NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Advice on the Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland

October 2025

Table of Contents

1.0 Introduction

1.1 The Northern Ireland Human Rights Commission (the NIHRC), pursuant to section 69(1) of the Northern Ireland Act 1998, is required to keep under review the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). The NIHRC is also required, by section 78A(1) of the Northern Ireland Act 1998, to monitor the implementation of Article 2 of the Windsor Framework, to ensure there is no diminution of rights protected in the "Rights, Safeguards and Equality of Opportunity" chapter of the Belfast (Good Friday) Agreement 1998 as a result of the UK's withdrawal from the EU.[1] In accordance with these statutory duties, the following submission is made to the House of Commons NI Affairs Committee regarding the Joint Framework between the Government of the UK of Great Britain and NI and the Government of Ireland.

1.2 Overall, the NIHRC welcomes the publication of the Joint Framework. It is clear that progress has been made. The unequivocal commitment to human rights compliance is significant and particularly welcomed. The NIHRC also recognises the effort and good faith that is behind this Joint Framework. Below the NIHRC outlines the specific areas that it welcomes and others where there continues to be room for improvement to ensure full human rights compliance. This advice should be read in light of earlier advice of the NIHRC.[2]

[1] The Windsor Framework was formerly known as the Protocol on Ireland/Northern Ireland to the UK-EU Withdrawal Agreement and all references to the Protocol in this document have been updated to reflect this change. *See* Decision No 1/2023 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework.

[2] NI Human Rights Commission, 'Advice on NI Troubles (Legacy and Reconciliation) Bill' (NIHRC, 2022); NI Human Rights Commission, 'Supplementary Briefing: UK Government's Proposed Amendments to NI Troubles (Legacy and Reconciliation) Bill' (NIHRC, 2023); Letter from the NI Human Rights Commission to the Lord Jay of Ewelme, Chair of the House of Lords Sub-Committee on the Protocol on Ireland/NI, 30 January 2023; NI Human Rights Commission, 'Submission to the House of Commons and House of Lords Joint Committee on Human Rights: Remedial Order to the NI Troubles (Legacy and Reconciliation) Act 2023' (NIHRC, 2025); NI Human Rights Commission, 'Submission to the NI Affairs Committee's Inquiry into the Government's New Approach to Addressing the Legacy of the Past in NI' (NIHRC, 2025).

2.0 Delivery of a Fundamentally Reformed Commission

Immunity scheme

2.1 The Joint Framework commits to ending the immunity scheme.[3] This will be achieved through the proposed Remedial Order.

2.2 An immunity scheme such as that provided for within the NI Troubles (Legacy and Reconciliation) Act 2023 (the 2023 Act) is not lawful and is not human rights compliant, particularly considering Articles 2 (right to life) and 3 (freedom from torture) of the ECHR.[4] The Court of Appeal in NI also held that a decision to grant immunity was tantamount to a decision not to prosecute and that the conditional immunity provisions in the 2023 Act resulted in a diminution of the right in the EU Victims' Directive.[5] The Court of Appeal in NI upheld the decision of the High Court of Justice in NI that the conditional immunity provisions in the 2023 Act breached Windsor Framework Article 2.[6]

2.3 The NIHRC welcomes the commitment to end the immunity scheme.

[3] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 5.
[4] *Margus v Croatia* (2014) ECHR 523, at para 126; *Abdülsamet Yamana v Turkey* (2004) ECHR 572, at para 55; *Ali and Ayse Duran v Turkey* (2008) ECHR 289, at para 69; *Okkali v Turkey*, Application No 52067/99, Judgment of 17 October 2006, at para 76; *Yesil and Sevim v Turkey*, Application No 34738/04, Judgment of 5 June 2007, at para 38.
[5] *In the Matter of an Application by Martina Dillon and Others* [2024] NICA 59, at paras 131, 161 and 310. Article 11 of the EU Victims Directive affords victims of crime the right to a review of a decision not to prosecute. (Directive 2012/29/EU, 'EU Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012). Other EU obligations underpinning the rights of victims include Directive 2011/36/EU 'EU Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims', 5 April 2011; Directive 2011/92/EU, 'EU Parliament and Council Directive on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography', 13 December 2011; Directive 2004/80/EC, 'EU Council Directive Relating to the Compensation to Crime Victims', 29 April 2004.
[6] *In the Matter of an Application by Martina Dillon and Others* [2024] NICA 59, at paras 131, 161 and 310; *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NIKB 11, at paras 608 and 710.

Civil actions

2.4 The Joint Framework commits to lifting the prohibition on new legacy-related civil actions.[7] This will be achieved through the proposed Remedial Order.

2.5 The immediacy of the changes to a victim's access to justice provided for within the 2023 Act, including immediately ceasing legacy-related civil proceedings, closed off any pursuit of justice outside of the investigatory body. Therefore, this approach was incompatible with Articles 6 (right to a fair trial) and 13 (right to an effective remedy) of the ECHR and Article 1 of Protocol No 1 of the ECHR (protection of property).[8] The Court of Appeal in NI also found that there was no effective remedy by way of compensation as there was no possibility of victims of troubles-related offences receiving compensation, either through criminal or other proceedings, from the offender as a result of the 2023 Act.[9] This resulted in a diminution of rights contrary to the EU Victims' Directive.[10]

2.6 There are over 1,000 ongoing legacy civil claims against State agencies.[11] While the proposed Remedial Order will remove the prohibition on new Troubles-related civil cases, it does not contain any alternative provisions that will ensure prompt and expeditious determinations of any outstanding claims. The ECtHR has been clear that excessive and unreasonable delays in the examination of a claim may breach an individual's right to fair trial (Article 6 of the ECHR).[12] Additionally, that a "chronic overload… cannot justify an excessive length of proceedings".[13]

