



Consultation Paper

ADDRESSING THE LEGACY OF NORTHERN IRELAND'S PAST

May 2018

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Associated Documents

- Easy Read Consultation Document
- Summary Consultation Document
- Equality screening
- Draft Northern Ireland (Stormont House Agreement) Bill and Explanatory Notes
- Stormont House Agreement
- Paper on Implementation and Reconciliation Group - Independent Academic Report

Associated documents are available on the consultation website at www.gov.uk/nio and can also be obtained in hardcopy on request by email at legacyconsultation@nio.gov.uk or by writing to:

Legacy Policy Team
Northern Ireland Office
Stormont House
Stormont Estate
Belfast
BT4 3SH

Foreword by the Secretary of State

Since my appointment as Secretary of State for Northern Ireland, many people have told me about the suffering that victims and survivors of the Troubles have endured. These stories are deeply moving. It is clear that the hurt and suffering caused by decades-old events have had a profound and lasting impact on individuals, families and communities. Victims and survivors come from different backgrounds; have unique experiences; and varying needs. They, and others across society, have different views on how to move forward on what are often referred to as 'legacy' matters. Many seek investigations and justice through the courts. Some are looking for information about the incidents that affected them or their loved ones. Others want to leave the past behind. There is, however, broad agreement that the system currently used is not delivering enough for victims, survivors and for wider society.

Providing a better way to address these legacy issues is a priority for the UK Government. Through this consultation, I am keen to listen to the concerns of victims, survivors and other interested parties and to build consensus on workable proposals that command widespread support so that we can move forward. In the spirit of meaningful consultation, all views will be considered carefully to inform next steps.

I believe there are four important things we must consider as we try to find the best way to address the past. First, and foremost, any way forward must seek to meet the needs of victims and survivors. Second, it must promote reconciliation so that, in coming to terms with the past, we enable the people of Northern Ireland to move on to build a better future. Third, in order to build a shared future for all, the proposals must reflect broad political consensus and be balanced, fair, equitable, and crucially proportionate. Fourth, the proposals must follow the rule of law. As the Government's manifesto for Northern Ireland at the 2017 General Election made clear, "We also continue to believe that any approach to the past must be fully consistent with the rule of law. Conservatives in government have consistently said that we will not introduce amnesties or immunities from prosecution." This Government has always shared the view that amnesties are not the right approach and believes that justice should be pursued.

I recognise that there are different views on how to address the legacy of the past in Northern Ireland, such as those expressed in the April 2017 report published by the House of Commons Defence Committee. For that reason, while I believe the Stormont House Agreement institutions are the best way forward, this consultation also welcomes views from those who might have other ideas, either about how the institutions should work, or about alternatives to the institutions themselves.

This Government will never forget the huge debt of gratitude we owe to our Armed Forces and Police Officers. Over 250,000 people served in Northern Ireland during Operation Banner, the longest continuous military deployment in our country's history, the vast majority with great distinction. More than 3,500 people lost their lives during the Troubles, including over 1,000 members of the security forces. We will always salute the heroism and courage they displayed in upholding democracy and the rule of law in Northern Ireland. A Conservative Government will reject any attempts to rewrite the history of the past that seeks to justify or legitimise republican or loyalist terrorism or which seeks to displace responsibility from the people who perpetrated acts of terrorism.

The Stormont House Agreement in December 2014 reached broad political consensus to establish four institutions to address the past after eleven weeks of intensive talks. Since then, the UK Government has engaged with all of the main political parties in Northern Ireland to produce draft proposals on how to take forward implementation of the Stormont House Agreement. Whilst agreement has not been reached on every detail, the UK Government considers that the draft proposals take account of the many views expressed and that sufficient consensus has now been reached to seek the views of the public.

A draft Bill, which is published alongside this paper, outlines detailed legislation to establish the Stormont House institutions. This consultation document explains the technical detail that is included in the Bill on how the four Stormont House legacy institutions could function. I believe that these proposals represent the most effective and far reaching proposals to address Northern Ireland's past and promote further reconciliation.

In parallel with the proposed new institutions, the Stormont House Agreement also contained a commitment for the Northern Ireland Executive to implement a comprehensive Mental Trauma Service and to take steps to ensure that victims and survivors have access to high quality services, including advocate-counsellor assistance. The Agreement also set out the need for the Executive to take appropriate steps to improve the way legacy inquests are conducted and to seek an acceptable way forward on the proposal for a pension for severely physically injured victims. These elements of the Stormont House Agreement are for the Northern Ireland Executive to take forward and so are not covered by this consultation document. The UK Government, however, does want all elements of the Stormont House Agreement legacy framework to be effectively implemented, and will continue to work with the political parties to ensure that this happens. The Government would view an early commitment from the Northern Ireland Executive to consult publicly on proposals for a pension for severely physically injured victims as a positive step towards much needed progress on this issue.

There are no easy answers for addressing such a traumatic and difficult period in our history. As stated, the Government believes that the approach provided for under the Stormont House Agreement is the best way forward, reflecting the broad based political agreement, upholding the rule of law, and proceeding in a manner that is balanced, proportionate, transparent, fair and equitable. I am confident that the new legacy bodies will be a significant improvement on what we have now for the victims and survivors of terrorism and former members of the armed forces and police officers.

I look forward to receiving your views. I hope that those most affected by the Troubles will participate. Now is the time for everyone with an interest in addressing Northern Ireland's past to have their say.



THE RT HON KAREN BRADLEY MP
SECRETARY OF STATE FOR NORTHERN IRELAND

Executive summary

1.1 Context

Over 3,500 people were killed during the period of the Troubles. The Troubles have had a deep and varied impact on people across Northern Ireland and beyond. This impact is still being felt today. In recent years a great deal of effort has been made to address the legacy of the past and find a way to move forward. The closure of the Historical Enquiries Team in December 2014 left more than a thousand cases outstanding and there are over 50 open inquests into almost 100 Troubles-related deaths. Many of these cases still require investigation but there is general agreement that the current system in place to address outstanding cases is not delivering enough for victims, survivors and wider society. It is clear that the needs of victims and survivors go beyond criminal investigations. In the Stormont House Agreement, the UK Government gave a joint commitment to establish new institutions in an effort to meet this wide range of needs in a way that secures confidence across the community in Northern Ireland. This consultation paper seeks views on the Government's proposals for addressing the legacy of the past.

1.2 Structure of the consultation

Part one describes the current system for addressing the past, provides an overview of how the existing methods for investigation work and sets out some of the difficulties that would remain if the current system is not changed.

Part two provides an overview of the legacy-related Stormont House Agreement proposals, describing the new institutions in detail. It also explains how the institutions are designed to address different aspects of the legacy of the past. The general principles underpinning the proposed new institutions are set out, including the requirement to operate in ways that are balanced, proportionate, transparent, fair and equitable. The Government believes that these institutions, which represent the balance of a political agreement between all the parties to the Stormont House Agreement, including the UK Government and Irish Government, provide the best way to address the legacy of Northern Ireland's past.

Part two also seeks views on the Government's proposal on this basis to legislate to establish the institutions in the Northern Ireland (Stormont House Agreement) Bill, a draft of which has been published with this consultation paper.

The Bill sets out draft legislation for:

1. **The Historical Investigations Unit (HIU)** – an independent institution to take forward outstanding investigations into Troubles-related deaths. The HIU would take on the outstanding work of the Police Service of Northern Ireland's (PSNI's) Historical Enquiries Team and the outstanding legacy work of the Police Ombudsman for Northern Ireland. The HIU would have policing powers and the UK Government and its agencies would be legally compelled to provide it with full disclosure of information. After completing an investigation, the HIU would provide a report to the family of the deceased. The HIU would have a dedicated family support function to assist families through the process.
2. **The Independent Commission on Information Retrieval (ICIR)** – an independent institution, established by international agreement between the UK Government and the Irish Government, that enables family members to seek and privately receive information about the Troubles-related deaths of their relatives. Engagement with the ICIR would be entirely voluntary and the ICIR would only seek information in those cases where families have submitted a request. Families from the United Kingdom and from Ireland would be able to seek information from the ICIR.
3. **The Oral History Archive (OHA)** – an independent archive that enables people from all backgrounds to share experiences and narratives related to the Troubles. Sharing experiences with the OHA would be entirely voluntary and, as well as collecting and archiving new material, the OHA would look to draw together existing oral history projects. A research project would be established as part of the OHA to produce a factual historical timeline and statistical analysis of the Troubles. The archive would be the responsibility of the Public Record Office of Northern Ireland.

4. **The Implementation and Reconciliation Group (IRG)** – an institution to promote reconciliation and anti-sectarianism and to review and assess the implementation of the other legacy institutions proposed in the Stormont House Agreement. After five years, the IRG would commission an independent academic report on themes using an evidence base established by the work of the other legacy institutions.

For convenience, this document sets out those clauses of the draft legislation which are associated with sections of this consultation. These are presented in red along with the section's title as appropriate.

About this consultation

2.1 Who can respond to this consultation?

The Government is seeking views on these proposals from all interested parties, individuals and groups from across the United Kingdom on the matters covered by this consultation.

2.2 Purpose of this consultation

The proposals set out here require primary legislation and will have a direct impact on many peoples' lives. The Government recognises the need to keep the public informed on such important matters and to allow people the opportunity to comment on the policy proposals.

This consultation therefore invites people to answer a number of questions in relation to the proposals, including in relation to the provisions in the draft Northern Ireland (Stormont House Agreement) Bill. These questions are posed throughout the document. A complete list of questions can be found at the end of the consultation document at page 70.

2.3 Scope of the consultation

This consultation applies to all of the United Kingdom.

2.4 Duration of the consultation

The consultation closes to responses on 10th September 2018

2.5 How to respond to this consultation

You can respond to this consultation online at the following address: www.gov.uk/nio

You can also send your consultation responses to:

Legacy Policy Team
Northern Ireland Office
Stormont House
Stormont Estate
Belfast
BT4 3SH

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled. We will acknowledge your response.

The consultation document will be available in other formats upon request. You can email any queries to:

legacyconsultation@nio.gov.uk

2.6 Government response

A summary of responses to this consultation and details of the action that the Government will take, or has taken, will be published on the Government website at www.gov.uk/nio. The Northern Ireland Office (NIO) will aim to publish this information within twelve weeks of the consultation closing date.

Subject to the outcome of the consultation, the NIO would like to continue to keep you informed about progress on addressing the legacy of the past. You can choose not to receive any further communication from us on the response form or if you are responding in hard copy, by indicating this in your response.

How we consult

3.1 Consultation principles

This consultation is being conducted in line with the Cabinet Office consultation principles published in January 2016. A copy of the principles can be found at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

It is also being conducted in line with the Northern Ireland Office Equality Scheme which can be found at:

<https://www.gov.uk/government/publications/nio-equality-scheme>.

An Equality Screening of the impact of the proposals in this consultation is available on the consultation website at www.gov.uk/nio or can be obtained in hardcopy on request.

3.2 Confidentiality

The information you send us may need to be shared with colleagues within the Northern Ireland Office (NIO), other relevant Government departments and relevant Northern Ireland Executive departments. The information might also be published in a summary of responses received and referred to in the published consultation report. The Government summary of responses to this consultation and published consultation report will include a list of organisations that responded but not personal names without receiving permission from the individual. Other contact details will not be published.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of this public consultation exercise, it is understood that you consent to its possible disclosure and publication. If this is not the case, you should limit any personal information provided, or omit it entirely. If you want the information in your response to the consultation to be kept confidential, you should state so clearly in your response, although this cannot be guaranteed.

To find out more about the general principles of Freedom of Information and how it is applied in the NIO, please contact: foi@nio.gov.uk

In some consultations, external analysts may be contracted for the purpose of response analysis. If external analysts are used with this consultation, the NIO may share information you provided in response to the consultation, including personal data, with a third party of contracted external analysts.

The NIO is the data controller in respect of any personal data that you provide and NIO's Information Charter, which sets out the standards you can expect in respect of the handling of your personal data, can be found at:

<https://www.gov.uk/government/organisations/northern-ireland-office/about/personal-information-charter>

Part one – The current system for addressing the past

4.1 Overview

Investigations into the past are currently the responsibility of several organisations that have varied remits to investigate different elements of legacy cases.

Organisations that conduct investigations include: the Police Service of Northern Ireland; the Office of the Police Ombudsman for Northern Ireland; and the Coroners Service in Northern Ireland, which holds inquests. It would be possible to leave this system broadly unchanged and allow these organisations to continue to operate as they do currently. Part one outlines the various mechanisms that make up the status quo and sets out why the current system is not delivering enough for victims, for survivors or for wider society.

