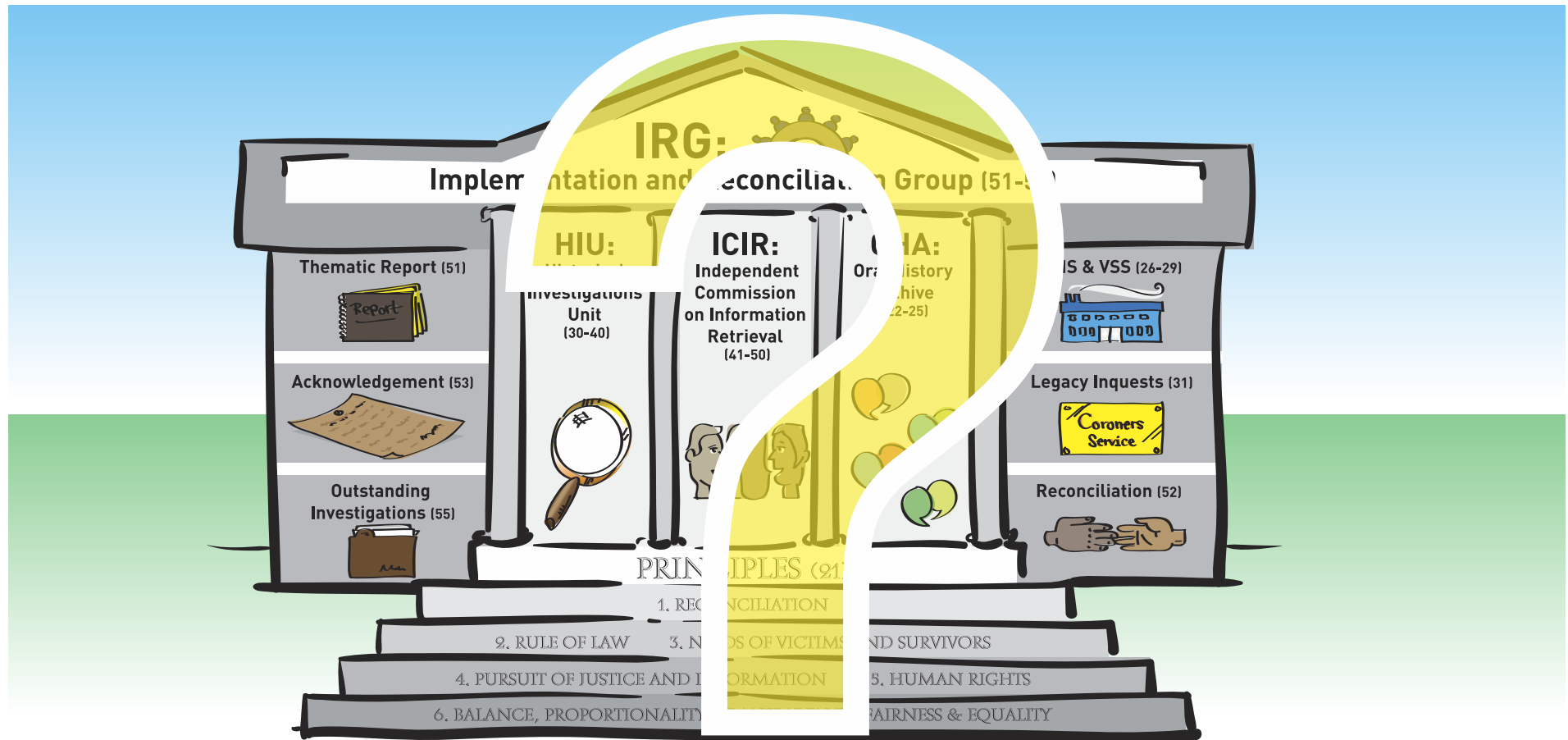


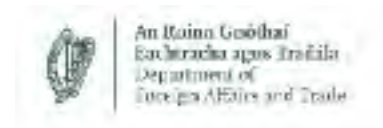
# A Simple Aid to Responding to the NIO Public Consultation on “Addressing the Legacy of Northern Ireland’s Past”





This publication has received support from the Victims and Survivors Service on behalf of The Executive Office. The views expressed do not necessarily reflect those of the Victims and Survivors Service.