---

[7] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 5.
[8] *Golder v UK* (1975) 1 EHRR 524, at para 28; *Philis v Greece* (1991) 13 EHRR 741, at para 59; *Vilho Eskelinen v Finland* (2007) ECHR 314; *Isayeva v Russia* (2005) ECHR 128, at para 229; *Bityeva and Others v Russia* (2009) ECHR 672, at para 121; *Akhmadova and Akhmadov v Russia* (2008) ECHr 869, at para 103; *El-Masri v The Former Yugoslav Republic of Macedonia* (2012), Application No 39630/09, Judgment of 13 December 2012, at para 255.
[9] *In the Matter of an Application by Martina Dillon and Others* [2024] NICA 59, at para 133.
[10] *In the Matter of an Application by Martina Dillon and Others* [2024] NICA 59, at paras 132-136. Article 16 of the EU Victims' Directive provides that victims entitled to obtain a decision on compensation by the offender in the course of criminal proceedings, except where national law provides for such a decision to be made in other legal proceedings. (Directive 2012/29/EU, 'EU Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012).
[11] UK Parliament Hansard, 'Written Answers: Civil Proceedings and Coroners NI – Baroness Anderson of Stoke-on-Trent – UIN HL2914', 26 November 2024.
[12] *Frydlender v France* (2000) ECHR 353, at para 43; *Von Maltzan and Others v Germany*, at para 132.
[13] *Probstmeier v Germany* (1997) ECHR 40, at para 64.

2.7 In addition to removing the legal prohibition on new civil cases it is vital that the NI Office considers what measures can be taken to ensure civil actions relating to the conflict are considered and determined efficiently and effectively.

2.8 The NIHRC welcomes the commitment to remove the prohibition on new legacy-related civil actions. However, consideration should be given to what measures will be taken to ensure any claims are considered and addressed in an expeditious manner.

Effective investigation

2.9 The Joint Framework commits to:

a) a renaming to the Legacy Commission;

b) tasking the Legacy Commission to carry out investigations and explore all relevant investigative leads;

c) ensuring that Legacy Commission investigations are capable of leading to prosecutions where there is evidence of wrongdoing;

d) establishing a judge-led Inquisitorial Mechanism within the Legacy Commission, with the power to hold public hearings and provide effective next of kin participation, including through legal representation. It will also have the power to use closed hearings to consider sensitive information;

e) the Legacy Commission facilitating disclosure of the maximum possible amount of information to families consistent with the requirements of national security and to protect life.[14]

[14] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 4, 5 and 6.

2.10 It is indicated that the power to refer cases to the Legacy Commission will be expanded to include other entities in specific circumstances, including the Chief Constable of the Police Service of NI, the Police Ombudsman for NI, and the Director of Public Prosecutions of the Public Prosecution Service for NI.[15] Additionally, where the Legacy Commission finds evidence of potential criminality relating to police officers which falls outside of its remit, the Legacy Commission will refer that conduct to the Police Ombudsman for NI for consideration.[16]

2.11 It is indicated that case reviews will take place in line with standard UK practice and the outcome of that review will determine how an investigation proceeds.[17] For example:

- If there are evidential leads capable of leading to a possible prosecution, the Commission will proceed with a criminal investigation in line with recognised UK investigative standards. Also in line with UK investigative standards, this does not – in any way – reflect an assumption of criminality. If the evidential test is met the Commission will refer the case to the relevant prosecuting authority, as is currently the case.

- If there are no evidential leads capable of leading to a prosecution and all investigative leads have been explored and exhausted, a fact finding investigation will proceed. Fact finding investigations will result solely in a family report and will be based on the 'balance of probability' threshold.

[15] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[16] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[17] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 5.

- In all cases, the Commission will focus on providing as much information as possible regarding the circumstances of the case to families.[18]

2.12 It is also indicated that the new Inquisitorial Mechanism will draw closely on the UK Inquiries Act 2005.[19] This mechanism will be operated by a presiding judge that will be drawn from a panel of serving and/or retired judges.[20] They will be tasked with producing reports setting out the findings in Legacy Commission investigations.[21] The panel of judges will be appointed by the Secretary of State who will be under a duty to take advice on those appointments from a panel of relevant person/s, including the appropriate NI and Great Britain judicial advice.[22]

2.13 For an investigation concerning Articles 2 and 3 of the ECHR to be effective it "must be based on thorough, objective and impartial analysis of all relevant elements" and follow "an obvious line of inquiry".[23] Depending on the investigation that has gone before, if any, there may be more examination and inquiry required for one case than another, but the end goal remains the same. The investigation should seek to establish what happened,[24] identify the perpetrator and hold the perpetrator to account,[25] with a view to preventing future violations.[26]

2.14 Articles 2 and 3 of the ECHR require that the UK Government ensures the Troubles-related investigatory body has the ability to initiate and pursue cases of its own motion.[27] Furthermore, Articles 2 and 3 of the ECHR require that the UK Government provides a

[18] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 5.
[19] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[20] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[21] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[22] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[23] *Kolevi v Bulgaria* (2009), at para 201; *Armani da Silva v UK* (2016), at para 234.
[24] UN Office of the High Commissioner for Human Rights, 'The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions' (OHCHR, 2016).
[25] *Kaya v Turkey* (1998) ECHR 10, at para 87.
[26] *Paniagua Morales et al* (1998), Inter-American Court of Human Rights, Judgment of 8 March 1998, at para 173; *Armani da Silva v UK* (2016), at para 230.
[27] *Ilhan v Turkey* (2000) ECHR 354, at para 63; *Jelic v Croatia* (2014) ECHR 809, at para 66; *Ergi v Turkey* (1998), ECHR 59, at para 82.

comprehensive mechanism to objectively assess whether investigative obligations have been complied with regarding all Troubles-related offences.[28] Such a mechanism should include a requirement to assess whether previous Troubles-related investigations were effective as required by the ECHR. Also, any cases deemed to be non-human rights compliant in whole or in part, that a process is in place whereby these are added to the caseload of the Troubles-related investigatory body.

