. Under section 5 of the 2023 Act a “relevant authority”, which includes police, ministers, intelligence agencies and armed forces, must make available to the Commission such information, documents and other material as the Commissioner for Investigations may reasonably require for the purposes of, or in connection with the exercise of an investigation that the Commission is undertaking. A relevant authority may also make available to the Commission any information, documents or other material which, in the view of that authority, may be needed for the purposes of, or in connection with, the exercise of that function.
10. In all cases in which a request is made to the Commission, the Commissioner for Investigations may make requests of individuals and organisations for the provision of material and information that he requires for the purposes of the investigation. The Commissioner for Investigations will conduct a detailed forensic examination of all relevant material and will scrutinise closely the accuracy, reliability and interpretation of such material.
11. The power to require information from relevant authorities is supported by a broad power to compel the supply of information from any person. Further to material already obtained in the course of the investigation, to support Enhanced Inquisitorial Proceedings, the Commissioner for Investigations may by notice require a person to attend at a time and place stated in the notice:
 - (a) to provide information;
 - (b) to produce any documents in the person’s custody or under the person’s control;
 - (c) to produce any other thing in the person’s custody or power under the person’s control for inspection, examination or testing.

12. The Commissioner may by notice require a person, within such period as appears to that Commissioner to be reasonable:

- to provide evidence in the form of written statements;
- to provide any documents in the person's custody or power under the person's control;
- to produce any other thing in the person's custody or under the person's control for inspection, examination or testing.

13. There are extensive powers to deal with failure to comply with a notice. There is an offence of suppression of evidence and a financial penalty for non-compliance (this exceeds the maximum fine available to a coroner by five times).

14. Under the process for Enhanced Inquisitorial Proceedings, the Commissioner for Investigations, with advice from the Chief Commissioner about what may be necessary for him to make findings, will consider whether oral information required, either voluntarily or subsequent to the service of a notice, could be provided in public or in the presence of invited individuals, such as the bereaved families. 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. Consequently, the question of whether hearings held during Enhanced Inquisitorial Proceedings will be open to members of the public, including the press, will be a matter for the Chief Commissioner to decide on a case-by-case basis, including considering the statutory duties on the Commission (in particular but not limited to the Human Rights Act 1998 and s 4 of the Northern Ireland Troubles Act 2023). There may be some hearings that are closed, subject to the invitation of named individuals including bereaved families and there may be others that are closed to all. This will be an assessment at the discretion of the Commission.

15. The factors that will be considered when exercising that discretion as to whether to take oral information in the presence of individuals who are not officers of the Commission will include:
- Any risk to the life or safety of any person. Mitigations such as special measures to conceal the identity of an individual will be considered where such a risk is identified.
 - Any risk of sensitive information being disclosed during questioning. Mitigations such as lines of questioning being provided in advance will be considered where appropriate.
 - Any risk of a breach of other prohibitions including protected international information and breach of data protection principles.
16. The purpose of questioning through Enhanced Inquisitorial Proceedings is to assist in establishing the matters that the investigation is to determine. Questions will be put to an individual, not to cross examine, or to promote or advocate for a particular case, but to assist with the determination of truth.
17. The Commission will produce a draft list of individuals it is proposed should give information by way of Enhanced Inquisitorial Proceedings – whether in written or oral form. Representations on that list will be invited from persons impacted by this, including bereaved families, after which the list will be finalised by the Commission.
18. Information provided to the Commission as a result of exercising the compulsion powers may not be used in evidence in criminal proceedings (subject to tightly defined exceptions in s7(4)) against the person from whom it is obtained. The Commission expects witnesses to answer all questions put to them and may draw adverse inferences from any refusal to answer a relevant question. Failure to answer questions may be considered a failure to comply with a notice and result in the penalties referred to above.
19. Commission officers may put questions that are submitted by and agreed with impacted persons, including bereaved families, on their behalf.

