

**RESPONSE OF THE CHURCH AND SOCIETY COMMISSION (CASC)
OF THE CHURCH OF IRELAND
TO THE NORTHERN IRELAND OFFICE CONSULTATION PAPER:
“ADDRESSING THE LEGACY OF NORTHERN IRELAND’S PAST”
SEPTEMBER 2018**

General background

1. The Church of Ireland has around 375,400 members – 249,000 in Northern Ireland and 126,400 in the Republic of Ireland. The Disestablishment of the Church of Ireland, in 1871, led to the creation of its current structures. A new General Synod replaced Parliament as the legislative body responsible for the rules governing the Church and the Representative Church Body was incorporated as the trustee body for the Church. The Church maintained its unity following the partition of Ireland in the 1920s and continues to serve its membership and wider society across the island’s two political jurisdictions.
2. In keeping with Anglican theology, the beliefs and practices of the Church of Ireland derive from Scripture, reason and tradition. The Church of Ireland is Catholic in holding all the Christian faith in its fullness and being part of the one worldwide Church of God. It is also reformed in believing that the Church’s life should be aligned with Scripture and that the Church should only require its members to believe those doctrines to which Scripture bears witness.
3. The Church of Ireland rejoices in the progress on Christian unity made by the ecumenical movement and seeks to remove obstacles to full communion between Christians and to gain from the insight and experience of others. The Church of Ireland provides a context in which people of diverse views on theology and liturgy can live and worship together.
4. The Church of Ireland has repeatedly stated that peace is not simply the absence of violence. Peace-making involves the earning of trust, the sharing of visions of hope and a genuine commitment to action. The Church of Ireland acknowledges that throughout the community there are those who have been deeply affected by terrorism, violence and hatred and that some of the finest examples of peacemakers are to be found amongst those who have been most directly affected by the violence of the past.
5. The divine model of forgiveness and reconciliation, most perfectly displayed in the life and teaching of our Lord Jesus Christ, and through his example on the cross, shall be our standard in addressing the past and it is wherein lies our hope for the future.
6. This response to the consultation paper has been prepared by the Church and Society Commission (CASC) of the Church of Ireland, which exists as an advisory group, serving the Standing Committee of the General Synod and engaging with government on particular issues, including issues of legislation. The Commission was established by the General Synod of the Church of Ireland in 2013 as a successor to the Board for Social Theology in Action and the Church in Society Committee. The mission of CASC is to provide oversight and direction of the Church’s work in respect of social theology in action. Views expressed by CASC only become representative of the Church as a whole when given approval by the General Synod of the Church of Ireland.

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?

We believe there is a case for a change in approach. The Historical Enquiries Team (HET) was disbanded at the end of 2014 and the Legacy Investigation Branch (LIB) then inherited their caseload of over 900 cases. We have not seen any formal evaluation of the LIB but examples of the approach to their work, which have been quoted to us, indicate that there is a need for those dealing with those affected by the Troubles to be more conscious of the trauma, emotions, pain and desires of those individuals who have endured great suffering over a considerable length of time. For example, as we understand it, when an enquiry is re-opened, the family is given due notice, thereby raising their hopes of long delayed justice. In many cases those hopes are dashed when these further enquiries go nowhere. Would it not be better to involve the family only when an investigation has fresh evidence and a chance of prosecution? There is little if any support available to help people come to terms with this traumatic anti-climax.

We hope that any new process will be people-centred and have the resources and skills to deal with those who are hurting, and who may have experienced and endured several false dawns over the years. We agree with simplifying the process and reducing the likelihood of people having to deal with several agencies simultaneously. Many of those individuals are now elderly and not necessarily used to dealing with bureaucracy. The question arises as to whether or not under the new arrangements individuals will have to deal with more than one organisation simultaneously. It would seem very likely that this would be the case, as it was confirmed by NIO officials who spoke at the information seminar organised by the Northern Ireland Council for Voluntary Action on 20 August 2018.

In our opinion reform is essential. While these proposals may not be perfect, even after any post-consultation amendments, the Government needs to find a way forward to deal with the issues which have now been debated to the extent of “paralysis by analysis”. Urgent action is required.

Question 2: Stormont House Agreement proposals - engagement with legacy institutions

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.

We believe that in the proposed approach all groups should be able to engage with the legacy institutions but we also have reservations about their possible use by only some sections of the community. Great care is needed to ensure that the work with specific groups is empathetic, caring, supportive and ongoing. Those used to investigating criminal cases will not always be best placed to operate in this manner. We would have liked the proposals to say more about how this “softer” side of the work will be staffed and delivered. We also have concerns that, for example, the comprehensive Mental Trauma Service envisaged in the Stormont House Agreement, and which we see as an essential part of this process, cannot come into being in the absence of a functioning Northern Ireland Assembly - the NIO needs a ‘plan B’.

Question 3: HIU remit

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?