2.15 Additionally, there is a requirement on the investigative body to publish all its reports, with limited exception.[29] There should be a structured approach towards what is or is not included in a draft and final report. Where exceptions are in place they must be lawful and proportionate and include safeguards that ensure these are not applied arbitrarily and that the commitments aimed at enabling effective public scrutiny are not illusory.[30]

2.16 Furthermore, the investigatory body should be able to effectively investigate all cases within its remit. The implication is that the Legacy Commission is the intended body to investigate all legacy cases related to Articles 2 and 3 of the ECHR. Yet, within the 2023 Act there is a limited definition of offences regarding Article 3 of the ECHR that would fall within the investigatory body's remit.[31] This takes the form of a prescriptive list that is limited to extreme injuries and does not accommodate rehabilitative injuries.[32] This ignores the absolute nature of this right. A human rights compliant approach requires that there is a broad approach adopted to determine what offences fall within the investigatory body's mandate.[33] There should be flexibility built in to ensure the individual circumstances of each potential case and broader human rights commitments, including the investigative obligations attached to Articles 2 and 3 of the ECHR, can be considered and are used to

[28] *Brecknell v UK* (2007) ECHR 989, at paras 70 and 71.
[29] *McCann v UK* (1995) 21 EHRR 97, at para 159; *McKerr v UK* (2001) ECHR 329, at para 115; *Hugh Jordan v UK* (2001) ECHR 327, at paras 122-124; *Eremiásová and Pechová v Czech Republic*, Application No 23944/04, Judgment of 16 May 2012, at para 149; *Ogur v Turkey* (1999) ECHR 30, at para 92; *Leander v Sweden* (1987) ECHR 4, at para 51.
[30] *McCann v UK* (1995) 21 EHRR 97, at para 159; *McKerr v UK* (2001) ECHR 329, at para 115; *Hugh Jordan v UK* (2001) ECHR 327, at paras 122-124; *Eremiásová and Pechová v Czech Republic*, Application No 23944/04, Judgment of 16 May 2012, at para 149; *Ogur v Turkey* (1999) ECHR 30, at para 92; *Leander v Sweden* (1987) ECHR 4, at para 51.
[31] Section 1(6), NI Troubles (Legacy and Reconciliation) Act 2023.
[32] Section 1(6), NI Troubles (Legacy and Reconciliation) Act 2023.
[33] *Mursic v Croatia* (2016) ECHR 927, at para 97.

inform the determination of whether a case should be considered by the investigatory body.[34]

2.17 Regarding the immediate cessation of criminal investigations (other than those referred by the investigatory body to the prosecutor) and police complaints raised concerns regarding access to justice and an effective remedy.[35] Article 13 of the ECHR provides that for a remedy to be effective it must be accessible, capable of providing redress in respect of the complaint and offer a reasonable prospect of success.[36] In other words, it must be available, sufficient, and effective in theory and practice, having regard to the individual circumstances of the case.[37]

2.18 The purpose of the EU Victims' Directive is to ensure that victims of crime and their family members, receive appropriate information, support and protection and are able to participate in criminal proceedings.[38] The EU Victims' Directive provides that a victim of a criminal offence has a right to receive information enabling them to know details of the criminal proceedings, including any decision not to proceed with or to end an investigation or not to prosecute the offender.[39] The EU Directive states that "sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings".[40] The EU Directive further provides for the right of victims to be heard during criminal proceedings and to provide evidence.[41] The Court of Appeal in NI has also confirmed that EU Victims' Directive is to be interpreted in accordance with the EU Charter of Fundamental Rights and general principles of EU law.[42] Article 47 of the EU Charter protects the right to an effective remedy and to a fair trial.

---

[34] *Mursic v Croatia* (2016) ECHR 927, at para 97.
[35] Sections 38-45, NI Troubles (Legacy and Reconciliation) Act 2023.
[36] *Bityeva and Others v Russia* (2009) ECHR 672, at para 121; *Akhmadova and Akhmadov v Russia* (2008) ECHr 869, at para 103.
[37] *El-Masri v The Former Yugoslav Republic of Macedonia* (2012), Application No 39630/09, Judgment of 13 December 2012, at para 255.
[38] Article 1 and Recital 19, Directive 2012/29/EU, 'Directive of European Parliament and the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.
[39] Article 6, Directive 2012/29/EU, 'Directive of European Parliament and the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.
[40] Recital 36, Directive 2012/29/EU, 'Directive of European Parliament and the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.
[41] Criminal proceedings commence the moment a complaint is made and include where authorities initiate criminal proceedings. Recital 22, Directive 2012/29/EU, 'Directive of European Parliament and the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.
[42] *In the Matter of an Application by Martina Dillon and Others* [2024] NICA 59, at para 126.

2.19 The NIHRC's general position is that the UK Government introduces legislation that is victim-centred, does not restrict the investigation and prosecution of alleged unlawful killings and serious injuries, is compatible with Articles 2 (right to life) and 3 (freedom from torture) of the ECHR and compliant with Windsor Framework Article 2 and the EU Victims' Directive. Also, that the new legislation enables the pursuit of justice in compliance with Articles 2 and 3 of the ECHR, EU Victims' Directive and Windsor Framework Article 2.