4.2 Police Service of Northern Ireland

The Police Service of Northern Ireland (PSNI), through its Legacy Investigation Branch (LIB), has responsibility for investigations into Troubles-related crimes. This role falls under its general duty to take measures to bring an offender to justice when an offence has been committed.

From 2006 until December 2014, the PSNI's Historical Enquiries Team (HET) was responsible for examining all Troubles-related deaths occurring in the period from 1968 to 1998. Upon the closure of the HET in December 2014, the LIB took over its outstanding cases. At that point, the HET had completed 1,615 cases, involving more than 2,000 deaths. However, following a 2013 report by Her Majesty's Inspectorate of Constabulary (HMIC), which raised significant concerns about HET procedures in relation to deaths caused by the security forces, the PSNI committed to reviewing HET cases that involved the security forces. Consequently, the LIB inherited a caseload of over 900 cases from the HET, involving nearly 1,200 deaths.

The LIB is also investigating or has investigated a number of other Troubles-related incidents, including:

- Investigations which arose from the Saville Inquiry Report (Bloody Sunday Inquiry) and the Report of the Hallett Review (of the so-called 'on-the-runs' administrative scheme);
- Cases referred by the Director of Public Prosecutions for Northern Ireland (DPP) in accordance with section 35(5) of the Justice (Northern Ireland) Act 2002. In some cases, the DPP referral may itself follow a referral from the Attorney General for Northern Ireland (AGNI). Some DPP referrals have been transferred to other UK police forces to investigate; for example, Operation Kenova, which relates to an investigation into the role of an alleged military agent, is being led by the Chief Constable of Bedfordshire Police.

4.3 Office of the Police Ombudsman for Northern Ireland

The Office of the Police Ombudsman for Northern Ireland (OPONI) has a remit to investigate alleged misconduct or criminal action by police in Northern Ireland (including in respect of Troubles-related incidents). This occurs if a complaint is made about the conduct of a police officer and there have been no prior criminal or disciplinary proceedings. The OPONI Historical Investigations Directorate (HID) is responsible for investigating Troubles-related incidents and its caseload currently sits at around 400 cases. However, the caseload continues to grow and in the last two years, the HID has received some 163 complaints in respect of historical investigations¹.

4.4 Coroners Service for Northern Ireland

Coroners are independent judicial officers who are available to deal with matters relating to deaths that may require further investigation to establish the cause of death.

A Coroner's inquest is an inquiry into the circumstances surrounding a death, typically seeking to establish the details about the deceased person and how, when and where they died. An inquest may or may not have a jury, but it is not a trial and it is not the role of the Coroner to decide any question of criminal or civil liability.

¹ <https://policeombudsman.org/PONI/files/16/16704358-b743-4a28-8b29-ae9f7c3de5dc.pdf> Table 1 shows that in 2015/16, 96 complaints were received in respect of historical investigations, and 67 were received in 2016/17.

Where the Coroner's investigation shows that a criminal offence may have been committed, the Coroner must send a written report to the Public Prosecution Service for Northern Ireland (PPS). The outcome of an inquest comes in the form of "findings" which record the essential facts relating to a death.

The majority of deaths that occurred during the Troubles will have had a Coroner's inquest soon after the death occurred. Where there were shortcomings in the original inquest, the AGNI can order a fresh inquest. There are currently over 50 legacy inquests, relating to almost 100 deaths, proceeding through the Northern Ireland Coroners' courts on this basis.

There are potential links and areas of overlap in the remits of these investigating organisations. For instance, the PSNI and OPONI provide information relating to a death to the Coroner. This may mean that, in respect of a particular death, the PSNI or OPONI could be both conducting an investigation and at the same time providing investigative support and information to the Coroner about that death. Equally, an inquest could come across information about a death, or come to a conclusion, which could mean that the PSNI or OPONI need to start or reopen an investigation.

4.5 Problems with the current systems

The current system has developed over time, without a planned approach on how to best meet the needs of the people using it. This raises a number of significant difficulties:

1. Victims and survivors, and their families may have to interact with several organisations simultaneously when the legal mechanisms for investigating Troubles-related incidents overlap, as outlined above. This can be confusing and may compound any trauma already suffered. Moreover, there is also the potential for delay and duplication between the different processes. By way of an example, an inquest may be adjourned if, during its proceedings, new evidence comes to light that prompts a new PSNI investigation. Similarly, publication of OPONI reports into Troubles-related incidents can be postponed due to new evidence being discovered by the PSNI.

2. The organisations with responsibilities for investigating the past were not designed to deal with the challenges of a large caseload of often controversial historical incidents. For more information, please see supplementary information on page 51.
3. The current system is not efficient in delivering outcomes for victims and survivors and their families quickly and there are competing demands for the resources allocated to conducting investigations within these organisations. For more information, please see supplementary information on page 51.
4. A further concern which has been raised in relation to the current system for investigating the past is a perceived lack of balance. Some people are concerned that human rights obligations mean that some unresolved deaths are more likely to be investigated than others.
5. While the need for justice is important for many victims and survivors, others also place emphasis on truth recovery and wider societal reconciliation. While there are many valuable civil society initiatives that contribute to meeting these needs, the current statutory mechanisms for addressing the past do not fully meet them.
6. Critics of current investigations into the past claim they are very costly to the public purse, can undermine efforts to promote reconciliation and risk re-traumatising victims and survivors.
7. Finally, it is also broadly accepted that convictions for Troubles-related offences are difficult to achieve in comparison to modern day offences, given the passage of time.

Maintaining the current system would not deal with the difficulties highlighted above. Some changes would need to be made to the current system to try to reduce these

problems. Only a complete change of approach as outlined in **Part two** below, would properly address all these problems.

Question 1: Current system for addressing the past

Do you consider that maintaining the current system for dealing with the issues of the past through legacy inquests, PSNI and OPONI investigations is the right approach, or do you think there is a need for reform?

Part two – Stormont House Agreement proposals

5.1 Overview

The Stormont House Agreement in December 2014 reached broad political consensus on a framework to address the past after eleven weeks of intensive talks between the UK Government, the five largest parties in the Northern Ireland Assembly and, where appropriate, the Irish Government. The Stormont House Agreement set out a new approach to address the legacy of the past in Northern Ireland in a way that aims to place the needs of victims and survivors at the core and be balanced, proportionate, transparent, fair and equitable. The Agreement provides for a wide-ranging approach to legacy issues, including a framework of four legacy institutions. Proposals for the establishment of these agreed legacy institutions are set out in the draft Northern Ireland (Stormont House Agreement) Bill ('the Bill') published alongside this consultation paper. This Bill, if passed, would bring these proposals into law.

The following sections summarise the policy intent of the draft legislation and reflect the progress made throughout the Stormont House, Fresh Start and subsequent talks with political parties.

This paper is not designed to be an exhaustive list of measures in the proposed Bill nor does it replace explanatory notes, which accompany the Bill and can be viewed on the consultation website at www.gov.uk/nio or can be obtained in hardcopy on request.

For information on the political context of the Stormont House Agreement proposals, please see supplementary information on page 53. The Stormont House Agreement can be viewed on the consultation website at www.gov.uk/nio or can be obtained in hardcopy on request.

5.2 Stormont House Agreement commitments to victims and survivors

In addition to establishing the legacy institutions, the Stormont House Agreement also outlined a number of other elements related to addressing the past. These include:

- providing access to high quality services for victims and survivors;
- providing access to advocate-counsellor assistance;
- implementing a comprehensive Mental Trauma Service;
- seeking an acceptable way forward on the proposal for a pension for severely physically injured victims in Northern Ireland;
- taking appropriate steps to improve the way the legacy inquest function is conducted to comply with European Convention on Human Rights Article 2 requirements.

These elements are for the Northern Ireland Executive to take forward. The UK Government, however, does want all elements of the Agreement legacy framework to be effectively implemented, and will continue to work with the political parties to ensure that this happens.

In 2016, the Lord Chief Justice for Northern Ireland put forward proposals to reform current legacy inquest processes. These proposals include:

- the establishment of a dedicated Legacy Inquest Unit;
- oversight of all legacy cases by the Presiding Coroner; and
- improvements to case management, information disclosure and case allocation arrangements.

Under these reforms, it is proposed that outstanding legacy inquest cases would be completed within five years. The UK Government supports these proposals, which would implement an important commitment in the Stormont House Agreement.

General principles [CLAUSE 1]

6.1 Overview

A key part of the Stormont House Agreement is that the legacy institutions would be obliged by legislation to operate in ways that are balanced, proportionate, transparent, fair and equitable. This fundamental principle is vital to ensuring that these institutions can command support and confidence from across the community in Northern Ireland.

The Bill reflects the six general principles set out in the Stormont House Agreement, which underpin the approach to addressing the past:

- the principle that reconciliation should be promoted;
- the principle that the rule of law should be upheld;
- the principle that the suffering of victims and survivors should be acknowledged;
- the principle that the pursuit of justice and the recovery of information should be facilitated;
- the principle that human rights obligations should be complied with; and
- the principle that the approach to dealing with Northern Ireland's past should be balanced, proportionate, transparent, fair and equitable.

The legacy institutions would be required to act consistently with these general principles in exercising their functions.

The institutions, as public bodies, would be required to comply with section 75 of the Northern Ireland Act 1998. This would ensure that the needs of all section 75 groups² are recognised. For example, given the passage of time, many victims and survivors are likely to be older people. In addition, the majority of those who died during the Troubles were men while a disproportionate number of survivors and family members are women. Similarly, a significant number of victims and survivors

²There are nine equality categories: persons of different religious belief; political opinion; racial group; age; marital status or sexual orientation; men and women generally; persons with a disability and persons without; and persons with dependants and persons without.

have disabilities as a result of the Troubles. It would be important to take account of any generational, gender or disability effects in the design of, access to or engagement with the legacy institutions.

Effective advocacy for victims would also be important in representing these specific needs. The Stormont House Agreement outlined an Commitment from the Northern Ireland Executive to provide access to an advocate-counsellor who would assist victims and survivors to engage with the legacy institutions. It is anticipated that the role of the advocate-counsellor could help to ensure effective participation by all groups and reduce the likelihood of any adverse impacts arising as a result of age, gender or other factors.

Question 2: Stormont House Agreement proposals - engagement with legacy institutions	Yes	No
Does the proposed approach help to ensure all groups of people can effectively engage with the legacy institutions?		
If no, please suggest additional measures that would improve this for specific groups:		
Any further comments:		

Historical Investigations Unit

7.1 Overview

The Historical Investigations Unit (HIU) would be an independent, investigative institution responsible for completing outstanding investigations into Troubles-related deaths. The HIU would have policing powers and would receive full information disclosure from the UK Government and its agencies. It would have a dedicated family support function and would produce a family report in each case. The HIU would aim to complete its work within five years of its establishment and would act consistently with the general principles set out on page 21.

7.2 Cases within the remit of the HIU [CLAUSE 5, SCHEDULES 3 - 6]

The remit of the HIU would be made up of the following categories:

- Deaths that were part of the caseload of the Police Service of Northern Ireland (PSNI) Historical Enquiries Team (HET) and require further investigation;
- Deaths that are part of the caseload of the Office of the Police Ombudsman for Northern Ireland Historical Investigations Directorate (HID) and require further investigation;
- Troubles-related deaths which occurred in Northern Ireland in the period between 11 April 1998 and 31 March 2004.

As stated in Part one, the HET had responsibility for examining all Troubles-related deaths from 1968 to 1998. The HET completed 1,615 investigations into deaths attributed to paramilitaries and a small number of cases where the perpetrator was not known. However, as family engagement was not established in around 440 of these cases, no family report could be passed to the family of the deceased, therefore these cases would fall within the remit of the HIU. Approximately 940 investigations were not completed by the HET. This includes around 240 cases attributed to security forces after significant concerns about procedures used to investigate deaths caused by the security forces were raised by Her Majesty's

Inspectorate of Constabulary (HMIC), which led the then Chief Constable of the PSNI to commit to review all such cases.

The HID is responsible for investigating all Troubles-related incidents of alleged police misconduct or criminal action by police in Northern Ireland. As stated in Part one, the HID caseload currently sits at 400 cases. As a significant number of these cases are in progress, it is expected that around 265 cases will be transferred to the HIU.