Yes. We further believe that there is a strong argument that this work should encompass the entire period of the Troubles right from the mid-1960s up until the present day. Paramilitary groups may officially be on ceasefire and therefore inactive but anecdotal evidence would point to individuals, with links to these organisations, having been involved in murderous activity since the signing of the Belfast Agreement. We have been told of examples of how the influence and involvement of certain individuals in paramilitary-related activity and intimidation is still an ongoing reality.

Question 4: HIU - Director assessing previous investigations and deciding whether further investigation is needed. *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?*

Please see overarching comments at Question 6.

Question 5: HIU - disclosure appeals mechanism

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?

Please see overarching comments at Question 6.

Question 6: HIU

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?

The outlined processes set out the procedures but we would be concerned that they do not sufficiently set out the essential requirements to do all this in a way that is empathetic, proportionate and in a victim-centred manner.

Clearly this investigation work will require people with specific training and experience in that field - in other words, police officers and former police officers, which we understand is the way the HET was staffed. We understand that the HIU may be staffed by former Northern Ireland police officers and those from elsewhere in the UK. We would question whether or not this will be acceptable to certain sections of the community in Northern Ireland where trust in formal institutions is lacking. Investigators will need considerable initial and ongoing training in dealing with individuals who have suffered immense trauma. Furthermore, the monitoring of the work not only needs to "count the cases" but assess how those involved are being treated and how the outcome, whatever that may be, helps those concerned to find answers and have their pain, anger and helplessness recognized and acknowledged. We appreciate that not everyone will get the answers they are looking for but the proposed method and processes, with some revision, we hope would bring about some healing.

We do understand that a family support wing is envisaged but we would have liked the consultation to have covered the scale and method of that operation. We do have some concerns at the setting up of another institution with the inevitable cost and bureaucracy which would be entailed. While this work is critically important, its cost must be finely balanced with other demands on public expenditure, for example, in the fields of health and education.

We would hope that the Irish Government would lend its full support to this process and be prepared to give a commitment that An Garda Síochána would co-operate and share information with the relevant authorities in regard to incidents with cross-border origins and connections. Also, that families affected by terrorist-related incidents in the Republic of Ireland would be supported and given ways and means of being involved in this process or similar processes to address traumas related to our shared troubled past.

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?

Any work in this area needs to be handled by professionally trained staff who are empathetic to the needs of the families who are seeking information. Care needs to be taken to ensure a level playing field between those affected by terrorist activity and those affected by the lawful actions of the security forces.

We would question as to how the organisation can be totally independent when two of the five Commissioners are to be appointed by the First and Deputy First Ministers. In addition, we would suggest that there needs to be a 'plan B' to get this up and running should the current devolution limbo continue.

We also question the proposal that this body is not to be proactive and purely respond to requests. Given our feeling that this element of the proposals has the potential to make a major impact on dealing with the legacy and helping people deal with their trauma, etc. we consider it should have a considerable promotion and encouragement role.

Question 8: Independent Commission on Information Retrieval

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?

There needs to be more built into the process to help individuals come to terms with information they are given as it may be traumatic. Furthermore, ongoing support for such people needs to be in place on a long-term basis in the period after they are provided with the requested information.

Question 9: Oral History Archive

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?

Academics in the UK, Europe, the USA and elsewhere have worked extensively in this field but it is important that this is not “more of the same”, not duplicated, but is built on, with cognizance from the lessons of past exercises e.g. the Boston tapes.

Our main concern in this area is the potential for it to be one-sided. By this, we mean that sections of the community could use this process for political gain whilst those involved from a security force or official background, in general, would be more likely to remain under the radar. If handled properly, however, we consider this to be one of the most important aspects of the proposals as the facts will be put on the record. At the same time, we accept that there are different narratives involved in telling the story of our past in Northern Ireland. We consider that one of the key issues here is getting political and community agreement as to the actual starting point of the Troubles.

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?

It is clear from the media that even this consultation paper, “Addressing the legacy of Northern Ireland’s past”, is an unknown entity amongst some of the most affected communities. This is disappointing but emphasizes the point that the existence of any Oral History Archive must be widely promoted and its use proactively encouraged.

Question 11: Commissioning the academic report on themes and patterns

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?

We feel that this may be best answered by those with specific expertise in this area.

Question 12: Implementation and Reconciliation Group

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?

Many bodies currently exist to promote reconciliation and deal with the legacy of the Troubles. Examples are the District Council Community Relations Programmes, the various EU Peace Programmes, the Irish Government’s Reconciliation Fund, the Executive Office (including the wide-ranging Together Building a United Community initiative), and the International Fund for Ireland along with various charitable and philanthropic trusts. This body has the potential for duplication and we see little reference to co-operation, co-ordination or amalgamation. There may well be enough bodies working in this field and there is merit in further resourcing one or more of the existing organizations rather than establishing another body.