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# How to Use This Document

This booklet is an aid to responding to the NIO Public Consultation on the Stormont House Agreement (“Addressing the Legacy of Northern Ireland’s Past”).

The Consultation covers three areas:

- The existing processes for dealing with the past (“The Current System”);
- The Stormont House Agreement Proposals (“The Proposed Legacy Institutions”); and
- Any other ideas or comments you may wish to share (“Other Views”).

This booklet uses the previous Healing Through Remembering (HTR) document outlining the Stormont House Agreement. Each page of that HTR document is reproduced here, any page which has been amended is marked “UPDATED”. Alongside the original pages, we have summarised the Consultation Questions. The sequence of the Consultation Questions has been adjusted to match the original HTR document. (This explains some of the unusual page numbering - an index to this section is on page viii.)

**There is no requirement to answer all questions.**

Page 15 outlines how to complete a response to the Consultation.

The last few pages in the document are designed for you to make your own notes and comments.

On the HTR website [www.healingthroughremembering.org](http://www.healingthroughremembering.org) you can find:

- More detailed information about the Consultation; and
- Contact details for other organisations offering further support.





# What is this Consultation all about?

## ADDRESSING THE LEGACY OF THE PAST

The Northern Ireland political parties, the UK Government, and the Irish Government all recognise that:

- More than 3,500 people were killed as a result of the Conflict in and about Northern Ireland; and
- These deaths and the wider context of violence have had a huge impact on victims and survivors, and on wider society.

There is general agreement that the current system for dealing with these issues is not delivering enough for victims, survivors, or wider society.

- More than 1,000 historical cases have not yet been properly investigated.
- More than 50 historical inquests remain open, involving almost 100 deaths.
- The needs of victims and survivors are varied and go beyond criminal investigations.

In the **Stormont House Agreement (2014)**,<sup>1</sup> the UK Government and the Northern Ireland political parties proposed the establishment of a new approach to meet this wide range of needs.

They committed to taking the next steps in a way that secures the confidence of people across society.

The next steps are outlined in draft legislation called the **Northern Ireland (Stormont House Agreement) Bill**,<sup>2</sup> which is published with this Consultation. If passed, the Bill would bring the proposed next steps into law. However, before this happens, the UK government needs to know what society thinks about the proposals.

**This Consultation asks for your feedback.**

**What do you think about the existing mechanisms?**

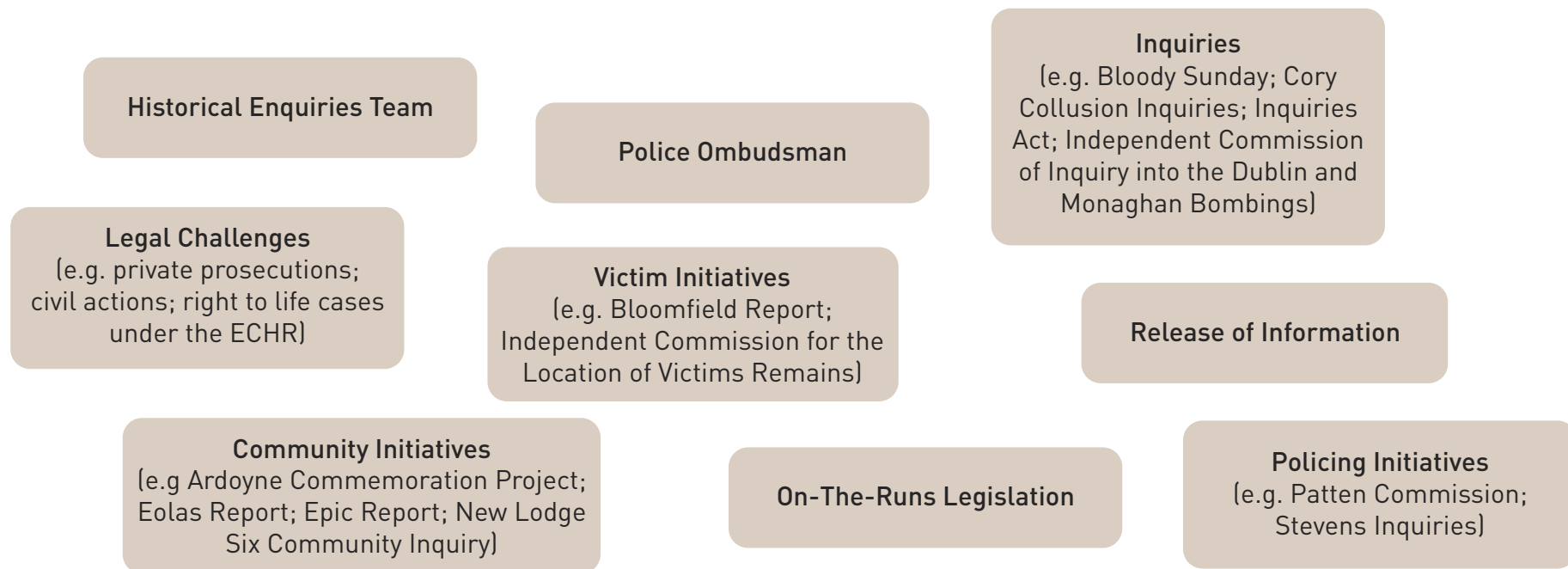
**What do you think about the proposed steps for addressing the legacy of the past?**

