



Independent Commission for
Reconciliation and Information Recovery

United Nations - Geneva

www.icrir.independent-inquiry.uk

Context

Vision and Mission

Vision

“A society that is more reconciled because the Commission has provided greater information to the public about deaths and serious injuries during the Troubles.”

Mission

“An independent Commission committed to serving victims, families and survivors by thoroughly investigating and establishing the facts of past events, to provide an acknowledgement of the wrongdoing, in a way that is sensitive to the trauma experienced and assists with the promotion of reconciliation.”

Code of Conduct



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



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



Respect: Treating everyone with whom you interact with courtesy, irrespective of their background or beliefs. Engaging in constructive respectful and professional dialogue even in the case of differing opinions.



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



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.

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. There will be an assessment of conflicts on being assigned to each case. Additional training and a screening process will take place before an individual 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 has been set out online, so Code of Conduct breaches etc can be drawn to the Commission's attention.
- Further detail relating to requests to review investigative decisions has been set out in the *Operational Design Framework* (page 45).
- For the most serious complaints, relating to the use of designated policing powers, the policing oversight authority will have a role.

Three principles adopted by the Commission

At its first meeting, commissioners 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.

The statutory framework

- The Commission is an independent statutory body led by a Board of commissioners.
- Majority of commissioners are non-executive and have been recruited, through open competition, 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.
- Following an open recruitment process, Louise Warde Hunter has been appointed as the new CEO, taking up the position in August.
- The Commission has an External Assurance Group made up of experts, to provide advice, scrutiny and challenge to the Commission.
- The police regulator has oversight of serious complaints about use of police powers – agreements made with PONI, IOPC and PIRC (published).

The statutory framework (2)

Principal objective to promote reconciliation

The new Commission has the following powers and duties:

- Requirements 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 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;
- Powers of a police constable; and
- Power to refer cases to prosecutors.

Practical and operational independence

1. Annual budget provided by Exchequer is based on demand rather than a set amount.
2. The Commission can bring legal proceedings, including against government.
3. The Commission is independent of Government and its Annual Report will be laid before Parliament.
4. Any proposal to abolish the Commission must have the Chief Commissioner's advice and a vote in Parliament.
5. Accountability of the Commission is set out in our Framework Document to explain the legitimate information that Government may require, for example information about how public money has been spent. The 'ICRIR Framework Document' is available on our website.
6. Selection of Commissioners is by independent process, with objective criteria.

Outline of the Commission's approach

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 public report of its findings in relation to each investigation it carries out.

Dillon judgment on ECHR compliant investigations

“Whilst the court is not dealing with a “specific case” it concludes that the proposed statutory arrangements, taken together with the policy documents published by the Commission inject the necessary and structural independence into the ICRIR. At this remove the court concludes that the ICRIR is sufficiently independent to comply with the requirement for independence to meet the procedural obligations under articles 2/3 ECHR.” (para 284)

“Having considered the disclosure powers of the Commission and the obligations of the state, in particular, it seems to me this is article 2/3 compliant and, an improvement on the situation in relation to inquests.” (para 319)

“If these policies [set out by the Commission] are adopted and implemented, **the ICRIR will be seen to do all that it can to ensure transparency and victim participation.**

“It is apparent from the policy documents that the public consultation process is ongoing. It is open to all next of kin and, indeed, these applicants to engage with the ICRIR so that they can have a direct input to the design of the scheme and how reviews are conducted.” (paras 356 and 357)

“Public hearings are not the only means by which the requirement for public scrutiny under the article 2/3 procedural duty can be fulfilled. Under the statute, publication of reports into reviews is clearly an element of public transparency. These reports will sit alongside the historical record which is anticipated under the legislation” (para 359)

“The court is satisfied that the provisions of the Act leave sufficient scope for the ICRIR to conduct an effective investigation as required under articles 2 and 3 ECHR” (para 370)

Conditional Immunity

In *Dillon*, the Court also found some aspects of the Act to be in breach of the European Convention on Human Rights:

- The provisions for immunity from prosecution breached human rights law, especially as ‘victims have no role or say in these decisions’.
- They were also found to be in breach of the Windsor Framework and therefore the remedy was that the provisions were disapplied from domestic law.
- These provisions therefore do not apply to the Commission’s work.
- The Commission is therefore not be subject to any obligation to determine requests for conditional immunity.
- The Commissioners do not consider that the loss of this additional means of securing information recovery affects our wide range of powers to obtain information through our investigations.
- The legal process is ongoing but the new UK Government have indicated they will repeal these provisions.

Appeals to the *Dillon* judgment

The UK Government has appealed to the Northern Ireland Court of Appeal against the findings made against the 2023 Act by the High Court in the *Dillon* case.

The applicants have also cross-appealed against the High Court's findings that the elements of the Act are compliant with the ECHR.

The appeal hearing took place in June 2024. Lady Justice Siobhan Keegan has stated that she aims to deliver a ruling as soon as possible, noting that this won't be before September 2024.

The Commission was an intervener in the proceedings as the outcome will affect its work. The Commission assisted the court by explaining its policies and practice. These demonstrate how the Commission intends to comply with the investigative requirements under the ECHR.

Pending the outcome of the appeal, the Commission is proceeding on the basis of the High Court's ruling.

Expert Human Rights input

- Expert challenge, scrutiny and feedback are important to developing the Commission's approach.
- Engagement with Council of Europe country delegations for their examples of good practice.
- Detailed briefings since September with officials from the Council of Europe to obtain their feedback and improve our proposals.
- Meetings with the Council of Europe's parliamentary assembly representatives and the Human Rights Commissioner. The Council of Europe's Director General of Human Rights and Rule of Law, Christos Giakoumopoulos, has said "From several meetings with the ICRIR, it is clear that intensive efforts are being made to ensure the Commission's work is Articles 2 and 3 compliant."
- Submission of updates on progress to the Committee of Ministers.
- Started dialogue with the United Nations' Office of the Commissioner for Human Rights – Assistant Secretary General, Ilze Brands Kerhis and future engagements planned.