The original proposal in the Stormont House Agreement was that the HIU's remit would only cover deaths up to 11 April 1998 when the Belfast Agreement was reached. During the talks that led up to the Fresh Start Agreement, it was proposed that the HIU's remit should be extended to cover deaths up to 31 March 2004. This date was proposed because from April 2004, the PSNI introduced new operational practices for the investigation of deaths, which have ensured that all deaths since April 2004 have already been subject to appropriate review. If the remit of the HIU is extended from 11 April 1998 up to 31 March 2004, this will ensure that all deaths since 1968 will have been subject to an appropriate review. However, this would leave the HIU covering a different time period to the other new institutions and would mean that HIU investigations would go beyond the date of the Belfast Agreement.

Question 3: HIU remit	Yes	No
Should the HIU's remit also include deaths which took place between the signing of the Belfast Agreement on 10 April 1998 and 31 March 2004?		
Any further comments:		

For cases that were part of either the HET or HID caseload, further investigation by the HIU would be required if either an investigation had not previously begun or had begun but had not been completed.

The HIU would not investigate cases that had been completed by the HET or HID unless:

- there was new evidence that is capable of leading to the identification or prosecution of a person involved in the death;
- there was new evidence of non-criminal police misconduct that is capable of leading to identification of a person involved in the death or disciplinary proceedings against a person for misconduct related to the death and the gravity of the misconduct or exceptional circumstances made it appropriate to investigate;
- there were grounds for believing the death was the result of force used by a person and the Chief Constable was satisfied, having particular regard to the HMIC report of July 2013, that further investigation is required;
- there were grounds for suspecting that a person intentionally facilitated an offence or avoidance of justice and either committed a crime or the gravity of the misconduct or exceptional circumstances made it appropriate to investigate and the Chief Constable was satisfied, having particular regard to the HMIC report of July 2013, that further investigation is required.

In addition, the Director of Public Prosecutions for Northern Ireland (DPP) would also be able to refer a Troubles-related death to the HIU where the death is not already within the HIU's remit and where the DPP has reasonable grounds for believing the HIU is likely to find new evidence that could lead to the identification or prosecution of a person involved in the death. In exercising this function, the DPP must act consistently with the general principles set out on page 21 of this document.

Substantially complete cases

Cases would be certified by the Chief Constable as being 'substantially complete' if they do not require further investigation but a family report has not been completed or shared. For these cases, no further investigation could be undertaken unless one of the following tests is satisfied:

- The HIU Director reasonably believes that a crime relating to the death had been committed and that there are investigative steps that the HIU could take

which are capable of leading to the identification or prosecution of the person who committed that criminal offence;

- The HIU Director decides that further investigation by the HIU is capable of leading to the identification of a person involved in, or disciplinary action against a person for non-criminal police misconduct relating to the death and the gravity of the misconduct or exceptional circumstances made it appropriate to investigate.

If none of these conditions apply, the role of the HIU is limited to compiling and issuing a family report.

Transitional provisions

Where investigation of a case that would fall within the HIU's remit is already at an advanced stage, the HIU Director could (in consultation with the PSNI or OPONI and family members of the deceased) reach an agreement that it would be more appropriate for the PSNI or OPONI to continue the investigation for an agreed period of time. After this period, the HIU would then complete any remaining investigatory steps if required and complete the family report.

It is estimated that the HIU's caseload would include around 1,700 deaths.

Figures 1 – 6 provide further explanation of the composition of the HIU remit.

Figure 1: HIU caseload

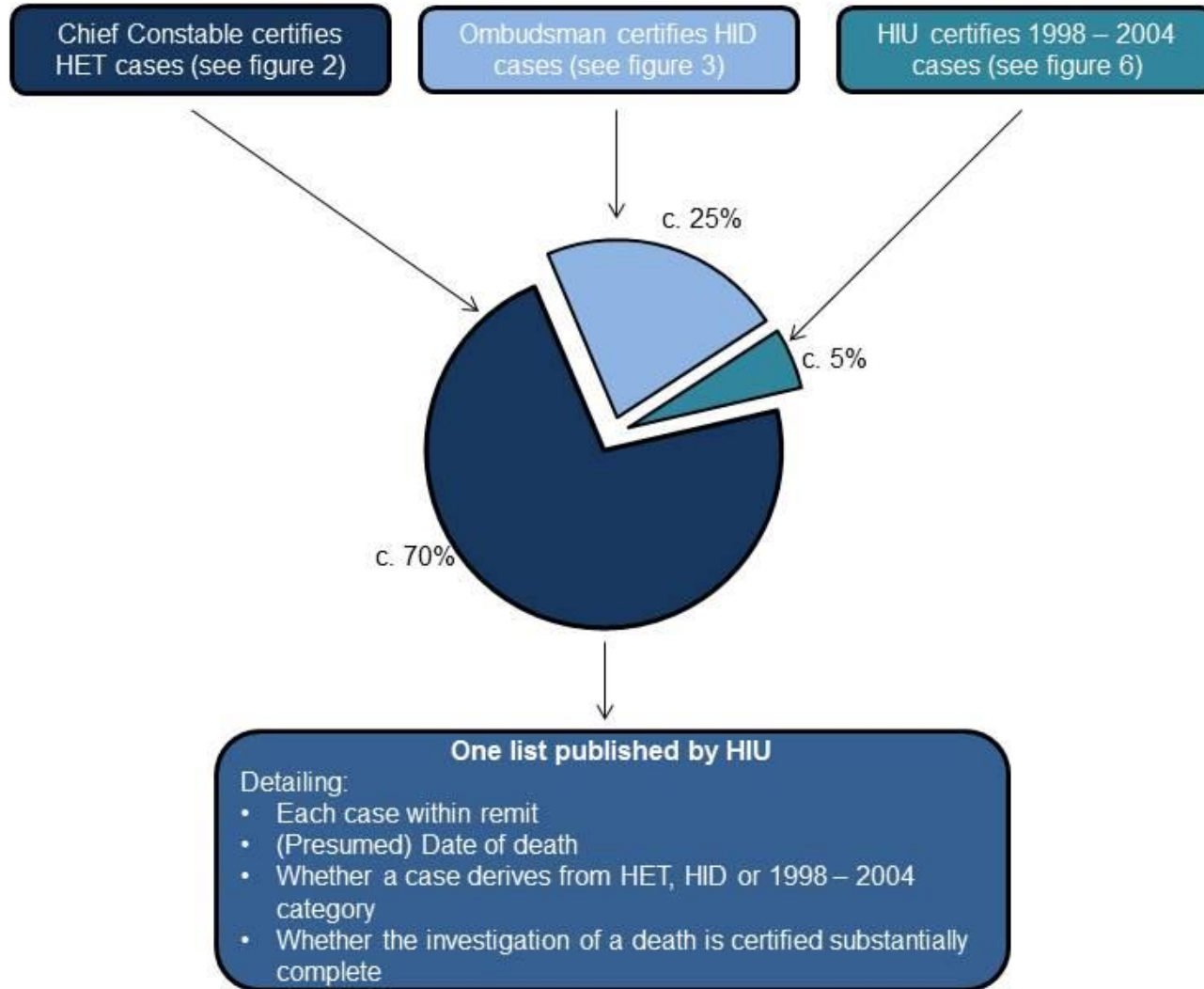


Figure 2: HET cases within remit

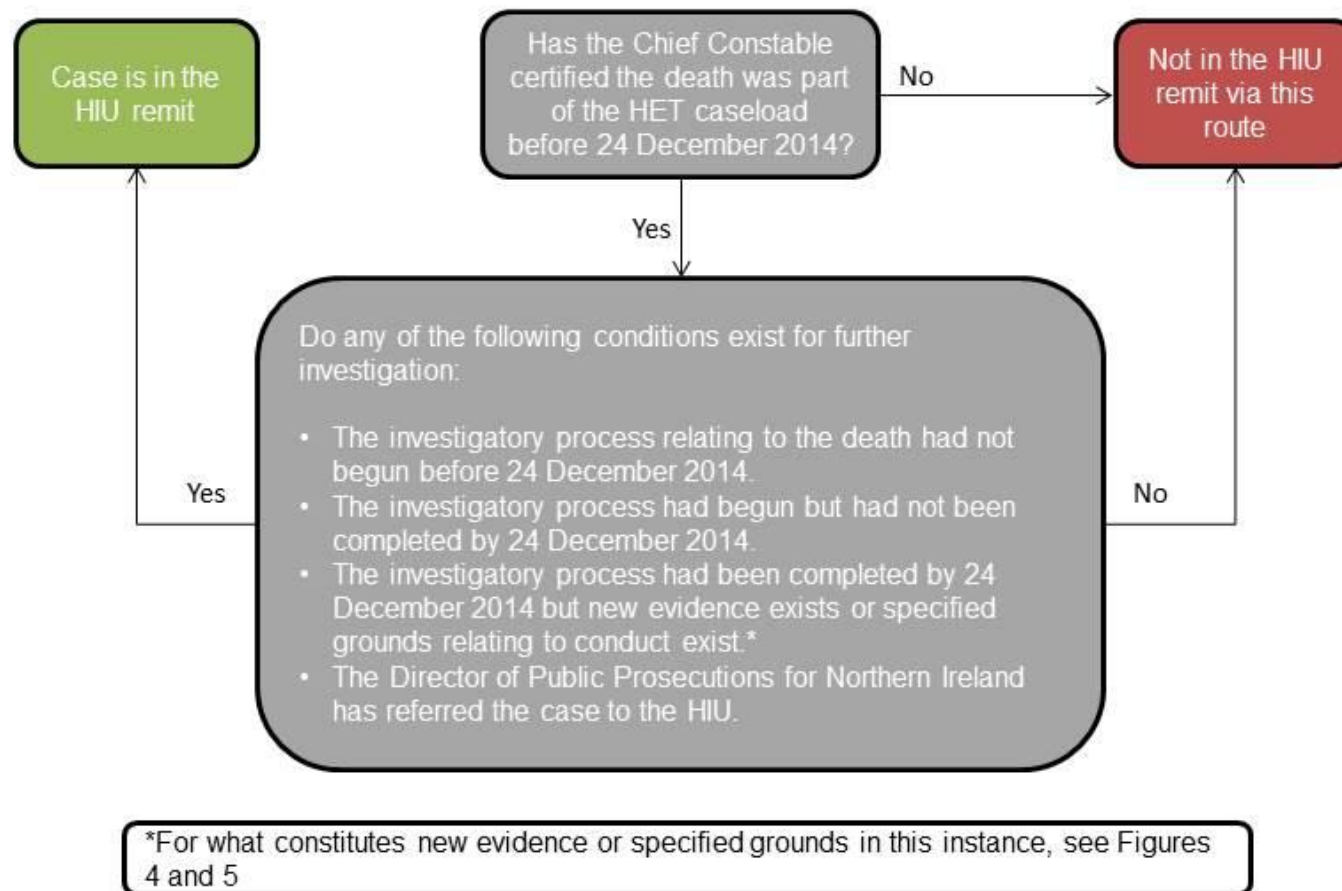
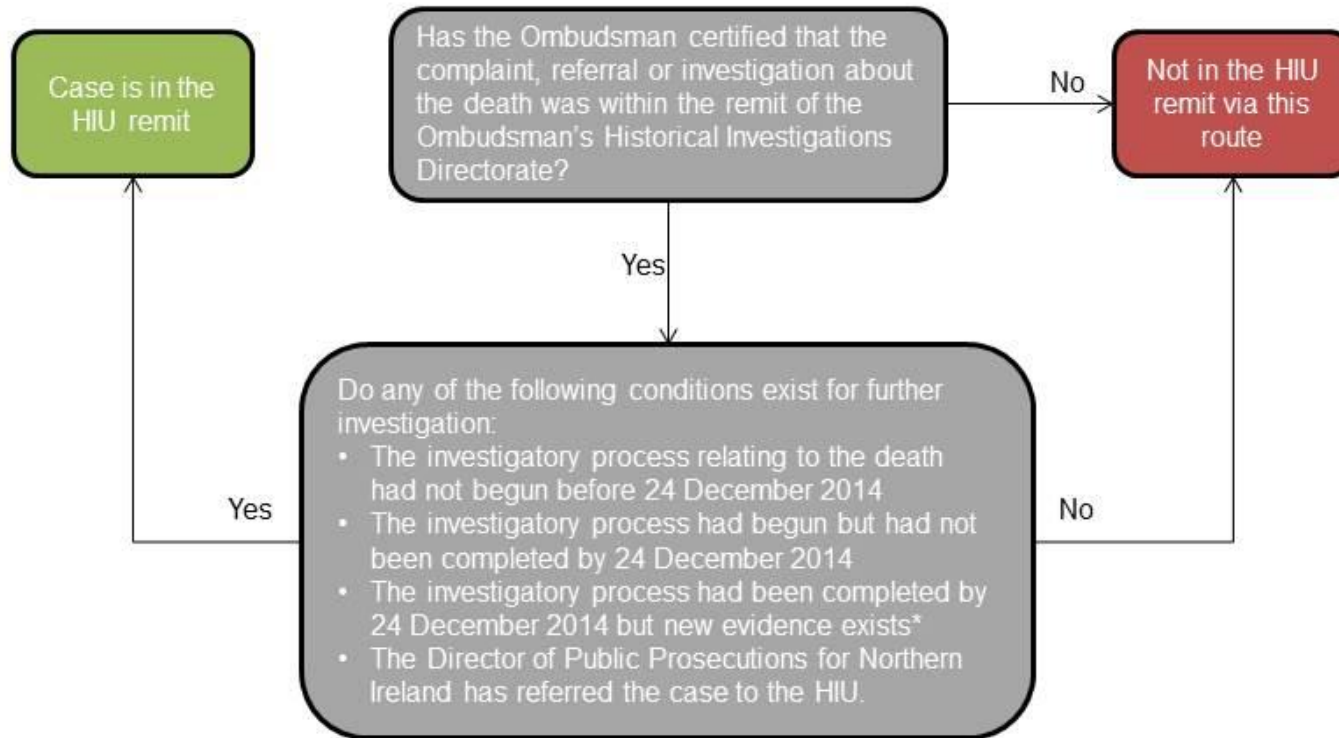


Figure 3: HID cases within remit



*For what constitutes new evidence in this instance, see Figure 4

Figure 4: New evidence

A completed HET or HID case comes within the HIU remit if either of the following grounds apply.

