



Independent Commission for Reconciliation and Information Recovery

Interim update on promotion
of reconciliation

May 2025

s.2(4) “*The principal objective of the ICRIIR in exercising its functions is to promote reconciliation.*”

“Achieving the confidence of the community, particularly those victims, survivors and families who have been let down and disappointed for so many years, requires commitment and delivery.

Getting answers to provide the unvarnished truth is critical if we are to promote reconciliation. Promoting rights-based reconciliation is fundamental if young people are to understand the brutality and horror of settling differences through violence.

We will continue endeavouring with the British government, the Irish government, all sides of the community, and particularly victims, survivors and families, to deliver this objective.”

- Sir Declan Morgan, ICRIIR Chief Commissioner (September 24, 2024)

Primary statutory context

1. Under s.1 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2024 (the Act), “the Troubles” is defined as “*the events and conduct that related to Northern Ireland affairs*” between January 1 1966 and April 10 1998. This is an important context in which the Commission operates.
2. Under s.2(4), the ICIR’s statutory obligation and principal objective is, in exercising its functions, to promote reconciliation.
3. Under s.2(5), the ICIR’s functions are set out in terms of conducting reviews and reports, considering potential prosecutions, and producing the historical record of deaths caused by the Troubles.
4. Under s.2(6), the ICIR’s statutory obligation is, in the exercise of its functions, to have regard to the general interests of persons affected by Troubles-related deaths and serious injuries.
5. Under s.4(1), the ICIR’s statutory obligation is to not do anything that might risk prejudicing or prejudice National Security, the life or safety of any person, or any actual or prospective criminal proceedings.
6. Under s.28 and s.29, the ICIR must produce and publish an historical record, consisting of a single document, which gives an account of the circumstances in which each of the relevant deaths occurred, caused by conduct forming part of the Troubles. The Commission has powers to request information. (*NB. This statutory duty identifies “relevant deaths” as being those deaths for which reviews have not been carried out by ICIR under s.13.*)
7. Under Schedule 1 (2(1)) to the Act, the ICIR may do anything that it thinks necessary or expedient in connection with the exercise of its functions.

Policy context

8. Since it was established in December 2023, the Commission identified the following essential principles for all its activity. These provide the broad policy context for the Commission’s operational strategy for promoting reconciliation:
 - *Respect for the principles of the Belfast/Good Friday Agreement;*
 - *Compliance with the European Convention of Human Rights (ECHR); and,*
 - *Focus on providing useful information to those affected by the Troubles/Conflict*

9. The Commission has introduced a Trauma and Resiliency Informed Model (TRIM) to treat victims, survivors and families sensitively and in a way that seeks to avoid retraumatisation.
10. Under the ICIR staff Code of Conduct, it is a contractual condition of employment that all ICIR employees “*must consider, in all that (you) do, how the Commission’s principal objective, to promote reconciliation, can be furthered.*”
11. The Belfast/Good Friday Agreement 1998 and related legislation has quasi-constitutional effect in relation to Northern Ireland affairs.¹ Given the Commission’s commitment to respecting the principles of the Agreement, there are particularly relevant parts contained in the Declaration of Support², and the Rights, Safeguards and Equality of Opportunity chapter (including commitment to direct domestic remedy under the ECHR, and statutory duties on equality of opportunity and good relations) and with specific reference to ‘Reconciliation and the Victims of Violence’:

‘The participants believe that it is essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation.... The achievement of a peaceful and just society would be the true memorial to the victims of violence... An essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education and mixed housing.’

12. Flowing from the Agreement, Section 75 of the Northern Ireland Act 1998 created statutory duties of both a general and procedural nature (the latter given effect by Schedule 9) on all designated public authorities:

*(1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity—
(a) between persons of different religious belief, political opinion, racial*

¹ The Belfast/Good Friday Agreement 1998 was enabled by the Northern Ireland Act 1998. In *Robinson v. Secretary of State NI & Others* [2002] UKHL32, Lord Bingham stated: “The object of the Belfast Agreement was to achieve ‘reconciliation, tolerance and mutual trust’ and ‘the protection and vindication of the human rights of all’. (Para. 2) The 1998 Act does not set out all the constitutional provisions applicable to Northern Ireland, but it is in effect a constitution. (Para. 11)”; and Lord Hoffman stated: “The 1998 Act is a constitution for Northern Ireland, framed to create a continuing form of government against the background of the history of the territory and the principles agreed in Belfast. (Para. 25)”

² In signing the Agreement, the signatories collectively agreed: “The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured, and their families. But we can best honour them through a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all. We are committed to partnership, equality and mutual respect as the basis of relationships within Northern Ireland, between North and South, and between these islands... we will endeavour to strive in every practical way towards reconciliation and rapprochement within the framework of democratic and agreed arrangements.”

group, age, marital status or sexual orientation; (b) between men and women generally; (c) between persons with a disability and persons without; and (d) between persons with dependants and persons without.

(2) Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

13. Speaking on July 29, 2024, the Secretary of State for Northern Ireland Rt. Hon. Hilary Benn MP commented: “*The success of the ICRIR will, ultimately, be determined by its ability to deliver **justice, accountability, and information to victims and survivors of the Troubles**. Under the leadership of Sir Declan Morgan as Chief Commissioner, the Government has confidence in its ability to do so. It is also clear, however, that to achieve these objectives, the ICRIR will need to gain the confidence of victims and survivors in its work.*” (Emphasis added.)