<sup>1</sup> You can read more about the Stormont House Agreement in the information booklet that Healing Through Remembering produced at that time. The booklet is available on request and you can download a copy from the website here: <http://healingthroughremembering.org/resources/legacy-resources/>

<sup>2</sup> There are some differences between the detail of the Stormont House Agreement and the detail of how it could be implemented as set out in the Bill. This booklet reflects the key information that is contained in the Bill.

## The Current System

Up to now, Government and society have tried to address these issues using a range of different mechanisms.<sup>3</sup> These mechanisms started at different times, and in general they have operated separately from one another. Some of these mechanisms are shown in the diagram below.



<sup>3</sup> For a detailed discussion of these mechanisms, see the Healing Through Remembering report "Making Peace with the Past" (2007) – available for download here: <http://healingthroughremembering.org/resources/reports/truth-recovery-acknowledgement-reports/>

## Consultation Document Part 1, Section 4, p14-18 & 49

**Q1 is about how well you think the current system works.**

### 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?

*Further Points to Consider*

*Does it meet the needs of society?*

*Does it meet the needs of victims and survivors?*

*Does it promote reconciliation?*

*Is anything working well?*

*Are all voices being heard?*

**Q15 is about the impact of the current system.**

### 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?

*Further Points to Consider*

*Does the current system treat any of the following people differently, or in a biased way:*

- o persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation?*
- o men and women generally?*
- o those with a disability, or those without?*
- o those with dependents, or those without*

# Stormont House Agreement

Dealing with the Past Elements (Paragraphs 21-55)

## IRG:



### Implementation and Reconciliation Group (51-55)

Thematic Report (51)



Acknowledgement (53)



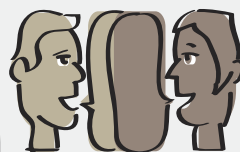
Outstanding Investigations (55)



**HIU:**  
Historical  
Investigations  
Unit  
(30-40)



**ICIR:**  
Independent  
Commission  
on Information  
Retrieval  
(41-50)



**OHA:**  
Oral History  
Archive  
(22-25)



NHS & VSS (26-29)



Legacy Inquests (31)



Reconciliation (52)



### PRINCIPLES (21)

1. RECONCILIATION

2. RULE OF LAW

3. NEEDS OF VICTIMS AND SURVIVORS

4. PURSUIT OF JUSTICE AND INFORMATION

5. HUMAN RIGHTS

6. BALANCE, PROPORTIONALITY, TRANSPARENCY, FAIRNESS & EQUALITY

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## Stormont House Agreement



### PRINCIPLES

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### IRG

p2 & 2a



### OTHER RELEVANT ELEMENTS IN SHA

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### OHA

p3 & 3a



### OVERVIEW

p10 & 10a



### ICIR

p4 & 4a

### OTHER VIEWS

p11 & 11a



### HIU

p5 & 5a

### NOTES

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### VICTIMS & SURVIVORS

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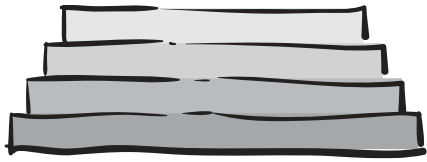
### ...HOW TO SUBMIT YOUR RESPONSES

p15



### LEGACY INQUESTS

p7



## Principles

(Paragraph 21 in Stormont House Agreement (SHA))