Trauma and Resiliency Informed Model (TRIM)

The Commission has resolved to embed a TRIM approach – across our people, processes, external engagement and places (virtual and physical). The TRIM approach includes:

- Learning about trauma and resiliency, and what these mean in relation to the Troubles
- A set of 6 wellness skills to support drawing on resiliency, deepening resiliency and acknowledging trauma and its impacts
- Training in handling difficult conversations
- Reflexive supervision (initially for case support workers and those interviewing witnesses)

We have consulted on our approach and what this means for the Commission. The following trauma-informed elements help to provide structure and elements to cover in our context:

- **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.
- **Empowerment:** Share power, validate feelings, and support individuals in decision-making.
- **Cultural Consideration:** Move beyond stereotypes by offering gender-responsive services, leveraging cultural connections, and incorporating responsive policies.

Operational Design Framework

The Commission recently launched an [Operational Design Framework](#), following an eight-week public consultation. The Framework and a [consultation response](#) were published on 9 July.

The public consultation evidences the open approach the Commission has taken to engagement and seeking feedback on proposals, enabling us to adapt and improve the design of policies and processes. There is also a public commitment to continually evolving and improving services as delivery progresses.

Some of the key adaptions outlined in the Operational Design Framework include:

- The creation of a Charter of Commitments which outlines what a victim, survivor, family member or witness can expect from their journey with the Commission. This Charter will be subject to further feedback.
- Allowing all those who engage with the Commission to be accompanied by a chosen representative if they wish, while also having the support from the Case Support Team.
- Increased flexibility around changing the nature of requests if new information comes to light during an investigative process.

The Investigation stages



An ICRIR investigation: what to expect when you get in touch with us

1. Contacting the Commission

You can contact us:

- By telephone on 028 9036 2093 between 10.00 and 16.00, Monday to Friday
- By email at casesupport@icrir.independent-inquiry.uk
- In writing to FREEPOST ICRIR.

2. Information gathering

We will ask you for:

- Your preferred contact details
- The best times and method for future communications with us
- Some details about your case.

3. Meeting arrangements

- Your Case Support Worker will agree a suitable venue with you
- You can bring a relative, friend or other person with you to support you if you wish.

4. Your first meeting

- Your Case Support Worker will meet you to discuss what you want the Commission to investigate
- They will explain how the Commission will work with you.

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An ICRIR investigation – your journey

Information available online, via third parties and from wider education and outreach activity by the Commission.

1. Support

- First contact (by telephone, email or post)
- Basic information gathered
- Initial meeting to build understanding and identify needs
- Further meetings as required for questions and to gather more information
- We begin to assemble background information and check for ongoing investigations relating to the same incident
- We discuss with you whether your case is within our remit and how we would investigate your case
- You finalise your investigation request and questions.

Your Case Support Worker will have meetings with you to establish what you are looking for and how we can help you.

2. Information recovery

- We examine all previous investigation work (if there is any) and analyse any other material related to your case gathered from state organisations and individuals
- Terms of Reference are developed, including the type of investigation
- We establish whether the case is linked to any other case
- We follow up potential lines for investigation – this may include opportunities for forensic or ballistics testing or other expert input and can take advantage of scientific advances made since any earlier investigation
- We interview witnesses, search for more evidence, gather any more information from state organisations and others and evaluate all of the material.

Your Case Support Worker will bring in the investigative team to discuss key decisions with you regularly and keep you updated on progress.

3. Findings

- We prepare the report setting out the Chief Commissioner's findings
- We consider personal data, threat to life and national security obligations
- Representations to us by individuals subject to significant criticism in the report
- You and your family have time to consider, ask for explanations and suggest changes to the report
- We publish the final report and your personal statement if you want to make one
- We support a reading or event if you wish to hold one.

Your Case Support Worker will ensure the Findings Team explain the evidence and the conclusions they are reaching. They will help you understand what to expect from the report and decide how you want to be involved in the publication process.

They can also signpost you to further support if needed.

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Engaging with victims, survivors and the public

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 victims and survivors, the wider public across Northern Ireland, and beyond, and other stakeholders, including 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

Work in the lead up to the launch of the Commission was extensive and included:

- **Public consultations:** The Commission consulted the public to enhance its understanding of the following areas. Consultations and reports have been published on the Commission's website:
 - [Operational Design](#)
 - [Implementing a Trauma Informed Approach](#)
 - [Disability Action Plan](#)
 - [Equality Scheme](#)
- **Commission for Victims and Survivors (CVS):** the Commission has built a strong working relationship with the CVS and its forum, that includes regular face-to-face engagement. The CVS has provided four feedback papers on the Commission's emerging policies.
- **Have Your Say Survey:** the Commission 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.

Early learning from commencement of operations

- We have received contact in person, by emails and telephone from a range of people looking to explore whether the Commission can investigate their case.
- We are now arranging to meet with those people to explain more about the Commission's approach and to hear from them about the circumstances of the death or serious injury that they would like to be investigated. We're giving them the time to understand this new approach and how they might use it. The timing of making a formal request is up to them.
- We're using this information to inform our onboarding of further investigative staff with the right skillsets.
- Each approach is about a person and we want to be careful not to treat these as just case numbers. We will not be giving a running commentary about the people who have approached us, but we will publish information alongside our first Annual Report after the summer.
- We're using continuous improvement and the input from our operational experts to refine our policies and approach.

Questions