20. The Commission has the power to either employ or second persons to be its officers. The Commission will consider whether and how to use this power as one means of ensuring an appropriate degree of involvement of the next of kin and of other parties affected by the investigation into the death. Where a short-term secondment or employment is considered, the Commission's standard terms including its Policy for the Declaration and Management of Outside Interests, its Code of Conduct, and any ongoing duties by an employee would be expected to be observed, albeit in reflecting the short-term and specific nature of the role.
21. Under the above short-term secondment processes, there may be circumstances, where the fairness of the proceedings requires it, in which the Commission decides to invite counsel representing bereaved families or other persons affected by the investigation into the death to ask questions, as a secondee to the Commission for these purposes, of witnesses attending to provide oral information. While only an officer of the Commission can ask questions under section 14, there may also be circumstances, such as where the person attends or remains voluntarily, where it is still possible for questions to be put by the counsel representing bereaved families or other persons affected by the investigation, even if they have not chosen to accept a secondment. As with other sensitive court proceedings, the lines of questioning would be expected to be provided to the Chief Commissioner in advance, and there would not be the same consequences for a witness if they chose not to answer as there would be were a Commission officer to ask the same question.
22. Where there is material which is so sensitive that it cannot be shared with bereaved families or their representatives (for example if the statutory process to agree disclosure of sensitive information has not authorised its release), and it has not been possible to 'gist' it or convey sufficient information without the Commission breaching its duties under Section 4 of the Legacy Act, the Commission will consider whether fairness requires that a process akin to appointing a special advocate is necessary in order to protect their legitimate

interests. This will only be considered where no other course would adequately meet the requirements to adequately involve the requesting individuals. In those circumstances an independent advocate would be appointed to the Commission, shown the sensitive material and able to make representations to the Commission on behalf of the bereaved families. As is the case in other established legal processes such as an inquiry under the Inquiries Act 2005, they will be prohibited from disclosing information about the material they have been shown either to the bereaved families or their representatives but can represent their interests in closed submissions to the Commission.

Disclosure of material to impacted persons

23. At the point of the investigation that the Chief Commissioner determines that Enhanced Inquisitorial Proceedings are necessary, all parties impacted by those proceedings will be informed. In order to assess whether a person would be impacted by the proceedings, the Commission will consider:

- whether the person played, or may have played, a direct and significant role in relation to the matters to which the Enhanced Inquisitorial Proceedings relate
- whether the person has a significant interest in an important aspect of the matters to which the Enhanced Inquisitorial Proceedings relate
- whether the person may be subject to explicit or significant criticism during the Enhanced Inquisitorial Proceedings or where those proceedings supported findings which led to significant criticism in the Commission's final report.

24. All persons who receive notification that Enhanced Inquisitorial Proceedings are to be held can participate by:

- Making representations as to the scope of the proceedings.
- Making representation on the proposed list of those who may be required to attend to provide information.
- Suggesting lines of questioning to be pursued by the Commission

- Allowing their recognised legal representative to apply to become an officer of the Commission for the purposes of asking questions during the proceedings.
- Receiving in advance of proceedings, disclosure of material which the Commissioner for Investigations considers relevant to their participation, subject to the duties imposed by s 4 of the Act. In order to comply with this duty, the Commission may gist material or provide summaries of it as appropriate.

Findings in Enhanced Inquisitorial Proceedings

25. 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. The same approach will be taken as is currently in inquests before the coroner.
26. 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.
27. 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.

Advanced Stage Inquests

28. Section 44 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (the Act) amends section 16 of the Coroners Act (Northern Ireland) 1959 by inserting sections 16A-C which provide the following:

“16A(1) This section applies to an inquest into a death that resulted directly from the Troubles that was initiated before 1 May 2024 unless, on that day, the only part of the inquest that remains to be carried out is the coroner or any jury making or giving the final determination, verdict or findings, or something subsequent to that.

(2) On and after that day, a coroner must not progress the conduct of the inquest.

(3) As soon as practicable on or after that day, the coroner responsible for the inquest must close the inquest (including by discharging any jury that has been summoned).”

