



Independent Commission for Reconciliation and Information Recovery

The Operational
Design Framework

JULY 2024

Context

The Design Framework sets out how the Independent Commission for Reconciliation and Information Recovery (the Commission) will discharge its functions and duties, and explains what can be expected when seeking and progressing through the Commission investigation process.

Audience

This document will be of interest to victims, survivors and families who have been impacted directly or indirectly by the Troubles/Conflict in Northern Ireland and the rest of the UK and Ireland. There may also be interest from victim and survivor representative bodies, both statutory and voluntary, and the wider population in Northern Ireland.

Promoting reconciliation is our principal objective

Promoting reconciliation is the statutory principal objective of the Commission. The Commission published this Operational Design Framework to explain how it will exercise its investigatory functions, and thereby deliver for all those across the community, thus helping to improve the basis for promoting reconciliation.

Reason for Operational Design Framework

The Commission has set out as a principle that it should focus on providing useful information to those affected by the Troubles/Conflict. While the legislation is fixed there is wide flexibility about how this Commission is designed. This document sets out the processes and policies it has adopted to ensure all those who will interact with the Commission know what to expect from us.

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Foreword

A Commission that serves all.

The Independent Commission for Reconciliation and Information Recovery has been set up to provide information for victims, survivors and families of Troubles-related deaths and serious injury, and to work towards reconciliation for all parties.

In addition to the principal objective of promoting reconciliation and the need to apply a trauma and resiliency-informed model, I and my fellow Commissioners have committed to three essential principles in how we undertake this serious task:

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

Our mission is to deliver 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.

The legislation which established the Commission provides our powers and duties but does not prescribe the manner in which we discharge them. We have police powers, that can be used where necessary, and we can carry out investigations to support criminal prosecutions. We have the power to refer cases to the relevant prosecutor. And, we have new statutory powers that are far-reaching. We have the right to access all information held by state bodies that we reasonably require for our investigations. This is without redaction, without others telling us something is not relevant, and without obfuscation.

We have sought to design a framework which reflects the different needs of those affected by deaths and serious injuries related to the Troubles/Conflict. While in the last twenty years the number of prosecutions of such crimes has been small, and with the passage of time, the prospect diminishes, there may still be some cases where uncovered evidence will support prosecution. The Commission's approach allows for this. However, where prosecution is not realistic, the Commission has other approaches to allow for questions to be answered or to set out, on the balance of probabilities an acknowledgement of the wrongdoing.

This framework is the product of formal consultation and engagement and an aim from the outset to develop a Commission that can deliver for victims, survivors and families of the Troubles/Conflict. It sets out what can be expected from the Commission, from initial contact through to the publication of a findings report, and signposts to specific Commission policies. It describes how we will deliver each

stage of the journey through the organisation. It provides openness around the standards we have set ourselves, and to which we can be held to account by those using the Commission.

We must also continue to learn from our experiences – from what those who interact with us tell us. And we must continue to invite and respond to feedback about our policies so that the framework improves as a result of greater understanding about what works.

I accepted the role of Chief Commissioner because I believe this is a once in a generation opportunity to deliver answers to all victims, survivors and families of the Troubles/Conflict. The people of Northern Ireland and all those affected by the Troubles need the legacy of the past to be properly dealt with. We are determined to deliver for them.



Sir Declan Morgan

Chief Commissioner



1. Executive Summary

- 1.1. The Commission is an independent public body that has been set up to find answers to questions individuals and families have relating to deaths and serious injuries which occurred during the Troubles/Conflict. This document explains how the Commission operates at each stage of an investigation. It signposts the reader to our policies, which underpin the framework.
- 1.2. The Commission is not a traditional law-enforcement organisation. As encapsulated in its vision and mission (Figure 1) it will be thorough and far-reaching in its work. The Commission takes a trauma and resiliency-informed approach to focus on resilience and the needs of victims, survivors and their families, supporting them to maintain engagement with the Commission through the lifetime of an investigation.
- 1.3. In addition to the principal objective of promoting reconciliation, the Commissioners have committed to applying three essential principles to the Commission's works:
- Compliance with the European Convention on Human Rights (ECHR);
 - Respect for the principles of the 1998 Belfast Good Friday Agreement; and
 - Focus on providing useful information to those affected by the Troubles.

Figure 1: Vision and Mission of the Commission

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.

- 1.4. The Commission has already adopted a Code of Conduct which sets out the values and behaviours expected of all Commissioners, employees and those who work for it (Figure 2). It is the bedrock of the Commission's approach and underpins important aspects of the Commission's independence and ability to operate fairly for all. For example, the declaration and management

of outside interests, as set out in policy¹, are important to ensuring that any actual, potential or perceived conflicts of interest are addressed properly.

Figure 2: Code of Conduct, Values and Behaviours



¹ [ICRIR policy for the declaration and management of outside interests – Independent Commission for Reconciliation & Information Recovery](#)

Information Recovery at the Commission

- 1.5. The first aspect of using the Commission is having enough information to understand the Commission's approach and what it might be able to do in any individual case. This needs to be done in a number of different ways, reflecting that people build their understanding through different types of information.
- 1.6. The Commission's investigative work follows three stages, through three interlocking teams (Figure 3). The remaining chapters of this document set out more detail about these stages. They cover the objectives of each stage, what the requesting individual may expect, including when and how they will be involved in each aspect of the investigation, and what the Commission will be doing at each stage. They also set out some of the key operational policies which will support decision making at crucial stages. Reflecting our values for openness and following a trauma and resiliency informed model, we will continuously gather feedback and record our own learning so that improvements can be made to policies on a regular basis. We expect that they will evolve and develop over time as the Commission seeks to build upon its experience and we will undertake these changes in an open manner, proportionate to the level of change proposed.
- 1.7. While much infrastructure, policy and process has been put in place to provide consistency and clarity to our work, it is vital to remember that at the heart of the Commission's work are people. We acknowledge the individual and collective stories of suffering, hurt, and uncertainty. It is these human experiences that the Commission must honour and never lose sight of.

Figure 3: Investigation Stages

Stage 1: Support

This is the start of an individual's journey with the Commission. Dedicated Case Support Workers meet with individuals and families to listen to their stories and experiences, to share information about how the Commission goes about its investigative work, the possibilities and limitations of its work as set out in the legislation, including what it can and it cannot do, the different options available to them and what information the Commission needs to progress cases. While this is the first part of the journey, support is available throughout the entire process. The Case Support Team provides a single point of contact and consistent, objective support for the requesting individual and family throughout their time with the Commission. They respond to any questions and provide people with the space, time and information to make decisions that are right for them. The Case Support Team also keeps requesting individuals and families and the information recovery outcomes they seek at the heart of investigations by keeping close contact with investigators and those seeking information.

Stage 2: Information Recovery

When an investigation moves to the information recovery stage, a team of investigators gather information and evidence and seeks to answer the questions the requesting individual and family have raised. The information recovery team includes a variety of skill sets, to comb through archives, interview witnesses and secure evidence. Investigators work across different cases at any one time to maximise progress and efficiency. Each investigation is overseen by a Senior Investigative Officer. Investigators can access all material from previous fact-finding and determination processes, as well as all material held by the state, no matter how sensitive. They may also undertake new investigative work. Investigative teams follow defined terms of reference for each investigation. Each investigation starts with a scoping exercise, based on an approach to cold case reviews, following internationally recognised best practice. This informs the Commissioner for Investigation's decision on which of three investigative routes is most appropriate for the case. All three routes embed the features required for an ECHR compliant investigation.

Stage 3: Findings

The Chief Commissioner is responsible for the producing reports at the conclusion of investigations. A Findings Team support the Chief Commissioner at the reporting stage. A Findings Officer is assigned to each investigation from an early stage and independently challenges the direction of investigative work. As the investigation nears its conclusion, the Commissioner for Investigations and team present their evidence to the Chief Commissioner who assesses and evaluates it to determine findings. Further investigative work may be requested. Reports are produced to record the findings that have been made and include answer to questions and issues raised by requesting individuals where that is possible.

2. Awareness

Overview and objective

- 2.1. In order to support a victim, family or survivor to take an informed view about whether the Commission can help them, they need factual information about what the Commission is, how it works and how it acts. The Commission will undertake a general programme of building awareness and education about the Commission's mission, approach, powers and what it has achieved. How the information is set out and conveyed is vital to connecting with the diverse and varied needs of those who might make requests from across Northern Ireland and beyond. We will continue to develop this work over the lifetime of the organisation.
- 2.2. The Commission will also set out wider information so that the wider public and press can scrutinise its work. Plans, strategies, reporting and policies are all important elements to be provided so that citizens, journalists and politicians can understand and hold to account the Commission and its work.
- 2.3. The Commission has an up-to-date website, that is accessible and provides a range of information that different requesting individuals might want to understand about:
- Who the Commissioners and the Commission's officers are;
 - The Commission's Mission, Vision and Values;
 - How the Commission is funded and governed and its relationship with other parts of the public sector;
 - How investigations are carried out, including the different decision points and how the requesting individual will be involved;
 - How a requesting individual is supported during the investigation;
 - How personal and other sensitive information is handled;
 - Outcomes of previous investigations.
- 2.4. Some of this material will also be included in downloadable fact sheets, which could also be provided in hard copy through other organisations. The design of this material will be regularly updated to make sure it is as understandable as possible and in plain language. The Commission will use both digital and non-digital methods to make sure our information is available to as wide a range of people as possible, in keeping with our responsibilities under Equality and Disability legislation.

