



Independent Commission for Reconciliation and Information Recovery

Requests to review decisions
in investigations

Introduction

- 1.1 This sets out how the Commission handles requests by individuals or families to review a decision taken by the Commissioner for Investigations' Information Recovery team.
- 1.2 Anyone wishing to make a complaint about a service delivered by the Commission, the process is set out in our [Complaint Handling Procedure](#).

Accountability, roles and responsibilities

- 2.1 The Commission expects all staff to behave in accordance with the ICRIR [Code of Conduct](#) and to observe the core principles of integrity, impartiality, openness, accountability and respect in carrying out their official duties.
- 2.3 The Commission requires that all important decisions made by Commission officers in Information Recovery are provided in writing and with reasons as to how the decision was arrived at so those impacted are clear on how the decision was made.
- 2.4 The Commission recognises that those using its services may wish to express their dissatisfaction about the work of the Commission. This policy should be read in conjunction with the Commission's [Complaint Handling Procedure](#) and the Commission's requirements for the [designation of the powers of a police constable](#) which includes the need for the standards of professional behaviour to be observed. Serious complaints about ICRIR officers exercising the powers and privileges of a constable can be made directly to the [Police Ombudsman for Northern Ireland](#), to the [Independent Office for Police Conduct](#) and the Police Investigation and Review Commissioner (Scotland).
- 2.5 This policy applies to decisions made during the Information Recovery stage of the Commission's work and provides a mechanism by which the Commission can undertake a thorough, open-minded and careful reconsideration of the relevant decision with which an individual or family disagrees.

Rights conferred under Victims' Charter and Codes

- 3.1 The [Victim Charter \(Northern Ireland\)](#) confers specific duties and obligations on criminal justice organisations in respect of those who are victims of crime as does the [Victims' Code for Scotland](#), and [Code of Practice for Victims of Crime \(England and Wales\)](#).
- 3.2 Although the Commission is not a service provider under either the Victims' Code for Scotland or the Victim Charter in Northern Ireland, we apply the spirit of both schemes to all our work with victims in those jurisdictions. In England and Wales, where the Commission has formal responsibility for conducting a criminal investigation the Code of Practice will apply. Irrespective of whether the Code directly applies, the Commission will adopt the principles, noting particularly the right to a review of a decision not to refer a case for prosecution and the importance of keeping victims informed of an investigation's progress.

Who can request a review of a Commission decision.

- 4.1 Anyone who is in receipt of a decision issued by or on behalf of the Commissioner for Investigations may ask for that decision to be reviewed by way of informal resolution (see paragraph 7 below). This may include those making requests for investigations, those whose requests are rejected and those whose requests are accepted and disagree with decisions taken by the Information Recovery team.
- 4.2 Anyone who is in receipt of a decision under s.11, s.13(7) or s.25 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 may ask for the decision to be reviewed by the internal review process (set out further below).
- 4.3 Anyone who has not been provided directly with a decision by or on behalf of the Commissioner for Investigations cannot make a request for a decision to be reviewed.

How a request for a review of a decision is made

- 5.1 Requests for either informal resolution or internal review can be lodged by email (casesupport@icir.independent-inquiry.uk); in writing; and in person via the Commission's Case Support Team.
- 5.2 The Case Support Team cannot advise a requesting individual or family on whether they should request a review of a decision, or help them draft such a request, but they can signpost to the existence of this, and related policies, and explain the processes to be followed.

Time scales for requesting a review of a decision

- 6.1 Where possible, the Commission encourages individuals to request a review within 3 months of the relevant decision. However, in taking a trauma and resiliency informed, victim-centred approach, the Commission is flexible and can extend this deadline if there are good reasons as to why this request to review was not received within 3 months.

How we handle a request for a review of a decision

- 7.1 Depending on the nature of the decision, the Commission will seek to enable informal resolution, and where relevant, the internal review of a decision. These are explained below.
- 7.2 **Informal resolution** is open to all decisions made by or on behalf of the Commissioner for Investigations.
- 7.3 **Internal review** is available for three specific decisions taken by or on behalf of the Commissioner for Investigations:

- under s.11 in relation to a request for a review;
- under s.13(7) in relation to whether a criminal investigation is to form part of a review; and
- under s.25, in relation to a decision by the Commission to not refer a case to the DPPNI or DPP (England and Wales) or the Lord Advocate (Scotland).