29. Section 16B also provides that on or after 1 May 2024, the coroner must not decide to hold an inquest into any death that resulted directly from the Troubles. This prohibition applies also to the power of the Attorney General or Advocate General for Northern Ireland to give a direction under section 14 of the Coroners Act (Northern Ireland) 1959 to conduct an inquest into a death that resulted directly from the Troubles.

30. There are a cohort of cases that have come to be known as the “legacy inquests” in Northern Ireland and which were subject to a plan (the Legacy Plan) to hear them within a five-year timeframe from February 2019. These inquests include some of the most sensitive, complex and high-profile deaths that occurred during the period of the conflict. These inquests are at various stages. Some have commenced and are subject to hearings, and some have not been assigned to a coroner and no work has started in relation to them. The Commission recognises that all those inquests which are not concluded exert a tremendous toll on all of those effected by them.

31. The objective of the Commission is to ensure that work already undertaken in those cases is not lost and there is no unnecessary delay for bereaved 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. Inquests that are at an advanced stage are by their nature likely to be subject to Enhanced Inquisitorial Proceedings.
32. The Commission will consider an inquest to have been at an advanced stage if at 1 May:
- It was assigned to a coroner.
 - The coroner had determined the preliminary or final 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 begun hearing oral evidence from some or all of the witnesses of fact.
33. For inquests that were not at an advanced stage but were in the Legacy Plan, bereaved family members will be able to make requests of the Commission to conduct an investigation into the circumstances of the death. Those requests will follow the same processes as set out in the Commission's Operational Design Framework. These cases may also be subject to Enhanced Inquisitorial Proceedings if the criteria are met.
34. Many inquests which took place during the Troubles/Conflict determined how the deceased died but did not consider any wider circumstances of the death and were not within the Legacy Plan. Investigations undertaken by the Commission will allow bereaved families to pose questions to be answered 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. Any eligible close family member is able to make a request of the Commission to investigate the death of their loved one – and

those requests will follow the processes set out in the Commission's Operational Design Framework.

Making a request to the Commission

35. The Commission has a Case Support Team staffed by Case Support Workers who are trained in an inclusive, trauma and resilience-informed approach that does not make assumptions, and who will support families and individuals throughout their entire journey with the Commission. A dedicated Case Support Worker will support each request during the Enhanced Inquisitorial Process, including where this is being undertaken as a transitional measure as above in relation to an inquest that was at an advanced stage. On receipt of a request to the Commission in these circumstances, a Case Support Worker will meet with the requesting individual and their family to explain how the Commission would be able to approach their case.
36. The Commission's processes have been designed to be simple and straightforward to use by people who are not legally qualified. The Case Support Team provide a neutral role in explaining and guiding through the investigation and can help signpost external support. Requesting individuals can be supported by someone, including a lawyer, but do not require legal representation.
37. Legal representation is not required for requesting individuals or impacted persons if an investigation moves into the Enhanced Inquisitorial Proceedings because it is a fact-finding inquiry and the Commission will provide assistance to participants to help them understand what is happening and why. However, the Commission recognises that some participants will want to retain the legal help they have had in the Advanced Stage Inquest, including any benefit from exceptional funding. The provision of legal aid so that individuals can be represented in proceedings conducted by the Commission is not within the Commission's ambit. In Northern Ireland this is a matter for the Legal Services Agency to consider on application from the individual. The Commission

intends to explain its proceedings to those who may want to apply in this way for legal help for representation.

38. In cases that were an Advanced Stage Inquest moving into the Enhanced Inquisitorial Proceedings in the first 12 months from 1 May 2024, the Commission will seek to engage the former counsel to the inquest as a Commission officer for the purposes of the investigation and proceedings.