- 2.5. The Commission will adopt a continuing programme of outreach and engagement with a range of community and third sector organisations, including representative organisations and advocacy groups, explaining its mission and its work. The details will be set out in its regular Annual Work Plan. It will also undertake focus groups and polling to gain regular feedback about the level of awareness. The Commission will consider whether public meetings and wider events would also be a useful way for people to hear about and ask questions of the Commission.
- 2.6. Continued insight and understanding of sentiment and views of the Commission will be important to inform this. How the Commission develops various themes could be an important aspect of this, for example through the impact of its reports and connections and thematic matters the Commission might draw from a number of cases.
- 2.7. The Commission will also work with the PSNI, Office of the Police Ombudsman for Northern Ireland, police forces in Great Britain and other public authorities who have been involved in investigation of cases within the Commission's remit so that they can signpost appropriately to the Commission. And where cases do not fall within the Commission's remit (for example if it is outside the Commission's timeframe), then it will similarly sign post to others who may be able to take on the case.
- 2.8. There will be a range of ways to find out about the Commission:
- on the Commission's website, including downloadable fact-sheets
 - Printed guidance available from our office
 - Printed leaflets and fact-sheets available in other places, such as community and third sector organisations
 - General press/media coverage
 - Through local democratically elected representatives (MP/MLA)
 - Through advocacy groups and solicitors or other legal representatives
 - From law enforcement bodies, such as the PSNI
- 2.9. In line with wider commitments to accessibility and equalities, the Commission will have the capability to produce material in accessible formats and in Irish and Ulster Scots where requested.

3. Support

Overview and stage objective

- 3.1. Embarking on a new journey of information recovery can be daunting. The first step is for the victim, survivor or family to contact the Commission.
- 3.2. The objective of the Case Support Team at this early contact stage is to ensure, from the moment of first contact, that anyone engaging with the Commission feels listened to, heard and understood. This early engagement stage will be paced to suit the requesting individual, taking time to build trust between the person raising their case with the Commission and the Case Support Worker.
- 3.3. Work at this stage prepares the case for acceptance² by the Commission so it can undertake information recovery work.
- 3.4. Requesting individuals have the final decision on whether they want the case to proceed. Requesting individuals will be given time to understand the process and what it means for them so they can make an informed decision.
- 3.5. The Commission's trauma and resiliency informed approach means we are intent on focussing on people by supporting them with information, building confidence in the processes, building trust in the Commission's staff and creating a sense of safety for requesting individuals. The Commission is committed to offering as much control to the individual as possible when they are deciding whether to proceed with their request for an investigation. The Commission's staff are trained and given their own support so that they can ensure their own well-being.
- 3.6. The relationship between the requesting individual and the Case Support Worker is pivotal and may need time to develop. The Case Support Worker ensures continuity of contact and support throughout the remaining stages of the Commission's work.
- 3.7. The Commission is committed to being trauma and resiliency informed in its work and will draw on the common themes required to support a trauma-informed approach. The Commission will publish more information about this approach in the coming months, which has been informed by our consultations and other work.

² Handling a request: making, determining, changing and withdrawing a request for an investigation [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

- 3.8. The primary ways for people to contact the Commission are by email, phone or letter. In its first months of operation these methods were used most. The Commission also operated a staffed reception and considered webforms, but in light of current use and feedback will not be offering these routes at this stage, although will keep this under review. The Commission monitors these channels during business hours in the working week. Information is handled securely, recognising that it may contain personal and other sensitive data. The Case Support Team is responsible for handling all incoming messages. The Case Support Team is trained to identify potential safeguarding issues³ and seek assistance as necessary.
- 3.9. During or after initial contact, an in-person meeting will be arranged with potential requesting individuals (and if they wish their families) to discuss their case. A named Case Support Worker provides a single point of contact and consistent, objective support throughout their time with the Commission and leads these meetings.
- 3.10. The Commission's processes are designed to be used by individuals themselves. However, where the requesting individual has the support of an advocacy service, or legal representative, and wants them to also be involved, this may happen with the provision of written consent. The Case Support Worker will be guided by what the requesting individual prefers about how they are contacted, for example, directly or through their advocate. Direct contact between the Case Support Worker and the requesting individual is required prior to the submission of the request, and then on an ongoing basis in relation to substantial updates.
- 3.11. Meetings are arranged at a location agreed with the requesting individual or at the Commission's dedicated family meeting rooms. To maintain the safety of its staff, the Commission will need to obtain sufficient information about any requested location. Some meetings may be held over the telephone, or online, where preferred.
- 3.12. Meetings do not have a prescribed format or timetable. There is no minimum or maximum number of meetings that need to be completed. The Case Support Worker provides opportunities for potential requesting individuals or families to set out why they have come forward, ask questions and explain what they want from the Commission. The Case Support Worker is responsible for explaining how the Commission's investigations operate from start to finish, how the requesting individual is involved at every stage, and what happens with information given. (Figure 4)

³ See further – [ICRIR Safeguarding Policy](#)

3.13. At the appropriate point in the meetings and discussions, the Senior Investigative Officer and Findings Officer (who will be involved in the next two stages of the process) are introduced and can also answer questions. When any officer is assigned to a case they are required to certify that they do not have any conflicts of interest in relation to that case⁴ and if they do identify any potential issues the policy sets out how these will resolved.

3.14. During the Support stage, the Commission will explain:

- The purpose and role of the Commission, including what it can and cannot do;
- Who the teams in the Commission are and what they do;
- How the Commission operates from the submission of a request for an investigation to the publication of a report;
- How the requesting individual will be involved during the stages of the investigation;
- What may be required of the requesting individual during various stages, including them possibly providing further information and how they should treat information provided to them;
- The support that will be available to the requesting individual and family from the Commission and elsewhere; and
- How to give feedback, raise a question or concern, or make a more formal complaint or request for review.
- Over the course of meetings, we expect Case Support Workers to reiterate information about the Commission's processes to ensure there is clarity for potential and requesting individuals.

3.15. The areas that the Commission will need to understand from the requesting individual are:

- What they would like to achieve from the process;
- The ways in which the requesting individual wants the Commission to contact them and how frequently;
- What particular needs they have, including any concerns about support to help navigate the impact of the investigation;
- Information to help determine whether the request is within the Commission's scope; and
- Information to support some initial scoping work that the Commission will carry out to help support informed decision making by the requesting individual.

⁴ [ICRIR policy on conflicts in investigations – Independent Commission for Reconciliation & Information Recovery](#)

- 3.16. Requesting individuals will not be asked to repeat their story unnecessarily. They will be informed when it might be necessary for aspects to be discussed further or more questions asked.
- 3.17. The Commission's Case Support Team, led by an Assistant Commissioner for Investigations, is made up of trained, empathetic staff who ensure the journey is safe, trauma informed and builds the individual's resiliency to make choices that are right for them. The needs of the requesting individual are regularly reviewed by the Case Support Worker, in conjunction with senior team leaders, who are also able to provide oversight and continuity to the case and offer additional emotional support where that would be helpful. The Case Support Team also works closely with the Information Recovery Team so they can take a note of routine information and can recognise when members of the Information Recovery Team need to be brought into discussions.
- 3.18. The Commission will need to gather some information to check that the case is within its scope, as set out within the legislation. The case must involve a death or serious physical or mental harm and meet the definition of Troubles-related, including occurrence during the period 1 January 1966 to 10 April 1998. Consideration, in some cases, may need to be given to determine whether an incident is 'Troubles-related'. A request to consider a case can only be brought by people with sufficient connection to the deceased, or by the person who suffered the serious injury⁵ (Figure 6). The Commission recognises that many people may wish to be joined in their request by wider family members. However, it is a legal requirement that the request is made by an individual.
- 3.19. If the Commission considers that the points have not been met it will normally go back to the requesting individual to seek clarification and more information so that it can make a determination whether the basic eligibility criteria are met to take the case forward. The formal decision about the Commission's acceptance of the request brings the first stage of Support to a close and opens the Information Recovery stage. From this stage, onwards, the Commission is under a legal obligation to look into all the circumstances of the case. The Information Recovery Team will confirm whether the case is eligible⁶ or not in line with a policy on making, determining and changing a

⁵ See further – Frequently Asked Questions – What is 'other harmful conduct?'

⁶ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation, para 32 [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

request⁷. While specific information is required to determine eligibility, this is gathered with the Case Support Worker. Requesting individuals are not required to complete an application form.

3.20. While those who are eligible to make a request is a relatively limited category, other close family members⁸, and the close family of any others killed (or subsequently deceased having suffered serious physical or mental harm) or of those who suffered serious physical or mental harm, are entitled to receive the proposed report on the case towards the end of the investigation in order to make representations should they wish. This reflects the fact that the incident may have affected many people in a family. It allows other family members to make representations about the report and understand what will be said in advance of the report becoming public. To assist with the promotion of reconciliation, the Commission considers it important to begin engagement with the wider family group early in the process.

3.21. The reasonable steps that will be taken to identify other family members include asking the requesting individual, reviewing public records, asking identifiable relatives, and reviewing investigative materials.

⁷ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation, para 37 [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

⁸ Including family members of others killed in or after the same event, s16(2)(a))(ii)(iii)

Figure 4: Case Support Team responsibilities

The Case Support Team's main responsibilities to the requesting individual include:

- listening to and understanding their concerns and request;
- explaining the end-to-end journey through the Commission, answering their questions and getting expert input on any bespoke or specific issues they raise;
- alerting them to any particularly emotionally challenging parts during the journey through the Commission;
- introducing them to those leading the work at each further step in the journey and regularly reminding them of what the requesting individual has asked for from the process;
- offering them emotional support and signposting them to other available sources of support or advice;
- providing the information they need to help them make informed decisions about using the Commission's investigation services;
- maintaining regular contact with them (based on their preferences) to ensure they understand the ongoing process, including how to provide feedback, raise questions and concerns, make a complaint or request a review of a decision; and
- being with them as their case is concluded and helping them access further support if necessary following their case being completed.

