

Healing Through Remembering

Response Aid Document

HTR Document offered to assist groups in
responding to the NIO Consultation on the Report
of the Consultative Group on the Past

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Background Information

The Northern Ireland Office (NIO) is carrying out a consultation process on dealing with the past, in particular on the report of the Consultative Group on the Past (CGoP). The NIO consultation issued in June 2009 poses 94 questions on the 31 recommendations made by the CGoP. This HTR-produced document is intended as an aid to responding to the NIO consultation.

The number and format of the questions has been considered unwieldy by some and so in this document the questions have been grouped together to make the process more manageable. We have therefore presented the consultation document using the six distinct areas identified in the Report of the Consultative Group on the Past:

These areas are:

- Legacy Commission
- Remembering
- Victims and Survivors
- Societal Issues
- Processes of Justice and Information Recovery
- Legacy of the Past and Reconciliation

For each area we have produced a short summary of the relevant recommendations and included the questions posed by the NIO (with the exception of the 'do you agree with this recommendation' questions) and included additional suggested issues that may assist debate. We have, however, organised some of the recommendations slightly differently from the original document in order to aid discussion. [NB. In the main text 'R' refers to a recommendation and the number after a question refers to the recommendation under which it was listed.]

We suggest that this document be read in conjunction with the NIO consultation paper and full and summary Report of the Consultative Group (see www.cgpnio.org and www.nio.gov.uk – consultation section. The HTR Index of the CGoP Report may also be useful (see www.healingthroughremembering.org - resources section).

The aim of this document is to help groups to consider the wider issues.

Further written guidance is available on request by contacting HTR by email on claire@healingthroughremembering.org or by phone on 02890 238844.

Healing Through Remembering
August 2009

Recommendations

The Legacy Commission

By and large all of the recommendations flow from one underlying assumption – that an Independent Legacy Commission be developed which would have a number of functions. The creation of this single body would be integral to the development of the rest of the recommendations.

As such we are including this recommendation as it is outlined in full in the document. You may need to refer to the NIO consultation document for further detail.

An independent Legacy Commission should be established to deal with the legacy of the past by combining processes of reconciliation, justice and information recovery. It would have the overarching objective of promoting peace and stability in Northern Ireland. [R1]

The commission should have four strands

Shared future; Historical cases; Information recovery; Thematic cases [R8]

NIO Consultation Questions

To what extent is it effective to combine processes of reconciliation, justice and information recovery within a single body? 1a

Further suggested issues for discussion

Are there particular lessons to be learnt from the success or failure of processes used to date in the local political context?

Can we learn anything on these issues from other conflict situations?

Remembering

The CGoP recommended a range of processes for dealing with the past. These included Storytelling, [R24] with specific shape to future storytelling as a process to facilitate individual and societal healing [R26]. The Commission for Victims and Survivors Northern Ireland (CVSNI) should lead on promoting the value of remembering, [R25].

It recommends continuing the Day of Private Reflection (DoPR) as promoted by HTR and suggests that this be changed to a Day of Reflection and Reconciliation and set up a reconciliation forum to promote this [R27]. It should seek to influence the content of events to ensure that it encourages individuals towards a shared and reconciled future. OFM/DFM should issue a joint statement on or around the day. [R28]

A specific event at the end of the five year tenure of the Legacy Commission should be planned. [R29]

A shared memorial should be developed which is conducive to reconciliation [R31]

[R30] At the end of the work a declaration should be signed to 'never again to kill or injure others on political grounds.'

NIO Consultation Questions

How do you think an enhanced mechanism for storytelling would help address the legacy of the past? 24a

Should the existing bodies which enable storytelling remain independent or be encouraged to work more closely? 24b

Should it be for the CVSNI to facilitate storytelling? How could a Legacy Commission and Reconciliation Forum support this work? 24c

What more could be done on this issue? 24d

What steps might future initiatives take to meet the goals set out by the Group, particularly in terms of ensuring the 'story hearing' as well as storytelling takes place? 26a

Do you agree that the CVSNI should lead work around remembering? 25a

What kinds of educational programmes might be developed to support work around remembering? 25b

Do you think such a day should be one of private reflection or should there be public statements by key organisations and statutory bodies? 27a

How should this work? 27b

Which other mechanisms would you propose to reflect effectively upon the past? 28a

What do you think such a ceremony should involve? How would this work in practice? 29a

How should the two governments and the Northern Ireland Assembly support this work? 29b

What are your views on a shared memorial? 31a

How do you believe this would help? 31b

Do you agree with the criteria suggested by the Group? 31c

Who do you think should be responsible for any future work on memorials? 31d

Would you be willing to sign such a 'Never Again' declaration? 30a

Who else do you think should sign such a declaration? 30b

How would such a declaration be used in practice? 30c

Further suggested issues for discussion

Can we learn anything on these issues from other conflict situations?