Ground A

- There is new evidence relating to the death,
and
- the HIU Director has reasonable grounds for believing that the new evidence is capable of leading to the identification of a person involved in the death or prosecution of a person for a criminal offence relating to the death.

Ground B

- There is new evidence relating to the death, which the HIU Director considers to be evidence of non-criminal police misconduct
and
- the HIU Director has reasonable grounds for believing that the new evidence is capable of leading to the identification of a person involved in the death or initiation of disciplinary proceedings against a person for the misconduct relating to the death
and
- the HIU Director considers that it is appropriate that the HIU should investigate the non-criminal police misconduct because of the gravity of that misconduct or because there are exceptional circumstances.

Figure 5: Specified grounds relating to conduct

A completed HET case comes within the HIU remit if either of the following grounds apply.

Ground C

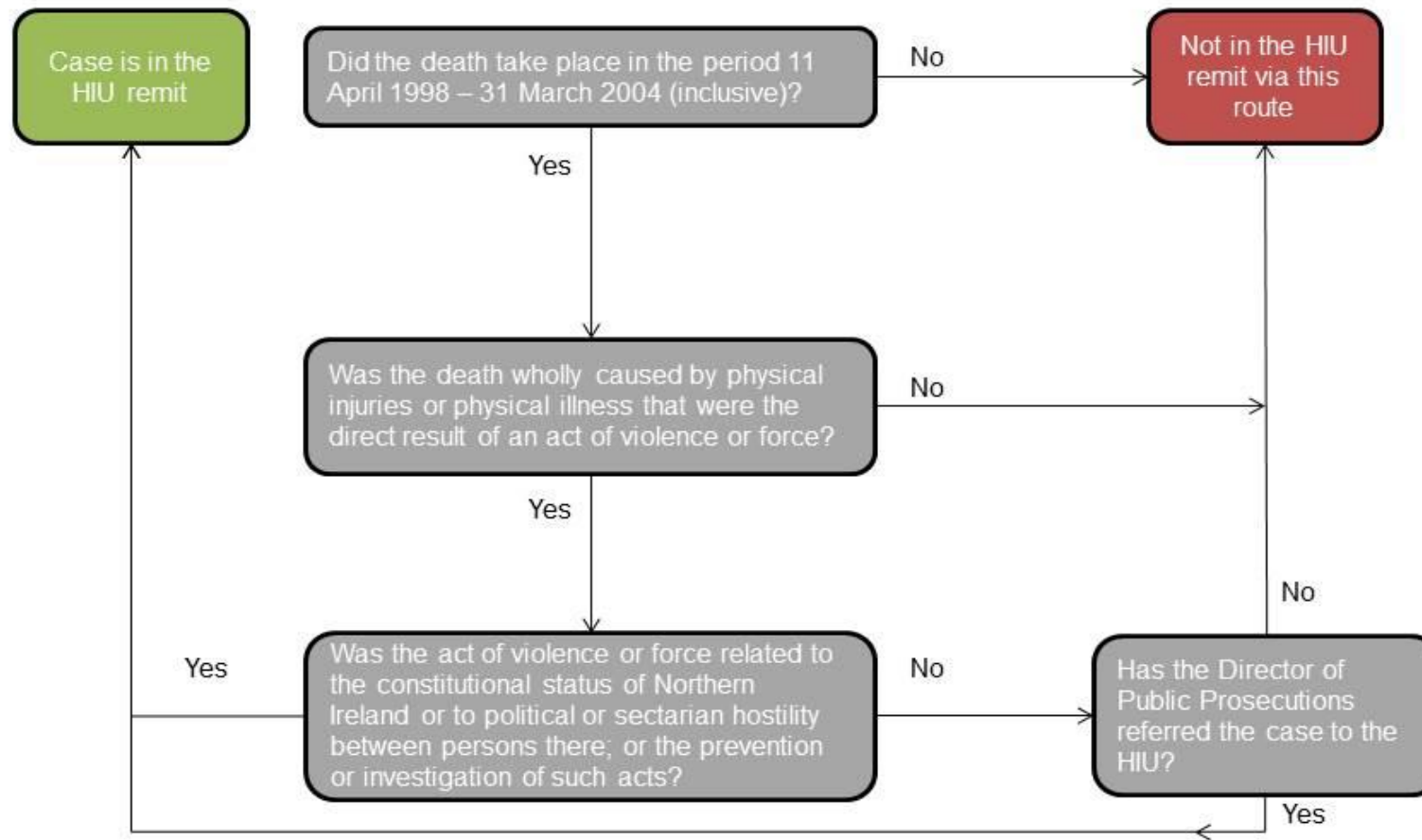
- The Chief Constable has reasonable grounds for believing that the death was the direct result of the use of force by a person and is satisfied, having particular regard to the HMIC report*, that that conduct requires further investigation.

Ground D

- The Chief Constable has reasonable grounds for suspecting that a person facilitated an offence or avoidance of justice relating to the death and did so with the intention of achieving an unlawful or improper purpose
- **and**
- the Chief Constable has reasonable grounds for suspecting that, by doing so, the person committed a criminal offence or, considers that the HIU should investigate the death because of the gravity of the person's conduct or because there are exceptional circumstances
- **and**
- the Chief Constable is satisfied, having particular regard to the HMIC report*, that the conduct requires further investigation.

* "Inspection of the Police Service of Northern Ireland Historical Enquiries Team" report published by Her Majesty's Inspectorate of the Constabulary in July 2013

Figure 6: 1998 – 2004 Troubles-related deaths within remit



7.3 Operational control of investigations by the Director [CLAUSE 9]

For every case in the HIU's caseload, the Director of the HIU would determine the extent to which an investigation would be required and how the investigation would be carried out. The HIU Director would take into account any investigation that had already taken place and the HIU could not duplicate any part of a previous investigation unless the duplication is necessary. Investigations would be undertaken if one of the following tests is satisfied:

- There is new evidence that the HIU Director reasonably believes could lead to the identification, prosecution or disciplining of a person in relation to the death;
- The HIU Director reasonably believes that a crime relating to the death has been committed and that the person who committed that criminal offence could be identified or prosecuted;
- The HIU Director decides that investigation could lead to the identification of, or disciplinary action against, a person for non-criminal police misconduct relating to the death and the gravity of the misconduct or exceptional circumstances made it appropriate to investigate.

If the HIU does not have sufficient information to satisfy either of the latter two tests, an investigation can proceed but only for the purposes of obtaining sufficient information. If none of these conditions apply, the role of the HIU is limited to compiling and issuing a family report.

Question 4: HIU - Director assessing previous investigations and deciding whether further investigation is needed	Yes	No
Do you think that the process set out above is the right way to assess whether an investigation into a Troubles-related death has taken place or whether investigation is needed?		
Any further comments:		

7.4 Sentences for Troubles-related offences

The Northern Ireland (Sentences) Act 1998³ provides for an early release scheme for prisoners convicted of certain scheduled offences related to the Troubles. Under the scheme, which was set up following the 1998 Belfast Agreement, qualifying prisoners (this excludes members of organisations not on ceasefire) may apply to the Sentence Review Commissioners for early release, after they have served two years in prison. Any prisoner in the UK is eligible to apply; however, they must be serving their sentence in Northern Ireland to be released. Prisoners released under the scheme are released on licence, which means there are conditions attached to their release. The conviction stands and the custodial sentence is resumed if the conditions of their release are broken.

Currently, as a result of the way the legislation was structured, the scheme only applies to crimes committed after August 1973, which is when the legislation designating certain scheduled offences was passed. There were around 700 Troubles-related deaths that took place before this. Should a person be convicted of a Troubles-related offence that took place between 1968 and August 1973, they would not currently be eligible for early release under this legislation. Given that the HIU would consider deaths that occurred from 1968, this could result in a significant difference in treatment, depending on when an offence was committed. The current position also means that some prisoners might have to transfer to a prison in Northern Ireland in order to apply.

The proposed legislative amendment would provide consistency in the legal framework for early release for Troubles-related offences by applying the scheme to Troubles-related offences dating from 1 January 1968 and to prisoners serving their sentence in Great Britain⁴.

It is already the case that anyone convicted of Troubles-related offences committed after August 1973 would be eligible to apply to the scheme. The amended time period would mean that anyone convicted of a Troubles-related offence committed

³ <http://www.legislation.gov.uk/ukpga/1998/35/contents>

⁴ Further technical amendments to the legislation might be required and consideration is being given, including with the Scottish Government, on how to effect this change across the UK.

between 1 January 1968 and 10 April 1998, including members of the security forces, would be able to apply for early release, irrespective of where they are serving their sentence in the UK, after having served two years in prison.

7.5 Duties of the HIU [CLAUSE 7]

As well as having regard to the general principles (on page 21), the HIU would be required to act in a manner that is:

- fair and impartial;
- proportionate;
- effective and efficient; and
- designed to secure the independence of the HIU and the confidence of the public in the HIU.

The HIU could not do anything that might:

- put at risk the life or safety of any person;
- prejudice the national security interests of the United Kingdom;
- have a prejudicial effect on any actual or prospective criminal proceedings (in the UK and Ireland) or any actual or prospective police disciplinary proceedings.

7.6 Operation of the HIU

The HIU would have policing powers and would operate independently to investigate both criminal activity and non-criminal misconduct in relation to deaths within its remit. The UK Government and its agencies would fully disclose all relevant material that the HIU request. This means information would not be redacted.

The HIU would consider cases in chronological order (unless there are exceptional circumstances that justify doing otherwise). A dedicated HIU officer would be made available to support families of those whose death is being investigated.

The HIU would produce a family report for each investigation completed. In sharing information, the HIU would be required to comply with its duties in respect of national security, risk to life or safety and prejudicing criminal or police disciplinary

proceedings as outlined previously. If the HIU wanted to share information that related to national security, the HIU Director would need to seek the agreement of the Secretary of State. If the Secretary of State decided that the release of such information could damage national security, the information would not be included in the report. However, an independent judicial appeals process in the Northern Ireland High Court would be available to challenge this decision.

For more information on how the HIU operates, please see the supplementary information on page 55.

7.7 Appeals process [CLAUSE 21]

The UK Government has proposed that, where the Secretary of State withholds permission for the HIU to include certain information in a family report, both the HIU Director and/or close family members of the deceased would be able to appeal that decision to the Northern Ireland High Court. If a number of appeals were lodged at around the same time those appeals could be considered together, where appropriate, which might allow them to be resolved more quickly.

If they wished to appeal, the HIU Director and/or family members would need to do this within 28 days of the date that the family was first provided with the report. There would be no prior requirement to seek leave to appeal. The UK Government would seek to make the application form for lodging an appeal simple and work with the Northern Ireland Department of Justice and the Office of the Lord Chief Justice for Northern Ireland to ensure that user-friendly guidance on the process of appeal was made available to families. In order to ensure challenges were heard promptly, the UK Government could give Northern Ireland High Court judges express powers to reduce the time taken for appeals to be determined.