Case Support Workers cannot provide live time updates on the detail of the investigation. They will raise queries with the investigative team and pass on an answer or facilitate a discussion directly about the issue. A Case Support Worker is available to the requesting individual, ensuring they have someone you know to speak to, is familiar with their case and options at any given point, including what step comes next.

- 3.22. The Commission recognises that there will be instances when the wider family circle actively disagrees about making a request for an investigation. Case Support Workers will discuss these situations with potential requesting individuals and facilitate meetings with family members with entitlement if requested. The Commission will take reasonable steps to identify wider family members with an entitlement to receive the report (as set out above at paragraph [3.21]).
- 3.23. The requesting individual can pose specific questions that they would like the Commission to answer. While the investigation needs to look into all the circumstances of the death or other harmful conduct of the case, the questions can help focus on what the requesting individual would like to know. The requesting individual may pose these questions at the outset and discuss and refine these with the Case Support Worker. This ensures that the Commission's work is focused on the people at the heart of each case.
- 3.24. Where further detail is taken about the case, this will support the Senior Investigative Officer to carry out initial exploratory work. This is not to start the Information Recovery stage, but to give the Commission a better understanding of the likely approach to the case. This includes how much time and resource may be required, and whether specific courses of action may be considered – for example, the Commission is under a duty not to duplicate previous investigative work unnecessarily. The results of this initial exploratory work will allow the Senior Investigative Officer to explain to the requesting individual more specifically what is likely to happen if they request their case to be investigated and to consider their questions in light of this information, refining or adding to them. Most importantly, it gives the requesting individual more information on which to decide whether they want to proceed with the case, for example, requesting individuals might think again about the potential impact of how their case may progress on themselves and other family members.
- 3.25. If the requesting individual confirms they would like to formally submit their request, the officer making the decision whether to accept or reject the request will meet the requesting individual, should they wish to do so. The Case Support Worker arranges this face-to-face meeting and enables the individual to submit a formal request to investigate. In this face-to-face meeting the work to date is reviewed along with a discussion about what can be expected from any investigation and how ongoing engagement will be conducted. This will be set out in a Charter which will be discussed with the requesting individual. The content of this meeting forms part of the formal request for investigation. A formal request for an investigation must include specific information including the name of the requesting individual, details of

the incident that is the subject of the request, and the request, including questions⁹. The Case Support Worker will draft the submission and share it with the requesting individual who must confirm, in writing, they are content for the request to be submitted.

3.26. The requesting individual will have had the time to reflect on the information and background they have received, and the expectations about how their specific case may proceed as a result of the initial scoping work. If the Commission considers it is likely that it will reject a request, this is explained at the meeting so that further information can be provided, or consideration given to the requesting individual's explanation. Requests cannot be accepted if they do not meet the eligibility requirements set out in Figure 5. Following this meeting a formal decision on acceptance or rejection of the request is communicated and explained.

3.27. At this point there needs to be a shared expectation of what the Commission will do next and the immediate timescales. A shared understanding will be generated through discussing the Charter. The Charter will include:

- How and when the requesting individual will be involved in the key decision points, and what further information or action may be required of the requesting individual.
- How parties will approach any public commentary or questions about a case.
- How both the Commission and the requesting individual will treat information provided by the other party is discussed.
- How Commission staff will conduct themselves and appropriate behaviour of all parties in interactions.

3.28. A request for an investigation can also be made by eligible public office holders¹⁰.

3.29. The approach to withdrawing a request is set out at paragraph 4.66 below. The Support stage represents the point where the matter is solely within the hands of the requesting individual. If they decide, having had the information, engagement and time with the Commission, that they do not

⁹ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#), para 24

¹⁰ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation, para 26 [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

wish to proceed or that the process cannot provide what they require, this is a decision in their control.

- 3.30. Where a potential requesting individual decides not to proceed to investigation, the Commission will hold information generated to that point, in line with statutory personal data requirements. Individuals are informed how the data can be used and how information will be retained or disposed of. If there is no contact from a requesting individual for a certain period, or they decide not to proceed, the information is not retained. Individuals may return to the Commission after a period of time, but if they have not explicitly agreed that the information could be retained for longer, then the process will need to begin again, albeit from a position of greater general understanding.
- 3.31. In some specific circumstances, where there is already a live investigation following another request which could lead to prosecution, then the Commission may need to use information provided by the requesting individual in those proceedings.

Figure 5: Approach to whether an incident is ‘Troubles-related’

While not determinative, the Commission considers that the perpetrator (or suspected perpetrator) of any such incident must have been an active participant in the conflict for the incident to be Troubles-related. A non-exhaustive list includes: members of paramilitaries, members of the armed forces, other security personnel. The Commission does not require a paramilitary organisation to have been proscribed at the time of the incident. The Commission does not require the real or perceived community or political background of the victim(s) to be different from that of the perpetrator in order to qualify as Troubles-related.

The Commission acknowledges that paramilitaries not only undertook violent acts against the state, other paramilitaries, and members of other communities, but sought to implement community justice against individuals and groups within their own communities. Such incidents were enabled and went unpunished due to the status of these paramilitaries within communities as armed actors in the conflict, and the perceptions and operational realities of the efficiency and accessibility of the RUC during the conflict. However, not all incidents of community justice are automatically Troubles-related.

The central focus of the Commission’s decision-making where paramilitaries were the suspected perpetrator will consider the basis upon which the violence was undertaken, or perceived to be undertaken, in relation to “(a) the constitutional status of Northern Ireland, or (b) political or sectarian hostility between people in Northern Ireland”.

In incidents where a state actor was the perpetrator of the violence, the Commission should consider the basis on which the violence was undertaken, or perceived to be undertaken, in relation to “(a) the constitutional status of Northern Ireland, or (b) political or sectarian hostility between people in Northern Ireland” and whether the perpetrator was acting, or perceived to be acting, on behalf of an organisation.

Particular sensitivity should be shown when considering incidents of sexual violence, including when assessing the perceived or real power dynamic between the victim and the active participant in the conflict status of the perpetrator, and subsequent perceptions of impunity; as well as the rights of women and LGBTQ+ individuals during the conflict, and contemporary attitudes towards sexual violence.

Figure 6: Scope of the Commission's remit¹¹

The Commission's remit covers deaths, and "other harmful conduct" caused by any conduct forming part of the Troubles.

In order for a request for investigation to be accepted, consideration will need to be given to whether the case is within the Commission's remit. The Commission will use the information given to it by requesting individuals to inform its assessment. It will not ask for specific evidence or test an issue unless it has reason to do so. This will follow an assessment of the information provided so far. If the Commission concludes that the case is outside its remit, it will inform requesting individuals of the issue and consider any additional information provided.

"The Troubles" means the events and conduct that related to "Northern Ireland affairs" and occurred during the period beginning with 1 January 1966, and ending with 10 April 1998. The key factor is when the events and conduct occurred, not the outcome. For example, where the date of the incident occurred inside the relevant time frame but the death occurred afterwards, the incident is within the Commission's remit. The Commission cannot accept requests where the incident occurred outside this timeframe.

In the same way, "Northern Ireland affairs" means the constitutional status of Northern Ireland, or political or sectarian hostility between people in Northern Ireland. A request cannot be accepted if the incident was not related to "Northern Ireland affairs".

For requests for investigations deaths, the person making the request must be a close family member, or where there are no close family members, any family member, of the person who died. If the person making the request is not related in this way, then their request cannot be accepted.

"Other harmful conduct" means:

- Serious physical or mental harm (requests for investigation can be made by the victim / survivor); and
- any conduct (act or omission) forming part of the Troubles which caused a person to suffer physical or mental harm of any kind (excluding death) (requests for investigation can only be made by the Secretary of State).

"serious physical or mental harm" means:

- paraplegia;
- quadriplegia;
- severe brain injury or damage;
- severe psychiatric damage;
- total blindness;
- total deafness;
- loss of one or more limbs; or
- severe scarring or disfigurement.

The Commission can only accept requests from individuals for investigations into "other harmful conduct" where that individual suffered from one of these serious physical or mental harms, and where the harm was caused by the incident, or event and conduct, they wish to have investigated. The event and conduct also needs to have occurred during "The Troubles" and relate to "Northern Ireland affairs."

¹¹ See further – Frequently Asked Questions – What is 'other harmful conduct?'

4. Information recovery stage

Overview and stage objective

- 4.1. In this stage, the Commission plans and carries out a thorough and effective examination of the case. This aims to recover information that seeks to address questions raised by the requesting individual, and to establish the facts and circumstances of the incident.
- 4.2. During the scoping and assessment steps, information from existing records and archives will be gathered. Following these, investigative work is undertaken using a range of the Commission's capabilities and powers, such as forensic testing, interviewing previous and new witnesses, and requiring public authorities to provide more information.
- 4.3. The material recovered and the approach used is presented to the Chief Commissioner and the Findings Team. Acting under the supervision of the Chief Commissioner, the material and approach can be tested and determinations made, on the balance of probabilities. From the outset of this stage a member of the Findings Team is assigned to the case. In some cases, the material generated will be referred to the relevant prosecutor to inform a decision about whether a prosecution should be brought.
- 4.4. The Case Support Worker maintains their involvement in the case, remaining in contact with the requesting individual and explaining the next steps. The Case Support Worker will pass on routine updates from the Information Recovery Team and facilitate discussions with the Senior Investigative Officer and other members of the investigation team, as appropriate. This will give the requesting individual a direct explanation about progress in the case or give them involvement in decisions about the investigation.
- 4.5. At the heart of every case is a person, and no two cases will be alike. Therefore, the way in which we handle and progress cases must be flexible and not too rigid or prescriptive. However, for consistency and fairness, there are steps which allow expertise to be focused where it is needed and for similar categories of case to be treated similarly¹².
- 4.6. The Commission has a detailed policy on the Declaration and Management of Outside Interests in place for all staff¹³. In addition, when any staff member is assigned to a case they are required to certify that they do not have any

¹² See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

¹³ [ICRIR policy for the declaration and management of outside interests – Independent Commission for Reconciliation & Information Recovery](#)

conflicts of interest in relation to that case¹⁴. If any actual, potential or perceived conflicts arise the policy sets out how these should be addressed. Declarations are reviewed regularly during the course of the investigation, and are subject to audit.

