

**RESPONSE OF THE COUNCIL FOR PUBLIC AFFAIRS
OF THE PRESBYTERIAN CHURCH IN IRELAND
TO THE NORTHERN IRELAND OFFICE CONSULTATION PAPER:
'ADDRESSING THE LEGACY OF NORTHERN IRELAND'S PAST'**

SEPTEMBER 2018

General comments

1. The Presbyterian Church in Ireland (PCI) has over 217,000 members belonging to 537 congregations across 19 Presbyteries throughout Ireland, north and south. The Council for Public Affairs is authorised by the General Assembly of the Presbyterian Church in Ireland to speak on behalf of the PCI on matters of public policy. We welcome the opportunity to respond to the Northern Ireland Office Consultation Paper: 'Addressing the Legacy of Northern Ireland's Past'.
2. As one of Ireland's largest Christian denominations, and the largest Protestant Church in Northern Ireland, PCI's membership is comprised of people from all walks of life and includes victims and survivors, security forces personnel, emergency responders and many others who are profoundly affected by the Troubles. A significant number of people who were killed or injured were part of, or remain part of, our congregations, and so we have some understanding of the pain and trauma inflicted over the years.
3. It is impossible to quantify the suffering which violence has visited on so many innocent people. We cannot forget the thousands who lost their loved ones; the many who will carry injuries for the rest of their lives and all the others who have seen the destruction of their homes, farms and businesses through acts of terrorism.
4. There was never moral justification for the illegal taking up of arms by republican and loyalist paramilitary organisations. Therefore, it is incumbent upon those organisations and their political representatives to take responsibility for their actions and to acknowledge their wrongdoing. Responsibility for the vast majority of Troubles-related deaths lies with republican (approx. 60%) and loyalist (approx. 30%) paramilitaries.¹ History cannot be rewritten in an attempt to portray as legitimate what was morally wrong and totally unjustified.
5. The governments of the United Kingdom and Ireland should cooperate with any legacy process and be prepared to acknowledge any wrongdoing by the British and Irish states. Furthermore, allegations of illegal conduct by state forces in both jurisdictions should be investigated on the same basis as any other group or institution.
6. We remain greatly exercised that the legal definition of a victim makes no distinction between the perpetrators of violence and those attacked. This is morally unacceptable. A serious effort must be made to deal with the sense of moral and judicial outrage and hurt that this causes. We realise that there are strongly opposing narratives about the

¹ <http://www.cain.ulst.ac.uk/issues/violence/cts/tables.htm>

past, but are convinced that a failure to face this distinction in some coherent way will make progress more difficult.

7. As the consultation paper states, there is broad agreement that current arrangements are not delivering enough for victims, survivors and wider society. There are undoubtedly significant shortcomings in terms of truth, justice and care for people who have been physically and mentally injured during the Troubles. Meaningful discussion about reconciliation and related concepts of forgiveness, grace, remorse and repentance is also worryingly absent. We therefore agree that a new approach is required to address the legacy of the past. The choice we face as a society is between shaping a new approach and retaining the status quo.
8. We are acutely aware of the limitations of the institutions set out in the consultation paper. The sad reality is that, while the pursuit of truth and criminal justice are important elements of addressing the legacy of the past, it is likely that there will be few prosecutions and many families will not receive the information they seek. In this context, it is not right to raise the expectations of victims and survivors, as this will only add to hurt and trauma already experienced. However, we believe that the broad framework with revisions, including those outlined below, represents a potential opportunity to create a system that could provide some degree of closure to victims and survivors and bring a measure of healing to our society. We recognise that the broad framework builds on what was set out in the Stormont House Agreement, which built on previous work of the Haass-O'Sullivan talks and the Consultative Group on the Past. A rejection of this broad framework now would most likely set this issue back by many years or potentially forever, and in doing so add even more distress to that already endured. Therefore, we believe the outworking of the broad framework requires revision, including as outlined below.
9. PCI believes that effectively addressing the past, including the needs of victims and survivors, will enable us all to reimagine and create a better future based on 'a more reconciled community at peace with each other'.² Any suite of measures which fuels a culture of recrimination at the expense of reconciliation will have failed. A clear focus on reconciliation is needed and we welcome the high priority given to it in the opening sections of the consultation paper. PCI believes that reconciliation is fundamentally about the restoration of broken relationships. This will be the ultimate standard by which the success or failure of any new institutions is judged. However, the lack of agreement across society on what constitutes reconciliation is a significant obstacle. We believe there is scope for the Implementation and Reconciliation Group to initiate a public conversation about reconciliation, which we discuss further below.
10. Few people believe that the £150 million promised by the UK Government will cover the cost of the proposed institutions. Any additional funding required must not be expected to come from the devolved administration's budget, as this would divert resources needed for health, education, infrastructure etc. These vital public services are essential to building a peaceful society and so any diversion of funds to legacy bodies would be counterproductive. Moreover, it would be disastrous for work to begin only to be interrupted by funding shortages. It is therefore imperative that the UK Government and, where appropriate, the Irish Government provide clear guarantees in terms of financing the institutions before any are established.