Ensuring that appeals are heard by the Northern Ireland High Court would facilitate access for families and ensure that challenges are heard by senior judges who have extensive experience of the issues arising from the legacy of the Troubles in Northern Ireland. The Lord Chief Justice for Northern Ireland would be responsible

for assigning a judge or panel of judges to hear these appeals in the Northern Ireland High Court.

The role of the Northern Ireland High Court would be to review the decision of the Secretary of State, in light of all the material and applying the principles of judicial review, as part of an adversarial process in which the reasonableness of the decision would be tested. This would include consideration of whether the decision was compatible with human rights legislation. This is consistent with similar provisions relating to access to national security-sensitive information in the Data Protection Act 1998 (DPA) and Freedom of Information Act 2000 (FOIA). It would be open to any party to an appeal to seek further appeal to the Court of Appeal and ultimately the Supreme Court.

The Northern Ireland High Court would have the power to either quash the Secretary of State's decision or dismiss the appeal. The fact that the court had found for or against the Secretary of State would be made public via the judge's decision⁵. If the Court dismissed the appeal, the information would be withheld. If the Court quashed the decision, the Secretary of State would be required to remake their decision, normally within 60 days. In re-considering their decision, the Secretary of State would have to take into account the Court's reasons for quashing the original decision. After the Secretary of State remakes the decision, a new family or interim report would be issued. This report would include all information that the Secretary of State has agreed can be released after retaking the original decision. If the family or HIU Director continued to disagree with the new decision, the revised report could be appealed.

Closed material proceedings and Special Advocates

It is an important guiding principle that as much relevant material as possible should be considered in open proceedings. In some cases, the facts cannot be fully established without reference to sensitive material, but this material cannot be used in open court proceedings without risking damage to national security. Closed

⁵ Although there might also need to be a closed judgment, the open judgment would make clear whether or not the Secretary of State's decision was quashed and, to the extent possible without disclosing information which would damage national security, the reasoning.

material proceedings allow the Northern Ireland High Court to consider this kind of information in a secure way⁶. It would then be for the judge to determine whether each piece of information should be withheld from other parties involved in the proceedings in the interests of national security.

Where closed material proceedings are deemed necessary to fully test the arguments, families' interests would be represented by a dedicated Special Advocate, who would have access to relevant material, including information that had been withheld from the family report. Families who made use of the appeals process would be able to choose an Advocate from the panel, subject to their availability, tainting and conflict checks⁷.

It would be important that the panel is large enough to allow adequate representation for families. At this stage, it is very difficult to estimate how many appeals might be brought. If the HIU is established, the UK Government would organise an open, merit-based recruitment exercise to recruit an appropriate number of new Special Advocates.

If the Secretary of State relied on national security-sensitive material which had been withheld from the family, the Northern Ireland High Court judge would have the power to direct the Secretary of State to provide the family with a summary of the sensitive material (while ensuring that any summary did not itself damage national security or international relations).

If the HIU Director brought an appeal against the decision of the Secretary of State, it would not be necessary to exclude the HIU from the proceedings, as the HIU would already have had access to the relevant information.

⁶ Closed material proceedings are already used in the Northern Ireland High Court under existing legislation and the UK Government proposes that appeals against the Secretary of State's decision to withhold permission for the HIU to disclose are capable of being heard in closed session. For the detailed legislative provisions, see Part 2 of the Justice and Security Act 2013 and Order 126 of the Rules of the Court of Judicature (Northern Ireland) 1980 (as amended by S.R. 2013 No. 175). Similar provision was made in the Justice and Security Act 2013 – see Sections 18(4) and 6.

⁷ Tainting occurs where a special advocate has seen closed material in relation to another case that could be relevant to the current case and where there is therefore a risk of inadvertent disclosure such that it could create a risk for national security. This is to be distinguished from a conflict of interest which is a matter of professional judgement for the Advocate themselves.

Question 5: HIU - disclosure appeals mechanism	Yes	No
Do you think that the proposed mechanism to appeal disclosure decisions to a judge provides adequate opportunity to challenge decisions by the UK Government to protect information?		
Any further comments:		

Question 6: HIU - overall view	Yes	No
Does the HIU provide a method to take forward investigations into outstanding Troubles-related deaths in a proportionate, victim-centred manner with an appropriate structure and safeguards?		
Any further comments:		

Independent Commission on Information Retrieval

8.1 Overview

The Independent Commission on Information Retrieval (ICIR) would be an independent, international institution established by a treaty between the UK Government and Irish Government⁸. The objective of the ICIR would be to enable family members to seek and privately receive information about the Troubles-related deaths of their relatives. Engagement would be voluntary and the ICIR would only seek information on those cases where families have submitted a request. Families from the UK and Ireland would be able to seek information from the ICIR.

Legislation would be needed in both the UK and Ireland to give effect to elements of the ICIR's operating model. It would be required to act consistently with the general principles set out on page 21 of this document. The ICIR would not have policing powers and nothing contained in the treaty or legislation to establish the ICIR would amount to any form of amnesty. The ICIR would operate for a period of five years. It would have offices in both the UK and Ireland.

8.2 Status and establishment of the ICIR [CLAUSES 40 & 43]

The ICIR would be an international institution. It would be independent of its sponsoring Governments and would consist of five commissioners: one Chair jointly appointed by the UK Government and the Irish Government (in consultation with the Executive Office); one commissioner appointed by the UK Government; one commissioner appointed by the Irish Government; and two commissioners jointly appointed by the First Minister and deputy First Minister.

In order for the ICIR to be able to carry out its functions to the required high standard, the Bill would require the commissioners to have experience in areas relevant to the ICIR's work. Specifically the commissioners would collectively have knowledge of working with victims and survivors, legal and judicial proceedings and security and policing. Each commissioner would also have the experience and skills necessary for handling sensitive information, judging the credibility of information

⁸ http://data.parliament.uk/DepositedPapers/Files/DEP20160057/Agreement_establishing_the_ICIR.pdf

and establishing good working relationships with organisations that could assist the ICIR in its work.

As an international institution, the ICIR would be given certain privileges necessary to conduct its work. The legislation would, for instance, make provision for the inviolability of the ICIR's archive (this would mean that it cannot be subject to search or requisition by the police), which is of particular importance given the confidential nature of its work. The ICIR would not be subject to judicial review, Freedom of Information, Data Protection or National Archives legislation in the UK or Ireland.

In carrying out its functions, the ICIR could not do anything that might: prejudice the national security interests of Ireland or the UK; put at risk the life or safety of any person; or prejudice any actual or prospective legal proceedings in the UK or Ireland.

8.3 Family reports [CLAUSE 42]

The ICIR would seek information about deaths within its remit, but only where families asked them to do so. Where an eligible family request for information about a death was made, families would be supported and the ICIR would keep them informed of progress. At the conclusion of its enquiries into the death, the ICIR would provide the family with a written report, which would only contain information that the ICIR had verified.

The ICIR would not be expected to verify information to the same standard of testing that would be expected in the criminal justice system. It would, however, take appropriate steps to evaluate the credibility of the information it received before reporting to families. This could include use of a variety of information sources, interview and analytical techniques.

8.4 Eligible family requests [CLAUSE 50]

An eligible family request would normally come from a close family member of the deceased who was resident in Ireland or the UK at the time of death or is resident in Ireland or the UK at the time of making the request. The ICIR would have discretion to:

- accept requests where the residency criterion is not met;
- accept requests from a relative of the deceased who is not a close family member so long as no close family members object and the ICIR is satisfied it is appropriate to proceed.

Question 7: Independent Commission on Information Retrieval

What actions could the ICIR take to support families who seek information about the death of their loved one?

8.5 Deaths within the remit of the ICIR [CLAUSE 50]

A death would be within the ICIR's remit if it was the result of an act of violence or force carried out in Ireland, the UK or the rest of Europe between 1 January 1966 and 10 April 1998 for a reason related to political or sectarian hostility or to the constitutional status of Northern Ireland.

8.6 Information retrieval and inadmissibility; no amnesty or immunity from prosecution [CLAUSE 45]

Information provided to the ICIR would primarily come from individual contributors on a voluntary basis. The ICIR would be separate from the criminal justice system. There would be no amnesty associated with the provision of information. Whilst information provided to the ICIR would not be admissible in court proceedings, this would not confer immunity from prosecution or suit for contributors. This would mean that no individual who provides information would be immune from prosecution for any crime committed, should the required evidential test be satisfied by other means. The same information as provided to the ICIR, obtained by another means, could still be used in legal processes against the individual.

For more information on information retrieval and inadmissibility, please see the supplementary information on page 63.

8.7 Non-disclosure arrangements [CLAUSES 46 - 48]

The ICIR would not disclose information provided to it to law enforcement or intelligence agencies and would be specifically prohibited from disclosing the name or identity of anyone who provided it with information.

For more information on non-disclosure arrangements, please see the supplementary information on page 63.

8.8 Unsolicited information

The ICIR would not proactively seek information about any death without an eligible family request. It would accept unsolicited information about deaths within its remit and hold it securely in case there was a subsequent eligible family request. With the permission of the family, the ICIR could publicise cases on which it is seeking information.

8.9 Reports to the UK Government and Irish Government [CLAUSE 42]

The ICIR would report to the UK Government and Irish Government annually on the use of public funds and with quantitative data on its operations. The reports would not contain details of any information received from contributors.

Question 8: Independent Commission on Information Retrieval	Yes	No
Do you think the ICIR is structured correctly, with the right powers and protections, in a way that would provide victims and survivors with the chance to seek and receive information about the deaths of their loved one?		
Any further comments:		

Oral History Archive

9.1 Overview

The Oral History Archive (OHA) would be set up as a central place for individuals from all backgrounds in Northern Ireland and elsewhere to voluntarily share experiences and narratives related to the Troubles and to draw together contributions from existing oral history projects. In addition, a research project would be commissioned to produce a factual historical timeline of the Troubles.

The OHA would have the potential to be used by more people than any of the other new institutions proposed in the Stormont House Agreement. Anyone who has been touched by the Troubles would be able to share their memories and tell their stories and have these recorded in the Archive. This would include victims and survivors, but also former soldiers and police officers, members of the emergency services, former paramilitaries, and anyone who lived through this difficult period in Northern Ireland's history. The OHA would be able to work with existing oral history projects, to draw together existing archives.

9.2 Creation of the archive **[CLAUSES 51 – 53]**

The Public Record Office of Northern Ireland (PRONI) would establish the OHA. In order to ensure the independence of the OHA, it would be under the direction and control of the Deputy Keeper of the Records, who is a senior civil servant. The Deputy Keeper would make decisions about how the archive functions and how it is organised; they could not be directed by any Executive Department or Minister in relation to their OHA duties. The Deputy Keeper would appoint a steering group, containing people with experience of oral history, to provide advice on the functions of the OHA. The Deputy Keeper of Records would produce an Annual Report relating to the functions of the OHA, which would be laid before the Northern Ireland Assembly on the day that it is published. The Deputy Keeper of Records, in respect of the OHA, would be required to act consistently with the general principles set out on page 21.

9.3 How the OHA will operate

Procedures will outline how oral histories are collected, recorded and published to ensure the OHA operates effectively. The OHA would also be subject to certain legal protections in relation to its work.

For more information on how the OHA would operate, please see the supplementary information on page 65.

Question 9: Oral History Archive	Yes	No
Do you think that the Oral History Archive proposals provide an appropriate method for people from all backgrounds to share their experiences of the Troubles in order to create a valuable resource for future generations?		
Any further comments:		

Question 10: Oral History Archive
What steps could be taken to ensure that people who want to share their experiences of the Troubles know about the Archive and are encouraged to record their stories?
Any further comments:

Implementation and Reconciliation Group

10.1 Overview

The Implementation and Reconciliation Group (IRG) would be set up to promote reconciliation and anti-sectarianism and to review and assess the implementation of the other legacy institutions proposed in the Stormont House Agreement. After five years, the IRG would commission a report on themes, based on evidence established by the work of the other legacy institutions. The First Minister and deputy First Minister, acting jointly, would provide the IRG with resources.

10.2 Functions of the IRG [CLAUSE 59 - 61 & SCHEDULE 17]

The primary functions of the IRG would be to:

- promote reconciliation in Northern Ireland;
- review and assess the implementation of the Stormont House Agreement proposals, which deal with the past; and
- commission a report from independent academics on themes and patterns identified in the work of the HIU, ICIR, OHA and the Coroners' Court.