- 4.7. All cases are overseen by a Senior Investigative Officer. This officer is responsible for the conduct of the case and for any decisions taken in the investigation. For the largest and most complex cases this role might be discharged by an Assistant Commissioner for Investigations. All decisions are taken under the delegated authority of the Commissioner for Investigations and the Commission has a scheme of delegated authorities.
- 4.8. As progress is being made through the first stage, the Commissioner for Investigations will be assembling a bespoke team of investigators to carry out the information recovery work for each case. Additional skillsets or expertise may be added to the team as necessary. The Commission identifies which organisations or individuals may hold information or answers to address the questions raised by the requesting individual. It will look into all the circumstances of the case. New investigative opportunities, for example, speaking to witnesses or persons of interest or forensic re-testing, are considered.
- 4.9. The Commission also has duties not to duplicate previous investigative work (by itself or others) unless necessary. The Commission needs to progress in a timely way and with proportionate examinations of all of the cases brought to it. In line with best investigative practice for cold cases, planning and scoping is important to support and focus thorough examination and obtaining of information and evidence.
- 4.10. Whether or not a legal obligation arises to meet the requirements of the European Convention on Human Rights (ECHR) and (whether this arises in domestic law), we consider there is good practice in adopting the elements of a Convention compliant investigation, which should inform the approach that the Commission takes to all investigations. Figure 7 sets out the principles.

¹⁴ [ICRIR policy on conflicts in investigations – Independent Commission for Reconciliation & Information Recovery](#)

Figure 7: ECHR Article 2/3 elements of good practice for all investigations

The Commission will investigate each case referred to it independently, thoroughly, and fairly. The Commission and its officers leading and undertaking the investigation will be institutionally and practically independent from any interested party. The investigation will examine all relevant material, exercise its statutory and police powers as it sees fit to obtain what it reasonably needs and follow any reasonable lines of inquiry. The investigation will act fairly and impartially.

The Commission will undertake investigations promptly and proportionately. Following the acceptance of a request, the Commission will carry out the investigation promptly and in accordance with its case categorisation principles. The Commission will take a proportionate approach to investigations, bearing in mind that in historical investigations, not all questions can be answered and not all evidence can be found.

The Commission will ensure those making a request are appropriately involved in the investigative process in order to protect their legitimate interests. Any person making a request to the Commission will be invited to make representations as to the scope of the investigation and any reasonable lines of inquiry through using the provisions in the Act to set out specific questions they would like the investigation to address.

The Commission will make factual determinations that are supported by the available material. The Commission will use its powers of information recovery to secure information from individuals and organisations that hold it, including by obtaining information and witness statements from individuals who attend the Commission. It will assess evidence fairly and in a judicious manner, separate from the evidence gathering and investigative process, so that findings can be determined by the Chief Commissioner.

Findings expressed will always be at least to the civil standard of proof. The Commission will reach findings that are supported by the available material. Where the Commission makes a finding of fact, the starting point will be for the Commission to do so on the balance of probabilities (that the conclusion is more likely than not). Where the Commission is unable to reach a conclusion on the balance of probabilities, it may say that events have possibly occurred.

The Commission will compile and produce a report of its findings in relation to each investigation it carries out. Reports will answer, as far as possible, the questions that have been asked by those making a request. The Commission's reports will also set out an account of all the circumstances of the death or harmful conduct, based on an analysis of the evidence the Commission has considered and set out in a way that is straightforward to understand. The reports will be public documents and the Commission will consider other activities, such as public press conferences and opportunities for individuals to read personal statements. The Commission will be as open as possible about the processes, policies and methodologies it adopts. Information is published as well as explained and provided to each requesting individual and their families.

Issues to resolve on accepting a request for investigation¹⁵

4.11. When a request for an investigation is accepted by the Commissioner for Investigations, the request moves into the second stage of the investigation. When the request is being considered there are an initial number of issues that need to be resolved which may affect how the case is investigated by the Commission, they include:

- Requests that relate to an event where the Commission is already carrying out an investigation, or is considering another request to carry out an investigation;
- Requests that relate to an event that has already been the focus of an investigation by the Commission; and
- Requests that relate to an event that has already been the focus of an investigation or examination by another public authority, such as the Office of Police Ombudsman for Northern Ireland, a coronial inquest, a criminal investigation by the Police Service Northern Ireland, or those on its behalf such as Operation Kenova.

Requests that relate to the same event¹⁶

4.12. Many events during the Troubles/Conflict resulted in the deaths and serious injury of more than one person. As a result, the Commission may receive requests from several individuals relating to the same event.

4.13. Where the Commission is already investigating a death or other harmful conduct, the Commissioner for Investigations has the power to join them to the earlier request. It is also open to the Commission to carry out a different, parallel investigation, where duplication is considered necessary, or to reject the request.

4.14. The Commission recognises that this may be a sensitive issue for everyone affected. The Commission will let the potential requesting individual know early in the process if there are other investigations into the same case that have already been accepted. If another requesting individual is in discussion in the Support stage, this will be shared unless there are good reasons not to, having informed the parties in advance. With consent of the parties more information may be shared to explore whether the case could be

¹⁵ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

¹⁶ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation, para 43 [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

joined. Requests for the same case to be investigated are considered in the order that the first meeting with the Case Support Team happened.

- 4.15. Both the original requesting individual and the subsequent requesting individual will be given an explanation of how the joining of the requests might be implemented, for example, whether their questions are being explored as part of the existing investigation. They will be given the opportunity to consider whether they wish to make any representations about the impact this may have on them.
- 4.16. The Commissioner for Investigations, or senior members of staff on his behalf, then considers the requests and is responsible for taking the decision on whether the cases should be joined. In advance of this decision, the Commission will discuss the application of the policy and potential approach with the requesting individual to understand their view and reflect it, as set out below in the criteria, in their decision making. Where there is good reason, the Commissioner for Investigations can accept both requests and undertake separate investigations (although consideration would need to be given to the requirements on duplication – see paragraph 4.21 below).
- 4.17. Following a decision, the outcome and reasons are explained to the requesting individual and properly recorded on the case file.
- 4.18. Investigations may be joined if a high degree of certainty can be established that they are considering the same event that led to the death or incident of other harmful conduct. Factors taken into account by the Commissioner for Investigations in deciding whether to join a request to an existing open investigation include:
- The views of the existing requesting individual and any adverse consequences for them, including delay in answering a request, that may follow a decision to join requests;
 - The views of the subsequent requesting individual and any adverse consequences for them that may follow a decision to join requests;
 - The type and progress of the open investigation, and the potential impact on progress of joining a request - investigations which have progressed further are less likely to accommodate a subsequent request;
 - Whether a separate investigation would involve duplication of any on-going investigation, and whether that duplication is necessary;
 - The proximity of the relationship between an existing and subsequent requesting individual from the same family and the deceased;

- Any obligations on the Commission as a result of the engagement of Article 2 or 3 of the ECHR; and
- Whether the Commission's principal objective of promoting reconciliation would be assisted by the outcome of the decision.

Requests that relate to events that have already been investigated by the Commission¹⁷

- 4.19. Where a death or other harmful conduct has already been investigated and reported on by the Commission and a new request is received, the Commissioner for Investigations will need to assess whether the case can be accepted.
- 4.20. The list of factors that may be taken into account in these circumstances is set out below. This is a non-exhaustive list, and every case will be considered on its own facts.
- The type of investigation that was undertaken by the Commission, whether a report has been published and to what extent it was able to address the questions of the subsequent requesting individual.
 - An assessment of whether there has been a significant change of circumstances in relation to the case (such as a new witness or suspect or the investigation can now be linked to other investigations).
 - Whether the Commission's principal objective of promoting reconciliation would be assisted by the outcome of the decision.

Duplication of an investigation by a previous investigative body¹⁸

- 4.21. When deciding whether to accept a request, the Commissioner for Investigations, or those acting on his delegated authority, must take into account any investigation that has already been carried out, and must not duplicate any aspect of that investigation, unless it is considered necessary.
- 4.22. In general, investigative practices and the maintenance of records were not as developed during the Troubles/Conflict as they are today. Many investigations during that period would be judged unsatisfactory by today's standards. Due to the operational context of the conflict, many routine forensic procedures were not undertaken, in part because of the heightened security concerns that existed. This may mean that even if the case was

¹⁷ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation, para 47 [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#)

¹⁸ See further – Policy – Information Recovery - Investigations [ICRIR Information Recovery - Investigations - Independent Commission for Reconciliation & Information Recovery](#)

subject to a police investigation or an inquest, new opportunities may be identified by the Commission during a scoping exercise in which the Commission reviews material that already exists in relation to a case.

4.23. Unless there are exceptional circumstances, the Commission will accept requests where there has been a previous investigation. This is so that questions raised by the requesting individual can be specifically considered and addressed.

4.24. Where the Commission identifies that its investigation would duplicate any aspect of that previous work, it may instead rely on that work in making findings. The Commission focuses its information recovery activities on areas where there would not be duplication, and on areas where questions could be addressed through taking information from the previous investigation. The obligation to look into all the circumstances of the death or other harmful conduct is met through drawing on previous investigative work - where duplication was not considered necessary, and new investigative work - where there are gaps or re-investigation is considered necessary.