The legacy mechanisms in the Stormont House Agreement (SHA) are guided by six main principles necessary for long-term peace and stability:

- Promoting reconciliation;
- Upholding the rule of law;
- Acknowledging and addressing the suffering of victims and survivors;
- Facilitating the pursuit of justice and information recovery;
- Human rights compliant; and,
- Balanced, proportionate, transparent, fair and equitable.

### Points to Consider



- *How should the SHA mechanisms be based in these principles?*
- *What should reconciliation mean in the context of the SHA?*
- *Are there other principles that you feel should be included?*



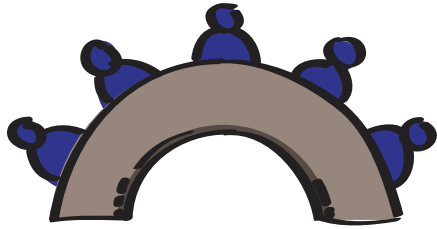
## Consultation Document Part 2, Section 6.1, p21-22

**Q2 is about the principles guiding the proposals and asks if everyone can take part.**

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:		

### *Further Points to Consider*





## Implementation and Reconciliation Group (Paragraphs 51-55 in SHA)

The Implementation and Reconciliation Group (IRG) is a body that oversees the work of the Independent Commission on Information Retrieval (ICIR) and Oral History Archive (OHA), produces a report on themes and patterns and assesses the level of co-operation with legacy mechanisms. It is responsible for promoting reconciliation and encouraging acknowledgement.

- Commissions academics to produce a thematic report after five years (51)
- UK and Irish governments will consider making statements of acknowledgement (53)
- Other parties also expected to provide statements of acknowledgement (53)
- Supports other initiatives contributing to reconciliation, an understanding of the past and reducing sectarianism (52)
- Governance: OFMDFM nominates an independent, international Chair, and parties in the Stormont Executive (as of December 2014) along with UK and Irish governments make 10 other appointments; Publicly elected representatives are not eligible (54)



### Points to Consider

- How might the IRG promote reconciliation?
- What could the IRG do for you and/or your community in order to best serve your needs?
- What could support for other initiatives look like?
- How could the IRG identify patterns and themes emerging from other mechanisms?
- What should the 'statements of acknowledgement' include?
- How could other groups be encouraged to make similar statements?
- Which guiding principles (21) should be addressed by the IRG?
- How could the IRG contribute to lasting peace and stability?



## Consultation Document Part 2, Section 10, p46-47 & 67-69

### Q12 is about the structure of the IRG.

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:		

### Further Points to Consider

How can the IRG be protected from political interference?

What would help you trust the IRG?

How important is it that the IRG Chair has international experience?

How should the IRG assess all of the SHA institutions?

IRG

### Q11 is about the academic report and themes.

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:		

### Further Points to Consider

How do you get academic impartiality?

Should the European Social Research Council (ESRC) commission or support the Report?

What organisations should help with the themes?



## Oral History Archive (Paragraphs 22-25 in SHA)

The Oral History Archive (OHA) provides a central place for people from all backgrounds to share experiences and narratives related to the conflict in and about Northern Ireland.

- Collects new stories (22)
- Draws together existing oral history projects (22)
- Sharing experiences or narratives is voluntary (23)
- Archive and contributors may be protected from defamation claims (23)
- Circumstances and timing for the Archive to be made public will be considered (23)
- Independent and free from political interference (24)
- Academics to produce factual historical timeline and statistical analysis of the conflict (25)

### Points to Consider



- What should be the strategic goal of the OHA?
- What should be the methodology for collecting stories?
- What form should the Archive take?
- How could the Archive accommodate different stories?
- How could the Public Records Office of Northern Ireland (PRONI) best serve the OHA?
- What should be the purpose of the timeline and statistical analysis?
- How would academics be appointed to produce the factual historical timeline?
- Would it be possible to produce one timeline?
- How could they remain free from political influence?
- How should the OHA be governed?
- Which guiding principles (21) should be addressed by the OHA?
- How could the OHA contribute to lasting peace and stability?