2.20 The NIHRC welcomes the broad principles outlined in the Joint Framework regarding the effectiveness of investigations. Nevertheless, the proposals (from the detail available) currently fail to enable the Legacy Commission to determine its own caseload, without relying exclusively on requests for investigation. This will potentially have a knock-on effect on the effectiveness of the judge-led Inquisitorial Mechanism, which will only be able to consider the cases where requests are made. However, any gap regarding the Inquisitorial Mechanism may be addressed in practice through the proposed approach to pending inquests either being assigned to the Legacy Commission or the coronial system. Even if this is the case, the broader concern remains.

2.21 The NIHRC is concerned that the Joint Framework does not include a commitment to introduce an assessment mechanism to consider the human rights compliance of cases that have already been 'investigated' by other bodies, with a view to adding cases that have not been subject to a human rights compliant investigation in whole, or in part, are added to the caseload of the Legacy Commission.

2.22 The NIHRC welcomes the inclusion of the Police Service of NI as a body that can request an investigation by the Legacy Commission. This should enable the cases that were sitting with the Legacy Branch within the Police Service of NI to be handed over to the Legacy Commission. However, this will rely on a willingness for the Police Service of NI to do so.

2.23 The NIHRC welcomes enabling cases to be referred to the Police Ombudsman for NI. However, there will need to be clarity that the Police Ombudsman for NI has its powers fully reinstated to effectively investigate these cases.

2.24 The NIHRC welcomes the clarity that the Legacy Commission should follow all lines of inquiry with a view to achieving a prosecution, where possible. The emphasis that investigations will continue, even where prosecutions are deemed not possible is also welcomed.

2.25 The NIHRC welcomes the emphasis on providing information for the families, whose special position should be acknowledged. In addition, provision should be made for families to participate and be heard. The NIHRC is concerned that, in only allowing family reports in such instances, there will be insufficient public scrutiny for investigations that do not lead to a prosecution.

2.26 The NIHRC remains concerned that the Joint Framework does not address the limited definition of offences that the Legacy Commission can investigate. This opens up the potential for many cases related to Article 3 of the ECHR to continue to fall outside of the Legacy Commission's remit. There do not appear to be any plans to rectify this through an additional body. Use of the Information Retrieval Body for this purpose would be insufficient, as cases related to Article 3 of the ECHR have the same investigatory obligations as cases concerning Article 2 of the ECHR.

Next of kin and disclosure

2.27 The Joint Framework commits to:

a) the Legacy Commission providing as much information as possible regarding the circumstances of the case to families;

b) establishing a judge-led Inquisitorial Mechanism within the Legacy Commission, with the power to hold public hearings and provide effective next of kin participation, including through legal representation; and

c) the Legacy Commission facilitating disclosure of the maximum possible amount of information to families consistent with the requirements of national security and to protect life.[43]

2.28 It is indicated that the disclosure scheme will be amended in several ways. The definition of sensitive information will be reformed to not designate information as sensitive by virtue of the organisation from which it originates.[44] The Secretary of State for NI will no longer have the power to give guidance to the Legacy Commission about the identification of sensitive information.[45] Reflecting the Inquiries Act 2005, the relevant Secretary of State will have a statutory duty to conduct a balancing exercise – set out in legislation – in deciding whether the overall public interest favours a disclosure of sensitive information.[46] Additionally, the victim, the next-of-kin, or the Legacy Commission may appeal a decision to withhold sensitive information from onward disclosure to the relevant court, consistent with the principles applicable on an application for judicial review.[47]

2.29 Articles 2 and 3 of the ECHR require that the UK Government introduces a requirement that the Troubles-related investigations body publishes all of its reports, subject only to very limited and precise exception.[48] This includes considering introducing a requirement that all exceptions must be lawful and proportionate and include safeguards that ensure these are not applied arbitrarily

[43] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 4.
[44] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[45] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[46] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[47] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[48] *McCann v UK* (1995) 21 EHRR 97, at para 159; *McKerr v UK* (2001) ECHR 329, at para 115; *Hugh Jordan v UK* (2001) ECHR 327, at paras 122-124; *Eremiásová and Pechová v Czech Republic*, Application No 23944/04, Judgment of 16 May 2012, at para 149; *Ogur v Turkey* (1999) ECHR 30, at para 92; *Leander v Sweden* (1987) ECHR 4, at para 51.

and that the commitments aimed at enabling effective public scrutiny are not illusory.[49]

2.30 Furthermore, that Articles 2 and 3 of the ECHR require that the UK Government ensures that the definition of 'close family member' is not too narrow.[50] For example, it should at least extend to grandparents, aunts, uncles, nieces, nephews, or grandchildren.

2.31 The ECHR also requires that the UK Government explores how to ensure that the definition of 'other family member' permits situations in which a non-familial person, with close personal links and who provides care for a victim, can seek remedy on the victim's behalf.[51]

2.32 Additionally, human rights law requires that the UK Government ensures the right of victims and their family members to receive information about their case will be expressly protected.[52]

2.33 The NIHRC welcomes the broad principles outlined in the Joint Framework regarding next of kin and disclosure. It is particularly welcomed that family members are given specific consideration, which was previously lacking. However, this should not be at the expense of proportionate broader public scrutiny.