4.25. Whether duplication is considered necessary is considered by the Commissioner for Investigations, or a senior member of staff on his behalf. The requirements will be explained to the requesting individual and their views, while not determinative, will be sought so that they can be given due regard in the decision. The main factor for the consideration, which is to be given significant weight, is whether there are apparent defects in the previous investigation, for example due to lower historic standards or evidence of maladministration. Some cases have been subject to more recent investigation, such as by the Legacy Investigations Branch of the PSNI or by the Office of the Police Ombudsman for Northern Ireland. Where the Commission considers that an Article 2 compliant investigation has already taken place and there is no new investigative work that could be undertaken to answer the specific request and questions raised without duplicating the previous investigation, the report will be based entirely on previous investigative work.

Scoping an investigation and setting terms of reference¹⁹

4.26. All cases that have been accepted for investigation begin with a scoping exercise. This uses the Commission's powers to obtain what original records of the incident can be recovered usually starting with the relevant police force. Depending on the circumstances of the case this may be

¹⁹ See further – Policy – Information Recovery – Investigations, at 2.1 and 5.1 [ICRIR Information Recovery - Investigations - Independent Commission for Reconciliation & Information Recovery](#)

extensive material, or for example for very old cases of serious injury, obtaining material may be more challenging.

- 4.27. The Commission applies the methodology and approach used for cold case homicide reviews (see Figure 8). This involves locating the original case files(s) and conducting a thorough review, looking for opportunities to progress the case. This conforms to nationally recognised standards and is thorough, conducted with integrity and objectivity and should not overlook any investigative opportunities.
- 4.28. The requesting individual is updated on the progress of work to undertake scoping. This will include, timetables and potential volume of material in the initial scoping, and in particular if potential lines of enquiry are identified. The requesting individual may suggest new lines of enquiry they would like to see developed. These are considered by the Senior Investigative Officer, who explains to the requesting individual, whether or not they will be included in the scope. A rationale for this decision will be provided to the requesting individual.
- 4.29. During the scoping work, the question of duplication of previous investigative work needs to be considered and resolved if it has not been possible to earlier (see paragraphs 4.21-4.25 above).
- 4.30. Based on the scoping work, terms of reference for the investigation are developed. The draft terms of reference are discussed with the requesting individual by the Senior Investigative Officer, and the requesting individual is asked for comments and proposals for consideration by the Senior Investigative Officer. This ensures that the questions that were raised by the requesting individual are capable of being addressed through the terms of reference.
- 4.31. The terms of reference may be amended and updated during the investigation. When this occurs, the Case Support Worker will arrange for the Senior Investigative Officer to explain the reasons for the proposed changes to the requesting individual, giving them the opportunity to comment and explain their comments, before the changes are made.

Figure 8: Cold Case Review Methodology

Scoping – Objective and Purpose

Scoping examines the documentation obtained from organisations who hold information about the incident that is the subject of a request. This material is likely to be predominantly from original murder enquiries, and may also contain material generated by the Historic Enquiry Team (HET), from the Stevens Inquiry, a Legacy Inquest and the Police Ombudsman.

Objectives

- View all the existing material held by organisations in relation to a request;
- Identify and highlight, by way of recommendation, any potential evidential opportunity;
- Set out lines of investigation for consideration by the Senior Investigating Officer; and
- Identify further actions for the investigation.

Strategy

The process is conducted by dedicated investigating officers. The NPCC Major Crime Investigation Manual (Part 3) provides strategic guidance for Major Crime Reviews <https://library.college.police.uk/docs/NPCC/Major-Crime-Investigation-Manual-Nov-2021.pdf>

Any materials generated during the Scoping process are subject to the provisions of the Criminal Procedure and Investigations Act 1996. To ensure compliance with this and other material handling protocols (Official Secrets Act 1989) the Commission will make use of the nationally accredited CLUE Investigations IT system.

Scoping Report

A template based on the MPS Special Crime Review Group Major Crimes Review will be used to highlight issues, identify recommendations and create actions for consideration by the Senior Investigating Officer with responsibility for the case.

All documentation generated as a consequence of the Review process is registered on CLUE and managed in accordance with MIRSAP principles https://library.college.police.uk/docs/NPCC/MIRSAP_V1_Nov_2021.pdf

When the Scoping exercise has finished, a Scoping Report is compiled, and the case is presented to a Case Management Panel by the lead officer, chaired by an officer of at least the grade of Senior Investigative Officer.

The draft terms of reference will be agreed with the individual, and a decision made about the case categorisation.

Types of investigation²⁰

- 4.32. The scoping exercise and development of the terms of reference inform the decision by the Commissioner for Investigations about how information recovery work proceeds. The Commission offers three types of investigation to meet the different needs and circumstances of requesting individuals and their cases. All investigations will be thorough and carried out by specialist, trained investigators. All investigators in the Information Recovery Team, from whatever investigative background, will be deployed across all types of investigation.
- 4.33. The investigation types will have been explained to the requesting individual by their Case Support Worker. A discussion will also take place about the most likely type or types of investigation for the case when enough information is available for that discussion with the requesting individual. This initial discussion will have taken place in advance of the requesting individual deciding to formally request the Commission to take the case.
- 4.34. It is important to minimise misunderstandings or mismatched expectations about what the Commission might be able to do in any specific case. The decision about which type of investigation a case will follow is for the Commission to make. The requesting individual may have input into the decision and their views will be given consideration, but they may not be determinative and other factors may carry more weight. This both insulates the requesting individual from the potential for any pressure to decide in a certain way and ensures consistency of approach in similar cases so that there is fair treatment for all.
- 4.35. The Commissioner for Investigations, or a senior member of staff or panel on his behalf, determine the investigation type for each case. The decision may only be taken once the scoping exercise has been completed satisfactorily and the Commissioner for Investigations is able to make a fully informed assessment of the likely impact of any lines of enquiry to be pursued.
- 4.36. Once a case has been assigned as a Focused or Culpability investigation a change to how the case is assigned is only possible in exceptional circumstances where material is uncovered that means referral to a prosecutor is a realistic possibility.

²⁰ See further – Policy – Information Recovery – Investigations, at 4.1 [ICRIR Information Recovery - Investigations - Independent Commission for Reconciliation & Information Recovery](#)

- 4.37. It may be necessary for a Liability investigation to become a Culpability investigation where the prospect of prosecution cannot be supported by the emerging evidence.
- 4.38. A decision to conduct or not to conduct any particular type of investigation does not mean that an individual has not been a victim of crime or that no criminal offence has been committed.

Figure 9: The three types of investigation

Focused investigation

This type of investigation aims to address the questions that requesting individuals have raised. The focus of investigative work is to recover information that can help answer or addresses those questions. In these cases, the Commission will not be duplicating previous investigative work and is likely to draw on previous work in discharging its duty to look into all the circumstances of the case. It uses its full range of statutory powers to seek the answers in existing records, including accessing any sensitive material it requires. It may undertake targeted new investigative work, such as interviewing witnesses, where this will help to address the questions that requesting individuals have raised. Investigations are carried out promptly and findings, based on the material presented, are made on the balance of probabilities.

Liability investigation

In addition to aiming to address the questions that requesting individuals have raised, this type of investigation seeks to establish all the circumstances of the death or other harmful conduct. Such an investigation would be capable of leading to a referral for prosecution as evidence would need to be obtained to a standard that would support prosecution. The Commission's statutory powers, as well as the powers of a constable, may be used for this purpose. Provision of substantive updates to the requesting individual need to be balanced against the need to preserve the integrity of the investigation and the ability to prosecute. Findings can only be made and a report issued after any subsequent decisions by the prosecutor not to prosecute or after a prosecution (whether or not successful). Where it becomes apparent that the prospect of prosecution cannot be supported by the evidence a Liability investigation is likely become a different type of investigation that reaches its conclusions on the balance of probabilities.

Culpability investigation

In addition to aiming to address the questions that requesting individuals have raised, this type of investigation seeks to establish all the circumstances of the death or other harmful conduct. The Commission will use its full range of statutory powers to seek the answers in existing records, including accessing any sensitive material it requires. There may be a need for significant new investigative work, or re-investigation where the Commission considers duplication necessary. Investigations are carried out in a timely manner, proportionate to the scale and complexity of the event. Material is presented to the Chief Commissioner for findings, including determining the acts of individuals and organisations to be made on the balance of probabilities.

4.39. In preparation for the decision, the requesting individual is able to meet with the Senior Investigative Officer, alongside their Case Support Worker to:

- remind themselves of the general process and criteria;
- discuss the specific characteristics of their case;
- underline the questions they would like the investigation to answer;
- set out their concerns about any particular type of investigation; and
- explain how they consider their case should be measured against the Commission's factors to be taken into account.

4.40. The factors used to determine the investigative type are as follows. The list below are not exhaustive, and not all may be relevant in every case. The weight to be attached to each of the factors identified will also vary according to the facts of each case. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction.

- **The nature of the request and any questions asked.** Answering the questions asked by the requesting individual is at the core of the work of the Commission. The Commission seeks to conduct investigations that follow lines of inquiry that are necessary and proportionate in order to answer those questions.
- **Whether Article 2 or 3 ECHR is engaged.** An essential purpose of an investigation under Article 2 is to secure the effective implementation of the domestic laws safeguarding the right to life and, in those cases involving state agents or bodies, to ensure their accountability for deaths occurring under their responsibility. The state also has a duty under Article 2 and 3 to conduct an effective investigation into crimes which involve serious violence to an individual and this may involve an obligation to conduct a liability-focused investigation or a Culpability investigation.
- **The views of the requesting individual.** The Commission must make its own decisions independently of the views of any other person or body. If at the outset of the investigation, the requesting individual or family were able to choose whether a case was capable of leading to prosecution, the Commission would be creating a significant risk to the requesting individual or family. If suspects were aware that the decision to refer for prosecution rested with the requesting individual or family, the latter may be at risk of significant pressure to choose a particular type. The views of the requesting individual or family may be a factor in deciding the type of investigation, but is not a determinative one.