## Consultation Document Part 2, Section 9, p44-45 & 65-66

**Q9 is about how the OHA is set up and works.**

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:		

*Further Points to Consider*

How is it decided what records are of "lasting historical significance" and what is destroyed?

How should members of the steering group be selected?

What issues arise from PRONI establishing the OHA?

**Q10 is about how the OHA should engage with those who want to share their stories.**

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:

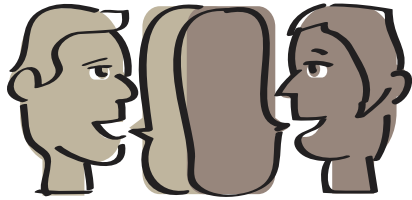
*Further Points to Consider*

What would help you trust the OHA?

How should the OHA relate to existing archives?

What stories need to be gathered?

What about voices and stories beyond Northern Ireland?



## Independent Commission on Information Retrieval (Paragraphs 41-50 in SHA)

The Independent Commission on Information Retrieval (ICIR) privately gathers information about conflict-related deaths for family members who seek it in the UK and Republic of Ireland.

- Victims and survivors seek and privately receive information about deaths (41)
- Information inadmissible in criminal or civil proceedings unless uncovered by other means (46)
- Identities of those providing information not disclosed (49)
- Individuals not immune from prosecution if evidence gathered elsewhere (49)
- Runs for a maximum of five years (43)
- Immune from Freedom of Information and similar requests (47)
- Governance: UK and Irish governments appoint Chair, and First Minister, Deputy First Minister, UK and Irish governments appoint four others respectively (44)

### Points to Consider



- What could the ICIR do in the event that certain parties do not offer information?
- Should the ICIR approach differ depending on what groups they are seeking information from?
- How should the ICIR incorporate the principles of balance and proportionality?
- Could participation in the ICIR be impacted by the non-disclosure of identities?
- How should the ICIR manage the expectations of families seeking information?
- How should information passed through the ICIR be subject to verification?
- How could the ICIR contribute to healing and/or reconciliation?
- Which guiding principles (21) could be addressed by the ICIR?
- How could the ICIR contribute to lasting peace and stability?



## Consultation Document Part 2, Section 8, p40-43 & 63-64

### Q8 is about how the ICIR works.

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:		

*Further Points to Consider*

*Will people take part?*

*What would help you to trust the ICIR?*

*How should the ICIR engage with those seeking and those offering information?*

*How does the ICIR work alongside the HII?*

ICIR

### Q7 is about how the ICIR supports the families who seek information.

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?

*Further Points to Consider*



# Historical Investigations Unit

(Paragraphs 30-40 in SHA)

The Historical Investigations Unit (HIU) is an independent body established to investigate outstanding conflict-related deaths.

- Takes forward outstanding cases and cases identified for re-investigation from Historical Enquiries Team (HET) and Police Ombudsman (PONI) (30)
- Inherits all HET and PONI files (36)
- Has full policing and equivalent PONI powers (36)
- Decision to prosecute remains a matter for the Director of Public Prosecutions (DPP) (35)
- Produces a report for each case (30)
- Dedicated family support staff ensure next of kin are involved and have access to advice throughout the process (33)
- Aims to conclude its work in five years (40)
- Governance: the Northern Ireland Policing Board (38)

## Points to Consider



- What should constitute a 'case'? Should reports be produced for each individual killed or for each major event?
- How should the HIU manage the expectations of families seeking prosecutions?
- How should the HIU address issues of disclosure from non-state parties?
- How could the HIU contribute to healing and/or reconciliation?
- Which guiding principles (21) could be addressed by the HIU?
- How could the HIU contribute to lasting peace and stability?