Requests from public office holders

39. Section 9 of the Act provides that persons other than close family members may make a request to the Commission for an investigation into a death, namely:
- (3) The Secretary of State may request a review of a death that was caused by conduct forming part of the Troubles (whether or not it was caused directly by the conduct).
 - (4) The Attorney General for Northern Ireland may request a review of a death that was caused directly by conduct forming part of the Troubles.
 - (5) The Advocate General for Northern Ireland may request a review of a death that was caused directly by conduct forming part of the Troubles if section 14(3) of the Coroners Act (Northern Ireland) 1959 applies to the death (inquest on orders of Advocate General if national security involved).
 - (6) A request for a review of a death that was caused directly by conduct forming part of the Troubles may be made by any of the following persons—
 - (a) the coroner in Northern Ireland who was responsible for an inquest into that death which has been closed in accordance with section 16A(3) of the Coroners Act (Northern Ireland) 1959;
 - (b) the senior coroner in England and Wales who was responsible for conducting an investigation into that death which has been discontinued in accordance with paragraph 1(3) of Schedule 1A to the Coroners and Justice Act 2009;
 - (c) the Chief Coroner of England and Wales, if the Chief Coroner is prohibited by paragraph 2(4) of Schedule 1A to the Coroners and

Justice Act 2009 from directing a senior coroner to conduct an investigation into the death;

- (d) the sheriff in Scotland who was responsible for conducting an inquiry into that death which has been discontinued in accordance with paragraph 1(3) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2);
- (e) the procurator fiscal in Scotland who was responsible for conducting an investigation into that death which has been discontinued in accordance with paragraph 1(4)(b) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016;
- (f) the Lord Advocate, if the Lord Advocate is prohibited by paragraph 2(a) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 from exercising functions so as to cause an inquiry to be held into the death.

40. The Commission expects that each office eligible to make a request under s.9 (3) – (6) should set out a policy or statement of approach to making a request to the Commission.

41. The Commission also has expectations about the approach that should be taken and this is reflected in the requirements of the form and manner in which the request is made by a public office holder eligible to make a request. Before any formal request is made, the following steps should be undertaken:

- i. Notice should be given to the Commissioner for Investigations of a potential request in writing and as soon as practicable.
- ii. A meeting must be held with the Commissioner for Investigations or someone acting on his delegated authority to discuss the potential request. This pre-request discussion should cover at least the following substantive issues.
 - The views of the bereaved family/families and information about discussions had with them by the requesting authority, including whether they would support a request to the Commission.

- Information about the known volume and categories of existing material held by organisations and proposals from the requesting authority as to how that could to be provided to the Commission.
- Information about the size and complexity of the case sufficient to enable the Commission to understand the impact of the request in terms of the additional resourcing requirements.

42. Following a pre-request meeting, the Commission's Case Support Team will contact the bereaved family/families impacted by the proposed request and offer to meet with them to discuss the potential request. The Commission will offer the bereaved family/families the opportunity to make a request themselves, and to ask any specific questions they would want the Commission to seek to answer.

43. When a formal request for an investigation is made by any persons in s.9(ss.3 – 6) the Commission will require that:

- i. The requesting office has made an informed assessment of the wishes of the bereaved family or families who would be impacted by any request and that the request sets out what regard has been had to their interests. The Commission expects that a meeting with the family or families involved would form part of any such assessment.
- ii. The requesting office should take into account any review that has already been carried out and address the obligation of the Commissioner for Investigations under s.11(7) to take into account any review that has already been carried out and to avoid duplication, unless that duplication is necessary.
- iii. The requesting office should set out any specific issues or questions that may be required to be address in the investigation.

44. Following the receipt of a request under s.9(ss.3 - 6), the Commission will make the bereaved family or families aware of the request and any decisions taken in relation to it. If a close family member subsequently decides that they do wish to make a request, the Commission will consider whether it is

appropriate to invite the requesting public office to withdraw their request. In any event, it is likely, depending on the stage that the investigation has reached and the wider circumstances of the investigation and the requests, that the Commissioner for Investigations would join the requests and any specific questions asked by the close family member added to the investigation.

Article 2 of the European Convention on Human Rights

45. The Commission has set out the principles that will apply in all investigations in it) . These will also apply as relevant and proportionate within the Enhanced Inquisitorial Proceedings.