- **There are reasonable grounds to suspect that an identifiable, living person/s has committed an offence and that an investigation may be capable of obtaining evidence that is reliable, credible and admissible.** If it is likely that further evidence can be obtained to provide a reasonable/realistic prospect of conviction, Commission officers should consider the nature, extent and admissibility of any likely further evidence and the impact it will have on the case.
- **There is a linked investigation assigned to an investigative type.** Where the conduct that is the subject of an existing investigation by the Commission formed part of the same event as that death or other harmful conduct then investigations may need to be linked and in consequence may need to be the same investigation type.
- **The impact on the principal objective of promoting reconciliation.** An assessment should be made of the impact on the principal objective of promoting reconciliation.

4.41. The type of investigation is determined on the basis of application of the criteria to each specific case. Therefore, it is not possible to determine in advance how likely it is for each route to be used. Focused investigations do not have a comparable process in current systems and have been developed to reflect a need for specific information recovery even where there may have already been a successful prosecution, for example. The current number of criminal investigations and those leading even to referrals for prosecution, let alone a conviction, is small. The reasons for this, such as lack of evidential or investigative opportunities remain and therefore may also be reflected in the numbers of the types of investigation the Commission carries out.

Case categorisation²¹

4.42. Availability of resources is not a factor and should in no way be taken into account in determining the scope or type of investigation that can be carried out. However, the Commission does not have limitless resources or adequately trained staff at its immediate disposal. The purpose of case categorisation is to progress all cases fairly and equitably. Investigations are categorised for the purposes of resourcing. The category assigned affects the amount of time allocated by investigators to progress the case in the most prompt and reasonably expeditious manner. Cases are not worked on in order of category and all cases in all categories are assigned to a lead officer. The Commission therefore matches resources with demand and undertakes a range of investigations in parallel.

²¹ See further – Policy – Case Categorisation [ICRIR Case Categorisation - Independent Commission for Reconciliation & Information Recovery](#)

- 4.43. The Commission reviews its overall workload to consider the best approach to carrying out investigations in a timely manner. This includes whether to hire or second more officers, subject to maintaining quality standards through open recruitment and training; or to utilise existing resource efficiently across cases where built up expertise and experience outweighs the value that additional resource and the time taken to obtain it would bring. The Commission's funding model means that it is not subject to annual budgeting restraints for operational resourcing, but it does need to forecast, hire and train appropriately, and it needs to avoid excess capacity if it does not have the cases to justify it, as this is wasteful of the overall funding available to investigate cases.
- 4.44. The principles that the Commission adopts in all investigations (see Figure 7) include good practice from a European Convention on Human Rights compliant approach. This will enable the Commission to ensure investigations which do not directly engage Articles 2 and 3 ECHR are not deprived of resources.
- 4.45. The case categorisation policy applies to all cases under investigation by the Commission, with the exception of inquests that were at an advanced stage for the first 12 months from 1 May 2024. Categorisation takes place within the different investigation types so that resource can be focused across all types of case rather than favouring a specific type. Within that it is important for the Commission to ensure in its planning that it can access and allocate sufficient resource to meet requirements under Articles 2 and 3 of the ECHR for the conduct of investigations.
- 4.46. Advanced stage inquest cases are treated separately as a transitional measure reflecting the work that has already been carried out and the overall stage that they are at in investigation. These cases are always assigned to Category A (see Figure 10) for the first 12 months from 1 May 2024.
- 4.47. The presence of **one or more** of the factors listed in the table below will place the case in the corresponding category (Figure 10).
- 4.48. Categorisation of cases is considered by the Commissioner for Investigations following a thorough assessment against the criteria. Once the case has been categorised, the Commissioner for Investigations allocates resources for the investigation. Every investigation must be allocated sufficient resources to be completed. The progress of each case, including its categorisation, is reviewed by the Commissioner for Investigations on a quarterly basis.

Figure 10: Categorisation table

Category A	<p>In any investigation: the requesting individual is elderly (over the age of 75) or in poor health.</p> <p>In any investigation: a critical witness or suspect is elderly (over the age of 75) or in poor health.</p> <p>There is a suspect who poses a current risk to life.</p> <p>There are investigations into connected offences involving the same suspect(s).</p> <p>The case was previously the subject of an advanced stage inquest that did not conclude before 1 May 2024.</p>
Category B	<p>None of the factors in Category A are present</p> <p>The case involves significant complexity in the volume of material, the number of witnesses or the nature of the material.</p> <p>There are new investigative opportunities to be pursued that could confirm the identity of a suspect.</p> <p>There is significant public interest in the conclusion of the investigation.</p>
Category C	<p>None of the factors in Category A or B are present.</p> <p>The case can conclude without the allocation of additional resources.</p>

4.49. Requesting individuals will have the Commission's current resources and workload explained to them. They will be asked for any specific information relevant to the categorisation so that these can be taken into account in the assessment. Following the categorisation decision they will be updated about the potential timescales for the investigation to be progressed. The category of the case does not indicate the order in which it may be completed, as more complex cases may be given more resources but take longer to complete, whereas some cases in Category C may be completed swiftly.

4.50. If the Commission does not have the capacity to immediately allocate resources to certain investigations, these investigations are considered 'pending' and are subject, together with all other cases before the Commission, to a quarterly reassessment.

4.51. For pending cases, the length of time that has elapsed since the agreement of the Terms of Reference is taken into account when considering the resources that need to be allocated to progress the case.

4.52. Where the characteristics of a case change, for example, in terms of the availability of evidence, or new information which could inform the categorisation of the case, this will also be considered when the case is subject to a quarterly reassessment.

4.53. Live investigations, once started, cannot be closed unless the Commissioner for Investigations decides to treat the request as withdrawn (see paragraphs 4.66-4.72 below). However, the Commissioner for Investigations can decide to pause an investigation where required, for example, where the ill health of a witness means the only line of inquiry cannot currently be pursued.

Powers and investigative approaches

4.54. The Commission has powers and investigative approaches that it can use, as set out in the legislation. Unless it is not appropriate to do so, it usually starts by making a request for co-operation and engagement. The Commission will have a Witness Charter to set out what witnesses can expect from their interaction with the Commission. However, the Commission has a range of legal powers to require information, documents and materials, as well as engagement, from public authorities and from private individuals and organisations. And it has recourse to legal enforcement mechanisms if its requests are not complied with.

4.55. Section 14 of the Act gives the Commission the powers to issue a notice to a person (or body). A notice is a written request asking the person to give the Commission any requested information, documents or items in their possession or attend at a time and place to provide the information, or a statement. The person on whom notice is served must comply with it, unless they claim they are unable to comply with it or that it is not reasonable to require them to comply with it.

4.56. Under Schedule 4 to the Act the Commission can fine a person up to £5,000 if they fail, without reasonable excuse, to comply with a Section 14 notice and do not provide the requested information. Where a person has committed an offence, such as distorting evidence, provided under Section 14, or suppressing relevant information, this can lead to a fine or imprisonment.

4.57. Section 5 of the Act gives the Commission powers to require ‘relevant authorities’ to make any information available to the Commission that the Commissioner for Investigations reasonably requires for the purposes of, or in connection with, an investigation. Relevant authorities are listed in the Act (Figure 11). Relevant authorities must provide all the required information, in full, to the Commission. The Act sets out a corresponding legal duty on them

to do this, and disappplies any other legal protections or provisions which might prevent them from providing the information in full. It is for the Commission to determine relevance of the information, and information must be provided in unredacted form.

- 4.58. To agree how this information is requested and provided the Commission has the option to put in place agreements called Information Disclosure Protocols (IDPs) with relevant authorities. Although the Commission does not need IDPs to be agreed with each relevant authority to make an information request from them, the Commission may agree IDPs with some relevant authorities to ensure there are agreed principles in place to enable the smooth handover of information. Where it does so, these will be published.
- 4.59. The Commission handles all information collected through investigations whether sensitive or personal data or otherwise with proper care so that its integrity is maintained and it is not improperly used or disclosed. Information handling processes have been put in place by the Commission to ensure that only trusted people who have access to the information are those who need to see it²².
- 4.60. In addition to the section 14 and section 5 powers the Commission can use to obtain information, the Commissioner for Investigations, and any other Commission officers so designated by the Commissioner for Investigations, has police powers. This includes access to the same powers and investigative measures as the police when investigating criminal offences. These may include, the power to arrest and detain suspects for the purposes of questioning, obtaining search warrants or other court orders requiring the production of evidence and obtaining samples for forensic testing. These 'police powers' can be used in Liability investigations.

²² See further – Policy – Disclosure of Information

Figure 11: Relevant Authorities

The list of relevant authorities is:

- the Chief Constable of the PSNI;
- the Chief Officer of a police force in Great Britain;
- the Police Ombudsman for Northern Ireland;
- the Director General of the Independent Office for Police Conduct;
- the Police Investigations and Review Commissioner;
- any Minister of the Crown (which has the same meaning as in the Ministers of the Crown Act 1975 — see section 8 of that Act);
- the Security Service;
- the Secret Intelligence Service;
- GCHQ;
- any other department of the United Kingdom government (including a non-ministerial department);
- a Northern Ireland department;
- the Scottish Ministers; and
- any of His Majesty's forces.

4.61. All evidence and information is coordinated through the Major Incident Room (Figure 12). After the Information Recovery Team has received the evidence requested they analyse it to identify whether there are any additional lines of inquiry that an investigation could pursue. Evidence and accounts are compared against each other, and discrepancies identified. Further requests for information and requirements for searches may be made. Any matters of concern about the standard of the investigation are further investigated and assessed against the standards that existed at the time of the original investigation. The Information Recovery Team's focus is to review the available material, including the available intelligence, to identify the issues involved in the case, any new evidential opportunities, and any opportunities for new lines of inquiry to be pursued such as speaking to witnesses and any new forensic opportunities.