[49] *McCann v UK* (1995) 21 EHRR 97, at para 159; *McKerr v UK* (2001) ECHR 329, at para 115; *Hugh Jordan v UK* (2001) ECHR 327, at paras 122-124; *Eremiásová and Pechová v Czech Republic*, Application No 23944/04, Judgment of 16 May 2012, at para 149; *Ogur v Turkey* (1999) ECHR 30, at para 92; *Leander v Sweden* (1987) ECHR 4, at para 51.
[50] *McCann v UK* (1995) 21 EHRR 97; *Salman v Turkey* (2000) ECHR 357; *Velikova v Bulgaria* (2000) ECHR 198; *Ramsahai and Others v the Netherlands* (2007) ECHR 393; *Giuliani and Gaggio v Italy* (2011) ECHR 513; *Andronicou and Constntinou v Cyprus*, Application No 86-1996-705-897, Judgment of 9 October 1997; *McKerr v UK* (2001) ECHR 329; *Yasa v Turkey* (1998) ECHR 83.
[51] *Guberina v Croatia* (2016) ECHR 287, at paras 77-79; *Belli and Arquier-Martinez v Switzerland* (2018) ECHR 1012, at para 97.
[52] *McKerr v UK* (2001) ECHR 329; *Hugh Jordan v UK* (2001) ECHR 327; *Gül v Turkey*, Application No 22676/93, 14 December 2000; *Ogur v Turkey* (1999) ECHR 30; *Gülec v Turkey*, Application No 21593/93, 27 July 1998; *McCann v UK* (1995) 21 EHRR 97; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at para 28; A/HRC/21/46, 'Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff', 9 August 2012, at para 54; UN General Assembly, 'Guidance Note of the Secretary-General: UN Approach to Transitional Justice' (UNGA, 2010), at 2; UN Office of the High Commissioner for Human Rights, 'The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions' (OHCHR, 2016), at paras 11 and 35; UN Economic and Social Council, 'Resolution 1989/65: Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions', 24 May 1989, at para 9

2.78 The NIHRC advises that the definition of 'close family member' within the 2023 Act is too narrow. It should extend to grandparents, aunts, uncles, nieces or nephews.

2.34 The NIHRC advises that the definition of 'other family member' within the 2023 Act should take account of situations where it may be appropriate for a non-familial person, with close personal links and who provides care for a victim to seek remedy on the victim's behalf.

2.35 The NIHRC welcomes that the Secretary of State for NI is to no longer have the power to give guidance to the Legacy Commission about the identification of sensitive information. This helps to address the concerns regarding the extent of the Secretary of State for NI's influence from the perspective of independence and impartiality.

Independence and impartiality

2.36 The Joint Framework commits to:

a) establish a new statutory Oversight Board for the Legacy Commission;

b) set out robust conflicts of interest duties in legislation; and

c) establish a statutory Victims and Survivors Advisory Group for the Legacy Commission.[53]

2.37 It is indicated that the Legacy Commission will be overseen by the Oversight Board.[54] The Chair and members of the Oversight Board will be appointed by the Secretary of State for NI, on the advice of relevant person/s.[55] The Secretary of State for NI (on the advice of

[53] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[54] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 4.
[55] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 4.

the relevant person/s) must ensure that, as far as is practicable, the Oversight Board will include international expertise.[56] As Accounting Officer, the Legacy Commission's CEO will sit on the Oversight Board.[57] Other senior staff of the Legacy Commission may report to the Oversight Board as required, and are ultimately accountable to it.[58]

2.38 Additionally, the Oversight Board will consider the Legacy Commission's exercise of police powers.[59] There will be a new duty to appoint an independent person or body to conduct scheduled reviews of the performance by the Legacy Commission of its statutory functions, as well as continued oversight by the various UK police conduct bodies through agreements provided for in statute.[60]

2.39 It is also indicated that where appointments to new roles are made, the Secretary of State for NI will be under a duty to take advice on those appointments from a panel of relevant person(s) and publish from whom they have taken advice.[61]

2.40 It is indicated that, recognising that having a single Commissioner for Investigations does not provide scope to fully address conflict of interest concerns at the most senior level, the Legacy Commission will instead have two Co-Directors for Investigations of equal standing, appointed by the Secretary of State for NI on the advice of relevant person/s.[62] In making these appointments, the Secretary of State for NI (on the advice of the relevant person/s) should ensure that one Co-Director will have experience of conducting criminal investigations in NI, and one will not have that

[56] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[57] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[58] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[59] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[60] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[61] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[62] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.

experience but will have experience of conducting criminal investigations outside NI.[63]

2.41 Furthermore, more extensive conflicts of interest duties will be placed on statutory footing in order to build confidence.[64] Cases will be allocated according to the new statutory duties, overseen by the CEO of the Legacy Commission.[65] The Legacy Commission will be under a duty to consult with the requesting individual or family, allowing them to raise an objection if they have concerns about conflicts of interest relating to officers involved in their case.[66] Any objection must be considered, and escalated to the new Oversight Board for resolution where required.[67]

2.42 Articles 2 and 3 of the ECHR require that the UK Government ensures that the extent of the Secretary of State's influence and involvement across the Troubles-related investigatory body's operations does not prevent it from being sufficiently independent and impartial.[68]

2.43 Articles 2 and 3 of the ECHR also require that the UK Government introduces a requirement to ensure that the investigatory body is independent and impartial in law and practice.[69] It is "necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events".[70] This requires a "lack of hierarchical or institutional connection, but also a practical independence".[71] For example, like that within Operation Kenova, that Commissioners or staff of the Troubles-related investigatory

[63] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[64] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[65] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[66] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[67] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[68] *Kamalak v Turkey* (2013), Application No 2251/11, Judgment of 8 October 2013, at para 31; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at para 28; *Ergi v Turkey* (1998), ECHR 59, at paras 83-84; *Hugh Jordan v UK* (2001) ECHR 327, at para 120; *McKerr v UK* (2001) ECHR 329, at para 128.
[69] *Kamalak v Turkey* (2013), Application No 2251/11, Judgment of 8 October 2013, at para 31; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at para 28; *Ergi v Turkey* (1998), ECHR 59, at paras 83-84; *Hugh Jordan v UK* (2001) ECHR 327, at para 120; *McKerr v UK* (2001) ECHR 329, at para 128.
[70] *Ergi v Turkey* (1998), ECHR 59, at paras 83-84; *Hugh Jordan v UK* (2001) ECHR 327, at para 120; *McKerr v UK* (2001) ECHR 329, at para 128.
[71] Ibid.

body are not permitted to be personnel who are serving in or have previously served in the Royal Ulster Constabulary, Police Service of NI, Ministry of Defence or Security Services.