Victims and Survivors

Families should be given a one off payment of £12,000 for those who have died as a result of the Troubles. [R4] CVSNI needs to address issues of funding and healthcare and provision of services [R5] The Reconciliation Forum should address improvements to healthcare services to promote improvements to services for ill health attributable to the Troubles [R6]

NIO Consultation Questions

How do you believe the suffering of families could be better recognised? 4a

Are the provision of services, funding, healthcare needs and compensation the areas which CVSNI should prioritise? 5a

Are there other issues to which the CVSNI should devote attention? 5b

How would a Forum promote improvements to healthcare services in practice and how would it work with those organisations that already deal with healthcare issues? 6a

Further suggested issues for discussion

Should the recommendation for payment, which came from private consultation, have been dropped because of public outcry?

How do we ensure that controversial elements of the recommendations can be discussed in a rational rather than an emotional manner?

Can we learn anything on these issues from other conflict situations?

Society Issues

A significant part of dealing with the past is recognising the wider societal issues such as healthcare, economic benefits, dealing with young people and with those who have been exiled. [R11] The Legacy Commission should act as a champion to promote these. [R13] The Legacy Commission should take the lead in ensuring that sectarianism is addressed [R14]. The Christian churches should be encouraged to reflect on their role and contribute to a non-sectarian future (particular emphasis on education) [R15]. The Quigley-Hamilton Guidance regarding those with conflict related convictions in areas such as employment and jobs should be incorporated into statute. [R16]

NIO Consultation Questions

Should societal issues be dealt with by a Legacy Commission? 11a

If not, are current arrangements to address these issues adequate? What changes would you propose? 11b

Are the issues highlighted by the Group the right issues to be tackled? 11c

Should it be for the Chair of a Legacy Commission to champion societal issues? 13a

How would the Chair's champion function relate to other bodies working on societal issues, including any Reconciliation Forum? 13b

Is the concept of a challenge function as envisaged by the Group the right way to address this problem? 14a

Should it be for the Chair of a Legacy Commission to challenge sectors of society to tackle sectarianism? 14b

How would the Chair's lead role on sectarianism relate to other bodies working on societal issues, including any Reconciliation Forum? 14c

Do you agree with Recommendation 15? 15

Are there alternative or additional measures which could or should be taken in relation to conflict-related convictions? 16a

Further suggested issues for discussion

How are churches expected to carry out this reflection?

In terms of contributing to a non-sectarian future should there be a wider process than 'Christian' churches?

What services are needed for young people?

Should other voluntary, statutory and community organisations also be asked to reflect?

Do we need to consider acknowledgement?

Can we learn anything on these issues from other conflict situations?

Processes of Justice and Information Recovery

Recommendations 17-23 deal with a new independent unit with complete powers within the Legacy Commission to review all cases and replace the Historical Enquiries Team (HET) and the Police Ombudsman [R17] [R18]. It also notes a role of recovering information and processing to relatives through a process of protected statements to the Investigative Unit [R19]. There would also be a Thematic Examination Unit which would look at areas such as collusion. [R20] It further recommends no further public inquiries with outstanding inquests remaining with Coroner's office. [R21] [R22]

While not addressing amnesty it did suggest a line in the sand but did not say what this might entail [R23]

NIO Consultation Questions

Would it be an improvement on the present arrangements? 17a

If a new Unit was established, how should it determine which cases it should examine? 17b

What are your views on the advantages and disadvantages of transferring a new Unit the work of the HET and the work of the Police Ombudsman's Unit dealing with historical cases? 18a

What view should a new Unit take of work already undertaken by the HET and Police Ombudsman? 18b

Should information recovery be separate from investigations? 19a

Do you agree with the use of protected statements? 19b

How could a Unit of the kind proposed protect the rights of people involved in the information recovery process, including those named in protected statements? 19c

Is it more likely that people would come forward to provide information under this system? 19d

What are your views on the proposal that thematic examinations be held without public hearings? 20a

Should a Unit of the kind proposed have the power to compel witnesses? 20b

Do the proposed procedures protect the rights of people compelled to give evidence and those named in evidence? 20c

What are your views on the use of public inquiries in relation to historical cases? 21a

Should a Legacy Commission be given the task of monitoring the burden of inquests and criminal case reviews? 22a

Do you believe it will be possible to find a mechanism to draw a line after 5 years? 23a

What are your views on the question of amnesty? 23b

Further suggested issues for discussion

Is there a role for people in this unit with skills beyond investigation and how would this be integrated?

