Stormont House Agreement

Dealing with the Past Elements (Paragraphs 21-55)

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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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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?

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.

- Oversees themes, archives and information recovery (51)
- 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)
- Conducts its work without political interference (51)
- 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; Publically elected representatives are not eligible (54)
- UK and Irish governments to co-operate with outstanding investigations into conflict-related incidents (55)

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?

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?

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)
- Operates in both the UK and Republic of Ireland (41, 42)
- Uses Independent Commission for the Location of Victims Remains (ICLVR) model (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)
- Guided by principles of independence, rigour, fairness, balance, transparency and proportionality (50)
- 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?
- 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?

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)
- In some circumstances, families may apply to have other cases considered (34)
- 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)
- The UK government makes full disclosure to facilitate investigations (37)
- The Irish government ensures all relevant Irish authorities and criminal investigation agencies fully co-operate with investigations (39)
- 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?
- Should families have the option to appeal decisions about the withholding of certain information??
- If a prosecution is not viable or is unsuccessful, should the HIU pass information to the ICIR?
- 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?

Victims and Survivors
(Paragraphs 26-29 in SHA)

- 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 might a pension for the severely injured involve?*
- *What role should an advocate-counsellor have?*
- *How could addressing needs of victims and survivors contribute to lasting peace and stability?*

Legacy inquests
(Paragraph 31 in SHA)

- 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

- *Who should decide which cases are chosen for legacy inquests?*
- *What could be an acceptable timeframe?*
- *Should there be time limits for inquests like there are for HIU and ICIR?*
- *How could legacy inquests contribute to lasting peace and stability?*

Outstanding investigations and allegations
(Paragraph 55 in SHA)

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

- How should this be progressed?
- How should this link with other parts of the SHA?

Other relevant elements in SHA

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 Untied 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.

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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
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