2.44 The NIHRC welcomes that the Joint Framework commits to the introduction of new safeguards to balance the extent of the Secretary of State for NI's decision-making power regarding the Legacy Commission.

2.45 The NIHRC welcomes that it is intended that safeguards regarding conflicts of interest will be explicitly included within the proposed primary legislation. However, while there does appear to be an attempt to reach a middle ground through requiring a mix of experiences, it is notable that a Kenova approach has not been included regarding limitations on who can be appointed as Commissioners or staff within the Legacy Commission. It is also unclear the exact impact that introducing two Co-Directors will have on the Commissioner for Investigations role, particularly in the context of ensuring the structural independence and impartiality of the Legacy Commission. For example, do these new roles replace the role of Commissioner for Investigations, or will they work alongside the Commissioner, and how will these new arrangements operate in practice.

Winding up the Legacy Commission

2.46 The Joint Framework intends that from the point at which the amended legislation receives Royal Assent, the five year period in which cases may be referred to the Legacy Commission will restart.[72] The Secretary of State for NI may, following the end of the five year period, make provision for winding up the Legacy Commission, if they are satisfied that the need for the Legacy Commission to exercise its functions has ceased.[73] Before they do so, they must consult with the Legacy Commission and any other

[72] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[73] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.

person they consider appropriate.[74] A duty will be established for the Secretary of State for NI to publish a report following that consultation, for transparency and to give assurance around the rationale for winding up (or otherwise).[75] The report should set out the views of the consultees and detail the rationale for winding up (or otherwise).[76] Furthermore, once the Legacy Commission concludes its work, responsibility for the investigation of Troubles-related cases will revert to the relevant police force.[77]

2.47 The ability for the Secretary of State for NI to close the investigatory body, if they are satisfied that the need for the Legacy Commission to exercise its functions has ceased, will likely mean that the Secretary of State can prevent the investigatory body from completing its work. The High Court of Justice in NI was content that the requirement for Parliamentary approval through the Affirmative Procedure was a sufficient safeguard.[78] While accepting that the Secretary of State will require high-level involvement in setting up and maintaining the investigatory body, this could undermine the investigatory body's independence and impartiality.[79]

2.48 The NIHRC welcomes that new safeguards are in place to ensure that the Secretary of State for NI is making an informed decision regarding the closure of the Legacy Commission.

2.49 The NIHRC welcomes the indication that the Secretary of State for NI will not be able to close the Legacy Commission for at least five years, with the clock restarted.

2.50 The NIHRC remains concerned that the safeguards for winding up the Legacy Commission may be insufficient to

[74] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[75] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[76] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[77] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 7.
[78] *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NIKB 11, at para 265.
[79] *Kamalak v Turkey* (2013), Application No 2251/11, Judgment of 8 October 2013, at para 31; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at para 28; *Ergi v Turkey* (1998), ECHR 59, at paras 83-84; *Hugh Jordan v UK* (2001) ECHR 327, at para 120; *McKerr v UK* (2001) ECHR 329, at para 128.

prevent a political or resource based decision, as opposed to ensuring that the Legacy Commission is only closed after all effective investigations that fall within its remit are completed. It is indicated that the relevant police force will take over to address any gap regarding investigatory obligations, but the Legacy Commission is being established as this was deemed an insufficient approach.

Victim-centred approach

2.51 The Joint Framework commits to establishing a statutory Victims and Survivors Advisory Group for the Legacy Commission.[80]

2.52 It is intended that the Advisory Group will represent the voices of all individuals affected and will ensure that the needs of victims remain central to the work of the Legacy Commission.[81] The Advisory Group will be appointed by the Secretary of State for NI on the advice of relevant person(s).[82]

2.53 It is worth noting that members of the Victims and Survivors Forum that advises the Commissioner for Victims and Survivors are appointed by the Executive Office.[83]

2.54 The NIHRC's general position is that the UK Government introduces legislation that is victim-centred. The EU Victims' Directive lays down minimum standards on victims' rights and support and protection for victims and requires that victims of crime are "provided with sufficient access to justice".[84] The EU Directive recognises the need for coordination of public services to ensure victims receive the proper degree of assistance, support and

[80] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 4.
[81] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[82] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 6.
[83]
[84] Recital 9, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

protection and requires that that general and specialised training is provided to relevant officials.[85]

2.55 The NIHRC welcomes that victims and survivors will have a voice within the Legacy Commission and that this is to be guaranteed through being placed on a statutory footing.

2.56 The NIHRC advises that it is not uncommon for the Secretary of State for NI (or equivalent) to appoint who would be on the Advisory Group, however there will need to be safeguards in place to ensure that this decision is made using a victim-centred approach. This includes ensuring that victims and survivors and/or their representative organisations are included as persons who are consulted by the Secretary of State for NI for advice on the appointments.