Should all cases be investigated consistently and not necessarily based on demands from families or the public?

How do you develop themes coming from investigations? How do you develop themes not coming from investigations? And how do these cross reference?

Can we learn anything on these issues from other conflict situations?

Legacy of the Past and Reconciliation

The Chair should be independent [R7] and £100m be allocated to the work. [R3] The Legacy Commission should have a fixed lifetime of five years [R9]. It should be jointly promoted by the British, Irish and N. Ireland governments [R10]

There is a recommendation for a legacy forum [R2] which would bring the Commission, the Commission for Victims and Survivors (CVSNI) and Community Relations Council (CRC) together with key functions to analyse activity regarding addressing sectarianism, improving health services and helping those exiled from NI. [R12]

NIO Consultation Questions

What alternative ways would you propose to deal with the legacy of the past? 1b

Are there other ways that international figures can help to deal with the legacy of the past? 7a

Are there other strands of work which should be taken forward? 8a

How might the use of a bursary relate to existing expenditure on societal issues? 3a

How is duplication avoided? 3b

Would it be helpful for a Legacy Commission to have an option for a second period of a further five years? 9a

Could you envisage a different remit in the second five year term? 9b

What should the roles of the British Government, the Irish Government and the devolved administration be in taking forward proposals to deal with the legacy of the past? 10a

How might a Forum operate in practice, in relation to the organisations that might make up the Forum and other organisations outside of it? 2a

Are these the right functions for a Reconciliation Forum? 12a

Further suggested issues for discussion

Comments on how to achieve appropriate independence of the chair and the commission members

Any restrictions on the Commission in terms of proposed remit or suggestions on expansion of the remit

Would you welcome but have caveats?

How to select commissioners

Comments on potential positive/negative reception - if so identify who might welcome or disagree and the implications?

Comment on cost and longevity

Is the proposed membership of the Legacy Forum right?

Comment on lessons elsewhere

Can we learn anything on these issues from other conflict situations?

Appendix

Recommendations of the Report of the Consultative Group on the Past

R1. An independent Legacy Commission should be established to deal with the legacy of the past by combining processes of reconciliation, justice and information recovery. It would have the overarching objective of promoting peace and stability in Northern Ireland.

R2. A Reconciliation Forum should be established through which the Legacy Commission and the Commission for Victims and Survivors for Northern Ireland (CVSNI) would liaise to tackle certain issues around the conflict.

R3. The Legacy Commission should be given a bursary of £100m to tackle these society issues.

R4. The suffering of families from Northern Ireland and Great Britain should be recognised. The nearest relative of someone who died as a result of the conflict in and about Northern Ireland, from January 1966, should receive a one-off ex-gratia recognition payment of £12,000.

R5. The CVSNI should take account of, and address in their work programme, the present and future needs and concerns of victims and survivors, devoting attention to the provision of services, funding, healthcare needs and compensation.

R6. The Reconciliation Forum would also have a mandate to promote the improvement of services for healthcare issues attributable to the conflict, such as trauma, suicide and addiction.

R7. The Chair of the Legacy Commission should be an International Commissioner, who would also have specific responsibility within the Commission for addressing society issues through the Reconciliation Forum, tackling sectarianism, promoting reconciliation and administering the bursary. There would be two other Commissioners.

R8. The mandate of the Legacy Commission would consist of four strands of work:

- helping society towards a shared and reconciled future, through a process of engagement with community issues arising from the conflict;
- reviewing and investigating historical cases;
- conducting a process of information recovery;
- examining the linked or thematic cases emerging from the conflict.

R9. The Legacy Commission's mandate would be for a fixed period of five years.

R10. The Office of the First and Deputy First Minister (OFMDFM) should join the British and Irish Governments in implementing this initiative.