The IRG would act consistently with the general principles set out on page 21 of this document.

10.3 How the IRG would operate

The draft Bill sets out how members would be appointed to the IRG and how decisions would be made. The IRG would receive reports from the HIU, ICIR, OHA and Coroners' Courts and would commission an academic report on themes and patterns based on the information contained within these reports and other specified sources. It would be important to ensure that an independent approach is taken to producing the academic report.

For more information on how the IRG would operate, please see the supplementary information on page 67.

10.4 Independent academic report on themes and patterns

The academic report would be an important output from the IRG. It would be vital that the work of the academics is recognised as being independent, rigorous and in line with academic best practice. It may be valuable for the academic report to use a multi-disciplinary approach and to work with organisations such as the Economic and Social Research Council (ESRC) to help provide structure for the project.

The ESRC provide funding and support for research in economic and social issues. In particular, they support independent, quality research which has an impact on business, the public sector and civil society. ESRC research often involves multidisciplinary teams, collaboration with a wide range of partners and provides organisations with access to world-leading academic researchers to support research activities. Its researchers are required to adhere to the highest standards of governance, scientific and ethical practice. Further proposals on how the IRG might commission the academic work can be viewed on the consultation website at www.gov.uk/nio or can be obtained in hardcopy on request.

Question 11: Commissioning the academic report on themes and patterns	Yes	No
Do you think that the ESRC should be engaged to commission the academic work on patterns and themes to ensure independence, impartiality and best practice in academic research?		
Any further comments:		

Question 12: Implementation and Reconciliation Group	Yes	No
Do you think the IRG is appropriately structured to allow it to review the work of the legacy institutions, to commission an independent academic report and promote reconciliation?		
Any further comments:		

Question 13: Stormont House Agreement proposals - overall view	Yes	No
Do you think that the package of measures proposed by the Stormont House Agreement provides an appropriately balanced and planned way to move Northern Ireland forward that can command the confidence of the community?		
Any further comments:		

Question 14: Other views on the past
Do you have any views on different ways to address the legacy of Northern Ireland's past, not outlined in this consultation paper?

Impact of the consultation proposals on equality

11.1 Overview

Section 75 of the Northern Ireland Act 1998 requires Departments to “have due regard” to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without. Departments are also required to “have regard” to the desirability of promoting good relations between persons of a different religious belief, political opinion or racial group.

Question 15: Impact of the current system

What are your views on the impact of the current system for addressing the past (as outlined in Part one) for different groups as described by Section 75 of the Northern Ireland Act 1998?

Question 16: Impact of the Stormont House Agreement proposals

What are your views on the impact of the Stormont House Agreement proposals (as outlined in Part two) for different groups as described by Section 75 of the Northern Ireland Act 1998?

Question 17: Opportunity to promote equality of opportunity or good relations

Is there an opportunity to better promote equality of opportunity or good relations?

Supplementary Information

Supplementary information: Part one: The current system for addressing the past

The following sections provide additional information on issues considered in earlier parts of this document. The information refers back to relevant pages and sections.

12.1 Problems with the current system

The following examples demonstrate how the existing structures were not designed to deal with the particular challenges of the past, as referenced in section 4.5 on page 17 (bullet point 2):

- The coronial system investigates deaths of individuals which appear to have happened in sudden or unexplained circumstances. It was not intended to cope with highly complex and sometimes linked cases occurring over an extended time period and often involving very sensitive information, or to consider the broader circumstances of a death;
- The core function of the Office of the Police Ombudsman for Northern Ireland (OPONI), which was established in 2000, is to investigate present-day complaints about the conduct of police officers. Its Current Investigation Teams consider about 1,500 complaints a year. Its Historical Investigations Directorate, which investigates alleged misconduct in Troubles-related incidents, was subsequently established in 2010;
- As with all other police forces, the Police Service of Northern Ireland (PSNI) has a duty to review historical cases and, where credible investigative opportunities are identified, conduct further investigations. The legacy of the Troubles, however, means that the number of historical cases for which the PSNI has responsibility is on a different scale from that faced by other UK Police Services.

Section 4.5 on page 17 (bullet point 3) identified that the current system experiences difficulties in delivering efficient outcomes for victims and survivors. The PSNI,

OPONI and Coroners Service have all been subject to legal challenge on the basis of a failure to commence, or to promptly conclude investigations.

For example, the closure of the PSNI's Historical Enquiries Team, following the report by Her Majesty's Inspectorate of Constabulary referenced on page 14, left hundreds of cases outstanding. The need to balance the requirement to progress these cases against the PSNI's duties in relation to modern day crime means that they are taking significant time to resolve. The PSNI's Legacy Investigation Branch currently has 55 detectives working on a number of cases (covering a number of homicides and other serious offences, as well as an ongoing review process following the Report of the Hallett Review). These cases inevitably divert resources from policing the present - they require a significant proportion of the PSNI's serious crime capability, but the threat posed and risk of harm are appreciably less than in present day cases.

The PSNI's ongoing responsibility for these investigations not only affects present day policing in terms of resourcing; many legacy cases are deeply controversial in nature and continue to divide views. PSNI involvement can therefore impact on its ability to engage with different parts of the community today.

Coroners' inquest cases also experience delays. In 2013, for example, only two inquests were completed and both have subsequently had their conclusions appealed; one successfully. None were completed in 2014. Since the appointment of the Lord Chief Justice for Northern Ireland as President of the Coroners' courts by the then Northern Ireland Minister of Justice in October 2015, a number of measures have been taken to address this. This included a review of the state of readiness of cases undertaken by Justice Weir in early 2016, and resulted in the LCJ putting forward a reform plan to the Northern Ireland Executive. The UK Government supports these proposals, which would implement an important commitment in the Stormont House Agreement.

Supplementary information: Part two: Stormont House Agreement proposals

The following section provides background information on the development of the Stormont House Agreement proposals as introduced in Part two on page 19.

12.2 Political context to the Stormont House Agreement proposals

The measures in the Bill were developed following work carried out by the Northern Ireland Office, the Northern Ireland Department of Justice, the Department for Communities and the Stormont House Implementation Group (SHIG). The SHIG was established by the five largest parties in the Northern Ireland Assembly to monitor and have oversight of all parts of the Stormont House Agreement that fall to the Northern Ireland Executive to implement.

At the request of the SHIG, the UK Government agreed to legislate for three of the four legacy institutions proposed by the agreement; the Historical Investigations Unit (HIU), the Independent Commission on Information Retrieval (ICIR) and the Oral History Archive (OHA). While this would mean legislating for areas that are devolved, as well as reserved or excepted matters, it was felt that a single legislative vehicle would be the most effective way to implement the commitments in the Agreement. This will mean that if a Bill is introduced into the UK Parliament, a Legislative Consent Motion would be sought in the Northern Ireland Assembly in relation to the devolved matters covered in the Bill.

In September 2015, the UK Government published a paper which provided information on the measures to be included in the Northern Ireland (Stormont House Agreement) Bill ('the Bill')⁹.

After that publication, there were ten more weeks of talks involving the UK Government, the five largest parties in the Northern Ireland Assembly, as well as the Irish Government, on matters for which they have responsibility. The Irish Government have important obligations in relation to the past and have played an important role throughout the political talks that have led to this point. Moreover, the

⁹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/462888/Policy_Paper_-_Summary_of_Measures_23_Sept_2015_Final.pdf

Irish Government have committed to passing their own legislation that will ensure they can give their full cooperation to the new institutions, in a way that is consistent with their constitutional obligations.

These discussions were valuable, and a series of changes were included in the draft Bill. This includes establishing the fourth institution on a statutory basis in the legislation: the Implementation and Reconciliation Group (IRG), so that its role in reviewing and assessing the legacy framework will be clear and robust.

It was not, however, possible to reach agreement on all aspects of the legacy proposals and, while the talks culminated in the Fresh Start Agreement¹⁰, this did not cover measures to address the past.

Following the conclusion of the Fresh Start talks, the UK Government has continued to discuss the legacy proposals with the political parties and also with victims and survivors and their representatives, including the Commissioner for Victims and Survivors. These further discussions have informed the development of these policy proposals.

¹⁰ www.gov.uk/government/news/a-fresh-start-for-northern-ireland

Supplementary information: Historical Investigation Unit (HIU)

The following sections provide further information on how the HIU would operate (see section 7.6 on page 35).

12.3 Investigatory function [CLAUSES 8 – 12 & 23, SCHEDULES 5-7]

Reflecting the different functions it would adopt from the PSNI and OPONI, the HIU would investigate both criminal activity and non-criminal police misconduct in relation to deaths within its remit. The criminal and non-criminal misconduct investigatory functions would be operationally independent from one another. Where cases involved both investigation of criminal activity and non-criminal misconduct, these investigations would be carried out sequentially, starting with criminal investigations. See Figure 7: Separation of criminal and police-misconduct investigations.

The HIU would investigate deaths in the order in which they occurred (or are presumed to have occurred) unless there are exceptional circumstances and the Director concludes that the HIU would perform its functions more effectively by investigating one or more deaths in a different order.

The HIU would publish a statement setting out the manner in which it would carry out its investigatory function. This statement would set out:

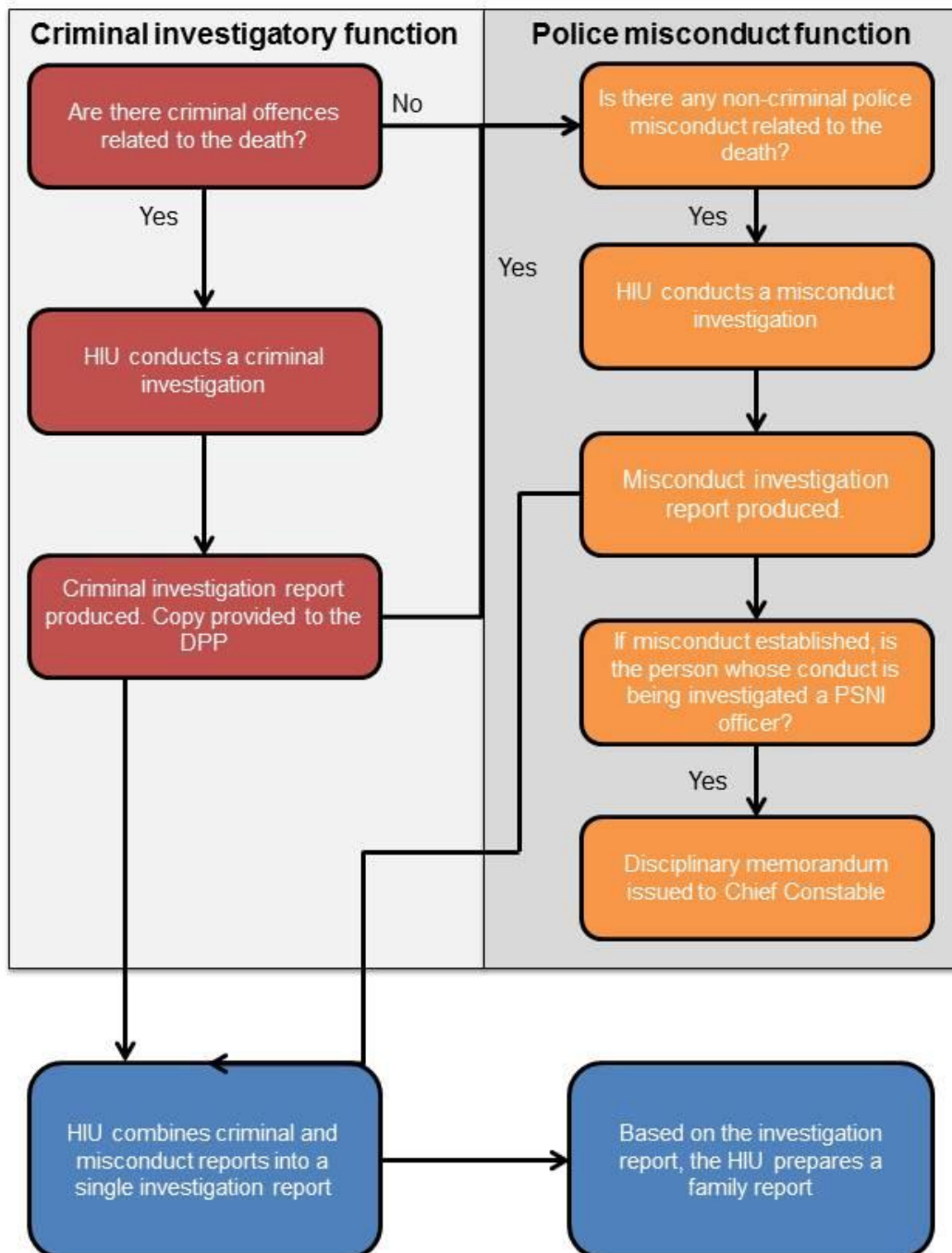
- how the HIU would avoid actual and perceived conflicts of interest;
- its policy regarding the chronological investigation of cases;
- how its investigations would comply with its Article 2 obligations under the Human Rights Act and its other human rights obligations.