2.57 The NIHRC advises that a victim-centred approach requires that victims and their family members should have access to appropriate supports and specialist services in line with the minimum standards in the EU Victims' Directive.

3.0 Inquests

3.1 The Joint Framework commits to remove the current legislative prohibition on Troubles-related inquests.[86] New provisions are to be introduced through primary legislation that will:

a) allow inquests that had started to proceed;

b) subject the inquests remaining as part of the Five Year Plan and those more recently directed by the Attorney General for NI to an independent assessment by the Solicitor General (or Advocate General for NI, as necessary), to consider each case. The decision to be

[85] Article 25 and Recitals 61 and 62, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.
[86] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.

made is whether the case would be dealt with by the Legacy Commission or via the coronial system.[87]

3.2 It is indicated that nine inquests, in the first instance, would be allowed to proceed.[88] However, should those inquests subsequently be subject to a determination by a coroner that they cannot proceed via the coronial system due to the exclusion of relevant sensitive information, they will be referred to the Legacy Commission.[89]

3.3 There will be 24 inquests that will be subject to the proposed independent review by the Solicitor General (or Advocate General for NI, as necessary) to determine if they proceed through the Legacy Commission or the coronial system.[90] There is to be a statutory obligation on the Solicitor General, in making this decision, to consider:

a) the likely role that sensitive information will play in each case. Reflecting the greater powers of the Legacy Commission in handling sensitive information, there will be a presumption in favour of referral to the Legacy Commission in cases that include relevant sensitive information;

b) how quickly the respective processes would be likely to commence and conclude, including the resources and capacity available to allow each case to proceed as an inquest or within the Legacy Commission;

c) consideration of any representations received from those directly party to the inquest.[91]

[87] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.
[88] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.
[89] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.
[90] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.
[91] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.

3.4 It is anticipated that the assessment process will take 18 months.[92] Coroners will also have to give consideration to the pre-existing case management protocol applying to legacy inquests and provisions for remote evidence.[93]

3.5 To be human rights compliant, an "investigation's conclusions must be based on thorough, objective and impartial analysis of *all* relevant elements… failing to follow an obvious line of inquiry undermines the investigations' ability to establish the circumstances of the case and the person responsible".[94] The State has discretion as to how this is achieved, but a human rights compliant investigation is not one that is "half-hearted and dilatory".[95]

3.6 Furthermore, the requirement to conduct reasonably prompt and expeditious investigations[96] cannot be a reason for legislation to be rushed through without meaningful consultation or the support of victims and survivors. Additionally, the speed of the process is peripheral if the other aspects of the procedural obligations of the right to life and freedom from torture are not met, particularly that investigations are thorough, independent and impartial. That said, immediate concrete steps should be taken to address these issues for the purpose of progressing offences that are awaiting a human rights compliant investigation.

3.7 The NIHRC welcomes the intended reinstatement of legacy-related inquests. However, the NIHRC advises that there does appear to be an implied preference for cases to be referred to the Legacy Commission. For example, due to the number of resources that have been made available to the investigatory body to date and how long it would take to

[92] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.
[93] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 8.
[94] *Kolevi v Bulgaria* (2009) ECHR 1838, at para 201; *Armani da Silva v UK* (2016), Application No 5878/08, Judgment of 30 March 2016, at para 234.
[95] *Acar and Others v Turkey* (2005) ECHR 313, at para 91.
[96] *Mentese and Others v Turkey* (2005) ECHR 22, at para 54; *Aslakhanova and Others v Russia* (2012) ECHR 2075, at paras 11-12; *Hugh Jordan v UK* (2001) ECHR 327, at para 136; *McKerr v UK* (2001) ECHR 329, at para 114; *Yasa v Turkey* (1998) ECHR 83, at para 104; *Mahmut Kaya v Turkey* (2000) ECHR 129, at para 107; CCPR/C/GC/36, 'UN Human Rights Committee General Comment No 36: Right to Life', 30 October 2018, at para 28; *Hugh Jordan v UK* (2001) ECHR 327, at paras 136 and 138; UN Office of the High Commissioner for Human Rights, 'The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions' (OHCHR, 2016), at para 23; CM/Notes/1436/H46-35, 'CoE Committee of Ministers Decision on McKerr Group v UK (Application No 28883/95), 10 June 2022.

reestablish the legacy unit within the coronial system, it is likely that a case would be able to proceed through the Legacy Commission faster than the coronial system. It is emphasised that speed does not guarantee the most effective way of investigating a case. With access to sensitive information as a deciding factor on where a case is referred to, it is also questionable that the Legacy Commission would be able to access more sensitive information than a Coroner would.

4.0 Information Retrieval Body

4.1 The Joint Framework commits to delivering on the Stormont House Agreement 2014 commitment to set up a cross-border body on information retrieval, initially on a pilot basis to test its effectiveness.[97]

4.2 It is intended that the Information Retrieval Body will afford families, in addition to the mechanisms provided by the Legacy Commission, a means to retrieve information about Troubles-related deaths by providing the opportunity to seek, on a voluntary basis, relevant information on the death of a loved one.[98]

4.3 It is intended that any information disclosed to the Information Retrieval Body will be inadmissible in criminal and civil proceedings. This will be made clear to all individuals seeking to access information through the body.[99] The work of the Information Retrieval Body should not impinge on investigations by the Legacy Commission, including in discharging its legal obligations.[100]

[97] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[98] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[99] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[100] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.