7.4 Where the decision relates to the publication of an investigation report, this is covered by s.16 of the Act. Consequently, no additional Commission process is provided to requesting individuals or family.

Informal Resolution

7.5 The Commission seeks to provide, wherever possible, an opportunity to those unhappy with a decision to raise this first with the individual or team concerned, preferably in person. This may be the easiest way to resolve the issue and will give the individual an opportunity to share their concerns, and for the Commission to share reasons behind the decision and to explain it. The Commission considers this to be a constructive and collaborative approach to addressing disagreements.

7.6 This process is voluntary. The aim of the process is for parties to exchange perspectives to understand the decision, discuss their concerns, and take an active part in resolving the issues.

7.7 Where an individual has more evidence which was not available to the original decision maker at the time of the original decision, this can be provided ahead of, or during, this meeting.

7.8 This meeting will be attended by the decision maker and, if deemed appropriate, their line manager; minutes will be taken by the Commission with a copy shared with all the parties attending.

7.9 In some instances, the Commission may need to consider the issues raised further before responding. Where the issue cannot be resolved at the time of the discussion, a response will be provided to the individual. This will be provided within five working days where possible.

Internal Review

7.10 The internal review mechanism applies to decisions relating to a request for a review under s.11 of the Act, under s.13(7); and under s.25. These are referred to as relevant decisions.

7.11 The Commission will only consider requests for reviews of relevant decisions on the following grounds:

- i. The decision was wrong (it involved an error in the application of policy or law); or

- ii. The decision was unreasonable (meaning a decision no reasonable investigator could have arrived at, as opposed to being one which the reviewer disagreed with); or
 - iii. There is additional evidence that was not before the original decision maker that would have a material impact on the decision.
- 7.12 Where the grounds of the review are that there is additional evidence not before the original decision maker, this will be referred back to the original decision maker to consider the new evidence and whether the decision should be changed in light of it. The applicant would then be able to request a review, as per this policy, of the decision if they remain unhappy with the decision made.
- 7.13 On receipt of a request for a review of a decision, the decision will be reviewed by an individual who is independent from the original decision maker, either a peer or manager. They will consider the issue raised and any evidence provided by the individual.
- 7.14 The independent assessment will consider if the decision was properly taken and whether any of the grounds at paragraph 7.11 apply. When considering requests to review decisions not to refer the matter to a prosecutor under s.25 of the Act, the questions of whether the decision was wrong or unreasonable will be made with reference to the Code for Prosecutors (Northern Ireland), the Code for Crown Prosecutors (England and Wales) or Prosecution Code (Scotland).
- 7.15 In order to overturn the decision, the new decision maker must be satisfied:
- i. the original decision was wrong (meaning an error in the application of policy or law) or
 - ii. the original decision was unreasonable (meaning a decision no reasonable investigator could have arrived at, as opposed to being one which the reviewer disagreed with); and
 - iii. the decision must be reversed.
- 7.16 There may be some circumstances in which the decision found to be wrong or unreasonable, but it is not appropriate for the decision to be reversed. Where the decision is reversed, the case will be returned to the ICRIR officer with conduct of the cases, unless it is appropriate for it to be reassigned.
- 7.17 The Commission will aim to conclude the review and provide a response as soon as is practicable. All responses will be provided in writing with an explanation of the decision on review and any next steps.
- 7.18 Where the Commission considers the request to review a decision to be vexatious, the Commission is not obliged to offer any resolution mechanisms to the individual (see [policy on unreasonable and vexatious behaviour](#))

Confidentiality of requests to review decisions

- 8.1 All requests to review decisions will be dealt with in accordance with the requirements of the Data Protection Act 1998. Any personal information provided will

be 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 and statutory, legal or parliamentary obligations placed on the Commission.

8.2 The Commission publishes information in our 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.

8.3 Outcomes may be anonymised and shared within our organisation to promote service improvement.