4.62. Where the Information Recovery Team identifies potential lines of inquiry, these lines of inquiry may include opportunities for forensic or ballistics testing, or other expert input, and can take advantage of the

scientific advances made since the original investigation. However, this may not be possible in every case as some evidence may have become too degraded or its handling and storage has undermined its integrity. External experts may be used to assist the investigators in this work.

Figure 12: Major Incident Room

All investigations use the Major Incident Room, which sits at the centre over all the Commission's information recovery work. The Major Incident Room is a central team, and is responsible for receiving, reviewing and indexing all material gathered during investigations and the subsequent tasking of investigators to drive and direct information recovery.

The responsibilities include:

- Providing the Commissioner for Investigations and the Senior Investigative Officers with an accurate record of all relevant information relating to the investigation, together with the enquiries made and results obtained.
- Showing the state of the investigation and how much work (outstanding actions) remains to be done at any time.
- Enabling investigators that make enquiries to establish whether any person has previously come to notice in the investigation.
- Providing investigators with a means of acquiring all the knowledge that the investigation already has about their enquiry subjects.
- Keeping records that highlight people, vehicles or other factors that have become subject to enquiry, so that those records can pinpoint individuals for further investigation.
- Acting as a means of historical reference so that, in long-running enquiries, officers joining the investigation can have easy reference to major policy decisions and the rationale behind them.
- Facilitating the preparation of all case material for presentation to the Chief Commissioner and his Findings Team.
- Recording and linking all information so that it may be readily retrieved to aid the SIO and their team to establish priorities. This will ensure that all enquiries are made efficiently and that the results are analysed.
- Ensuring all the recognised protocols have been applied so that the necessary research can be made across different databases and, where appropriate, investigations can be linked.
- Maintaining the database from which it is possible to undertake internal and external reviews.

Changing or withdrawing a request²³

4.63. The law provides for the Commissioner for Investigations to decide ‘the circumstances (if any) in which a request for a review may be changed (including by changing particular questions included in the request) or withdrawn’.

4.64. Once the Terms of Reference have been finalised, there are limited circumstances in which a request can be changed or withdrawn. It is important that the Commission makes that clear to the requesting individual before a request is submitted.

4.65. Each request is considered on a case-by-case basis. The further the investigation has progressed, the less likely it is that a request can be changed or withdrawn. Once an investigation has concluded and the Chief Commissioner's Findings Team is considering the report, it is very unlikely that the request could be changed or withdrawn.

4.66. Factors that the Commissioner for Investigations may take into account when making a decision as to whether to allow the withdrawal or change of a request are set out in below. This is a non-exhaustive list.

- Whether Articles 2 and/or 3 of the ECHR are engaged;
- There has been a significant change in the circumstances of the requesting individual or family (for example, bereavement or serious mental or physical ill health);
- (for a change to a request) The requesting individual is in possession of new, verified information and such a change is reasonable in terms of the efficient conduct of the investigation underway;
- The Commissioner for Investigations is content that the requesting individual has not been coerced to change or withdraw the request;
- Whether the Commission's principal objective of promoting reconciliation would be assisted by the outcome of the decision;
- Any other compelling factors that the Commissioner for Investigations considers to be reasonable grounds for withdrawing or changing a

²³ See further – Policy – Handling a request: making, determining, changing and withdrawing a request for an investigation. [ICRIR Handling a request - Independent Commission for Reconciliation & Information Recovery](#) Para 57: Process for changing a request, para 65: Process for withdrawing a request

request including, where the request was made by an eligible public office holder, the views of any family members, or victims or survivors.

4.67. A request to change or withdraw a request must be submitted in writing by the requesting individual or eligible public office holder who made the request, and must include details of the reasons for the change(s) or withdrawal.

4.68. Any decision to permit or deny a request to be amended or withdrawn is made by a senior member of staff of the Commission as set out in the Scheme of Delegated Authorities. The decision and rationale are documented and communicated to all requesting individuals impacted by the decision.

4.69. All decisions made by the Commission to reject requests, to link requests or to refuse to permit a request to be amended or withdrawn is subject to a formal right of review, which is set out further below.

Requests to review investigative decisions²⁴

4.70. The Commission expects all staff to behave in accordance with its Code of Conduct (Figure 2) and to observe the core values of integrity, impartiality, openness, accountability and respect in carrying out their official duties.

4.71. Important decisions made during the case, such as the type of investigation to be undertaken, are provided in writing and with clear reasons as to how the decision was made.

4.72. If a requesting individual is unhappy about a decision, they can discuss their options with the Case Support Worker. For all decisions there is the opportunity for informal resolution. Informal resolution is an opportunity to discuss the decision with the decision maker, and/or where appropriate, a more senior member of staff of the Commission. This gives the requesting individual, with the help of their Case Support Worker and others, the opportunity to share their concerns, and for the Commission to share reasons behind the decision and to explain it properly. This process is voluntary. The aim is for parties to exchange perspectives to understand the decision, discuss concerns, and take an active part in resolving the issues.

4.73. For key decisions, an internal review can be sought. These key decisions are:

²⁴ See further – Policy – Requests to review decisions in investigations [ICRIR Reviewing Decisions in Investigations - Independent Commission for Reconciliation & Information Recovery](#)

- Accepting or rejecting a request for investigation;
- The type of investigation to be carried out;
- Making a referral to the prosecutor;
- Whether a request for an investigation may be changed or withdrawn;
- Whether a request is joined to an existing request

4.74. Further details of internal review process are set out in our Policy – Requests to review decisions in investigations²⁵.

4.75. The Commission applies the spirit and principles of the Victim Charter in Northern Ireland, Victims' Code for Scotland and Code of Practice for Victims of Crime in England and Wales²⁶.

Confidentiality of requests to review decisions

4.76. Any personal information provided is used only for the purposes of informal resolution, or where available, a review of a decision, subject to the need to disclose information as required for lawful purposes and/or as a result of statutory, legal or parliamentary obligations placed on the Commission.

4.77. The Commission publishes information in its Annual Report on the numbers and categories of requests for informal resolution and reviews of decisions received by the Commission. This includes the number of decisions that were found on review to be wrong or unreasonable. Outcomes may be anonymised and shared within the Commission to support continuous improvement.

Referral to the prosecuting authority

4.78. Where there has been a Liability Investigation of a Troubles-related death or of other harmful conduct, the Commissioner for Investigations is able to refer the conduct under investigation to the relevant prosecuting authority for them to consider whether to bring a prosecution. The Commissioner needs to consider that there is evidence that the conduct is an offence under the criminal law by a known individual, and then notifies the prosecutor of the offence concerned. The discretion to refer under the Commission's statutory power (section 25) will be exercised where the

²⁵ Policy – Requests to review decisions in investigations [ICRIR Reviewing Decisions in Investigations - Independent Commission for Reconciliation & Information Recovery](#)

²⁶ [Victim Charter | nidirect](#); [The Code of Practice for Victims of Crime in England and Wales and supporting public information materials - GOV.UK \(www.gov.uk\)](#); [Victims' Code for Scotland - mygov.scot](#)

Commissioner for Investigations is satisfied that the Evidential test and the Public Interest test in the Code for Prosecutors or Code for Crown Prosecutors could be met, such that there is a reasonable/realistic prospect of conviction. The decision on whether the Full Code Test is met is a matter for the prosecuting authority.

- 4.79. The Commissioner for Investigations passes on such relevant information and material to the prosecutors as he considers appropriate, together with such further information and material that he is able to obtain when requested by the prosecutors. The Commission is considering entering into Memoranda of Understanding with the individual prosecution authorities about how they and the Commission will work together. Reflecting best practice, the Commission would want early involvement from experts from prosecuting authorities as the investigation is conducted to help inform its approach. Whether a case is referred to the prosecuting authorities is solely a matter for the Commissioner for Investigations' determination. The requesting individual is informed of the decision with the reasons explained, but operational independence and integrity of the evidence will need to be preserved to support the best possible chance of a successful outcome.

Enhanced inquisitorial proceedings²⁷

- 4.80. As an investigation progresses there may be contested or significantly contradictory evidence and material that requires more focussed proceedings so that evidence and material may be further tested it to enable the Chief Commissioner to reach findings. Further information is set out in our Policy – Enhanced Inquisitorial Proceedings.

Concluding the Information Recovery Stage

- 4.81. Towards the conclusion of the Information Recovery stage, the investigators begin focused work to prepare the case and all the material generated for presentation to the Chief Commissioner and his Findings Team so that determinations based on the evidence can be made. This is explained in the next chapter about the Findings Stage.

²⁷ See further – Policy – [Enhanced Inquisitorial Proceedings](#)

5. Findings stage

Overview and stage objective

- 5.1. The aim of this stage is for thorough and independent assessment of the evidence to generate findings that can be set out in a comprehensive report about the case. The findings are determined, on the balance of probabilities by the Chief Commissioner, who is also able to request that further investigative work is undertaken. Reports need to be clear, accessible and accurate, with a consistent approach taken to making and reporting findings. The report needs to set out the circumstances of the death or serious injury and may name those who committed the acts, subject to consideration of ECHR requirements.
- 5.2. The report is published and other forms of public scrutiny, such as a public reading, a press conference, or wider event, may be held. Personal statements about the impact of the event on an individual may also be published, and could also be read aloud. The Commission needs to support the requesting individual at the end of the investigation to bring the Commission's work with them to a close in a sensitive manner.