The Director would have to keep the statement under review and where appropriate, update and reissue the statement. Before issuing the first or any revised statements, the Director would be required to consult with the Northern Ireland Policing Board.

In order that the HIU can effectively carry out investigations of those deaths within its remit, the HIU Director would have policing powers such as powers of search and arrest. The Director would also be able to bestow policing powers on other HIU

officers for use in criminal investigations. HIU officers would not be able to use their policing powers in investigating non-criminal police misconduct.

Figure 7: Separation of criminal and police-misconduct investigations



The HIU Director would organise the HIU's investigators into a number of separate units and at least one of those units would not include any officers who have, or could be perceived to have, a work-related conflict of interest in respect of the investigation of any of the deaths within the HIU's remit. The Director would arrange that HIU officers involved in investigating any particular death do not have, or cannot be reasonably perceived to have, a conflict of interest in relation to the investigation of that particular death. The HIU would need to employ and second people with experience of policing in Northern Ireland and also people without a Northern Ireland policing background, but who had other experience of conducting criminal investigations. Before allocating the investigation of a death to a particular investigative unit, the Director would first consult with and consider the views of family members of the deceased.

12.4 Full disclosure to the HIU [CLAUSE 25 & SCHEDULE 8 & 9]

The legislation would make clear that the UK Government, its departments and agencies (including for instance The National Archives), the police, the security services as well as all Northern Ireland Executive departments (including for instance the Public Record Office of Northern Ireland) must make available to the HIU any relevant information, documents or other material the HIU may reasonably require to carry out its investigations. The HIU could specify to those departments or agencies the manner in which it receives the material.

12.5 Family support function [CLAUSES 6, 19, 20 & 22]

For each case the HIU investigated, a dedicated single point of contact would be assigned on request for members of the family of the person whose death is being investigated. The HIU would ensure that information about victims support services in the UK and Ireland is made available to any family member that requests it.

When making a report available to family members of the deceased, whether it is a family report or an interim report, the HIU would make an officer available to meet the family and support the family through the process. The HIU would take

reasonable steps to obtain representations from family members prior to taking a decision on whether to publish a family report or an interim report.

The HIU would publish a statement setting out the manner in which it would give support and assistance to families of the persons whose deaths the HIU investigated. The Director would keep the statement under review and where appropriate, update and reissue the statement. Before issuing the statement, the Director would be required to consult with the Commission for Victims and Survivors for Northern Ireland.

12.6 Governance and oversight of the HIU [CLAUSES 2-4, 29 – 32, SCHEDULES 1 – 2, 13 – 16]

The HIU would be an independent organisation. It would consist of the Director, two non-executive members and two executive members. The Director would be required to have experience of managing major criminal investigations. The Director and the two non-executive members would be appointed by the Northern Ireland Minister of Justice on the basis of a unanimous decision by an appointment panel which would be made up of the Attorney General for Northern Ireland, the Head of the Northern Ireland Civil Service, the Commissioner for Victims and Survivors for Northern Ireland and a person with experience of managing major criminal investigations appointed to the panel by the Northern Ireland Minister of Justice. The two executive members would be appointed by the Director as employed HIU officers.

The HIU would be funded by the Northern Ireland Department of Justice through the Policing Board. The UK Government has committed to providing funding of up to £30m per annum for five years to support the establishment and working of the four institutions.

The Policing Board would have responsibility for monitoring and holding the HIU to account for its performance. The Policing Board would keep itself informed of the number of cases within the HIU's remit and of the workings of the HIU's complaints and disciplinary procedures. The Policing Board would issue an annual report assessing the HIU's activities.

The Policing Board would produce a Code of Ethics laying down the standards of conduct and practice for members and officers of the HIU. The Code of Ethics would in particular make HIU officers and members aware of the HIU's human rights obligations and the HIU's obligations under section 75 of the Northern Ireland Act 1998.

The HIU would be required to produce and publish a complaints procedure that describes how complaints against HIU officers can be made, how those complaints would be dealt with and the possible outcomes of any complaint. With the agreement of the Northern Ireland Department of Justice and in consultation with the Policing Board, the HIU could make an agreement with the Police Ombudsman for Northern Ireland that would allow the Ombudsman to investigate complaints against HIU officers.

12.7 Reporting and onward disclosure

The HIU would produce a number of reports in exercising its functions. These would include:

- **Criminal investigation reports [CLAUSE 13]** - Where a criminal investigation has taken place, the Director would be required to provide a copy of the criminal investigation report to the Director of Public Prosecutions for Northern Ireland (DPP). This duty would apply whether or not the investigation has concluded that criminal offences have been committed. The HIU may combine criminal investigation reports relating to different deaths into a single report.
- **Police misconduct reports [CLAUSES 14 & 15]** – Where the HIU investigated the conduct of a member of the Police Service (or the Reserve), the HIU could notify the disciplinary authority that the HIU is investigating the conduct. The disciplinary authority would not take disciplinary action against the person until the HIU had finished its investigation into the conduct. Where the Director believed police disciplinary proceedings should be brought, the

HIU would give the disciplinary authority a memorandum recommending disciplinary proceedings and stating the reasons for this recommendation. These measures closely mirror the current procedures followed by the Police Ombudsman for Northern Ireland.

- **Investigation reports [CLAUSE 16]** – When the HIU finished any investigation, the HIU officer responsible for the investigation would produce a report for the Director that combined both the criminal investigation report and any police misconduct report. This comprehensive account of the investigation would form the basis of the family report.
- **Family reports [CLAUSES 17 & 18]** – For every death that the HIU investigated it would produce a report on the death and provide it to family members. The family report must be as comprehensive as possible, having regard to the need for the report to be accessible to the family members. The HIU would provide a copy of the family report to any close family member of the deceased who requests it and where it considers it appropriate, to other members of the family of the deceased who request it.
- **Interim reports [CLAUSES 17 & 18]** – The HIU could produce an interim report for family members if providing a full report would prejudice actual or prospective criminal or police disciplinary proceedings, and provide it to family members in the same way as a full family report.
- **Reports to injured persons [CLAUSE 19]** – While the remit of the HIU would be to investigate deaths, it is recognised that its investigations would include incidents in which people have been injured. Therefore, the HIU could consider providing, upon request, a copy of a family or interim report, to a person injured in the events under investigation. In deciding whether to provide this report the HIU would take reasonable steps to obtain and have regard to representations from close family members of the deceased or other family members the Director considers appropriate.

12.8 Balancing its disclosure duties [CLAUSE 26 - 27, SCHEDULES 9 – 11]

In disclosing information, including in family or interim reports, the HIU would comply with its duties in respect of national security, risk to life or safety and prejudicing criminal or police disciplinary proceedings as outlined previously.

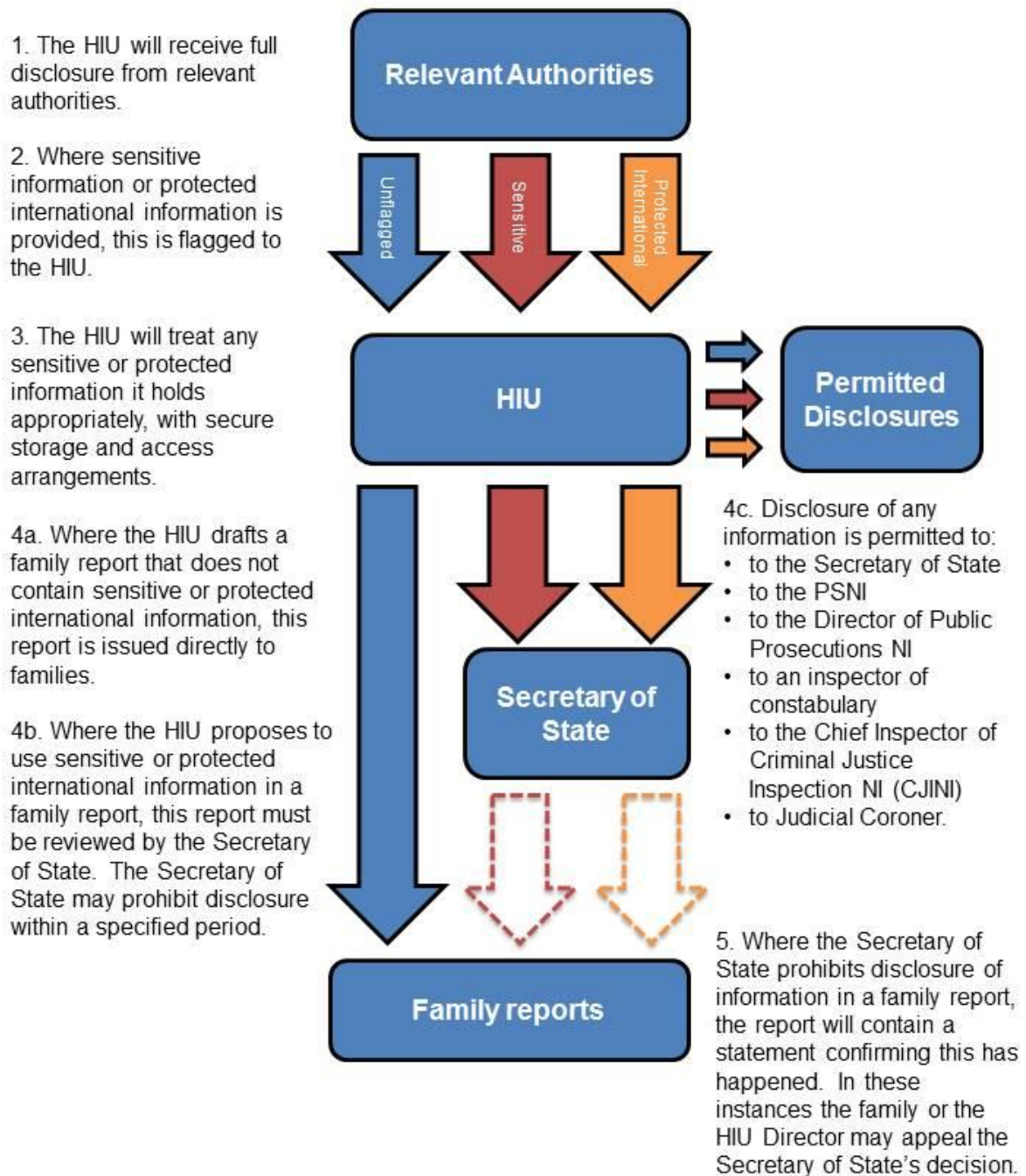
Making available to the HIU all the information it needs for its investigations would mean that it has access to sensitive information which, if published, could put the life and safety of individuals, or national security at risk. In this context and consistent with its duties to keep people safe and secure, it would be the responsibility of the UK Government to put in place appropriate safeguards to prevent harmful onward disclosure of such information.

To ensure that the HIU was aware of what information could be damaging, it would be notified when material provided to it is national security sensitive or where the information might damage international relations. The HIU would also have to assess whether, in its own opinion, any information it held is sensitive or could put someone's life or safety at risk.

Should the HIU wish to disclose sensitive information or information which might prejudice national security or damage international relations, the HIU would be required to notify the Secretary of State, who can prohibit disclosure within a specified period. The Secretary of State's power would be limited to cases where the disclosure of information would, or would be likely to, damage the national security of the United Kingdom or would, or would be likely to, damage international relations.

Figure 8 demonstrates the process that would protect sensitive information.

Figure 8: Protecting sensitive information



Supplementary information: Independent Commission on Information Retrieval

The sections which follow provide further information on how the Independent Commission on Information Retrieval (ICIR) would operate (see sections 8.6 and 8.7 on page 42).

12.9 Information retrieval and inadmissibility; no amnesty or immunity from prosecution [CLAUSE 45]

The primary source of the information received by the ICIR would be individual contributors and it would be open to anyone with information to approach the ICIR directly or through an intermediary. It is envisaged that the contributors could include those directly involved in a particular death, bystanders who witnessed events, and those with second-hand information about Troubles-related deaths.