14. The Stormont House Agreement of 2014 identified, at paragraph 21 (though without substantial elaboration, procedure or definition) that “*respect*” for the following “*principles*” was the “*necessary*” basis for “*an approach to dealing with the past*”:

- promoting reconciliation³;
- upholding the rule of law;
- acknowledging and addressing the suffering of victims and survivors;
- facilitating the pursuit of justice and information recovery;
- is human rights compliant; and,
- is balanced, proportionate, transparent, fair and equitable.

15. These interrelated governmental, statutory, organisational and quasi-constitutional policy considerations provide the legitimate foundation of rule of law and human rights upon which the Commission’s evolving strategy framework has been developed, subject to ongoing review, in observing the statutory principal objective.

Organisational framework

16. The Commission’s aim is therefore to try and create organisational conditions for procedurally encouraging the promotion of reconciliation in the exercise of its functions by:

³ The participants to the Stormont House Agreement 2014 did not define the meaning of ‘reconciliation’, nor any objectives or mechanisms for its promotion.

- building mutual respect and trust;
- protection of fundamental rights;
- rapprochement between cultural, political and national identities;
- due regard to the need to promote equality of opportunity;
- regard for the desirability of promoting good relations;
- promoting a culture of tolerance at all levels and all aspects of society;
- acknowledgement of the past suffering of victims and survivors;
- delivering justice, accountability and information about the past; and,
- striving for the achievement of a peaceful and just society.

17. In practical and operational terms, the ICIR's three core organisational principles (para. 8), the institutionalising of victim-centred TRIM (para. 9), and the rigorous adherence to s.75 NI Act 1998 (para. 12), provide a foundation upon which the Commission seeks to implement its statutory duty. Taking account of these factors, the Commission is endeavouring to build a culture of conscientious consideration across all business areas.

Voluntary 'due regard' duty

18. In September 2024, the Commission's Board agreed that the promotion of reconciliation should be based on specific procedural commitments. An important element of this procedural interpretation was the Commission's voluntary adoption of a 'due regard' duty methodology.

19. This voluntary procedural approach to encouraging promotion of reconciliation (on an evolving and an exploratory basis) is subject to ongoing feedback and continuous improvement, with commitment to reviewing progress and feedback after 12 months.

20. It is innovative for any public authority to voluntarily adopt a 'due regard' methodology for procedurally implementing the statutory duty of a relatively abstract and ill-defined principal objective. 'Due regard' duties are themselves often created by statute and sometimes perceived as burdensome.

21. The concept of a 'due regard' methodology is well established in UK public law.⁴ This interpretation provides the Commission with some important tools across business and decision-making cycles. This approach does not

⁴ *R. (on the application of Baker) v Secretary of State for Communities and Local Government* [2008] EWCA Civ 141

supersede or undermine the primary nature of the powerful principal objective: it seeks to anchor the interpretation in practical operational terms.

Procedural implementation

22. The 'due regard' duty seeks to encourage all staff, particularly decision-makers and senior leaders, to take account of a range of filters as a set of decision-making tools to be weighed against other reasonable countervailing factors. Those filters are:
- compliance with respect for the principles of the B/GFA;
 - compliance with the TRIM model;
 - compliance with implementing s.75, NI Act 1998;
 - compliance with adherence to the ECHR;
 - compliance with ICRIR values; and,
 - conscientious consideration of the ways in which the duty to promote reconciliation will be impacted.
23. The following mechanisms have been identified as non-exhaustive vehicles for developing the 'due regard' duty whilst maintaining organisational agility, in the context of a rapidly growing organisation possessing differing levels of personnel capacity:
- Workshops and direct staff engagement, such as discussions in induction sessions for all new staff;
 - Inclusion in the Terms of Reference for the Executive Leadership Team, Investigative Oversight Committee, and External Advisory Group;
 - Provision of internal strategic advice through ad-hoc and regular staff support, including policy development and review;
 - Informing the discourse of messaging and correspondence, public consultations, documents, and publications; and,
 - Continuous improvement to evolve the overall strategy framework and the 'due regard' methodology.

Wider impacts

24. Significant work has been undertaken to encourage partnership through a potentially significant theory of change across Government in which the rights-based foundations for promoting reconciliation can be expanded through the exercise of the Commission's functions. This is visible, for example, in the final Information Disclosure Protocol (IDP) on information recovery that has been agreed between the Commission and the PSNI:

“3. The Commission and Police Service of Northern Ireland (PSNI) are committed to the European Convention of Human Rights and to respecting the principles of the Belfast/Good Friday Agreement 1998. Both parties acknowledge the statutory duty under section 2(4) of the Act that, in exercising its functions, the Commission’s principal objective is to promote reconciliation. Both parties acknowledge that the relevant authority’s provision of information to the Commission is intended by the Act to contribute to that principal objective. Accordingly, PSNI will, when diligently discharging its ongoing disclosure obligations under the Act, ensure conscientious consideration is given to its contribution towards the Commission’s principal objective of promoting reconciliation. The Commission and PSNI will regularly keep each other informed about their respective approaches to this objective. Both parties are committed to jointly reviewing the effectiveness and implementation of these commitments at regular intervals, when necessary or appropriate, but no later than every 18 months.”

25. Acknowledging the promotion of reconciliation (founded on commitment to the principles of the Belfast/Good Friday Agreement, compliance with the ECHR, and acknowledgement of the Commission’s principal statutory objective), is also an element of the other IDPs being operated in draft or evolving format with the other Relevant Authorities (RAs).
26. The Commission is seeking to translate an abstract legal objective into a tangible organisational procedure. It is important that the operational and procedural implementation of the voluntary ‘due regard’ duty and principal statutory objective to promote reconciliation are clearly understood. The Commission will report to the Board in September 2025 on the first 12 months of this evolving framework, and during 2025/26, it will also be engaging on the promotion of reconciliation with stakeholders.