R11. Society issues arising from the conflict which should be tackled include: addressing sectarianism; promoting remembering activities; working with young people; providing improved services for healthcare needs; ensuring an even spread of economic benefits; and helping those exiled from Northern Ireland during the conflict to return.

R12. The Reconciliation Forum should help to address these issues by analysing activity undertaken; considering the need for further activity; giving advice to Government and others; advising on strategies and on development and delivery of services; and deciding on priority areas of activity.

R13. The Legacy Commission should act as a champion for these society issues.

R14. The Legacy Commission should take the lead in ensuring that sectarianism continues to be addresses, including through setting the direction for the debate and by highlighting the contribution that all sectors of society can make.

R15. The Legacy Commission should engage specifically with the Christian Churches in Northern Ireland to encourage them to review and rethink their contribution to a non-sectarian future in light of their past, particularly in the area of education.

R16. The guidance produced by the Quigley-Hamilton working group, to eliminate discrimination against those with conflict-related convictions, should be incorporated into statute and made applicable to the provision of goods, facilities, and services as well and recruitment.

R17. A new independent Unit dealing with historical cases would be created within the Legacy Commission, which would continue to review and investigate historical cases, backed by police powers. This would constitute the second strand of the Commission's work.

R18. The new Review and Investigation Unit would take over the work of the Historical Enquiries Team and the Police Ombudsman's Unit dealing with the historical cases. The need for these would fall away when the new Unit is established. The new Unit would build on the work they have done to date.

- R19. The process of recovering information of importance to relatives (information recovery) would be separated from the investigation procedure and be subject to a distinct process within the Legacy Commission under a separate Commissioner. This would constitute the third strand of the Commission's work.
- R20. In the fourth strand of its work, the Legacy Commission would examine themes arising from the conflict which remain of public concern, such as specific areas of paramilitary activity, or alleged collusion. This thematic examination would take place without public hearings. This would facilitate more open and frank disclosure and avoid the constant publicity of present inquiry proceedings.
- R21. There would be no new public inquiries. The question whether to proceed with the promised Finucane Inquiry is a matter for the British Government but the issues raised by this case could be dealt with by the Legacy Commission.
- R22. The outstanding Inquests would remain with the Coroners Service. Criminal case reviews would continue to be pursued through the Criminal Cases Review Commission.
- R23. The Group is not proposing an amnesty but recommends that the Legacy Commission itself make recommendations on how a line might be drawn at the end of its five-year mandate so that Northern Ireland might best move to a shared future.
- R24. The Legacy Commission should, through the Reconciliation Forum, support CVSNI in facilitating and encouraging the telling of stories, including by young people, about the impact of the conflict on individuals and communities; and the stories of intra-communal differences.
- R25. CVSNI should also be supported in developing the existing ways in which the conflict and its impact are remembered. This should include the development of educational projects; providing support and guidance for those facilitating remembering projects in line with certain criteria; and promoting the value of remembering across society as a means of achieving reconciliation.
- R26. Future Storytelling initiatives should be developed taking account of certain criteria.
- R27. Full support should be given by government, the private and voluntary sector, including the churches, to the contribution of the annual Day of Reflection, initiated by Healing Through Remembering, on 21st June each year. Consideration should be given to renaming the event a Day of Reflection and Reconciliation.
- R28. Each year, on or around the Day of Reflection and Reconciliation, the First and Deputy First Minister should together make a keynote address to the Northern Ireland Assembly and invited guests, reflecting on the past in a positive way and confirming their commitment to lead Northern Ireland society towards a shared and reconciled future.
- R29. The Reconciliation Forum should take the lead in implementing an initiative, at the end of the five year mandate of the Legacy Commission, whereby Northern Ireland, with the support of the two Governments and the Northern Ireland Assembly, should conduct a ceremony remembering the past and all those who suffered during the conflict.
- R30. The Group therefore recommends that the Commission should, at the end of its work, challenge the people of Northern Ireland, including political parties and whatever remnant or manifestation of paramilitary groups remain, to sign a declaration to the effect that they will never again kill or injure others on political grounds.
- R31. A shared memorial to remember conflict in and about Northern Ireland should be kept under consideration by the Reconciliation Forum and criteria should be observed, in working towards a shared memorial conducive to reconciliation. The Legacy Commission should, at the end of its five year life span, make recommendations in this regard.