² PCI Vision for Society Statement, 2016

Historical Investigations Unit (HIU)

11. We recognise that the number of prosecutions resulting from the HIU's work is likely to be minimal and that the HIU is more likely to deliver information to families rather than criminal justice. Even this information may fall short of expectations in many cases. That said, the HIU may provide justice for some families and has the potential to provide a level of closure to a greater number who simply seek more information about the death of their loved ones.
12. As the HIU will have greater powers than the Historical Enquiries Team (HET) we believe families who have received an HET report should have the option to request an HIU investigation, without having to meet the criteria outlined in the consultation paper.
13. It is debatable whether the Northern Ireland Policing Board is the appropriate vehicle for monitoring and holding the HIU to account. Understandable concerns have been raised about the HIU, as it investigates paramilitary murders, potentially being held to account by individual members of the Policing Board who may have held connections to those paramilitary organisations. Moreover, we would have great reservations about the Policing Board being diverted from its primary task of overseeing the day to day work of the PSNI. Therefore, an alternative oversight mechanism may be required that will command greater community confidence – one, perhaps, that has international membership. With whatever option is chosen, proper oversight and accountability must be provided for the HIU and its Director.
14. The relatives of those killed outside Northern Ireland should have equitable access to an investigation, and the UK Government should receive a formal commitment from the Irish Government that An Garda Síochána will fully cooperate with the HIU in respect of cases with a cross-border dimension. Neither of these points is properly addressed in the consultation paper. Clarity is also needed on the Irish Government's responsibility to cooperate in relation to crimes committed or initiated in the Republic of Ireland, and perpetrators who fled there. We note the statement that 'the Irish Government have committed to passing their own legislation that will ensure they can give their full cooperation to the new institutions, in a way that is consistent with their constitutional obligations'.³
15. We are deeply concerned by the conflicting information in the public domain about the focus of legacy cases. For example, some commentators argue that the HIU caseload will include a disproportionate number of deaths attributed to the security forces. Reliable information needs to be provided by government in a way that commands public confidence.

Independent Commission on Information Retrieval (ICIR)

16. Again, we feel it is a moral responsibility of those in public leadership to be realistic about the readiness of those with information about Troubles-related deaths to come forward, and the ability of the ICIR to deliver closure to families. Alleged perpetrators will not be named in family reports and there will be cases in which the information provided to victims and survivors proves unsatisfactory. However, we also recognise that some families could be provided with closure by the ICIR.

³ Consultation paper, 53-54.

17. We share the scepticism widely expressed about the ability of the HIU and the ICIR to run in parallel if an effective firewall is to be maintained between them. This should be re-examined, as a sequential model may be more effective.

Oral History Archive (OHA)

18. PCI supports the establishment of an Oral History Archive. There is a general acceptance that oral history can be one way of addressing the legacy of the past, by providing a cathartic outlet for participants, increasing understanding of other perspectives and educating wider society and future generations.⁴
19. It should not be assumed that a broad range of contributors will readily engage with the OHA. Potential contributors can have a variety of concerns about sharing their experiences of the Troubles, while others do not even recognise the importance of the story they have to tell. Some people are unwilling to tell their story without the involvement of a trusted intermediary. With that in mind we are concerned that outreach and the involvement of community and faith-based organisations in relation to the OHA is not discussed in the consultation paper. To raise awareness and encourage participation, it would be vitally important for the OHA to work in partnership with groups and individuals that have the trust of potential contributors e.g. churches and ministers, community groups etc. A centralised, top-down OHA model is unlikely to work effectively.
20. In addition to a central repository, we suggest that a partnership scheme be established to support faith and community groups to act as facilitators. Such a scheme could provide assistance to groups in scoping and designing projects, and make available people with relevant expertise to conduct and transcribe interviews. Crucially, those holding the trust and confidence of potential contributors could raise awareness of the OHA, approach prospective interviewees, be involved in interviews and provide pastoral care, as appropriate. We would be pleased to discuss this idea further with officials.
21. We welcome the proposal for the OHA to involve 'anyone who has been touched by the Troubles'.⁵ Special effort should be made to involve individuals in hard-to-reach communities, such as those in the border areas, and women, whose role and perspectives are often ignored or overlooked in public discourse about the Troubles. In general, any awareness-raising about the OHA should strongly emphasise the importance of those we have termed 'quiet peacemakers' coming forward to tell their stories e.g. civil servants, health care workers, teachers, business owners and others who kept our society functioning as normally as possible in the midst of death and destruction. We believe that much could be learnt from these experiences in terms of peacemaking and conflict resolution.
22. The proposals give the Deputy Keeper of the Records significant powers and responsibilities in potentially contentious areas, not least in deciding which records should form part of the archive. The primary role of the steering group to be appointed by the Deputy Keeper is to provide oral history expertise and it would not, as currently described, provide the required level of oversight to properly support the Deputy Keeper and ensure widespread public confidence in the operation of the archive. We therefore