The ICIR would be entirely separate from the criminal justice system. It would not have policing powers, or powers to compel witnesses or disclosure of information. All engagement with the ICIR, including by families, individual contributors and public authorities, would therefore be voluntary.

There would be no amnesty in these provisions and the proposed legislation would make this clear. There would be provision to encourage contributors to volunteer information that means information, as provided to the ICIR, would not be admissible in civil, criminal or coronial proceedings.

The inadmissibility provisions, however, would not confer any immunity from prosecution or suit for contributors: no individual who provides information would be immune from prosecution for any crime committed, should the required evidential test be satisfied by other means. The same information as provided to the ICIR, obtained by another means, could still be used in legal processes against the individual.

12.10 Non-disclosure arrangements [CLAUSES 46 - 48]

The ICIR would not disclose to law enforcement or intelligence agencies any information provided to it and would be specifically prohibited from disclosing the

name or identity of anyone who provided it with information. Given that it would not be able to verify information received to the same standard of testing that would be expected in the criminal justice system, it would also be prohibited from disclosing the name or identity of anyone alleged by a contributor to be responsible for a death.

The ICIR could receive sensitive information from a variety of sources. The Bill and the equivalent Irish legislation would provide a mechanism to ensure that the ICIR would be able to report to families without undermining its duties not to prejudice national security or put lives or safety at risk. This mechanism would allow the ICIR to consult with the UK Government and Irish Government on whether reports that it proposed to disclose would pose such a risk and, if so, what remedial action might be required. The UK Government and Irish Government could consult the ICIR and each other in coming to a view in such cases, but it is anticipated that any remedial action arising from this process would be rare. As stated above, the ICIR would be required to remove the names or any information that could identify contributors or alleged perpetrators, before consulting the UK Government or the Irish Government.

The Bill would make it an offence punishable in UK law for ICIR Commissioners or staff to make unauthorised disclosure of information relating to deaths within its remit, including the identities of contributors or alleged perpetrators. The Irish Government have committed to bringing forward legislation in that jurisdiction which would ensure unauthorised disclosure is also an offence in Ireland.

To reinforce the ICIR's commitment to confidentiality and to encourage engagement, on completion of its work the ICIR would destroy the raw material and operating files that it holds relating to deaths within its remit.

Supplementary information: Oral History Archive

The following sections provide further information on how the Oral History Archive (OHA) would operate (see section 9.3 on page 45).

12.11 Collecting and recording oral histories [CLAUSES 51, 52 & 55]

The OHA would be a collection of records that document personal experience and which are of lasting historical significance. Records forming part of the OHA would relate to Troubles-related events (that is, events that occurred for reasons related to the constitutional status of Northern Ireland or to sectarian or political hostility between persons in Northern Ireland). This would primarily cover the period between 1 January 1966 and 10 April 1998 but could include other significant events outside of this time period. A factual historical timeline would be commissioned by the Public Record Office of Northern Ireland (PRONI) and produced by academics. It would be for the Deputy Keeper to decide which records should form part of the OHA.

PRONI would invite and collect new oral history records for the OHA but would also be able to receive oral histories that have been collected by others. PRONI would need to preserve these records and make the archive available to the public, except where the Deputy Keeper decided it is not appropriate for particular records to be made publicly available.

The OHA could include other relevant records that are not oral history records (such as catalogues or indexes) so long as they are in addition to oral history records kept in the archive and assist the orderly preservation of, and access to, the archive.

There would be a procedure for the disposal of records where the Deputy Keeper has decided collected records should not form or should cease to form part of the OHA.

12.12 Contributing to the archive and publication [CLAUSES 51 & 52]

Any contribution to the OHA would be voluntary. The Bill would provide that the sponsor department of PRONI could make rules about the function of the OHA. These rules in particular might cover what matters a person must be informed of

before contributing their story to the OHA and what consent they would need to give when contributing to the OHA.

It is envisaged these rules would make potential contributors aware of:

- the public nature of the archive and, in particular, that interviews would normally be made accessible to the public;
- the processes involved in recording, reviewing and finalising their oral histories and how they would be supported through this process;
- the potential risks associated with breaching others' privacy, defamation claims or self-incrimination;
- support arrangements available for victims/survivors and appropriate support bodies.

Potential contributors would also be made aware of PRONI's duties regarding the protection of information and disclosure. In relation to the OHA, PRONI would be subject to existing laws on protection of information and disclosure, including the Data Protection Act 1998, the Freedom of Information Act 2000 and the Human Rights Act 1998 and would not be exempt from any court order served for the release of information, including requests for disclosure in relation to criminal investigations. Nor would it be exempt from any statutory duty to report crimes.

In some cases final contributions could contain information, for example personal information, which is fundamental to the oral history and its historical value but which, for legislative reasons, or at the request of the contributor should not be made public immediately. It is envisaged that this information could be kept private for an extended period, if necessary.

12.13 Immunity from suit [CLAUSE 57]

The Bill would provide that the Deputy Keeper, employees of PRONI and others carrying out work for PRONI would be immune from suit for defamation in relation to their work which relates to the OHA.

Supplementary information: Implementation and Reconciliation Group

The following sections provide further information on how the Implementation and Reconciliation Group (IRG) would operate (see section 10.3 on page 46).

12.14 Membership of the IRG [SCHEDULE 17]

The IRG would be made up of 11 persons; a chair and ten other members. The chair of the IRG would be appointed by the First Minister and deputy First Minister acting jointly. The UK Government would appoint one member to the IRG, the Irish Government would appoint one member and the remaining eight members would be appointed by Northern Ireland's political parties.

The Democratic Unionist Party would nominate three members, Sinn Féin would nominate two and the Alliance party, Social Democratic and Labour Party and the Ulster Unionist Party would each nominate one member. A process would be put in place to facilitate the nomination of persons by each political party and to ensure each party had the correct number of members of the IRG.

No one who is a member of the Northern Ireland Assembly; a local government councillor in Northern Ireland; a Member of Parliament; a member of the House of Lords; a member of the Dáil Éireann; a member of the Seanad Éireann or a member of the European Parliament could be a member of the IRG.

The quorum of the IRG would be set as seven members, including the chair and the members appointed by the UK Government and the Irish Government. Two-thirds of members present would need to support a proposal for it to be a valid decision of the IRG.

12.15 Reports to the IRG

The HIU, ICIR and the Deputy Keeper of the Records would each provide the IRG with a written report on patterns and themes each institution identified from its work as well as the level of cooperation received in carrying out its work. The President of the Coroners Service of Northern Ireland would also provide a report on legacy inquests. These four reports would be known as the principal reports.

The HIU, ICIR and Deputy Keeper could provide interim reports to the IRG. The IRG would also receive reports from any research project established as part of the OHA under paragraph 25 of the Stormont House Agreement.

The legislation would provide a framework for dealing with these reports:

- The Chair of the IRG would receive each relevant report in confidence;
- After the Chair had received all the principal reports, they would share all relevant reports they had received with the other members of the IRG;
- The Chair could share any relevant report with the other members of the IRG before they had received the principal reports, if they decided it was appropriate to do so;
- If a relevant report had been shared with a member of the IRG, that person could not disclose the contents of the report unless the Chair had permitted it or the IRG's Independent Academic Report (see section 12.16 below) had been produced.

12.16 Independent academic report on themes and patterns

When the IRG is in receipt of the four principal reports, it would commission academic experts to identify and then report to the IRG on the patterns and themes that are included in the relevant reports (see section 10.4 on page 47). In relation to this work, academic experts would act independently of the UK Government, the Irish Government and of all Northern Ireland Executive Ministers and Departments and any other person or political influence.

The academics could also take into account information from other reports, should they think it appropriate to do so and where the information had been lawfully made available to them:

- Family reports or interim reports produced by the HIU and that had been published or shared with the academic experts by the family concerned;
- Any of the HIU's published annual reports or any report provided by the HIU to the Policing Board, the Northern Ireland Department of Justice or the Secretary of State which had been published;

- Family reports produced by the ICIR that had been published or shared with the academic experts by the family concerned;
- Any of the ICIR's published annual reports;
- The records in the OHA that had been made publicly available;
- Any of the OHA's published annual reports;
- Any family reports produced by the PSNI Historical Enquiries Team that had been made publicly available or provided to the academics by the relevant families;
- Any reports from the Police Ombudsman for Northern Ireland Historical Investigations Directorate that had been made publicly available or provided to the academics by the relevant families;
- Decisions of the criminal courts in the UK and Ireland that had been made publicly available;
- Judgements of civil courts in the UK and Ireland that had been made publicly available; or
- Any conclusions or findings from Coroners' proceedings in the UK and Ireland or any findings from inquiries under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2015 that had been made publicly available.

The Chair of the IRG would ensure that the report produced by academics did not contain any information which, in the Chair's opinion, might put at risk the life or safety of any person or contravene the Data Protection Act 1998 if it were published. The IRG would give copies of the report produced by academic experts to the First Minister, the deputy First Minister, the Secretary of State and the Government of Ireland. They would all be given the report at the same time. The First Minister and deputy First Minister acting jointly would lay a copy of the report before the Northern Ireland Assembly and publish the report in a format that they consider appropriate.

List of consultation questions

Question 1: Current system for addressing the past		
Do you consider that maintaining the current system for dealing with the issues of the past through legacy inquests, PSNI and OPONI investigations is the right approach, or do you think there is a need for reform?		
Question 2: Stormont House Agreement proposals - engagement with legacy institutions	Yes	No
Does the proposed approach help to ensure all groups of people can effectively engage with the legacy institutions?		
If no, please suggest additional measures that would improve this for specific groups:		
Any further comments:		
Question 3: HIU remit	Yes	No
Should the HIU's remit also include deaths which took place between the signing of the Belfast Agreement on 10 April 1998 and 31 March 2004?		
Any further comments:		
Question 4: HIU - Director assessing previous investigations and deciding whether further investigation is needed	Yes	No
Do you think that the process set out above is the right way to assess whether an investigation into a Troubles-related death has taken place or whether investigation is needed?		

Any further comments:		
Question 5: HIU - disclosure appeals mechanism	Yes	No
Do you think that the proposed mechanism to appeal disclosure decisions to a judge provides adequate opportunity to challenge decisions by the UK Government to protect information?		
Question 6: HIU - overall view	Yes	No
Does the HIU provide a method to take forward investigations into outstanding Troubles-related deaths in a proportionate, victim-centred manner with an appropriate structure and safeguards?		
Any further comments:		
Question 7: Independent Commission on Information Retrieval		
What actions could the ICIR take to support families who seek information about the death of their loved one?		
Question 8: Independent Commission on Information Retrieval	Yes	No
Do you think the ICIR is structured correctly, with the right powers and protections, in a way that would provide victims and survivors with the chance to seek and receive information about the deaths of their loved one?		
Any further comments:		
Question 9: Oral History Archive	Yes	No
Do you think that the Oral History Archive proposals provide an appropriate method for people from all backgrounds to share their experiences of the Troubles in order to create a valuable resource for future generations?		
Any further comments:		

Question 10: Oral History Archive		
What steps could be taken to ensure that people who want to share their experiences of the Troubles know about the Archive and are encouraged to record their stories?		
Any further comments:		
Question 11: Commissioning the academic report on themes and patterns	Yes	No
Do you think that the ESRC should be engaged to commission the academic work on patterns and themes to ensure independence, impartiality and best practice in academic research?		
Any further comments:		
Question 12: Implementation and Reconciliation Group	Yes	No
Do you think the IRG is appropriately structured to allow it to review the work of the legacy institutions, to commission an independent academic report and promote reconciliation?		
Any further comments:		

Question 13: Stormont House Agreement proposals - overall view	Yes	No
Do you think that the package of measures proposed by the Stormont House Agreement provides an appropriately balanced and planned way to move Northern Ireland forward that can command the confidence of the community?		
Any further comments:		
Question 14: Other views on the past		
Do you have any views on different ways to address the legacy of Northern Ireland's past, not outlined in this consultation paper?		
Question 15: Impact of the current system		
What are your views on the impact of the current system for addressing the past (as outlined in Part one) for different groups as described by Section 75 of the Northern Ireland Act 1998?		
Question 16: Impact of the Stormont House Agreement proposals		
What are your views on the impact of the Stormont House Agreement proposals (as outlined in Part two) for different groups as described by Section 75 of the Northern Ireland Act 1998?		
Question 17: Opportunity to promote equality of opportunity or good relations		
Is there an opportunity to better promote equality of opportunity or good relations?		