We would be concerned that this Group is to include membership from the five main political parties and be resourced by the First and Deputy First Ministers. With this make-up and resourcing it would not be seen as being fully independent. In addition, the current absence of a devolved Assembly and Executive means that the resources cannot be put in place.

Question 13: Stormont House Agreement proposals

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?

There is merit in each of the strands of this proposal. However, we have serious concerns about the potential for one-sidedness and the scope for some to use it for political purposes. In addition, we have concerns at the over-emphasis on process to the detriment of caring for the people affected.

Whilst conscious of the passage of time since the Belfast Agreement and the demands on public expenditure, we question whether the proposed budget and time-frame are adequate to complete this major task.

We are also concerned that many issues that are a legacy of the Troubles are not addressed in these proposals. For example, how it is proposed to deal with ongoing sectarian activity, some of which has been ascribed by the PSNI to paramilitary influence e.g. the July/August 2018 East Belfast and Londonderry bonfire issues. Other recent examples include the 2017 intimidation of Roman Catholic families in south Belfast; the Republican anti-internment bonfire in Newry with the Willie Frazer plaque; the burning of the flags of a Protestant football team on an anti-internment bonfire in Craigavon; and posters in Moygashel remembering a UVF terrorist. In summary, there is no mention of dealing with the matter of how unionists decry the flaunting of memorials and symbols in nationalist/republican areas whilst nationalists/republicans decry the flying of unionist flags and symbols, particularly in the summer months.

Furthermore, we are concerned that these proposals do not make mention of the issue of pension or compensation, an issue that does feature in the Stormont House Agreement and dates back to the Eames-Bradley work some ten years ago. We understand the sensitivity of this issue but believe that procrastination doesn't help and that it needs to be dealt with now.

Despite our reservations, it is critical that the Government starts to properly deal with the past so as to ensure we do not destroy the future. Our belief is firmly that this needs to start now - far too long a delay has already taken place. On that basis we are very concerned that whilst legislating is for Westminster, we understand from the consultation event we attended, that it will not do so without the support of the Northern Ireland Assembly and Executive. This has the potential to derail things yet again, not least because there is little sign of a devolved administration returning, at least in the short term. Furthermore, as mentioned earlier, the absence of an Assembly/Executive means appointments to some of the bodies and their resourcing cannot be put in place. In addition, there is the vexed issue of politicians and communities not all agreeing with the official definition of a victim.

While these proposals are inevitably not perfect we urge the NIO to read and digest the findings of the consultation and then seek urgently to act promptly. It is our view that doing nothing or even delaying further does not do justice to the many thousands of people affected by the legacy of the Troubles.

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?

Healing is enabling victims to move from victim, to survivor, to victor over their trauma. This will be assisted by the context of a peaceful society which can openly recognise all suffering of the past, has dealt with the past justly, and is free from the acts of violence or threat of violence and cross-community strife. In dealing with the past all involved in the conflict in Northern Ireland need to take responsibility and ownership for wrongdoings and be prepared to co-operate fully with the legacy process. By necessity this will mean not just the paramilitary/terrorist organisations and those who gave them a voice within the political arena but also, alongside them, the Government of the United Kingdom and also the Government of Ireland.

There needs to be an appreciation of the legitimate role of the police and security forces in Northern Ireland who in good faith and with personal sacrifice, were and are prepared to devote their lives to protecting others and serving the whole community.

There is a need to deal with the past, in order to allow victims to deal effectively with the life-inhibiting effects of trauma with which they have had to live. If the past is not dealt with adequately then it will be nearly impossible for them to gain a vision of a brighter future. Many victims feel that they are the forgotten part of the peace process. There is great pain, concern and anxiety that the legal definition of victim makes no differentiation or distinction between the perpetrators and those innocent individuals who were affected by the actions of others. This needs to be addressed.

Many people in Northern Ireland remain frightened to speak about what they perceive as the truth. This often results in their remaining silent. Individuals need to find a place and an appropriate process where they do not feel inhibited, under threat or devalued but where they are able to express their fears, thoughts, concerns and pain. That is a prerequisite for movement towards real reconciliation. There never was, and never will be, any moral justification for the use of violence, terrorism and murder by paramilitaries, of either republican or loyalist background, in the pursuit of or the defence of a political objective.

There are different interpretations as to what reconciliation means and how it is achieved but we need to acknowledge that we all need to work together for the benefit of each other in order to build a society that is at peace with itself. Reconciliation and good community relations are intrinsic to the healing of victims and society. Acknowledging with heartfelt repentance the wrongs and hurts of the past and the tragedy of violence may help us as a society to listen, to know and to appreciate the true value of the gift of life.

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?

We feel that this may be best answered by those with specific expertise in this area.

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?

We feel that this may be best answered by those with specific expertise in this area.

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

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

Please see overarching comments at Question 14.