Presentation of materials and evidence

- 5.3. A member of the Chief Commissioner's Findings Team is assigned to each investigation the Commission conducts at the outset. Their role is to independently check and challenge the investigation as it progresses.
- 5.4. At the conclusion of the investigation the Information Recovery team assembles all relevant evidence and material and presents this to the Chief Commissioner and the Findings Team, along with a full account of how the investigative work was carried out. This information is challenged, probed and independently assessed. The terms of reference and the questions asked by the requesting individual are used to check that all necessary work has been undertaken²⁸.
- 5.5. In testing the evidence and using it to determine findings, on the balance of probabilities, the Chief Commissioner may request that further investigative work or assessment is undertaken.
- 5.6. The Case Support Worker engages closely with the requesting individual before, during and after this point to ensure that they understand how their case is progressing and what is likely to happen next. Requesting individuals can meet the Senior Investigative Officer and the Findings Officer. These

members of staff will explain the approach to how findings are recorded, on the balance of probabilities, and may be able to discuss emerging findings. They will want to understand any questions and concerns the requesting individual has so these can be taken into account as they start to prepare the report. In particular any concerns or questions raised by the requesting individual (including the absence of evidence or a desire to prove something was not the case) may be considered by the Findings Team and used to probe how the investigation was conducted and what archives and searches were carried out.

Assessment of findings

- 5.7. The Chief Commissioner and his team independently assess what findings can be made, based on their analysis of the evidence and materials provided. In some cases, however, the Chief Commissioner will not be able to reach a conclusion on the balance of probabilities if this is not supported by the evidence.
- 5.8. A member of the Investigative Team remains engaged in the work to understand the emerging findings and act as a point of challenge if any material or evidence has not been properly understood.

Preparation of reports

- 5.9. In line with the principles set out at Figure 13, the Chief Commissioner, supported by the Findings Team, prepare a report that records their findings and sets out an account of all the circumstances of the death or harmful conduct. The report also answers, as far as possible, the questions asked by the requesting individual. Where a question cannot be answered, the report will contain a statement of that outcome. Conclusions are expressed on the balance of probabilities, that it is more likely than not that something happened.
- 5.10. The Commission carries out rigorous internal quality assurance on the emerging report. This includes careful consideration of the Commission's statutory duties and how the Commission – ultimately the Chief Commissioner – considers how these duties should be discharged. The Commission takes considerable care in discharging its duties in relation to how material that relates to national security interests, that risks putting life or safety at risk, or that relates to criminal proceedings is treated and framed. The Commission may require expert input from relevant public authorities about the impact of proposed references to inform its decision.

Figure 13: Approach to recording findings in reports

Clarity

Reports use plain and unambiguous language to avoid misunderstanding and are written with the requesting individuals and families in mind. Reports adopt a narrative approach, setting out a theory or description of what happened while also explaining the wider context. They also, to the extent practicable, answer specific questions asked by requesting individuals and families.

Accessibility

Reports are made available in a range of formats to meet the diverse needs of those who read them, in compliance with legal requirements on equality and accessibility. The Commission discusses this with requesting individuals and families and may hold reading events at the point reports are published.

Consistency

Reports are produced to a set template which is published and explained to requesting individuals and families at the outset. Reports are written in a consistent style, with the same approach to making findings and reporting conclusions taken in each case.

Accuracy

Reports set out a summary of the critical evidence and information identified and points of fact. The Chief Commissioner refers to and / includes relevant information which is of value to requesting individuals and families, but reports do not typically include all underlying evidence identified during the investigation. The Commission carries out careful case-by-case consideration where it intends to name individuals in reports.

Disclosure of information

- 6.1. The Commission recognises the significant value that requesting individuals (and others) may place upon receiving as much information as possible. Appropriate disclosure of information is also necessary to ensure that the requesting individual and potentially others, such as those subject to significant criticism, are sufficiently informed to be properly involved in the investigation or to make informed representations. In addition, in producing the final report the Commission will need to set out sufficient information to explain its findings.
- 6.2. Where the Commission is referring a case to the prosecutor it has the power to disclose all information it considers necessary, including any national security information, having provided notice to the Secretary of State. Outside of prosecution the Commission has a general power to disclose any information it considers necessary, subject to a number of exceptions. These are:

- Any other legal obligations relating to data, such as data protection legislation in relation to personal data;
- Statutory duties on the Commission not to risk a prejudicial effect on criminal proceedings; not to risk putting the life or safety of any person at risk; and not to risk prejudicing the national security interests of the United Kingdom.

6.3. Adherence to such legal requirements is for the Commission itself to determine. In doing so, it may – if it chooses – take expert advice to inform the decision of the Commission. Any such decision by the Commission to disclose or withhold information can of course be challenged in the courts.

6.4. Where a proposed disclosure is of ‘sensitive information’ as defined under the legislation, such as material provided by the intelligence agencies or evidence that the Commission has obtained that it has identified as sensitive. Then there is a statutory process by which the Commission can request that the information is declassified as it considers it necessary to disclose. This process will be used when it has not been possible to gist or provide the material in such a form that it is no longer ‘sensitive information’. The Secretary of State must notify the Commission whether disclosure is permitted or prohibited. Prohibition can only be if, in the Secretary of State’s view the disclosure would risk prejudicing or would prejudice the national security interests of the United Kingdom, or would be likely to damage international relations. Where they can, the Secretary of State should provide reasons should be given. The Commission will consider carefully its response to any decision taken by the Secretary of State and, in any event, the final report will include the Commission’s own view of the Secretary of State’s decision.

6.5. A legal challenge may be brought to the Secretary of State’s decision to prohibit a proposed disclosure of sensitive information in the final report. The Commission will ensure that requesting individuals understand their options and are supported if they bring any challenge

6.6. The Commission will notify the Secretary of State of only the information which it proposes to disclose as part of the statutory process. It will share drafts reports with the Secretary of State only if they requested the investigation

Process for consultations on reports

6.7. When a draft report has been prepared, the Act requires that before publication the Chief Commissioner must consult specific interested parties

on the content of the report. This is a staged process which will follow the order set out below.

- 6.8. First, where draft reports include significant criticism of an individual or public authority, the Chief Commissioner will give them advance notice of the critical material from the report and an opportunity to respond. Any responses received are considered by the Chief Commissioner who may decide to modify or exclude the critical material from the draft report.
- 6.9. Second, requesting individuals have the opportunity and time to consider the draft report and provide comments, feedback and to make representations. The Chief Commissioner considers any responses received and may decide to amend the report for final publication.
- 6.10. The Chief Commissioner will also give a draft of the report to the following people and give them the opportunity to make representations during the same period:
- Relevant family members of the person whose death has been investigated;
 - Relevant family members of anybody else killed in the same event;
 - Any other person who suffered serious physical or mental harm in the same event, or their relevant family members.
- 6.11. The Case Support Worker and the Findings Team will work with the requesting individual so they understand revisions that are made in light of any representations that have been received at this final point.
- 6.12. The Commission seeks to identify and contact these individuals during the earlier stages of the case (see paragraph 3.20). This work will be led by the Case Support Worker, working closely with the requesting individual and will be carried out in accordance with the Commission's trauma and resiliency-informed approach. The Commission will also take further reasonable steps during the investigation to identify those who might be entitled to provide representations.
- 6.13. The Commission understands and recognises the importance of maintaining confidentiality and protecting requesting individuals and others until the report is finalised and published, while ensuring it discharges the clear statutory requirements to enable representations to be provided on draft material and reports. The Commission will take a number of steps to maintain confidentiality throughout the representations process:
- 6.14. The Commission will not routinely make public any material or communications provided to respondents during the representations process,

the names or other details of those who have been contacted, or how the Commission considered representations, and any changes made as a result.

- 6.15. Individuals or public authorities facing significant criticism will only be provided with the relevant critical material, not the full draft report or unrelated material which criticises others;
- 6.16. The full draft report will only be provided to requesting individuals and others entitled to receive it after the Chief Commissioner has carefully considered and determined any amendments to the draft report in light of representations from those subject to significant criticisms; and
- 6.17. The Commission is required by regulations made under the Act to notify any person or public authority it provides with draft material at any stage of the representations process, that the material is given to them in confidence for the sole purpose of making representations. At the same time, the Commission will emphasise to recipients of draft material the importance of reciprocating the commitments that the Commission makes in respect of confidentiality.

Publication of Reports

- 6.18. Once the report is finalised, the Commission makes preparations to publish the report. The Case Support Worker and members of the Findings Team discuss carefully with the requesting individual (and if appropriate their wider family) to understand their wishes and seek to develop and agree detailed, tailored plans. The Commission also seeks to ensure that final reports are published in a variety of formats and discusses any specific needs or requests with the individual or family.
- 6.19. In all cases a hard copy of the final report is shared with the requesting individual, and published on the Commission's website. Any finalised personal statements are published at the same time.
- 6.20. The moment of publication of a final report is likely to be a particularly important and difficult moment for requesting individuals, their wider family and others impacted by or connected to the relevant event. In some cases there will also be significant media and wider public attention. The Commission is keen to work with the requesting individual to provide a variety of approaches to publication that can be tailored around their views and preferences and that of wider family members.
- 6.21. A range of additional options exist for publication, including holding readings or making recordings, private events or larger public events with media attendance. The Commission recognises that some requesting individuals will not want to mark publication in any way or may want to

arrange their own events without any direct organisation or support being provided by the Commission.

- 6.22. When arrangements have been agreed, the Chief Commissioner gives the final version of the report to requesting individuals and families and publishes the report.
- 6.23. The point of publication risks being a traumatic occasion and the Commission ensures that full support is provided before, during and after. This includes through facilitating a transition to other support services once the report has been published. The Commission offers a number of further meetings with the requesting individual after publication of the report, before the case is then closed by the Commission.
- 6.24. A permanent report of the case and any impact statements will remain accessible online and be placed in the appropriate public records archives.