Case categorisation and sequencing

46. The Commission's case categorisation policy determines how resources are allocated to cases. For the first 12 months from 1 May 2024, where a request is accepted for investigation, any inquest which was an advanced stage will immediately be placed into category A for the purposes of resource allocation. This is to ensure that the Commission is able to complete the work on those cases as promptly and expeditiously as possible.

47. In the event that more requests for investigations than the Commission can resource simultaneously are received relating to inquests that were at an advanced stage, the Commission will prioritise resource in this order:

- i. Those which feature any other category A factors.
- ii. Cases in which Article 2 is engaged.
- iii. Cases involving a significant complexity in the volume of material, the number of witnesses or the nature of the material.

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.	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> ' ¹ .	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 <u>published governance structure</u> shows how the different responsibilities will be distributed and how oversight of investigations will be undertaken. In addition to a general policy on the Declaration and Management of Outside Interests. All investigators will be required to undertake a conflict of interest check at the start of every investigation, as detailed in the policy on Conflicts of Interests in Investigations [LINK]
Discretion as to the nature of the investigation required	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.	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.
Requiring disclosure of material to the investigation	A coroner has the power to require evidence to be given or produced -	S.5 (1) provides that a relevant authority must make available to the ICRIR such— (a) information,

¹ Lord Bingham MR, in R v North Humberside Coroner, ex parte Jamieson [1995] 1 QB at p 26.

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
	<p>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)9.</p>	<p>(b) documents, and (c) other material, 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.</p>
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	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	S. 30 and Schedule 6 provide the Commission with a power to disclose information to any other person throughout the information recovery stage, subject to specified exceptions including where sensitive information must not be shared

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
	<p>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>	<p>unless a specific process has been followed.</p> <p>The Commission must not do anything which:</p> <p>(a) would risk prejudicing, or would prejudice, the national security interests of the United Kingdom,</p> <p>(b) would risk putting, or would put, the life or safety of any person at risk, or</p> <p>(c) would risk having, or would have, a prejudicial effect on any actual or prospective criminal proceedings in any part of the United Kingdom.</p> <p>In order to comply with this duty, the Commission may gist material or provide summaries of it as appropriate.</p> <p>Disclosure will be of material necessary to ensure the effective participation in the Enhanced Inquisitorial Proceedings.</p>
Determining the scope of the investigation	<p>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 the Coroner's discretion. Any determination of scope by the Coroner shall remain provisional until the conclusion of the inquest proceedings.</p>	<p>A person making a request for a review may include in the request particular questions about the death, or other harmful conduct, to which the review will relate². If particular questions were included in the request for a review, the final report must include—</p> <p>(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;</p>

² Section 11(1)

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
		<p>(b)for each question to which it has not been practicable to respond, a statement of that outcome³.</p> <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> <p>At the start of Enhanced Inquisitorial Proceedings a further determination of the scope of that element of the investigation will be made, including taking representations into account.</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>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</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> <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>Failure to comply may result in a financial penalty under schedule 4, part 1, up to £5,000.</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</p>

³ Section 15(3)

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
	evidence at an inquest – rule 9 of the Coroners Rules	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.
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 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>	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.

Element	How a coronial inquest meets this element	How the Commission's information recovery examination meets this element
Consequences of false evidence being provided	It is an offence under s17C of the Coroners Act for a person to distort / prevent / suppress / alter or destroy evidence.	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.
Notification of those impacted by findings or determinations	Under Rule 10 of the Coroners Rules, the coroner must give notice of the Inquest hearing to any person whose conduct may be called into question.	Under s.16 of the Act requirements exist in respect of notifying individuals or organisations who may be the subject of significant criticism in a report and allowing them to make representations.

Version control

Version	Date	Author	Shared with	Key changes since last version
1.0	24.04.24	KA	Policy and Opps	Created

Approvals

Version	Date	Approved by	Date of next review
1.0	25.04.24	Executive Committee	