*What about the needs of those beyond Northern Ireland?*

## Consultation Document Part 2, Section 7, p23-39 & 55-62

**Q3 asks if the HIU should also include deaths after 10 April 1998 (to 31 March 2004).**

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:		

**Q4 is about the HIU process for deciding on investigations.**

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:		

**Q5 is about the appeals process for information the HIU shares and withholds.**

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:		

**Q6 is about the HIU process.**

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:		

### Further Points to Consider

How does the HIU work alongside the ICIR?

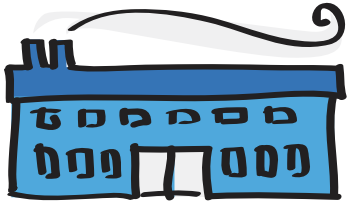
How is trust established?

Is it appropriate that the HIU only examines fatal incidents?

How should conflicts of interest for HIU staff and Director be managed?

What about families who already have an HET report?

Are "threat to life" and "national security" the right reasons for withholding information?



## Victims and Survivors (Paragraphs 26-29 in SHA)

# UPDATED

- Victims and survivors to have access to high quality services (26)
- Guided by principles of choice and need (26)
- Comprehensive Mental Trauma Service to be established within the NHS, consulting the Victims and Survivors Service (VSS) and other organisations supporting victims (27)
- Needs of victims outside Northern Ireland to be recognised (26)
- The Assembly will work towards establishing a pension for those severely physically injured (28)
- Advocate-counsellors available to victims and survivors (29)

### Points to Consider



How should the needs of victims and survivors outside of Northern Ireland be recognised?

Who should have access to the Mental Trauma Service?

What role should an advocate-counsellor have?

How could addressing needs of victims and survivors contribute to lasting peace and stability?

What more can be done for victims and survivors?

What needs to be done about a pension for the injured?





## Legacy inquests (Paragraph 31 in SHA)

**UPDATED**

- Legacy inquests should be victim-centred and will continue to operate separately from the HIU
- Improvements will be made to comply with European Convention on Human Rights (ECHR) Article 2 requirements and rulings on effective and timely investigations

### *Points to Consider*



*What needs to be done about the current outstanding legacy inquests?*



## Outstanding investigations and allegations

(Paragraph 55 in SHA)

**UPDATED**

The UK and Irish governments commit to co-operation with all bodies involved in outstanding investigations and allegations, and will bring forward legislation where necessary.

### Points to Consider



Do you think there are other outstanding investigations not covered by the proposals?

How should this link with other parts of the SHA?

How should this be progressed?



## Other relevant elements in SHA

**UPDATED**



### **Civic Advisory Panel (Paragraph 67)**

A new engagement model ensures civic voices are heard and civic views are considered in relation to key social, cultural and economic issues. It will meet regularly and advise the Northern Ireland Executive.

### **Together: Building a United Community (Paragraph 72)**

The Northern Ireland Executive will implement the Together: Building a United Community (TBUC) strategy, and continue working to eradicate sectarianism in all its forms.

### **Review and Monitoring (Paragraphs 73-75)**

Progress in implementing the provisions of the SHA will be routinely reviewed and monitored to ensure its integrity and credibility. Quarterly review meetings will include Executive party leaders, UK and Irish governments, and six-monthly updates on progress will be published.

### **Commission on Flags, Identity, Culture and Tradition (Paragraph 15)**

A Commission on Flags, Identity, Culture and Tradition will be established that will focus on flags, emblems and broader issues of identity, culture and tradition. It will be guided by the principles of existing Agreements including parity of esteem.

### **Parades (Paragraphs 16-20)**

Parading legislation will focus on the rights and responsibilities of those involved in, or affected by, parades and related protests, with proper regard for fundamental rights protected by the ECHR. The aim will be to balance the competing rights of those involved, but also to recognise the responsibilities they owe to others.