⁴ We note that oral history or 'story telling' is included in a number of government-sanctioned reports, for example, 'We will remember them', report of the NI Victims' Commissioner, Sir Kenneth Bloomfield (1998); Report of the Consultative Group on the Past (2009); and the Haass-O'Sullivan recommendations (2014).

⁵ Consultation paper, 44

urge the Government to consider either strongly enhancing the accountability function of the steering group (in particular, a new appointments procedure would be required) or creating a separate oversight mechanism.

23. Overall, PCI sees great potential in the OHA to facilitate individual and societal healing. However, the apparent lack of vision in the consultation paper of what the OHA could achieve is disappointing. Indeed, there is no sense of what is to be achieved by the OHA beyond the production of a 'factual historical timeline' and the transmission of themes to the Implementation and Reconciliation Group for the production of an academic report. As listening to the perspectives of others is key to promoting reconciliation, PCI would welcome a discussion of how material gathered would be disseminated and used appropriately across society for this purpose. There is almost certainly scope within education and among community and faith groups to widen and deepen the impact of the OHA's work.

Implementation and Reconciliation Group

24. Any process to address the legacy of the past must help to restore relationships broken by the many years of violence. We therefore welcome the intention to put the IRG on a statutory footing, as a body tasked with promoting reconciliation. However, the reconciliation aspect of the IRG's work clearly requires significant development. As a first step, we suggest that the IRG initiate a public conversation about reconciliation, what it means to people across society and how it should be promoted.
25. From our perspective, reconciliation is fundamentally about the restoration of broken relationships and will involve a practical balance of the principals of freedom, justice, peace and truth. At a minimum we believe that acknowledgement and expressions of remorse must be central to any discussion of reconciliation.
26. Since healing in our society will, by definition, be a long term intergenerational process, we believe there is an important role that the IRG could fulfil in setting out proposals for public discussion on how to get that long term work underway. That said, we disavow any suggestion that the IRG alone can bring about reconciliation; there must be wide public discussion and agreement both politically and within civic society on the route and shape of societal healing over the coming years. On the basis of that discussion, the IRG could outline steps needed on a short, medium and long term basis, and offer some guidance on the modalities of those steps.
27. The current proposed membership of the IRG is limited to those appointed by government and political parties. This is unacceptable. We believe that there must be civic society involvement to enable the IRG to navigate complex and divisive issues with the necessary level of expertise and community confidence.

Further comments

28. We are concerned that the UK Government intends to leave the establishment of a much-awaited Mental Trauma Service to the Northern Ireland Executive, which has not been functional for over 18 months. Given the suite of measures under discussion, it seems quite unreasonable for the Government to set aside 'access to high quality services' for victims and survivors due to the continuing political impasse. We urge the Government to reconsider this omission.
29. Similarly, we are supportive of a pension for severely physically injured victims and regret that the UK Government does not currently intend to address this matter as part

of a comprehensive package of legacy measures. It is wrong that much-needed support for innocent victims with life-changing injuries is held up by a dispute about a handful of contentious cases. We note that a number of suggestions have been made to find an accommodation in respect of those cases which would not imply an equivalence between victims and perpetrators. These ideas should be explored further.

30. It is imperative that government does not lose sight of the broader picture when seeking to address the legacy of the past. We are convinced that the path to a more peaceful and reconciled society will be smoother if we give attention to issues which affect our common humanity, including tackling endemic underachievement among sections of our young people, addressing social deprivation and freeing our communities from the grip of criminal gangs. When these matters, which cross the boundaries of sectarian division, are addressed collectively, we believe a better context for human flourishing and building relationships will be created.



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Rev Trevor D Gribben (Clerk of the General Assembly)