4.4 It is intended that the Information Retrieval Body will be a cross-border body, independent in the performance of its functions and have the legally capacity of a body corporate.[101]

4.5 It is intended that two Commissioners will lead the Information Retrieval Body who will be jointly appointed by the UK Government and Government of Ireland.[102]

4.6 It is intended that the Information Retrieval Body will operate for an initial period of three years, to comprise of a one-year preparatory phase and a two-year pilot phase.[103] After this period, the UK Government and Government of Ireland will assess the effectiveness of the pilot, after which it will be jointly determined whether the mechanism should continue to function.[104]

4.7 The NIHRC considered a similar approach during the 2018 consultation on addressing the legacy of the past.[105] This advice was specific to the approach proposed in that Bill. However, there were some general points made that are relevant to the proposed Information Retrieval Body. These focus on including that cases related to Article 3 of the ECHR were covered by the Information Retrieval Body.[106] Also, that a victim-centred approach was assured.[107]

4.8 The NIHRC welcomes that an approach that reflects the Stormont House Agreement 2014 is being taken to legacy-related information retrieval. However, the NIHRC advises that it is difficult to assess the human rights compatibility of this approach without seeing the exact details. Two main points at this stage are that the Information Retrieval Body

[101] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[102] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[103] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[104] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[105] NI Human Rights Commission, 'Submission to NI Office Consultation on Addressing the Legacy of NI's Past' (NIHRC, 2018).
[106] NI Human Rights Commission, 'Submission to NI Office Consultation on Addressing the Legacy of NI's Past' (NIHRC, 2018), at paras 4.4-4.6.
[107] NI Human Rights Commission, 'Submission to NI Office Consultation on Addressing the Legacy of NI's Past' (NIHRC, 2018), at paras 4.1-4.25.

should consider cases that concern Articles 2 and 3 of the ECHR. Also, that a victim-centred approach is taken.

5.0 Cross-Border Cooperation

5.1 The Joint Framework commits to the Government of Ireland legislating to enable the fullest possible cooperation of the relevant Irish authorities with the Legacy Commission, once established, in relation to all its investigations.[108] On the same basis and in the same spirit, the UK authorities will provide reciprocal cooperation to Ireland.[109]

5.2 The Government of Ireland has also committed to setting up a dedicated unit within An Garda Síochána.[110] This is to be a central point of contact for cross-border cooperation on Troubles-related cases and Troubles-related investigation being undertaken by An Garda Síochána.[111]

5.3 The Government of Ireland also reaffirmed its commitment to the investigation by An Garda Síochána of all unresolved Troubles-related incidents within its jurisdiction and to ensure that any potential new investigatory opportunities are proactively pursued.[112]

5.4 Under Article 1 of the ECHR, multiple States can have investigative obligations for the same case. A State has investigative obligations under Articles 2 and 3 of the ECHR, if an alleged violation took place within its jurisdiction or authorities from that State had "any causal connection with its occurrence".[113] Where an alleged violation involves multiple States, sharing of information is key to fulfilling these obligations, which was not provided for within the 2023 Act.

---

[108] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[109] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 9.
[110] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 10.
[111] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 10.
[112] NI Office, 'The Legacy of the Troubles: A Joint Framework Between the Government of the UK of Great Britain and NI and the Government of Ireland' (NIO, 2025), at 10.
[113] *Al-Adsani v UK* (2001) ECHR 761, at para 40; *Emin and Others v Cyprus* (2010) ECHR 909, at para 2a; *Rantsev v Cyprus and Russia* (2010) ECHR 22, at para 241.

5.5 The EU Victims' Directive provides that competent authorities in one Member State should take appropriate measures to minimise the difficulties faced where a victim is a resident of a Member State other than that where the criminal offence was committed.[114] It further provides that States should facilitate cooperation between Member States to improve the access of victims to the rights in the EU Victims' Directive and under national law, including as a minimum cooperation on consultation in individual cases.[115]

5.6 The NIHRC welcomes that there will be an express commitment for cross-border cooperation between the UK Government and Government of Ireland. This should enable and encourage the Legacy Commission and newly established unit within An Garda Síochána to exchange information and evidence.

6.0 Proposals for Veterans

Protection from repeated investigations

6.1 The Joint Framework does not address non-duplication more broadly. However, the commitments to veterans that are attached to the Joint Framework provide for protection from repeated investigations.[116]

6.2 The commitment provides that the Legacy Commission will not needlessly duplicate previous investigative work that veterans may have already participated in and will not be required to provide unnecessary testimony on historical context that has already been established.[117]

6.3 For an investigation to be effective it "must be based on thorough, objective and impartial analysis of all relevant elements" and follow

[114] Article 17, Directive 2012/29/EU, 'Directive of European Parliament and the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.
[115] Article 26, Directive 2012/29/EU, 'Directive of European Parliament and the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.
[116] NI Office, 'Press Release: UK and Irish Governments announce legacy framework to enable truth for families of the Troubles', 19 September 2025.
[117] NI Office, 'Press Release: UK and Irish Governments announce legacy framework to enable truth for families of the Troubles', 19 September 2025.

"an obvious line of inquiry".[118] It is also possible that previous investigations were not human rights compliant in whole, or in part, and require further investigation.

6.4 The NIHRC is concerned that the promise of non-repeated investigations to veterans could hinder the ability of the Legacy Commission to follow every line of inquiry and ensure an effective investigation has been carried out on all legacy-related cases that engage Articles 2 and 3 of the ECHR.

[118] *Kolevi v Bulgaria* (2009), at para 201; *Armani da Silva v UK* (2016), at para 234.

Contact Us

For inquiries: Colin.Caughey@NIHRC.org and Eilis.Haughey@NIHRC.org

www.nihrc.org | info@nihrc.org | +44 (0)28 9024 3987
4th Floor, Alfred House, 19-21 Alfred Street, Belfast, BT2 8ED