*The consultation does not provide any more detail on these issues - have you any comments?*

# Stormont House Agreement

Dealing with the Past Elements (Paragraphs 21-55)

**IRG:** 

**Implementation and Reconciliation Group (51-55)**

- Promotes reconciliation (52)
- Encourages acknowledgement statements (53)
- Oversees OHA, ICIR, timeline and themes (51)
- Supports other initiatives (52)

## Thematic Report (51)

- Themes and patterns emerging from other mechanisms
- Independent academics
- 5 years



## Acknowledgement (53)

- UK and RoI consider making statements of acknowledgement
- Statements encouraged from other parties



## Outstanding Investigations (55)

- UK and RoI co-operate with all bodies
- Bring forward legislation



## HIU: Historical Investigations Unit (30-40)

- HET/PONI files that are outstanding or identified for re-investigation (30, 36)
- Full policing and Police Ombudsman (PONI) powers (36)
- Decision to prosecute remains with DPP (35)
- Dedicated family support staff (33)
- Report produced for each case (30)
- UK and Republic of Ireland co-operation relating to disclosure (37, 39)
- Overseen by Policing Board (38)
- 5 years (40)



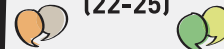
## ICIR: Independent Commission on Information Retrieval (41-50)

- Privately seeks information on deaths (41)
- Privilege and immunity from Freedom of Information requests (47); identities confidential (49)
- Separate from justice system (45); information inadmissible (46)
- Operates in the UK and Republic of Ireland (42, 45)
- Independent, rigorous, fair, balanced, transparent and proportional (50)
- Members appointed by OFMDFM, UK and Irish governments (44)
- 5 years (43)



## OHA: Oral History Archive (22-25)

- Central place to gather stories of the conflict (22)
- Works with existing projects and collects new stories (22)
- Voluntary (23)
- Independent and free from political interference (24)
- Protections for contributors and Archive (23)
- Historical timeline and statistical analysis produced by academics (25)



## NHS & VSS (26-29)

- Access to high quality services (26)
- Choice and need (26)
- Mental Trauma Service (27)



## Legacy Inquests (31)

- Victim-centred
- Separate from HIU
- Article 2 compliant



## Reconciliation (52)

- Promoted alongside support for initiatives to understand past and tackle sectarianism



## PRINCIPLES (21)

1. RECONCILIATION

2. RULE OF LAW

3. NEEDS OF VICTIMS AND SURVIVORS

4. PURSUIT OF JUSTICE AND INFORMATION

5. HUMAN RIGHTS

6. BALANCE, PROPORTIONALITY, TRANSPARENCY, FAIRNESS & EQUALITY



## Consultation Document Part 2, Section 11, p49-50 & 19-20

**Q16 & Q17 are about the impact and equality of the proposals.**

### 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?

## Further Points to Consider

Do the proposals treat any of the following people differently, or in a biased way:

- o persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation?
- o men and women generally?
- o those with a disability, or those without?
- o those with dependents, or those without?

**Q13 asks for your overall views of the proposals.**

### Question 13: Stormont House Agreement proposals - overall view

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:

Yes

No

## Further Points to Consider

What do you think about the five-year timescale for most of the proposals?

How do you think the principles can be demonstrated?

Do these mechanisms offer an opportunity for dealing with the legacy of the past?

How can trust be established with these institutions?

Do you have specific questions about the proposals?

What other things could we do to help both individuals and society to deal with the legacy of the past?



## Consultation Document Part 2, Section 11, p49-50 & 19-20

**Q14 asks for your ideas about dealing with the legacy of the past.**

### 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?

### Further Points to Consider

The 'uninvolved'

Transgenerational impact

Education

Memorials

Storytelling

Apologies

Commemoration

Museum

Day of Reflection

Research

Policy development

Wider society

Reparations

Institutional acknowledgement

Tourism

Economic regeneration

Gender issues

Community interaction

The Arts - paintings, sculpture, drama, music .....

North-South and East-West initiatives

OTHER VIEWS

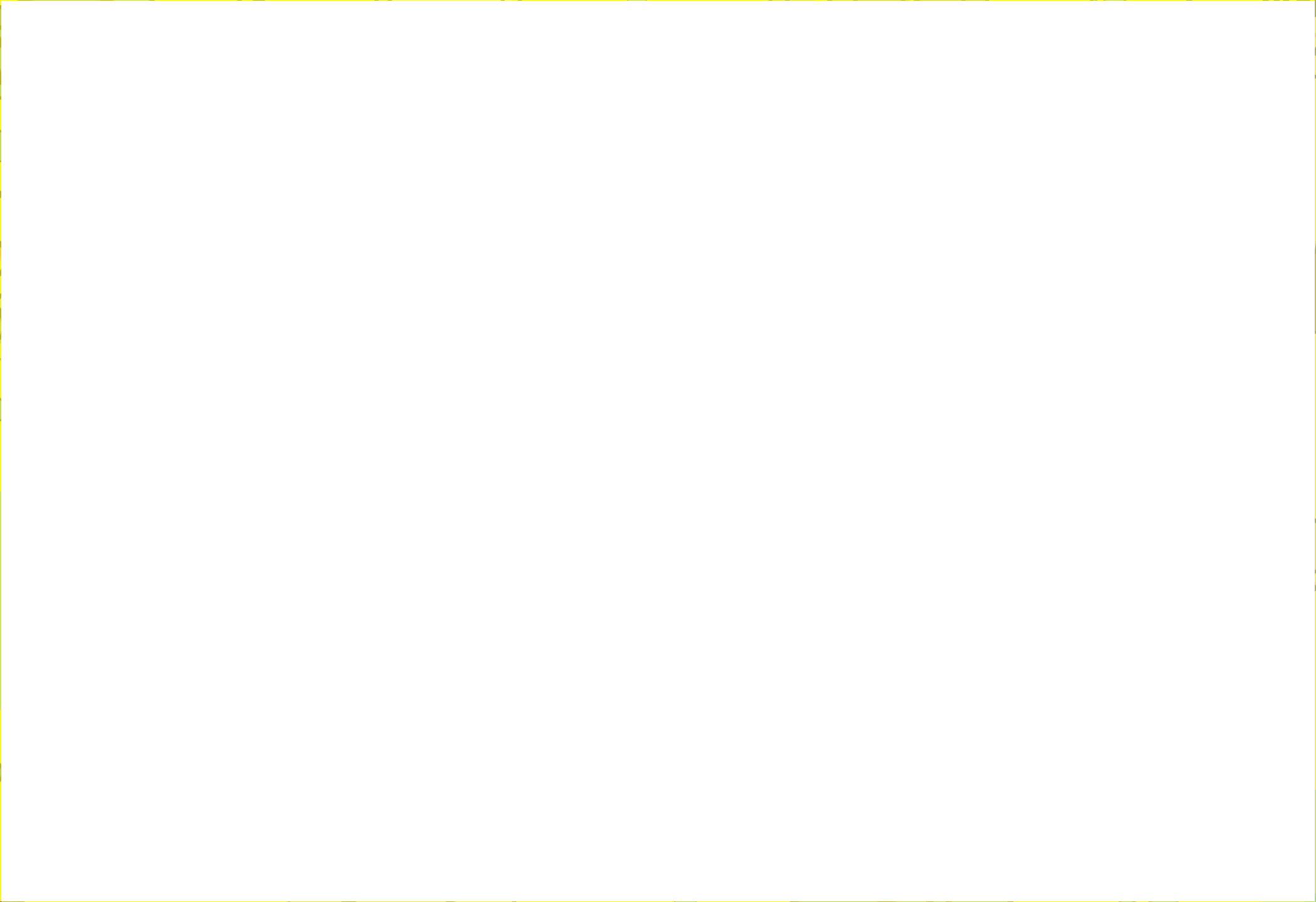


NOTES





NOTES



# How to submit your response to the Consultation

The Consultation is carried out by the Northern Ireland Office.

You are free to submit your responses any time between 11 May 2018 and 10 September 2018.

You can submit your feedback in the following ways:



**Complete the NIO survey** online at [www.gov.uk/nio](http://www.gov.uk/nio) - navigate to this page shown below, then click on the link as indicated:



There is no requirement to answer all questions.



**Write to the NIO at:** Legacy Policy team, Northern Ireland Office, Stormont House, Stormont Estate, Belfast, BT4 3SH



**If you have queries, you can email the NIO at:** [legacyconsultation@nio.gov.uk](mailto:legacyconsultation@nio.gov.uk)

HOW?



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